

§ 137a. Deputy Under Secretaries of Defense

(a)(1) There are six Deputy Under Secretaries of Defense.

(2) The Deputy Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(3) The officials authorized under this section shall be the only Deputy Under Secretaries of Defense.

(b) Each Deputy Under Secretary of Defense shall be the first assistant to an Under Secretary of Defense and shall assist such Under Secretary in the performance of the duties of the position of such Under Secretary and shall act for, and exercise the powers of, such Under Secretary when such Under Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office.

(c)(1) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Research and Engineering.

(2) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Acquisition and Sustainment.

(3) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Policy.

(4) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Personnel and Readiness.

(5) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense (Comptroller).

(6) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Intelligence and Security, who shall be appointed from among persons who have extensive expertise in intelligence matters.

(d) The Deputy Under Secretaries of Defense take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Chief Management Officer of the Department of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense. The Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 111-84, div. A, title IX, §906(a)(1), Oct. 28, 2009, 123 Stat. 2425; amended Pub. L. 111-383, div. A, title IX, §901(b)(3), (k)(1)(A), Jan. 7, 2011, 124 Stat. 4318, 4325; Pub. L. 113-291, div. A, title IX, §901(i)(1), (j)(2)(C), (k)(3), Dec. 19, 2014, 128 Stat. 3467, 3468; Pub. L. 115-91, div. A, title IX, §906(a)-(c), (f)(1), title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1513, 1514, 1597; Pub. L. 115-232, div. A, title X, §1081(f)(1)(C), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 116-92, div. A, title XVI, §1621(e)(1)(B), Dec. 20, 2019, 133 Stat. 1733.)

AMENDMENTS

2019—Subsec. (c)(6). Pub. L. 116-92 substituted “Deputy Under Secretary of Defense for Intelligence and Security” for “Deputy Under Secretary of Defense for Intelligence”.

2018—Subsec. (d). Pub. L. 115-232 substituted “the Chief Management Officer of the Department of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense” for “the Secretaries of the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense”.

2017—Pub. L. 115-91, §906(f)(1), amended section catchline generally, substituting “Deputy Under Secretaries of Defense” for “Principal Deputy Under Secretaries of Defense”.

Subsec. (a)(1). Pub. L. 115-91, §906(b), substituted “six” for “five”.

Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under”.

Subsec. (a)(2). Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under”.

Subsec. (b). Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under”.

Subsec. (c). Pub. L. 115-91, §906(c), added pars. (1) and (2), redesignated former pars. (2) to (5) as (3) to (6), respectively, and struck out former par. (1) which read as follows: “One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.”

Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under” wherever appearing.

Subsec. (d). Pub. L. 115-91, §1081(b)(1)(A), repealed Pub. L. 113-291, §901(j)(2)(C). See 2014 Amendment note below.

Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under” in two places.

2014—Subsec. (a)(3). Pub. L. 113-291, §901(i)(1), added par. (3).

Subsec. (b). Pub. L. 113-291, §901(k)(3), substituted “dies, resigns, or is otherwise unable to perform the functions and duties of the office” for “is absent or disabled”.

Subsec. (d). Pub. L. 113-291, §901(j)(2)(C), which directed substitution of “and the Under Secretaries of Defense.” for “the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense.”, was repealed by Pub. L. 115-91, §1081(b)(1)(A).

2011—Pub. L. 111-383, §901(k)(1)(A), substituted “Principal Deputy Under Secretaries of Defense” for “Deputy Under Secretaries of Defense” in section catchline.

Subsec. (a)(1). Pub. L. 111-383, §901(b)(3)(A), substituted “Principal Deputy Under” for “Deputy Under”.

Subsec. (a)(2). Pub. L. 111-383, §901(b)(3)(B), struck out subpar. (A) and subpar. (B) designation and substituted “The Principal Deputy Under Secretaries of Defense” for “The Deputy Under Secretaries of Defense referred to in paragraphs (4) and (5) of subsection (c)”. Prior to amendment, subpar. (A) read as follows: “The Deputy Under Secretaries of Defense referred to in paragraphs (1) through (3) of subsection (c) shall be appointed as provided in the applicable paragraph.”

Subsec. (b). Pub. L. 111-383, §901(b)(3)(A), substituted “Principal Deputy Under” for “Deputy Under”.

Subsec. (c)(1). Pub. L. 111-383, §901(b)(3)(C)(i), (ii), substituted “One of the Principal Deputy” for “One of the Deputy” and struck out “appointed pursuant to section 133a of this title” after “Logistics”.

Subsec. (c)(2). Pub. L. 111-383, §901(b)(3)(C)(i), (ii), substituted “One of the Principal Deputy” for “One of the Deputy” and struck out “appointed pursuant to section 134a of this title” after “Policy”.

Subsec. (c)(3). Pub. L. 111-383, §901(b)(3)(C)(i), (ii), substituted “One of the Principal Deputy” for “One of the Deputy” and struck out “appointed pursuant to section 136a of this title” after “Readiness”.

Subsec. (c)(4). Pub. L. 111-383, §901(b)(3)(C)(i), (iii), substituted “One of the Principal Deputy Under Secretaries is” for “One of the Deputy Under Secretaries shall be”.

Subsec. (c)(5). Pub. L. 111-383, §901(b)(3)(C)(i), (iii), (iv), substituted “One of the Principal Deputy Under Secretaries is” for “One of the Deputy Under Secretaries shall be” and inserted before period at end “, who shall be appointed from among persons who have extensive expertise in intelligence matters”.

Subsec. (d). Pub. L. 111-383, §901(b)(3)(A), (D), substituted “Principal Deputy Under” for “Deputy Under” and inserted at end “The Principal Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.”

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §906(c), Dec. 12, 2017, 131 Stat. 1513, provided that the amendment made by section 906(c) is effective on Feb. 1, 2018.

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(i)(1), Dec. 19, 2014, 128 Stat. 3467, provided that the amendment made by section 901(i)(1) is effective Jan. 1, 2015.

Pub. L. 113–291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(C) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

SAVINGS PROVISIONS

Pub. L. 111–84, div. A, title IX, §906(e), Oct. 28, 2009, 123 Stat. 2428, provided that:

“(1) IN GENERAL.—Notwithstanding the amendments made by this section [enacting this section and amending sections 133a, 134a, 136a, 138, and former 138a of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees], the individual serving in a position specified in paragraph (2) on the day before the date of the enactment of this Act [Oct. 28, 2009] may continue to serve in such position without the requirement for appointment by the President, by and with the advice and consent of the Senate, for a period of up to four years after the date of the enactment of this Act.

“(2) COVERED POSITIONS.—The positions specified in this paragraph are the following:

“(A) The Principal Deputy Under Secretary of Defense (Comptroller).

“(B) The Principal Deputy Under Secretary of Defense for Intelligence.”

TEMPORARY AUTHORITY FOR ADDITIONAL DUSDS

Pub. L. 111–383, div. A, title IX, §901(i)(2), Jan. 7, 2011, 124 Stat. 4323, provided that: “During the period beginning on the date of the enactment of this Act [Jan. 7, 2011] and ending on January 1, 2015, the Secretary of Defense may, in the Secretary’s discretion, appoint not more than five Deputy Under Secretaries of Defense in addition to the five Principal Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as amended by subsection (b)(3)).”

DELAYED LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE

Pub. L. 111–84, div. A, title IX, §906(a)(2), Oct. 28, 2009, 123 Stat. 2426, as amended by Pub. L. 111–383, div. A, title IX, §901(i)(1), Jan. 7, 2011, 124 Stat. 4323, which provided that, effective Jan. 1, 2015, the five Deputy Under Secretaries of Defense authorized by section 137a of title 10 would be the only Deputy Under Secretaries of Defense, was repealed by Pub. L. 113–291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467.

[Pub. L. 113–291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467, provided that section 901(i)(2), which repealed section 906(a)(2) of Pub. L. 111–84, formerly set out above, is effective on the effective date specified in section 901(i)(1) of Pub. L. 113–291, which is Jan. 1, 2015.]

§ 138. Assistant Secretaries of Defense

(a)(1) There are 15 Assistant Secretaries of Defense.

(2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2)(A) One of the Assistant Secretaries is the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(k) of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense. Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

(i) Exercise authority, direction, and control of all special operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces through the administrative chain of command specified in section 167(f) of this title;¹

(ii) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

(I) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

(II) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

(III) Such other matters as may be specified by the Secretary and the Under Secretary.

(B) In the discharge of the responsibilities specified in subparagraph (A)(i), the Assistant Secretary is immediately subordinate to the Secretary of Defense. Unless otherwise directed by the President, no officer below the Secretary may intervene to exercise authority, direction, or control over the Assistant Secretary in the discharge of such responsibilities.

(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Legislative Affairs. He shall have as his principal duty the overall supervision of legislative affairs of the Department of Defense.

(4) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. The Assistant Secretary may communicate views on issues within the responsibility of the Assistant Secretary directly to the Secretary of Defense

¹ So in original.