

of a parent occurs after the date of enactment of this Act [June 8, 1960]."

§ 5305. Waiver of retired pay

Except as provided in section 1414 of title 10, any person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Secretary if such person were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or retirement pay is paid of a waiver of so much of such person's retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Secretary of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, §3105; Pub. L. 91-621, §6(a)(3), Dec. 31, 1970, 84 Stat. 1864; Pub. L. 99-576, title VII, §701(72), Oct. 28, 1986, 100 Stat. 3297; renumbered §5305, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (2)(A)(viii), Aug. 6, 1991, 105 Stat. 403; Pub. L. 108-454, title III, §308(b), Dec. 10, 2004, 118 Stat. 3614.)

Editorial Notes

AMENDMENTS

2004—Pub. L. 108-454 substituted "Except as provided in section 1414 of title 10, any" for "Any" in first sentence.

1991—Pub. L. 102-40 renumbered section 3105 of this title as this section.

Pub. L. 102-83, §4(a)(2)(A)(viii), substituted "Secretary" for "Veterans' Administration".

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Pub. L. 99-576 substituted "such person" for "he" and "such person's" for "his".

1970—Pub. L. 91-621 substituted "National Oceanic and Atmospheric Administration" for "Coast and Geodetic Survey".

§ 5306. Renunciation of right to benefits

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Secretary may renounce the right thereto. The application renouncing the right shall be in writing over the person's signature. Upon the filing of such an application, payment of such benefits and the right thereto shall be terminated, and such person shall be denied any and all rights thereto from such filing.

(b) Renunciation of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date, but such new application shall be treated as an original application, and no payments shall be made for any period before the date such new application is filed.

(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renunciation of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renunciation had not occurred.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, §3106; Pub. L. 99-576, title VII, §701(73), Oct. 28, 1986, 100 Stat. 3297; renumbered §5306, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), Aug. 6, 1991, 105 Stat. 403; Pub. L. 103-446, title V, §503, Nov. 2, 1994, 108 Stat. 4663.)

Editorial Notes

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-446 added subsec. (c).

1991—Pub. L. 102-40 renumbered section 3106 of this title as this section.

Subsec. (a). Pub. L. 102-83 substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Subsec. (a). Pub. L. 99-576 substituted "the" for "his" before "right" in first sentence.

§ 5307. Apportionment of benefits

(a) All or any part of the compensation, pension, or emergency officers' retirement pay payable on account of any veteran may—

(1) if the veteran is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof, be apportioned on behalf of the veteran's spouse, children, or dependent parents; and

(2) if the veteran is not living with the veteran's spouse, or if the veteran's children are not in the custody of the veteran, be apportioned as may be prescribed by the Secretary.

(b) Where any of the children of a deceased veteran are not in the custody of the veteran's surviving spouse, the pension, compensation, or dependency and indemnity compensation otherwise payable to the surviving spouse may be apportioned as prescribed by the Secretary.

(c) If a veteran is not living with the veteran's spouse, or if any of the veteran's children are not in the custody of the veteran, any subsistence allowance payable to the veteran under chapter 31 of this title or that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title may be apportioned as may be prescribed by the Secretary.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, §3107; Pub. L. 92-540, title V, §505, Oct. 24, 1972, 86 Stat. 1099; Pub. L. 98-160, title VII, §703(2), Nov. 21, 1983, 97 Stat. 1010; renumbered §5307, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3107 of this title as this section.

Subsecs. (a)(2), (b), (c). Pub. L. 102-83 substituted "Secretary" for "Administrator".

1983—Subsec. (a)(1). Pub. L. 98-160, § 703(2)(A), substituted "the veteran's spouse" for "his wife".

Subsec. (a)(2). Pub. L. 98-160, § 703(2)(A)-(C), substituted "the veteran's spouse" for "his wife", "the veteran's children" for "his children", and "the custody of the veteran" for "his custody".

Subsec. (b). Pub. L. 98-160, § 703(2)(D), substituted "surviving spouse" for "widow" in two places.

Subsec. (c). Pub. L. 98-160, § 703(2)(A)-(C), (E), substituted "the veteran's spouse" for "his wife", "the veteran's children" for "his children", "the custody of the veteran" for "his custody", and "payable to the veteran" for "payable to him".

1972—Subsec. (c). Pub. L. 92-540 inserted provisions relating to that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as a note under section 4101 of this title.

§ 5308. Withholding benefits of persons in territory of the enemy

(a) When any alien entitled to gratuitous benefits under laws administered by the Secretary is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except upon the filing of a new claim, accompanied by evidence satisfactory to the Secretary showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 5309 of this title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Secretary, in the Secretary's discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such alien were dead.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, § 3108; Pub. L. 99-576, title VII, § 701(74), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5308 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3108 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (b). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-40, § 402(d)(1), substituted "5309" for "3109".

Subsec. (c). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" and "Secretary's" for "Administrator's".

1986—Subsec. (c). Pub. L. 99-576 substituted "the Administrator's" for "his" in first sentence, and "the dependent" for "he" in second sentence.

§ 5309. Payment of certain withheld benefits

(a) Any person who, but for section 5308 of this title, was entitled to benefits under any of the laws administered by the Secretary, whose award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 3329 and 3330 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 5308, or withheld (including the amount of any checks covered on such person's account into the Treasury as miscellaneous receipts together with any amount to such person's credit in the special-deposit account) pursuant to sections 3329 and 3330 of title 31. The Secretary shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Secretary, shall reimburse the appropriations of the Department from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because such person was a citizen or subject of Germany or Japan residing in Germany or Japan.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1232, § 3109; Pub. L. 97-258, § 3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99-576, title VII, § 701(75), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5309 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3109 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in last sentence.

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in last sentence.

Pub. L. 102-83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration" in first sentence.

Pub. L. 102-40, § 402(d)(1), substituted "5308" for "3108" in two places in first sentence.

1986—Subsec. (a). Pub. L. 99-576, § 701(75)(A), substituted "such person's" for "his" in two places.

Subsec. (b). Pub. L. 99-576, § 701(75)(B), substituted "such person" for "he".

1982—Subsec. (a). Pub. L. 97-258 substituted "sections 3329 and 3330 of title 31" for "sections 123-128 of title 31" wherever appearing.