

§ 2723. Notice to congressional committees of certain security and counterintelligence failures within defense programs

(a) **REQUIRED NOTIFICATION.**—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each security or counterintelligence failure or compromise of classified information relating to any defense operation, system, or technology of the United States that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States. The Secretary shall consult with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate, before submitting any such notification.

(b) **MANNER OF NOTIFICATION.**—Notification of a failure or compromise of classified information under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (c), not later than 30 days after the date on which the Department of Defense determines that the failure or compromise has taken place.

(c) **PROCEDURES.**—The Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(d) **STATUTORY CONSTRUCTION.**—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to the Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 3091).

(Added Pub. L. 106–65, div. A, title X, §1042(a), Oct. 5, 1999, 113 Stat. 759; amended Pub. L. 110–181, div. A, title IX, §931(a)(13), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(12), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–291, div. A, title X, §1071(c)(12), Dec. 19, 2014, 128 Stat. 3509.)

Editorial Notes

AMENDMENTS

2014—Subsec. (d)(2). Pub. L. 113–291 substituted “(50 U.S.C. 3091)” for “(50 U.S.C. 413)”.

2009—Subsec. (a). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(12). See 2008 Amendment note below.

2008—Subsec. (a). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(12), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Di-

rector of Central Intelligence”. Pub. L. 110–417, §932(a)(12), was repealed by Pub. L. 111–84. See 2009 Amendment note above.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided in part that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

CHAPTER 163—MILITARY CLAIMS

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| Sec. 2731. | Definition. |
| 2732. | Payment of claims: availability of appropriations. |
| 2733. | Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force. |
| 2733a. | Medical malpractice claims by members of the uniformed services. |
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| 2735. | Settlement: final and conclusive. |
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| 2737. | Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law. |
| 2738. | Property loss: reimbursement of members for certain losses of household effects caused by hostile action. |
| 2739. | Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations. |
| 2740. | Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available. |

Editorial Notes

AMENDMENTS

2019—Pub. L. 116–92, div. A, title VII, §731(a)(2), Dec. 20, 2019, 133 Stat. 1459, added item 2733a.

2011—Pub. L. 111–383, div. A, title III, §354(a)(2), Jan. 7, 2011, 124 Stat. 4195, added item 2740.

1998—Pub. L. 105–261, div. A, title X, §1010(a)(2), Oct. 17, 1998, 112 Stat. 2117, added item 2739.

1994—Pub. L. 103–337, div. A, title V, §557(b), Oct. 5, 1994, 108 Stat. 2776, added item 2738.

1990—Pub. L. 101–510, div. A, title XIV, §1481(j)(2), Nov. 5, 1990, 104 Stat. 1708, added item 2732.

1984—Pub. L. 98–525, title XIV, §1405(42)(B), Oct. 19, 1984, 98 Stat. 2625, substituted “in foreign countries” for “foreign countries” in item 2734a.

1968—Pub. L. 90–521, §2, Sept. 26, 1968, 82 Stat. 874, substituted “advance payment” for “incident to aircraft or missile operation” in item 2736.

1966—Pub. L. 89–718, §21(b), Nov. 2, 1966, 80 Stat. 1118, substituted “2737” for “2736” as item number for “Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law”.

1964—Pub. L. 88–558, §5(2), Aug. 31, 1964, 78 Stat. 768, struck out item 2732 “Property loss: incident to service; members of Army, Navy, Air Force, or Marine

Corps and civilian employees”, effective two years after Aug. 31, 1964. Pub. L. 88–558, was itself repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

1962—Pub. L. 87–769, §1(1)(B), Oct. 9, 1962, 76 Stat. 768, added item 2736 “Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law”.

Pub. L. 87–651, title I, §113(b), Sept. 7, 1962, 76 Stat. 513, added items 2734a and 2734b.

1961—Pub. L. 87–212, §1(2), Sept. 8, 1961, 75 Stat. 488, added item 2736 “Property loss; personal injury or death: incident to aircraft or missile operation”.

1959—Pub. L. 86–223, §1(2), Sept. 1, 1959, 73 Stat. 454, substituted “armed forces” for “Department of Army, Navy, or Air Force” in item 2734.

§ 2731. Definition

In this chapter, “settle” means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 152.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
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| 2731 | [No source]. | [No source]. |

The revised section is inserted for clarity and is based on usage in the source laws for this revised chapter.

Statutory Notes and Related Subsidiaries

CONGRESSIONAL DEFENSE COMMITTEES DEFINED

Pub. L. 116–93, div. A, title VIII, §8027, Dec. 20, 2019, 133 Stat. 2342, provided that: “For the purposes of this Act [div. A of Pub. L. 116–93, see Tables for classification], the term ‘congressional defense committees’ means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 115–245, div. A, title VIII, §8026, Sept. 28, 2018, 132 Stat. 3005.

Pub. L. 115–141, div. C, title VIII, §8026, Mar. 23, 2018, 132 Stat. 469.

Pub. L. 115–31, div. C, title VIII, §8027, May 5, 2017, 131 Stat. 252.

Pub. L. 114–113, div. C, title VIII, §8026, Dec. 18, 2015, 129 Stat. 2356.

Pub. L. 113–235, div. C, title VIII, §8026, Dec. 16, 2014, 128 Stat. 2258.

Pub. L. 113–76, div. C, title VIII, §8025, Jan. 17, 2014, 128 Stat. 109.

EX GRATIA PAYMENTS

Pub. L. 116–93, div. A, title VIII, §8104, Dec. 20, 2019, 133 Stat. 2361, provided that:

“(a) Of the funds appropriated in this Act [div. A of Pub. L. 116–93, see Tables for classification] for the Department of Defense, amounts should be made available, under such regulations as the Secretary of Defense may prescribe, to local military commanders appointed by the Secretary, or by an officer or employee designated by the Secretary, to provide at their discretion ex gratia payments in amounts consistent with subsection (d) of this section for damage, personal injury, or death that is incident to combat operations of the Armed Forces in a foreign country.

“(b) An ex gratia payment under this section may be provided only if—

“(1) the prospective foreign civilian recipient is determined by the local military commander to be friendly to the United States;

“(2) a claim for damages would not be compensable under chapter 163 of title 10, United States Code (commonly known as the ‘Foreign Claims Act’); and

“(3) the property damage, personal injury, or death was not caused by action by an enemy.

“(c) Any payments provided under a program under subsection (a) shall not be considered an admission or acknowledgement of any legal obligation to compensate for any damage, personal injury, or death.

“(d) If the Secretary of Defense determines a program under subsection (a) to be appropriate in a particular setting, the amounts of payments, if any, to be provided to civilians determined to have suffered harm incident to combat operations of the Armed Forces under the program should be determined pursuant to regulations prescribed by the Secretary and based on an assessment, which should include such factors as cultural appropriateness and prevailing economic conditions.

“(e) Local military commanders shall receive legal advice before making ex gratia payments under this subsection. The legal advisor, under regulations of the Department of Defense, shall advise on whether an ex gratia payment is proper under this section and applicable Department of Defense regulations.

“(f) A written record of any ex gratia payment offered or denied shall be kept by the local commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense.

“(g) The Secretary of Defense shall report to the congressional defense committees [Committees on Armed Services and Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives] on an annual basis the efficacy of the ex gratia payment program including the number of types of cases considered, amounts offered, the response from ex gratia payment recipients, and any recommended modifications to the program.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 115–245, div. A, title VIII, §8106, Sept. 28, 2018, 132 Stat. 3025.

Pub. L. 115–141, div. C, title VIII, §8107, Mar. 23, 2018, 132 Stat. 488.

Pub. L. 115–31, div. C, title VIII, §8107, May 5, 2017, 131 Stat. 272.

Pub. L. 114–113, div. C, title VIII, §8111, Dec. 18, 2015, 129 Stat. 2377.

Pub. L. 113–235, div. C, title VIII, §8121, Dec. 16, 2014, 128 Stat. 2281.

Pub. L. 113–76, div. C, title VIII, §8127, Jan. 17, 2014, 128 Stat. 134.

AUTHORITY FOR CERTAIN PAYMENTS TO REDRESS INJURY AND LOSS

Pub. L. 116–92, div. A, title XII, §1213, Dec. 20, 2019, 133 Stat. 1629, as amended by Pub. L. 117–81, div. A, title XIII, §1331(a)–(d), Dec. 27, 2021, 135 Stat. 2006, 2007, provided that:

“(a) AUTHORITY.—During the period beginning on the date of the enactment of this Act [Dec. 20, 2019] and ending on December 31, 2023, not more than \$3,000,000 for each calendar year, to be derived from funds authorized to be appropriated to the Office of the Secretary of Defense under the Operation and Maintenance, Defense-wide account, may be made available for ex gratia payments for damage, personal injury, or death that is incident to the use of force by the United States Armed Forces, a coalition that includes the United States, a military organization supporting the United States, or a military organization supporting the United States or such coalition.

“(b) CONDITIONS ON PAYMENT.—An ex gratia payment authorized pursuant to subsection (a) may be provided only if—

“(1) the prospective foreign civilian recipient is not otherwise ineligible for payment under any other provision of law;

“(2) a request for damages would not be compensable under chapter 163 of title 10, United States Code (commonly known as the ‘Foreign Claims Act’);