

Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which transferred functions of Federal Security Administrator to Secretary of Labor.

Previously, “Federal Security Administrator” and “Administrator” substituted for “United States Employees’ Compensation Commission” and “Commission” pursuant to Reorg. Plan No. 2 of 1946, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which abolished United States Employees’ Compensation Commission and transferred its functions to Federal Security Administrator.

#### § 1654. Persons excluded from benefits

This chapter shall not apply in respect to the injury or death of (1) an employee subject to the provisions of subchapter I of chapter 81 of title 5; (2) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, or profession of the employer; and (3) a master or member of a crew of any vessel.

(Aug. 16, 1941, ch. 357, §4, 55 Stat. 623.)

#### Editorial Notes

##### CODIFICATION

“Subchapter I of chapter 81 of title 5” substituted for reference to act Sept. 7, 1916 (39 Stat. 742), known as the Federal Employees’ Compensation Act, on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### § 1655. Requirement for Department of Defense to adopt an acquisition strategy for Defense Base Act insurance

##### (a) In general

The Secretary of Defense shall adopt an acquisition strategy for insurance required by the Defense Base Act (42 U.S.C. 1651 et seq.) which minimizes the cost of such insurance to the Department of Defense and to defense contractors subject to such Act.

##### (b) Criteria

The Secretary shall ensure that the acquisition strategy adopted pursuant to subsection (a) addresses the following criteria:

(1) Minimize overhead costs associated with obtaining such insurance, such as direct or indirect costs for contract management and contract administration.

(2) Minimize costs for coverage of such insurance consistent with realistic assumptions regarding the likelihood of incurred claims by contractors of the Department.

(3) Provide for a correlation of premiums paid in relation to claims incurred that is modeled on best practices in government and industry for similar kinds of insurance.

(4) Provide for a low level of risk to the Department.

(5) Provide for a competitive marketplace for insurance required by the Defense Base Act [42 U.S.C. 1651 et seq.] to the maximum extent practicable.

##### (c) Options

In adopting the acquisition strategy pursuant to subsection (a), the Secretary shall consider such options (including entering into a single Defense Base Act insurance contract) as the

Secretary deems to best satisfy the criteria identified under subsection (b).

##### (d) Report

(1) Not later than 270 days after October 14, 2008, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report on the acquisition strategy adopted pursuant to subsection (a).

(2) The report shall include a discussion of each of the options considered pursuant to subsection (c) and the extent to which each option addresses the criteria identified under subsection (b), and shall include a plan to implement within 18 months after October 14, 2008, the acquisition strategy adopted by the Secretary.

##### (e) Review of acquisition strategy

As considered appropriate by the Secretary, but not less often than once every 3 years, the Secretary shall review and, as necessary, update the acquisition strategy adopted pursuant to subsection (a) to ensure that it best addresses the criteria identified under subsection (b).

(Pub. L. 110-417, [div. A], title VIII, §843, Oct. 14, 2008, 122 Stat. 4540.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Defense Base Act, referred to in section catchline and subsecs. (a) to (c), is act Aug. 16, 1941, ch. 357, 55 Stat. 622, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of this title and Tables.

##### CODIFICATION

Section was enacted as part of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, and not as part of the Defense Base Act which comprises this chapter.

### CHAPTER 12—COMPENSATION FOR INJURY, DEATH, OR DETENTION OF EMPLOYEES OF CONTRACTORS WITH UNITED STATES OUTSIDE UNITED STATES

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**Statutory Notes and Related Subsidiaries**

## REPEALS

Act June 30, 1953, ch. 176, § 6, 67 Stat. 135, repealed section 1(a)(13) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, which, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, provided for the continuation of this chapter until July 1, 1953.

Joint Res. July 3, 1952, ch. 570, § 6, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

**SUBCHAPTER I—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR**

**§ 1701. Compensation for injury or death resulting from war-risk hazard**

**(a) Persons covered**

In case of injury or death resulting from injury—

(1) to any person employed by a contractor with the United States, if such person in an employee specified in chapter 11 of this title, and no compensation is payable with respect to such injury or death under such chapter; or

(2) to any person engaged by the United States under a contract for his personal services outside the continental United States; or

(3) to any person employed outside the continental United States as a civilian employee paid from nonappropriated funds administered by the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Store Ashore, Navy exchanges, Marine Corps exchanges, officers' and non-commissioned officers' open messes, enlisted men's clubs, service clubs, special service activities, or any other instrumentality of the United States under the jurisdiction of the Department of Defense and conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents; or

(4) to any person who is an employee specified in section 1651(a)(5) of this title, if no compensation is payable with respect to such injury or death under chapter 11 of this title or to any person engaged under a contract for his personal services outside the United States approved and financed by the United States under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States Government, determines a contract financed under a successor provision of any successor Act should be covered by this section): *Provided*, That in cases where the United States is not a formal party to contracts approved and financed under the Mutual Security Act of 1954, as amended, the Secretary, upon the recommendation of the head of any department or agency of the United States, may, in the exercise of his discretion, waive the application of the provisions of this subparagraph with re-

spect to any such contracts, subcontracts, or subordinate contracts, work location under such contracts, subcontracts, or subordinate contracts, or classification of employees; or

(5) to any person employed or otherwise engaged for personal services outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense,

and such injury proximately results from a war-risk hazard, whether or not such person then actually was engaged in the course of his employment, the provisions of subchapter I of chapter 81 of title 5, as amended, and as modified by this chapter, shall apply with respect thereto in the same manner and to the same extent as if the person so employed were a civil employee of the United States and were injured while in the performance of his duty, and any compensation found to be due shall be paid from the compensation fund established pursuant to section 8147 of title 5. This subsection shall not be construed to include any person who would otherwise come within the purview of subchapter I of chapter 81 of title 5.

**(b) Missing persons considered as totally disabled**

(1) Any person specified in subsection (a) who—

(A) is found to be missing from his place of employment, whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person, or

(B) is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, or

(C) is not returned to his home or to the place where he was employed by reason of the failure of the United States or its contractor to furnish transportation,

until such time as he is returned to his home, to the place of his employment, or is able to be returned to the jurisdiction of the United States, shall, under such regulations as the Secretary may prescribe, be regarded solely for the purposes of this subsection as totally disabled, and the same benefits as are provided for such disability under this subchapter shall be credited to his account and be payable to him for the period of such absence or until his death is in fact established or can be legally presumed to have occurred: *Provided*, That if such person has dependents residing in the United States or its Territories or possessions (including the United States Naval Operating Base, Guantanamo Bay, Cuba, and the Canal Zone), the Secretary during the period of such absence may disburse a part of such compensation, accruing for such total disability, to such dependents, which shall be equal to the monthly benefits otherwise payable for death under this subchapter, and the balance of such compensation for total disability shall accrue and be payable to such person upon his return from such absence. Any payment made pursuant to this subsection shall not in any case