

ment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when—

- (1) adjustment or recovery of the amount is waived under subsection (b) of this section; or
- (2) adjustment under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 788.	Sept. 7, 1916, ch. 458, §38, 39 Stat. 749. Oct. 14, 1949, ch. 691, §206, 63 Stat. 864.

In subsection (a), the words "Subject to the provisions of sections 786 and 787 of this title" and "if any" are omitted as surplusage.

In subsection (c), the word "official" is substituted for "officer" as the definition of "officer" in section 2104 excludes a member of a uniformed service.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8130. Assignment of claim

An assignment of a claim for compensation under this subchapter is void. Compensation and claims for compensation are exempt from claims of creditors.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 775.	Sept. 7, 1916, ch. 458, §25, 39 Stat. 747.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8131. Subrogation of the United States

(a) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—

- (1) assign to the United States any right of action he may have to enforce the liability or any right he may have to share in money or other property received in satisfaction of that liability; or
- (2) prosecute the action in his own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required

by the Secretary is not entitled to compensation under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of compensation payable for the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses thereof have been deducted.

(d) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in the Panama Canal Company to pay damages under the law of a State, a territory or possession of the United States, the District of Columbia, or a foreign country, compensation is not payable until the individual entitled to compensation—

- (1) releases to the Panama Canal Company any right of action he may have to enforce the liability of the Panama Canal Company; or
- (2) assigns to the United States any right he may have to share in money or other property received in satisfaction of the liability of the Panama Canal Company.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546; Pub. L. 90-83, §1(60), Sept. 11, 1967, 81 Stat. 211.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)-(c)	5 U.S.C. 776.	Sept. 7, 1916, ch. 458, §26, 39 Stat. 747. Sept. 13, 1960, Pub. L. 86-767, §207, 74 Stat. 908.
(d)	5 U.S.C. 791.	Sept. 7, 1916, ch. 458, §41, 39 Stat. 750.

In subsection (d), the first 45 words of section 41 of the Act of Sept. 7, 1916, are omitted as executed. The words "Panama Canal Company" are substituted for "Panama Railroad Company" on authority of the Act of Sept. 26, 1950, ch. 1049, §2(a) (2), 64 Stat. 1038.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan. No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8131(c)	5 App.: 776 (proviso).	July 4, 1966, Pub. L. 89-488, §10(a), 80 Stat. 255.

Editorial Notes

REFERENCES IN TEXT

For definition of Panama Canal Company, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Statutory Notes and Related Subsidiaries

Editorial Notes

PERSONNEL NOT AFFECTED BY 1967 INCREASE

AMENDMENTS

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

1974—Pub. L. 93-416 made minor changes in phraseology and inserted provision prohibiting a court, etc., from distributing proceeds of suit or settlement without satisfying or assuring satisfaction of the interests of the United States.

§ 8132. Adjustment after recovery from a third person

Statutory Notes and Related Subsidiaries

If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in a person other than the United States to pay damages, and a beneficiary entitled to compensation from the United States for that injury or death receives money or other property in satisfaction of that liability as the result of suit or settlement by him or in his behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation payable to him for the same injury. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States. The amount refunded to the United States shall be credited to the Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States for the same injury. However, the beneficiary is entitled to retain, as a minimum, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 547; Pub. L. 90-83, §1(61), Sept. 11, 1967, 81 Stat. 211; Pub. L. 93-416, §15, Sept. 7, 1974, 88 Stat. 1147.)

§ 8133. Compensation in case of death

(a) If death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

- (1) To the widow or widower, if there is no child, 50 percent.
(2) To the widow or widower, if there is a child, 45 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the widow or widower and children.
(3) To the children, if there is no widow or widower, 40 percent for one child and 15 percent additional for each additional child not to exceed a total of 75 percent, divided among the children share and share alike.
(4) To the parents, if there is no widow, widower, or child, as follows—

- (A) 25 percent if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;
(B) 20 percent to each if both were wholly dependent; or
(C) a proportionate amount in the discretion of the Secretary of Labor if one or both were partly dependent.

If there is a widow, widower, or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 75 percent.

(5) To the brothers, sisters, grandparents, and grandchildren, if there is no widow, widower, child, or dependent parent, as follows—

- (A) 20 percent if one was wholly dependent on the employee at the time of death;
(B) 30 percent if more than one was wholly dependent, divided among the dependents share and share alike; or
(C) 10 percent if no one is wholly dependent but one or more is partly dependent, divided among the dependents share and share alike.

If there is a widow, widower, child, or dependent parent, so much of the percentages are

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 777, Sept. 7, 1916, ch. 458, §27, 39 Stat. 747.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Table with 3 columns: Section of title 5, Source (U.S. Code), Source (Statutes at Large). Row 1: 8132, 5 App.: 777(b) (proviso), July 4, 1966, Pub. L. 89-488, §10(b), 80 Stat. 255.

The words "However, * * * is entitled to retain * * * plus" are substituted for "Provided, That * * * shall have the right to retain * * * and, in addition, to retain".