

Public Law 107-275
107th Congress

An Act

To consolidate all black lung benefit responsibility under a single official, and for other purposes.

Nov. 2, 2002

[H.R. 5542]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Black Lung Consolidation of Administrative Responsibility Act”.

Black Lung
Consolidation of
Administrative
Responsibility
Act.
Government
organization.
30 USC 801 note.

SEC. 2. TRANSFER OF PART B BLACK LUNG BENEFIT RESPONSIBILITIES FROM COMMISSIONER OF SOCIAL SECURITY TO SECRETARY OF LABOR.

(a) IN GENERAL.—Part B of the Black Lung Benefits Act (30 U.S.C. 921 et seq.) other than section 415(b) (30 U.S.C. 925(b)) is amended by striking “Commissioner of Social Security” each place such term appears and inserting “Secretary”.

30 USC 921-924.

(b) CONFORMING AMENDMENTS.—

(1) Section 402 of such Act (30 U.S.C. 902) is amended—

(A) in subsection (c), by striking “where used in part C” and inserting “, except where expressly otherwise provided.”;

(B) in subsection (f)(1), by inserting after “Secretary of Health, Education, and Welfare” the following: “, which were in effect on the date of enactment of the Black Lung Consolidation of Administrative Responsibilities Act.”;

(C) in subsection (f)(2)—

(i) by striking “which is subject to review by the Secretary of Health, Education, and Welfare,” and inserting “arising under part B”; and

(ii) by striking the comma after “Secretary of Labor”; and

(D) in subsection (i), by amending paragraph (1) to read as follows:

“(1) for benefits under part B that was denied by the official responsible for administration of such part; or”.

(2) Section 413(b) of such Act (30 U.S.C. 923(b)) is amended by striking “In carrying out the provisions of this part” and all that follows through “Social Security Act, but no” and inserting “No”.

(3) Section 415 of such Act (30 U.S.C. 925) is amended—

(A) in subsection (a)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(iii) in paragraph (4) (as so redesignated), by striking “paragraph 4” and inserting “paragraph (2)”; and

(B) in subsection (b), by striking “, after consultation with the Commissioner of Social Security,”.

(4) Section 426 of such Act (30 U.S.C. 936) is amended—

(A) in subsection (a), by striking “, the Commissioner of Social Security,”; and

(B) in subsection (b), by amending the first sentence to read as follows: “At the end of fiscal year 2003 and each succeeding fiscal year, the Secretary of Labor shall submit to the Congress an annual report on the subject matter of parts B and C of this title.”.

(5) Public Law 94-504 (30 U.S.C. 932a) is amended by striking “under part C” and inserting “under part B or part C”.

(c) **REPEAL OF OBSOLETE PROVISIONS.**—The following provisions of law are repealed:

(1) Section 435 of the Black Lung Benefits Act (30 U.S.C. 945).

(2) Sections 11 and 19 of the Black Lung Benefits Reform Act of 1977 (30 U.S.C. 924a, 904).

30 USC 921 note.

SEC. 3. TRANSITIONAL PROVISIONS.

(a) **APPLICABILITY.**—This section shall apply to the transfer of all functions relating to the administration of part B of subchapter IV (30 U.S.C. 901 et seq.) from the Commissioner of Social Security (hereinafter in this section referred to as the “Commissioner”) to the Secretary of Labor, as provided by this Act.

(b) **TRANSFER OF ASSETS, LIABILITIES, ETC.**—

(1) The Commissioner shall transfer to the Secretary of Labor all property and records that the Director of the Office of Management and Budget determines relate to the functions transferred to the Secretary of Labor by this Act or amendments made by this Act.

(2) Section 1531 of title 31, United States Code, shall apply in carrying out this Act and amendments made by this Act, except that, for purposes of carrying out this Act and amendments made by this Act, the functions of the President under section 1531(b) shall be performed by the Director of the Office of Management and Budget unless otherwise directed by the President.

(c) **CONTINUATION OF ORDERS, DETERMINATIONS, ETC.**—

(1) This Act shall not affect the validity of any order, determination, rule, regulation, operating procedure (to the extent applicable to the Secretary of Labor), or contract that—

(A) relates to a function transferred by this Act; and

(B) is in effect on the date this Act takes effect.

(2) Any order, determination, rule, regulation, operating procedure, or contract described in paragraph (1) shall—

(A) apply on and after the effective date of this Act to the Secretary of Labor; and

(B) continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(d) **CONTINUATION OF ADMINISTRATIVE PROCEEDINGS.**—

Applicability.

(1) Any proceeding before the Commissioner involving the functions transferred by this Act that is pending on the date this Act takes effect shall continue before the Secretary of Labor, except as provided in paragraph (2).

(2) Any proceeding pending before an Administrative Law Judge or the Appeals Council pursuant to part B and the applicable regulations of the Secretary of Health and Human Services shall continue before the Commissioner consistent with the following provisions:

(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted, and shall include all rights to hearing, administrative review, and judicial review available under part B and the applicable regulations of the Secretary of Health and Human Services.

(B) Any decision, order, or other determination issued in any proceeding described in this subsection shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(C) Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) Any proceeding before the Secretary of Labor involving the functions transferred by this Act shall be subject to the statutory requirements for notice, hearing, action upon the record, administrative review, and judicial review that apply to similar proceedings before the Commissioner conducted prior to the enactment of this Act.

(e) CONTINUATION OF ACTIONS AND CAUSES OF ACTION.—

(1) Except as provided in paragraphs (2) and (3), this Act shall not abrogate, terminate, or otherwise affect any action or cause of action, that—

(A) relates to a function transferred by this Act; and

(B) is pending or otherwise in existence on the date this Act takes effect.

(2) Any action pending before the Commissioner or any court on the date this Act takes effect that involves a function transferred by this Act shall continue before the Commissioner or court consistent with the following provisions:

(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted.

(B) Any decision, order, or other determination issued in any proceeding subject to this paragraph shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(3) Any cause of action by or against the Commissioner that exists on the date this Act takes effect and involves any function transferred by this Act may be asserted by or against the Secretary of Labor or the United States.

(f) CONTINUATION OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Social Security Administration, and relating to a function transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against the Social Security Administration, or by or against any officer thereof in his official capacity, relating to a function transferred by this Act, shall abate by reason of enactment of this Act.

(g) PRESERVATION OF PENALTIES, ETC.—The transfer of functions under this Act shall not release or extinguish any penalty, forfeiture, liability, prosecution, investigation, or right to initiate a future investigation or prosecution involving any function transferred by this Act.

30 USC 902 note. **SEC. 4. EFFECTIVE DATE.**

This Act, and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act.

Approved November 2, 2002.

LEGISLATIVE HISTORY—H.R. 5542:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, 9, considered and passed House.

Oct. 16, considered and passed Senate.