

Public Law 89-488

July 4, 1966
[H. R. 10721]

AN ACT

To amend the Federal Employees' Compensation Act to improve its benefits, and for other purposes.

Federal Employees' Compensation Act Amendments of 1966.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Compensation Act Amendments of 1966".

SCHEDULED DISABILITIES

63 Stat. 855;
74 Stat. 907.
5 USC 755.

SEC. 2. (a) Section 5(a) of the Federal Employees' Compensation Act is amended by striking out everything preceding clause (1), and inserting in lieu thereof the following:

"SEC. 5. (a) In any case of permanent disability which involves the loss, or loss of use, of a member or function of the body or involves disfigurement, basic compensation for such disability shall be payable to the disabled employee, as provided in the following schedule, at the rate of 66 $\frac{2}{3}$ per centum of his monthly pay. Such compensation shall be payable regardless of whether the cause of the disability originates in a part of the body other than such member, and regardless of whether the disability also involves another impairment of the body. Such compensation shall be in addition to compensation for any temporary total or temporary partial disability. The schedule referred to in the first sentence is as follows:"

(b) Section 5(b) of such Act is amended to read as follows:

"(b) With respect to any period after payments under subsection (a) have terminated, compensation shall be paid as provided in section 3 if the disability is total, or as provided in subsection (a) of section 4 if the disability is partial."

(c) The second sentence of section 5(c) of such Act is amended by striking out "for the purposes of disabilities specified in subsection (b)."

(d) Paragraph (1) of section 5(d) of such Act is amended by striking out "(including any disability compensable under the schedule to subsection (a) by virtue of subsection (b))".

5 USC 756.

(e) Section 6(a)(1) of such Act is amended by striking out "(including compensation payable under the schedule to section 5(a) by virtue of section 5(b))".

INCREASES IN MAXIMUM AND MINIMUM LIMITS OF COMPENSATION

SEC. 3. (a) Section 6(a)(1) of the Federal Employees' Compensation Act is amended by striking out everything after "wage-earning capacity" and inserting in lieu thereof a period.

(b) Section 6(c) of such Act is amended by striking out "shall not be more than \$525 per month and in cases of total disability shall not be less than \$180 per month," and inserting in lieu thereof the following: "shall not be more than 75 per centum of the monthly pay of the highest rate of basic compensation provided for grade 15 of the General Schedule of the Classification Act of 1949, and in cases of total disability shall not be less than 75 per centum of the monthly pay of the lowest rate of basic compensation provided for grade 2 by such General Schedule."

79 Stat. 1111.
5 USC 1113.

5 USC 760.

(c) Section 10(K) of such Act is amended to read as follows:

"(K) In computing compensation under this section, the monthly pay shall be considered to be not less than the lowest rate of basic compensation provided for grade 2 by the General Schedule of the Classification Act of 1949, but the total monthly compensation shall

not exceed (1) the monthly pay computed as provided in section 12, or (2) 75 per centum of the monthly pay of the highest rate of basic compensation provided for grade 15 of the General Schedule of the Classification Act of 1949."

INCREASE IN COMPENSATION FOR CERTAIN PERSONS; ALLOWANCES FOR ATTENDANTS

SEC. 4. (a) Section 6(b)(1) of the Federal Employees' Compensation Act is amended by striking out "\$125" and inserting in lieu thereof "\$300".

5 USC 756.

(b) The second proviso of the first section of the Act of February 15, 1934 (5 U.S.C. 796), is amended—

(1) by striking out "\$150" in clause (a) and inserting in lieu thereof "\$300"; and

(2) by striking out "\$150" in clause (b) and inserting in lieu thereof "\$450".

ELIGIBILITY OF RETIREES FOR SCHEDULE AWARDS AND MEDICAL SERVICES, ETC.

SEC. 5. (a) The first sentence of section 7(a) of the Federal Employees' Compensation Act is amended by inserting after "Civil Service Retirement Act" the following: ", or any other Federal Act or program providing retirement benefits for employees".

5 USC 757.

(b) The first sentence of section 9(a) of such Act is amended by inserting after "Civil Service Retirement Act" the following: "or any other Federal Act or program providing retirement benefits for employees".

5 USC 759.

REEMPLOYMENT RIGHTS

SEC. 6. Section 9 of the Federal Employees' Compensation Act is amended by adding at the end thereof the following new subsection:

"(c) Upon the application of any employee or former employee in receipt of compensation under this Act to the United States Civil Service Commission, said Commission shall enter his name on each appropriate register or employment list, or both, maintained by the Commission, for certification for appointment to any vacant position for which he is physically and otherwise qualified, in accordance with regulations of the Commission. Employees or former employees with career or career-conditional status shall be entitled to the same priority in certification which the Commission accords a career or career-conditional employee who has been involuntarily displaced from his position through no fault of his own. For the purpose of this subsection, 'employee' means an employee as defined by section 40(b)(1) of this Act, but does not include an individual who, pursuant to any other Act, is deemed an employee for the purpose of this Act."

"Employee."

5 USC 790.

CONTINUATION OF BENEFITS ON ACCOUNT OF SURVIVING CHILDREN ATTENDING SCHOOL

SEC. 7. (a) Paragraph (G) of section 10 of the Federal Employees' Compensation Act is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, compensation payable to or for a child, a brother or sister, or a grandchild which would otherwise be terminated because such child, brother or sister, or grandchild has reached the age of eighteen shall be continued if he is a student (as defined in paragraph (M)) at the time he reaches the age of eighteen for so long as he continues to be such a student or until he marries."

5 USC 760.

5 USC 756.

(b) Section 6(a)(2)(C) of the Act is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, compensation payable for a child which would otherwise be terminated because such child has reached the age of 18 shall be continued if he or she is a student (as defined in section 10(M) of this Act) at the time he or she reaches the age of 18 for so long as the child continues to be such a student or until he or she marries."

5 USC 760.

(c) Section 10 of such Act is amended by adding at the end thereof the following new paragraph:

Student eligi-
bility provisions.

"(M) For the purposes of this section, a person shall be considered a student while he is regularly pursuing a full-time course of study or training at an institution which is—

"(i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or

"(ii) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body, or

"(iii) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(iv) an additional type of educational or training institution as defined by the Secretary;

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed four months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education.

LUMP-SUM COMPENSATION UPON REMARRIAGE

39 Stat. 746.
5 USC 764.

SEC. 8. Section 14 of the Federal Employees' Compensation Act is amended by inserting "(a)" after "SEC. 14." and by adding at the end thereof the following new subsection:

"(b) Upon remarriage, a widow or dependent widower, entitled to compensation under section 10, shall be paid a lump sum equal to twenty-four times the monthly compensation payment (excluding any compensation on account of another person) to which he was entitled immediately prior to the remarriage."

TIME FOR CLAIMS

5 USC 770.

SEC. 9. Section 20 of the Federal Employees' Compensation Act is amended by inserting "(a)" after "SEC. 20.", by striking out of the second sentence "due to radiation or other causes", and by adding at the end thereof the following new subsection:

"(b) The time limitations in subsection (a) shall not begin to run against a minor until he reaches the age of twenty-one or has had a legal representative appointed, and shall not run against an incompe-

tent person while he is incompetent and has no duly appointed legal representative."

RECOVERIES IN ACTIONS AGAINST THIRD PARTIES

SEC. 10. (a) The third paragraph of section 26 of the Federal Employees' Compensation Act is amended by inserting before the period at the end thereof the following: " : *Provided*, That in any event the beneficiary shall be paid not less than one-fifth of the net amount of any settlement or recovery remaining after the expenses thereof have been deducted".

5 USC 776.

(b) Paragraph (B) of section 27 of such Act is amended by inserting before the period at the end thereof the following: " : *Provided*, That the beneficiary shall have the right to retain not less than one-fifth of the net amount of such money or other property remaining after the expenses of a suit or settlement have been deducted, and, in addition, to retain an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States".

5 USC 777.

(c) Section 35 of such Act is amended by adding at the end thereof the following new subsection:

5 USC 785.

"(d) As used in subsection (a) of this section, the term 'administrative expenses' does not include expenses for legal services rendered by or on behalf of the Secretary under sections 26 and 27."

HEARINGS

SEC. 11. (a) The first sentence of section 32 of the Federal Employees' Compensation Act is amended by inserting after the comma the following: "including rules and regulations for the conduct of hearings under section 36".

5 USC 783.

(b) Section 36 of such Act is amended by inserting "(a)" after "SEC. 36." and by adding the following at the end thereof:

5 USC 786.

"(b) (1) Prior to any review under section 37, any claimant for compensation not satisfied with a decision of the Secretary under this section shall, upon request made within thirty days after the date of issuance of such decision, be afforded an opportunity for a hearing upon his claim before a representative of the Secretary. At such hearing, the claimant shall be afforded an opportunity to present evidence in further support of his claim. Within thirty days after the conclusion of such hearing, the Secretary shall notify the claimant in writing of his further decision on such claim and any modifications of the award he may make and of the basis of his decision.

5 USC 787.

"(2) In conducting such hearing the representative of the Secretary shall not be bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 5 of the Administrative Procedure Act except as provided by this Act, but may conduct such hearing in such manner as to best ascertain the rights of the claimant. For this purpose he shall receive such relevant evidence as may be adduced by the claimant and shall, in addition, receive such other evidence as he may determine to be necessary or useful in evaluating such claim."

60 Stat. 239.
5 USC 1004.

SECRETARY'S RULEMAKING AUTHORITY IN EMPLOYMENT OUTSIDE THE UNITED STATES

SEC. 12. Section 32 of the Federal Employees' Compensation Act is amended by adding the following: "In the adjudication of claims under section 42 of this Act, the Secretary shall have the authority to determine the nature and extent of the proofs and evidence required

5 USC 793.

to establish the right to benefits under this Act without regard to the date of injury or death for which claim is made."

INCREASE IN EXISTING AWARDS

SEC. 13. The Secretary of Labor shall determine the per centum rise in the price index on the basis of the annual average price index for calendar year 1958 and the price index for the month during which this Act is enacted. Effective on the first day of the third month which begins after the enactment of this Act, compensation payable under the Federal Employees' Compensation Act on account of disability or death which occurred more than one year before such first day shall be increased by the per centum rise determined under the preceding sentence adjusted to the nearest one-tenth of 1 per centum and rounded to the nearest dollar, except that such increase shall in no case be less than \$1. For purposes of this section, the term "price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

39 Stat. 742;
63 Stat. 854.
5 USC 751 note.

"Price index."

COST-OF-LIVING ADJUSTMENTS IN FUTURE

SEC. 14. The Federal Employees' Compensation Act is amended by redesignating section 43 as section 44, and by inserting after section 42 the following new section:

5 USC 751 note.

"ADJUSTMENTS IN COMPENSATION TO REFLECT FUTURE PRICE INCREASES

"SEC. 43. (a) Each month after the month during which this section becomes effective, the Secretary shall determine the per centum change in the price index. Effective the first day of the third month which begins after the price index has equaled a rise of at least 3 per centum for three consecutive months over the price index for the most recent base month, compensation payable on account of disability or death which occurred more than one year before such first day shall be increased by the per centum rise in the price index (calculated on the highest level of the price index during the three consecutive months) adjusted to the nearest one-tenth of 1 per centum.

"(b) The monthly compensation, after adjustment under this section, shall be fixed at the nearest dollar, except that the monthly compensation shall, after adjustment, reflect an increase of at least \$1.

"(c) For purposes of this section—

"(1) the term 'price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(2) the term 'base month' means the month this section becomes effective and each month thereafter which is used as a basis in calculating an increase in compensation under this section."

Definitions.

APPLICATION TO MILITARY PERSONNEL

SEC. 15. Except for benefits provided under section 7 of this Act, nothing in this or any other Act of Congress shall be construed to make the increases authorized herein applicable to military personnel or to any person or employees not within the definition of "employee" in section 40(b) (1) or (2) of the Federal Employees' Compensation Act. However, these amendments shall apply to employees of the government of the District of Columbia other than members of the Police and Fire Departments who are pensioned or pensionable under the provisions of the Policemen's and Firemen's Retirement and Disability Act.

5 USC 790.

71 Stat. 391.
D.C. Code 4-521
note.

EFFECTIVE DATES

SEC. 16. (a) The amendments made by sections 3, 4, and 5 shall be applicable to cases of injury or death occurring before or after the date of enactment only with respect to any period beginning on or after the first day of the first calendar month following the date of such enactment.

(b) The amendments made by sections 2, 6, and 11 shall not apply with respect to any injury sustained before the date of enactment of this Act.

(c) The amendments made by section 7 (relating to continuation of benefits on account of surviving children attending school) shall apply with respect to persons who, on the date of enactment of this Act, have not reached twenty-three years of age or completed four years of education beyond the high school level.

(d) The amendments made by section 8 (relating to lump-sum compensation upon remarriage) shall be applicable only with respect to remarriages occurring after the date of enactment of this Act.

(e) The amendments made by section 9 (relating to the time for claims) shall be applicable only with respect to injuries occurring after the date of enactment of this Act.

(f) The amendments made by section 10 (relating to recoveries in actions against third parties) shall apply in the case of any recovery occurring after the date of enactment of this Act.

Approved July 4, 1966.

Public Law 89-489

AN ACT

To remove a restriction on certain real property heretofore conveyed to the State of California.

July 4, 1966
[H. R. 1582]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 36 of the Act entitled "An Act to authorize the Secretary of Commerce to dispose of certain lighthouse reservations, and for other purposes", approved May 28, 1935 (49 Stat. 311), shall not apply with respect to that portion of the Morro Rock Lighthouse Reservation which was conditionally conveyed to the State of California on August 17, 1935, by the Secretary of Commerce under such Act of May 28, 1935.

California.
Conveyance; re-
moval of restric-
tion.

SEC. 2. The Administrator of General Services is authorized and directed to issue to the State of California, without monetary consideration therefor, such written instruments as may be necessary to carry out the provisions of the first section of this Act.

Approved July 4, 1966.