

after the date of the injury or by November 18, 1998, whichever is later.

(Pub. L. 96-70, title I, §1412, Sept. 27, 1979, 93 Stat. 485; Pub. L. 99-209, §2(c), Dec. 23, 1985, 99 Stat. 1716; Pub. L. 105-85, div. C, title XXXV, §3543(a), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105-261, div. C, title XXXV, §§3509(a)(2), 3512(a)(4), Oct. 17, 1998, 112 Stat. 2270, 2271.)

Editorial Notes

AMENDMENTS

1998—Pub. L. 105-261 substituted “Subject to section 3779(b) of this title, the Commission” for “The Commission” in first sentence and “by November 18, 1998” for “November 18, 1997”.

1997—Pub. L. 105-85 substituted “within one year after the date of the injury or November 18, 1997,” for “within 2 years after the date of the injury, or within 1 year after December 23, 1985.”

1985—Pub. L. 99-209 struck out provisions limiting the amount of the claim to \$120,000, and inserted provision that no payment for damages on a claim may be made under this section unless the claim is filed with the Commission within 2 years after the date of the injury, or within 1 year after Dec. 23, 1985, whichever is later.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99-209, set out as a note under section 3771 of this title.

§ 3773. Measure of damages generally

In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable, there may be included—

- (1) the actual or estimated cost of repairs;
- (2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;
- (3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and
- (4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earn-

ings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

(Pub. L. 96-70, title I, §1413, Sept. 27, 1979, 93 Stat. 486.)

§ 3774. Delays for which no responsibility is assumed

The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

- (1) landslides or other natural causes;
- (2) necessary construction or maintenance work on Canal locks, terminals, or equipment;
- (3) obstruction arising from accidents;
- (4) time necessary for admeasurement;
- (5) congestion of traffic;
- (6) investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or
- (7) except as specially set forth in this subpart, any other cause.

(Pub. L. 96-70, title I, §1414, Sept. 27, 1979, 93 Stat. 486; Pub. L. 99-209, §3, Dec. 23, 1985, 99 Stat. 1717.)

Editorial Notes

AMENDMENTS

1985—Par. (6). Pub. L. 99-209 amended par. (6) generally. Prior to amendment, par. (6) read as follows: “time necessary for investigation of marine accidents; or”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-209 applicable to any claim arising on or after Dec. 23, 1985, see section 7(b)(1) of Pub. L. 99-209, set out as a note under section 3771 of this title.

§ 3775. Settlement of claims

The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subpart. Such amounts may be paid only out of money allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

(Pub. L. 96-70, title I, §1415, Sept. 27, 1979, 93 Stat. 486; Pub. L. 99-209, §4, Dec. 23, 1985, 99 Stat. 1717; Pub. L. 104-106, div. C, title XXXV, §3529(5), Feb. 10, 1996, 110 Stat. 642.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-106 struck out “appropriated or” after “out of money” in second sentence.

1985—Pub. L. 99-209 struck out the subsec. (a) designation, substituted “The Commission, by” for “Sub-

ject to subsection (b) of this section, the Commission, by” and “Such amounts may be paid only out of money appropriated or allotted for the maintenance and operation of the Panama Canal” for “Such amounts shall be payable promptly out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal”, and struck out subsec. (b) which provided that the Commission could not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeded \$120,000 but had to submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99-209, set out as a note under section 3771 of this title.

§ 3776. Actions on claims

Subject to section 3779(b) of this title, a claimant for damages pursuant to section 3771(a) or 3772 of this title who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this part and of applicable regulations issued pursuant to section 3811 of this title relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subpart may be paid only out of money allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within 180 days after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the claim or by May 17, 1998, whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subpart.

(Pub. L. 96-70, title I, §1416, Sept. 27, 1979, 93 Stat. 487; Pub. L. 99-209, §5, Dec. 23, 1985, 99 Stat. 1717; Pub. L. 104-106, div. C, title XXXV, §3529(6), Feb. 10, 1996, 110 Stat. 642; Pub. L. 105-85, div. C, title XXXV, §3543(b), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105-261, div. C, title XXXV, §§3509(a)(3), 3512(a)(5), Oct. 17, 1998, 112 Stat. 2270, 2271.)

Editorial Notes

AMENDMENTS

1998—Pub. L. 105-261 substituted “Subject to section 3779(b) of this title, a claimant” for “A claimant” in

first sentence and “by May 17, 1998” for “November 18, 1997”.

1997—Pub. L. 105-85 substituted “180 days” for “one year” and “claim or November 18, 1997,” for “claim, or within one year after December 23, 1985.”

1996—Pub. L. 104-106 struck out “appropriated or” after “out of money” in third sentence.

1985—Pub. L. 99-209 substituted “section 3771(a) or 3772 of this title” for “section 3771 of this title”, substituted “may be paid only out of money” for “shall be paid out of any moneys”, and inserted provisions that any action on a claim under this section shall be barred unless the action is brought within one year after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the claim, or within one year after Dec. 23, 1985, whichever is later, and that attorneys appointed by the Commission shall represent the Commission in any action arising under this subpart.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99-209, set out as a note under section 3771 of this title.

§ 3777. Investigation of accident or injury giving rise to claim

Notwithstanding any other provision of law, a claim may not be considered under this subpart, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

- (1) an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and
- (2) the basis for the claim has been laid before the Commission.

(Pub. L. 96-70, title I, §1417, Sept. 27, 1979, 93 Stat. 487; Pub. L. 104-201, div. C, title XXXV, §3544, Sept. 23, 1996, 110 Stat. 2867.)

Editorial Notes

AMENDMENTS

1996—Par. (1). Pub. L. 104-201 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “an investigation by the competent authorities of the accident or injury giving rise to the claim has been completed; and”.

§ 3778. Board of local inspectors

(a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

- (1) the investigations required by section 3777 of this title; and
- (2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

(Pub. L. 96-70, title I, §1418, Sept. 27, 1979, 93 Stat. 487.)