

AMENDMENTS

1962—Subsecs. (a), (b)(2). Pub. L. 87-846 made technical amendment to reference in original act which appears in text as reference to section 4110 of this title.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

Executive Documents

TRANSFER OF FUNCTIONS

“Secretary of Labor” substituted in subsecs. (a) and (b) for “Federal Security Administrator” and “Administrator” pursuant to Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which transferred functions of Federal Security Administrator and Federal Security Agency under this section to Secretary of Labor, with power to delegate, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 662. See section 8145 of Title 5, Government Organization and Employees.

War Claims Commission, including offices of its members, abolished and functions and funds transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§2, 4, 6(c), eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 4101 of this title and notes thereunder.

§ 4104. Internees**(a) “Civilian American citizen” defined**

As used in subsections (b) and (f) of this section, the term “civilian American citizen” means any person who, being then a citizen of the United States, was captured by the Imperial Japanese Government on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippine Islands, or any Territory or possession of the United States attacked or invaded by such government, or while in transit to or from any such place, or who went into hiding at any such place in order to avoid capture or internment by such government; except (1) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or (2) a person who at the time of his capture or entrance into hiding was a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force.

(b) Payment of detention benefits

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to December 6, 1941, during which he was held by the Imperial Japanese Government as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by such Imperial Japanese Government.

(c) Amount of detention benefits

The detention benefit allowed to any person under the provisions of subsection (b) shall be at the rate of \$60 for each calendar month during which such person was at least eighteen years of

age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(d) Persons entitled to detention benefits

The detention benefits allowed under subsection (b) shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

- (1) Widow or husband if there is no child or children of the deceased;
- (2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children in equal shares;
- (3) Child or children of the deceased (in equal shares) if there is no widow or husband; and
- (4) Parents (in equal shares) if there is no husband, or child.

(e) Certification of claims

Any claim allowed by the Commission under this section (except under subsections (g) and (i)) shall be certified to the Secretary of the Treasury for payment out of the war claims funds established by section 4110 of this title, and shall be payable by the Secretary of the Treasury to the person entitled thereto; except that where the person entitled to payment is under any legal disability, any part of the amount payable may, in the discretion of the Commission, be paid, for the use of the claimant, to the natural or legal guardian, committee, conservator, or curator of the claimant, or, if there is no such guardian, committee, conservator, or curator, then the Commission may, in its discretion, make payment to any other person, including the spouse of such claimant, whom the Commission may determine is vested with the care of the claimant or his estate for the use and benefit of such claimant or estate; and if such person is a minor, any part of the amount payable may, in the discretion of the Commission, be paid to such minor.

(f) Application of War Hazards Compensation Act; factors for determining benefits; effective date

(1) Except as otherwise provided in this subsection, the provisions of titles I and II of the Act entitled “An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes”, approved December 2, 1942, as amended [42 U.S.C. 1701 et seq., 1711 et seq.], are extended and shall apply with respect to the injury, disability, or death resulting from injury of a civilian American citizen occurring while he was held by or in hiding from the Imperial Japanese Government, to the same extent as if such civilian American citizen were an employee within the purview of such Act of December 2, 1942, as amended.

(2) For the purpose of determining the benefits extended and made applicable by paragraph (1)—

(A) the average weekly wage of any such civilian American citizen, whether employed, self-employed, or not employed, shall be deemed to have been \$37.50;

(B) the provisions of such Act [42 U.S.C. 1701 et seq.],¹ shall be applicable whether or not

¹ So in original. The comma probably should not appear.

any such civilian American citizen was employed;

(C) notice of injury or death shall not be required; and limitation provisions with respect to the filing of claims for injury, disability, or death shall not begin to run until July 3, 1948; and

(D) the monthly compensation in cases involving partial disability shall be determined by the percentage the degree of partial disability bears to total disability and shall not be determined with respect to the extent of loss of wage earning capacity.

(3) The following provisions of such Act of December 2, 1942, as amended [42 U.S.C. 1701 et seq.], shall not apply in the case of such civilian American citizens: The last sentence of section 101(a), section 101(b), section 101(d) [42 U.S.C. 1701(a), (b), (d)], section 104 [42 U.S.C. 1704], and section 105 [42 U.S.C. 1705].

(4) Rights or benefits which, under this subsection, are to be determined with reference to other provisions of law shall be determined with reference to such provisions of law as in force on January 3, 1948.

(5) The money benefit for disability or death shall be paid only to the person entitled thereto, or to his legal or natural guardian if he has one, and shall not upon death of the person so entitled survive for the benefit of his estate or any other person.

(6) The benefit of a minor or of an incompetent person who has no natural or legal guardian may, in the discretion of the Secretary of Labor, be paid, in whole or in such part as he may determine for and on behalf of such minor or incompetent directly to the person or institution caring for, supporting, or having custody of such minor or incompetent.

(7) No person, except a widow or a child, shall be entitled to benefits for disability with respect to himself, and to death benefits on account of the death of another.

(8) If a civilian American citizen or his dependent receives or has received from the United States any payments on account of the same injury or death, or from his employer, in the form of wages, or payments in lieu of wages, or in any form of support or compensation (including workmen's compensation) in respect to the same objects, the benefits under this section shall be diminished by the amount of such payments in the following manner: (A) Benefits on account of injury or disability shall be reduced by the amount of payments to the injured person on account of the same injury or disability; and (B) benefits on account of death shall be reduced by the amount of payments to the dependents of the deceased civilian American citizen on account of the same death.

(9) This subsection shall take effect as of December 7, 1941, and the right of individuals to benefits shall be held to have begun to accrue as though this subsection had been in effect as of such date.

(10) No benefits provided by this subsection for injury, disability, or death shall accrue to any person who, without regard to this subsection, is entitled to or has received benefits for the same injury, disability, or death under such Act of December 2, 1942, as amended [42 U.S.C. 1701 et seq.].

(11) No benefits provided by this subsection shall accrue to any person to whom benefits have been paid, or are payable, under the Federal Employees' Compensation Act, or any extension thereof, by reason of disability or death of an employee of the United States suffered after capture, detention, or other restraint by an enemy of the United States, when such disability or death is deemed, in the administration of the Federal Employees' Compensation Act to have resulted from injury occurring while in the performance of duty, under subsection (b) of section 5 of the Act entitled "An Act to amend the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', as amended", approved July 28, 1945, as amended.

(g) Benefits for civilian internees in Korea, and dependents; time

(1) As used in this subsection, the term "civilian American citizens" means any person who, being then a citizen of the United States, was captured in Korea on or after June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to August 21, 1954, or who went into hiding in Korea in order to avoid capture or internment by any such hostile force; except (A) a person who at any time voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (B) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to June 25, 1950, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by any such hostile force.

(3) The detention benefit allowed to any person under the provisions of paragraph (2) of this subsection shall be at the rate of \$60 for each calendar month during which such person was at least eighteen years of age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of

funds appropriated pursuant to this subsection, and shall be paid by the Secretary of the Treasury to the person entitled thereto, except that where any person entitled to payment under this subsection is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) August 21, 1954;

(B) The date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) The date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(7)(A) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(h) Benefits for Guamanians killed or captured at Wake Island on or after December 7, 1941

In the case of any Guamanian killed or captured by the Imperial Japanese Government on or after December 7, 1941, at Wake Island, benefits shall be granted under subsections (a) through (f) of this section in the same manner and to the same extent as apply in the case of civilian American citizens so killed or captured. Claims for benefits under subsections (a) through (e) of this section must be filed within six months after August 31, 1962, and the time limitation applicable to any individual by subsection (f) shall not begin to run until August 31, 1962, with respect to any individual who is entitled to such benefits solely by reason of this subsection. The preceding sentence shall not be construed to affect the right of any individual to receive such benefits with respect to any period prior to August 31, 1962.

(i) Detention benefits for civilian internees in Southeast Asia; definitions; authority of Commission; claim for benefits; rate of compensation; persons entitled to payments; certification for payment; filing date; determination of claims; appropriations

(1) As used in this subsection—

(A) the term “Vietnam conflict” relates to the period beginning on February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

(B) the term “civilian American citizen” means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia, in order to avoid capture or internment by any such hostile force, except (i) a person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (ii) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to February 27, 1961, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid capture or internment by any such hostile force.

(3) The detention benefits allowed under paragraph (2) of this subsection shall be at the rate of \$150 for each calendar month.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the civilian American citizen entitled thereto, or, in the event of his death, only to the following persons:

(A) the widow or husband if there is no child or children of the deceased;

(B) the widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) the child or children of the deceased in equal shares if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid to the person entitled thereto, except that if a person entitled to payment under this section is under any legal disability, payment shall be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this section must be filed not later than three years from whichever of the following dates last occurs:

(A) June 24, 1970;

(B) the date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations for each claim filed under this subsection at the earliest practicable date, but not later than one year after the date on which such claim was filed.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out

the purposes of this subsection, including necessary administrative expenses.

(July 3, 1948, ch. 826, title I, § 5, 62 Stat. 1242; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Apr. 9, 1952, ch. 168, § 1, 66 Stat. 49; Aug. 21, 1954, ch. 784, § 1, 68 Stat. 759; Aug. 31, 1954, ch. 1162, title I, §§ 101 (a)–(c), 102(a), 68 Stat. 1033, 1034; Pub. L. 87–617, Aug. 31, 1962, 76 Stat. 413; Pub. L. 87–846, title I, § 102, Oct. 22, 1962, 76 Stat. 1107; Pub. L. 91–289, § 3, June 24, 1970, 84 Stat. 324; Pub. L. 94–383, Aug. 12, 1976, 90 Stat. 1122.)

Editorial Notes

REFERENCES IN TEXT

The Act entitled “An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes”, approved December 2, 1942, referred to in subsec. (f)(1), is act Dec. 2, 1942, ch. 668, 56 Stat. 1028, which is classified principally to chapter 12 (§1701 et seq.) of Title 42, The Public Health and Welfare. Titles I and II of the act, popularly known as the War Hazards Compensation Act, are classified generally to subchapters I (§1701 et seq.) and II (§1711 et seq.) of chapter 12 of Title 42. For complete classification of this Act to the Code, see Tables.

The Federal Employee Compensation Act, referred to in subsec. (f)(11), is act Sept. 7, 1916, ch. 458, 39 Stat. 742. The act was repealed, and the provisions thereof were reenacted as subchapter I (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378.

Subsection (b) of section 5 of the Act entitled “An Act to amend the Act entitled ‘An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes’, as amended”, approved July 28, 1945, referred to in subsec. (f)(11), is section 5(b) of act July 28, 1945, ch. 328, 59 Stat. 504, which enacted section 801 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 85–608, § 303, Aug. 8, 1958, 72 Stat. 539. See section 8102(b) of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 2004 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1976—Subsec. (i)(3). Pub. L. 94–383 substituted “\$150” for “\$60”.

1970—Subsec. (e). Pub. L. 91–289, § 3(1), included reference to subsec. (i) in parenthetical phrase.

Subsec. (i). Pub. L. 91–289, § 3(2), added subsec. (i).

1962—Subsec. (e). Pub. L. 87–846 made technical amendment to reference in original act which appears in text as reference to section 4110 of this title.

Subsec. (h). Pub. L. 87–617 added subsec. (h).

1954—Subsec. (a). Act Aug. 31, 1954, § 101(a), included as eligible for detention benefits, civilian American citizens who were captured at certain Pacific islands by the Japanese, but who were formerly expressly excluded from these benefits by reason of being Federal employees or employees of contractors with the United States, and to make them eligible for disability compensation. Act Aug. 21, 1954, § 1(b), limited the application of such section’s definition of “civilian American citizen” to subssecs. (b) and (f) of this section.

Subsec. (d). Act Aug. 31, 1954, § 102(a), (b), struck out “dependent” wherever appearing, and added cl. (4).

Subsec. (e). Act Aug. 21, 1954, § 1(c), inserted “(except under subsection (g))” after “under this section”.

Subsec. (f)(3). Act Aug. 31, 1954, § 101(b), amended par. (3) generally. Prior to amendment, par. (3) read as fol-

lows: “The following provisions of such Act of December 2, 1942, as amended, shall not apply in the case of such civilian American citizens: Section 101(b), section 104, and section 105.”

Subsec. (f)(10), (11). Act Aug. 31, 1954, § 101(c), added pars. (10) and (11).

Subsec. (g). Act Aug. 21, 1954, § 1(a), added subsec. (g). 1952—Subsec. (e). Act Apr. 9, 1952, allowed the award for the benefit of claimant to be paid to the claimant’s natural or legal guardian, committee, conservator, or curator, or to such other person as is charged with the care of the claimant, and permitted the payment of an award payable to a minor, directly to such minor.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For provisions transferring Foreign Claims Settlement Commission of the United States to Department of Justice, as a separate agency, see section 1622a et seq. of Title 22, Foreign Relations and Intercourse.

Executive Documents

TRANSFER OF FUNCTIONS

“Secretary of Labor” substituted for “Federal Security Administrator” in subsec. (f)(6) pursuant to Reorg. Plan No. 19 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which transferred functions of Federal Security Administrator and Federal Security Agency under this section to Secretary of Labor, with power to delegate, and was set out in the Appendix to Title 5, Government Organization and Employees, prior to repeal by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 662. See section 8145 of Title 5, Government Organization and Employees.

War Claims Commission, including offices of its members, abolished and functions transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§ 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out in the Appendix to Title 5, Government Organization and Employees. See, also, section 4101 of this title and notes thereunder.

§ 4105. Prisoners of war

(a) “Prisoner of war” defined

As used in subsection (b) of this section, the term “prisoner of war” means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(b) Payment of claims; rate allowed; certification of claims

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of \$1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be