

Public Law 85-608

AN ACT

August 8, 1958
[H. R. 12140]

To amend the Act of December 2, 1942, and the Act of August 16, 1941, relating to injury, disability, and death resulting from war-risk hazards and from employment, suffered by employees of contractors of the United States, and for other purposes.

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

TITLE I—AMENDMENTS TO THE WAR HAZARDS
COMPENSATION ACT

War-risk hazards.
42 USC 1701.

SEC. 101. (a) Clause (2) of section 101 (a) of the Act of December 2, 1942 (ch. 668, 56 Stat. 1028), as amended, is amended to read as follows:

Contract serv-
ices.

“(2) to any person engaged by the United States under a contract for his personal services outside the continental United States or in Alaska or the Canal Zone; or”.

(b) Clause (3) of section 101 (a) of that Act is amended to read as follows:

Civilian em-
ployees.

“(3) to any person employed outside the continental United States or in Alaska or the Canal Zone as a civilian employee paid from nonappropriated funds administered by the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Store Ashore, Navy exchanges, Marine Corps exchanges, officers' and noncommissioned officers' open messes, enlisted men's clubs, service clubs, special service activities, or any other instrumentality of the United States under the jurisdiction of the Department of Defense and conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents; or”.

Welfare service
employees.

(c) Section 101 (a) of that Act is amended by deleting the period at the end of clause (4), inserting the words “; or” in place thereof, and adding the following new clause:

“(5) to any person employed or otherwise engaged for personal services outside the continental United States or in Alaska or the Canal Zone by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense.”

(d) Section 101 (d) of that Act is amended to read as follows:

Nonapplicabil-
ity.

“(d) The provisions of this section shall not apply in the case of any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.”

42 USC 1702.

SEC. 102. Section 102 (a) of the Act of December 2, 1942 (ch. 668, 56 Stat. 1031), as amended, is amended by striking the last proviso. This amendment shall not affect benefits adjudicated thereunder prior to the enactment of this Act.

42 USC 1711.

SEC. 103. (a) Section 201 (b) of the Act of December 2, 1942 (ch. 668, 56 Stat. 1033), as amended, is amended by changing that part of the section which precedes the numbered clauses to read as follows:

Definitions.

“(b) The term ‘war-risk hazard’ means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has

been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this Act is serving; from—”.

(b) Clause (3) of section 201 (b) of that Act is amended to read as follows:

42 USC 1711.

“(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person as defined herein (except with respect to employees of a manufacturer, processor, or transporter of munitions during the manufacture, processing, or transporting thereof, or while stored on the premises of the manufacturer, processor, or transporter); or”.

(c) Section 201 (c) of that Act is amended to read as follows:

42 USC 1711.

“(c) The term ‘hostile force or person’ means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this Act is serving.”

(d) Section 201 (d) of that Act is amended to read as follows:

42 USC 1711.

“(d) The term ‘allies’ means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.”

(e) Section 201 (e) of that Act is amended to read as follows:

42 USC 1711.

“(e) The term ‘war activities’ includes activities directly relating to military operations.”

(f) Section 201 (f) of that Act is repealed.

Repeal.

SEC. 104. Sections 101 (b), 104 (a), 201 (b), and 206 of the Act of December 2, 1942 (ch. 668, 56 Stat. 1028), as amended, are amended by striking out the words “enemy” and “the enemy” wherever they appear and inserting the words “a hostile force or person” in place thereof.

42 USC 1701,
1704, 1711, 1716.

SEC. 105. Title II of the Act of December 2, 1942 (ch. 668, 56 Stat. 1033), as amended, is further amended by adding the following new section at the end thereof:

42 USC 1711-
1717.

“SEC. 208. Titles I and II of this Act may be cited as the ‘War Hazards Compensation Act.’”

TITLE II—AMENDMENTS TO THE DEFENSE BASE ACT

SEC. 201. (a) Section 1 (a) of the Act of August 16, 1941 (ch. 357, 55 Stat. 622), as amended, is amended by inserting the following new clause between clause (5) and the last five lines:

Place of employ-
ment.
42 USC 1651.

“(6) outside the continental United States or in Alaska or the Canal Zone by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense.”

(b) Section 1 (b) of that Act is amended to read as follows:

“Public work”.

“(b) As used in this section—

“(1) the term ‘public work’ means any fixed improvement or any project, whether or not fixed, involving construction, alteration, removal or repair for the public use of the United States or its allies, including but not limited to projects or operations under service contracts and projects in connection with the national defense or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory and ancillary work in connection therewith at the site or on the project;

“(2) the term ‘allies’ means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

“(3) the term ‘war activities’ includes activities directly relating to military operations.”

Waiver of application.

(c) Section 1 (e) of that Act is amended by striking the last sentence and by substituting the following two sentences: “Upon the recommendation of the head of any department or other agency of the United States, the Secretary of Labor, in the exercise of his discretion, may waive the application of this section with respect to any contract, subcontract, or subordinate contract, work location under such contracts, or classification of employees. Upon recommendation of any employer referred to in clause (6) of subsection (a) of this section, the Secretary of Labor may waive the application of this section to any employee or class of employees of such employer, or to any place of employment of such an employee or class of employees.”

Nonapplicability.

(d) Section 1 (f) of that Act is amended to read as follows:

“(f) The liability under this Act of a contractor, subcontractor, or subordinate contractor engaged in public work under paragraphs (1), (2), (3), and (4), subsection (a) of this section or in any work under subparagraph (5) subsection (a) of this section does not apply with respect to any person who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.”

42 USC 1651-1654.

SEC. 202. The Act of August 16, 1941 (ch. 357, 55 Stat. 622), as amended, is amended by adding the following new section:

Short title.

“SEC. 5. This Act may be cited as the ‘Defense Base Act’.”

TITLE III—AMENDMENTS TO THE FEDERAL EMPLOYEES’ COMPENSATION ACT

5 USC 751.

SEC. 301. Section 1 of the Federal Employees’ Compensation Act (39 Stat. 742), as amended, is amended to read as follows:

Disability or death.

“(a) The United States shall pay compensation as hereinafter specified for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty, but no compensation shall be paid if the injury or death is caused by willful misconduct of the employee or by the employee’s intention to bring about the injury or death of himself or of another, or if intoxication of the injured employee is the proximate cause of the injury or death.

Performance of duty.

“(b) In any case where an employee within the coverage of this Act or any extension thereof, who is employed outside of the continental United States or in Alaska or in the Canal Zone, suffers disability or death from a war-risk hazard, or suffers disability or death during or as a result of capture, detention, or other restraint by a hostile force or person, his disability or death shall in the administration of this Act be deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability, or disability resulting in death, occurred or when he was taken by the hostile force or person. This subsection shall not apply to any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who was not living there solely by virtue of the exigencies of his employment, unless the person was injured or was taken while he was engaged in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.

Nothing contained in this subsection shall affect the payment of compensation under entitlement of this Act derived otherwise than by reason of this subsection, but compensation for disability or death shall not accrue for any period of time for which pay, other benefit, or gratuity from the United States on account of detention by the enemy, or by reason of the same disability or death, accrues to the disabled person or his dependents, unless such pay, benefit, or gratuity is refunded or renounced."

SEC. 302. Section 40 of the Federal Employees' Compensation Act, as amended, is further amended by adding, after subsection (i) the following four new subsections:

"(j) The term 'war-risk hazard' means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this Act is serving; from—

"(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

"(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its allies; or

"(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person as defined herein; or

"(4) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

"(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

"(k) The term 'hostile force or person' means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this Act is serving.

"(l) The term 'allies' means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

"(m) The term 'war activities' includes activities directly relating to military operations."

SEC. 303. Section 5 (b) of the Act of July 28, 1945 (ch. 328, 59 Stat. 505), as amended (5 U. S. C. 801), and section 5 (b) of the Act of June 30, 1953 (67 Stat. 134) are repealed.

39 Stat. 750.
5 USC 790.

Definitions.

Repeals.

5 USC 801 and
note.

TITLE IV—MISCELLANEOUS

SEC. 401. Section 2 of the Act of June 30, 1953 (67 Stat. 134), is repealed and section 101 (c) of the Act of December 2, 1942 (ch. 668, 56 Stat. 1030), is reenacted.

Repeal.
42 USC 1701.

SEC. 402. The effective date of this Act is June 30, 1958. Persons are entitled to the benefits of this Act notwithstanding the fact that an injury, disability, or death occurred after June 30, 1958, and before the date of enactment of this Act.

Effective date.

Approved August 8, 1958.