

this Order shall be carried out by the Secretary of Defense, who shall, in carrying out the said functions, provide, by redelegation or otherwise, for their performance, in a manner consistent with paragraph 3 of Article III of the Panama Canal Treaty of 1977, by the Panama Canal Commission.

1-302. The authority of the President under section 1104 of the Panama Canal Act of 1979 (93 Stat. 457; 22 U.S.C. 3614) to fix the compensation of and to define the authorities and duties of the Deputy Administrator and the Chief Engineer is delegated to the Secretary of Defense.

1-303. The functions vested in the President by sections 1418, 1801, and 2206 of the Panama Canal Act of 1979 (93 Stat. 487, 492, and 494; 22 U.S.C. 3778, 3811, and 3844) are delegated to the Secretary of Defense.

1-304. The authority of the President under section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801) with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-305. The function vested in the President by section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations in the Republic of Panama made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1-306. The functions vested in the President by sections 82 and 86 of Title 3 of the Panama Canal Code (76A Stat. 54 and 55; 3 P.C.C. 82 and 86), as amended, are delegated to the Secretary of Defense.

1-307. The functions vested in the President by subsections (a), (b) and (c) of section 8146 of Title 5 of the United States Code, as they apply to the employees of the Panama Canal Commission, are delegated to the Secretary of Defense.

1-308. Except to the extent heretofore delegated, the functions vested in the President pursuant to subchapter II of

chapter 2 of title I of the Panama Canal Act of 1979 (93 Stat. 463) are hereby delegated to the Secretary of Defense.

1-4. Other Agencies.

1-401. The functions vested in the President by sections 1111 and 3301 of the Panama Canal Act of 1979 (93 Stat. 459 and 497; 22 U.S.C. 3621 and 3871), are delegated to the Secretary of State. The Secretary shall perform these functions in coordination with the Secretary of Defense.

1-402. The functions vested in the President by sections 1112(d), 1344(b), and 1504(b) of the Panama Canal Act of 1979 (93 Stat. 460, 484, and 488; 22 U.S.C. 3622(d), 3754(b), and 3784(b)) are delegated to the Secretary of State.

1-403. The functions vested in the President by section 1243(a)(1) of the Panama Canal Act of 1979 (93 Stat. 473; 22 U.S.C. 3681(a)(1)) are delegated to the Director of the Office of Personnel Management.

1-404. Paragraphs (22) and (23) of section 1 of Executive Order No. 11609, as amended, and Executive Order No. 11713 are revoked.

[51 FR 21359, June 12, 1986]

PART 7—CLAIMS OF EMPLOYEES OF PANAMA CANAL COMMISSION UNDER MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964, AS AMENDED

Sec.

- 7.1 Definitions.
- 7.2 Applicability and scope.
- 7.3 Claimants.
- 7.4 Conditions.
- 7.5 Principal types of claims payable.
- 7.6 Principal types of claims not payable.
- 7.7 Types and quantity of property.
- 7.8 Computation of award.
- 7.9 Claims procedure.
- 7.10 Supporting papers.
- 7.11 Settlement.
- 7.12 Agents' or attorneys' fees.

AUTHORITY: Sec. 3, 78 Stat. 767; 31 U.S.C. 241.

SOURCE: 31 FR 12406, Sept. 17, 1966, unless otherwise noted.

§ 7.1 Definitions.

As used in this part:

(a) *The Act* means the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767; 79 Stat. 789);

(b) *Employee* means an employee of the Panama Canal Commission (also referred to as *the Commission*) and includes a member of the uniformed services assigned to duty with the Commission;

(c) *Government* means the Panama Canal Commission unless the context indicates a broader meaning;

(d) *Chief Financial Officer* means the Chief Financial Officer of the Panama Canal Commission acting for and in behalf of the Commission;

(e) *Chief Accountant* means Chief Accountant of the Panama Canal Commission acting for and in behalf of the Commission;

(f) *Chief, Claims Branch*, means the Chief of the Claims Branch, Accounting Division, of the Panama Canal Commission acting for and in behalf of the Commission.

[31 FR 12406, Sept. 17, 1966, as amended at 44 FR 75308, Dec. 19, 1979]

§ 7.2 Applicability and scope.

Pursuant to the Act, the Government will settle and pay claims by employees for the loss of or damage to personal property which occurs incident to Government service. Each such claim must be substantiated and the possession of the property must be shown to have been reasonable, useful, or proper under the circumstances. The maximum amount allowable on any claim is \$15,000. In lieu of a cash settlement, property may be replaced in kind at the option of the Government.

[42 FR 17875, Apr. 4, 1977]

§ 7.3 Claimants.

A claim may be filed by an employee or in his name by his spouse, as authorized agent, or by any other authorized agent or legal representative of the employee. If the employee is dead, the claim may be filed by his (a) spouse, (b) children, (c) father or mother, or both, or (d) brothers or sisters, or both. Payments in settlement of claims to survivors of employees will be made in the order of precedence set forth in this section.

§ 7.4 Conditions.

As prescribed by the Act, a claim is not allowable if:

(a) Claimant fails to present it in writing within 2 years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented not later than 2 years after that cause ceases to exist, or 2 years after the war or armed conflict is terminated, whichever is earlier;

(b) The loss occurred at quarters occupied by the claimant within the 50 States or the District of Columbia unless such quarters were assigned to the employee or otherwise provided in kind by the Government; or

(c) The loss was caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

§ 7.5 Principal types of claims payable.

The following examples are illustrative of the circumstances or situations out of which compensable claims may arise. Loss or damage due to other causes may also be payable under these regulations.

(a) Damage to or loss of property by fire, flood, hurricane or other unusual occurrence, or by theft, while located at:

(1) Quarters, wherever situated, if assigned or provided in kind by the Government.

(2) Quarters outside the 50 States and the District of Columbia without regard to whether assigned or provided in kind by the Government, unless the employee involved is a local or native resident.

(3) Any warehouse, or other place designated by a responsible official for the storage of the property.

(b) Damage to or loss of property due to a marine, rail, or aircraft accident, or other unusual occurrence.

(c) Damage to or loss of property, including vehicles, trailers, and property contained therein, which:

(1) Is incident to the performance of duty and is sustained as a result of or in connection with civil disturbance,

§ 7.6

35 CFR Ch. I (7–1–97 Edition)

public disorder, efforts to save human life or Government property, or a natural or other disaster; or

(2) Occurs in areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements and results from vandalism that is determined to have been politically motivated.

(d) Damage to or loss of property which is incident to the performance of duty, *Provided*, That such damage or loss results from an incident that is not attributable to a common or usual risk of the claimant's employment.

(e) Damage to or loss of property used for the benefit of the Government at the direction of a responsible official.

(f) Money deposited with an authorized Government agent for safekeeping.

(g) Damages to or loss of property incident to transportation or storage pursuant to orders or in connection with travel under orders, including property in the custody of—

(1) A common or contract carrier or other commercial carrier under contract with the Government;

(2) An agent or agency of the Government; or

(3) The claimant, or while in a public or private conveyance in which he is being transported while in official travel status.

(Sec. 3(b)(1), Pub. L. 96–70, 93 Stat. 455)

[31 FR 12406, Sept. 17, 1966, as amended at 42 FR 17875, Apr. 4, 1977; 44 FR 75308, Dec. 19, 1979]

§ 7.6 Principal types of claims not payable.

The following are examples of types and categories of property for which compensation will not be allowed:

(a) Losses or damages totaling less than one dollar.

(b) Money or currency except when deposited with an authorized Government agent for safekeeping or except when lost incident to a marine, rail, aircraft, or other common disaster, or a natural disaster such as a fire, flood, hurricane, etc.

(c) Small items of substantial value such as cameras, watches, jewelry, and furs, which are lost, damaged, or stolen during shipment by ordinary means,

e.g., with household goods or hold luggage.

(d) Articles being worn (unless allowable under § 7.5 (c) or (d)).

(e) Intangible property such as bank books, checks, notes, stock certificates, money orders, travelers checks, etc.

(f) Property owned by the United States, unless employee is financially responsible for it to another Government agency.

(g) Claims for loss or damage to motor vehicles or trailers or personal property contained therein (unless allowable under § 7.5 (c), (d) or (g)).

(h) Losses of insurers and subrogees.

(i) Losses recovered or recoverable from insurers and carriers.

(j) Losses recovered or recoverable pursuant to contract.

(k) Claims for damage or loss caused, in whole or in part, by the negligence or wrongful act of the employee or his agent.

(l) Property used for business or profit.

(m) Theft from the possession of the employee unless due care was used to protect possession.

(n) Property acquired, possessed or transported in violation of law or regulations.

(o) Loss in quarters located within the 50 States or the District of Columbia not assigned or otherwise provided in kind by the Government.

[31 FR 12406, Sept. 17, 1966, as amended at 42 FR 17875, Apr. 4, 1977; 44 FR 75308, Dec. 19, 1979]

§ 7.7 Types and quantity of property.

Claims are allowable only for such types and quantities of tangible personal property as to which its possession is determined to have been reasonable, useful, or proper under the attendant circumstances at the time of the loss or damage.

§ 7.8 Computation of award.

(a) *Lost or destroyed property.* The amount allowable for an item of property that is lost or destroyed may not exceed its actual value at the time the loss occurs. Such value may be based upon the replacement cost at the place where claimant resides when award is

Panama Canal Regulations

§ 7.12

made, subject to appropriate depreciation to reflect the age and condition of the item at the time of loss and to reduction for salvage value, if any. Property is considered "destroyed", for purposes of this section, if the cost of repairs would exceed the value of the property immediately prior to the incident out of which the claim arose.

(b) *Damaged property.* Normally the amount allowable for damaged property will be the cost of repairs, unless it is determined to be in the best interests of the Government to authorize a higher award.

(c) *Special limitations.* There is reserved to the Chief, Claims Branch, subject to the supervision of the Chief Accountant, the authority to fix the maximum amount payable for specific classes of articles, to establish limitations on the maximum quantity of an item for which payment will be allowed, and, when appropriate, to require that repairs be made by the Government.

[42 FR 17875, Apr. 4, 1977]

§ 7.9 Claims procedure.

The claimant must submit his claim in writing on a prescribed form covering employees claims for loss of or damage to personal property.

The form should be sent to the Panama Canal Commission, Chief, Claims Branch, Office of Financial Management, Unit 2300, APO AA 34011-2300 (or Balboa, Republic of Panama).

[44 FR 75308, Dec. 19, 1979, as amended at 59 FR 26122, May 19, 1994]

§ 7.10 Supporting papers.

In addition to the information provided on the claim form, the claimant may be required to furnish the following:

(a) Detailed estimates of the value of the property immediately before the incident out of which the claim arose and detailed estimates of the repair costs.

(b) With respect to claims involving thefts or losses in quarters or other places where the property was reasonably kept:

(1) A statement as to location of place where the theft or loss occurred;

(2) A statement as to what security precautions were taken to protect the property involved; and

(3) An explanation of the facts and circumstances surrounding the loss or theft.

(c) With respect to claims involving property being used for the benefit of the Government, a statement by the employee's supervisor evidencing that the claimant was required to provide such property or that his providing it was in the interest of the Government.

(d) As respects a claim filed by an agent or survivor, a power of attorney or other satisfactory evidence of authority to file.

[31 FR 12406, Sept. 17, 1966, as amended at 42 FR 17875, Apr. 4, 1977]

§ 7.11 Settlement.

Upon receipt of a claim under the regulations in this part, the Chief, Claims Branch, subject to the supervision of the Chief Accountant, shall make a determination with respect to its merits and, if allowable, authorize payment. If the claim is disallowed in whole or in part, the claimant shall be advised in writing as to the reason for the disallowance. The settlement determination by the Chief, Claims Branch, is final and conclusive.

[42 FR 17875, Apr. 4, 1977]

§ 7.12 Agents' or attorneys' fees.

As provided by the Act, fees payable to any agent or attorney in connection with services rendered in connection with a claim hereunder shall not exceed 10 per centum of the amount paid in settlement of such claim. Any person violating the provisions of the Act, as therein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof is liable to a fine of up to \$1,000.

PART 9—ORGANIZATION, FUNCTIONS, AND AVAILABILITY OF RECORDS—PANAMA CANAL COMMISSION

Subpart A—Organization and Functions of the Commission; Availability of Information and Official Records

Sec.