

**TITLE 10 - ARMED FORCES****Subtitle A - General Military Law****PART IV - SERVICE, SUPPLY, AND PROCUREMENT****CHAPTER 163 - MILITARY CLAIMS****§ 2734. Property loss; personal injury or death: incident to noncombat activities of the armed forces; foreign countries**

(a) To promote and to maintain friendly relations through the prompt settlement of meritorious claims, the Secretary concerned, or an officer or employee designated by the Secretary, may appoint, under such regulations as the Secretary may prescribe, one or more claims commissions, each composed of one or more officers or employees or combination of officers or employees of the armed forces, to settle and pay in an amount not more than \$100,000, a claim against the United States for—

- (1) damage to, or loss of, real property of any foreign country or of any political subdivision or inhabitant of a foreign country, including damage or loss incident to use and occupancy;
- (2) damage to, or loss of, personal property of any foreign country or of any political subdivision or inhabitant of a foreign country, including property bailed to the United States; or
- (3) personal injury to, or death of, any inhabitant of a foreign country;

if the damage, loss, personal injury, or death occurs outside the United States, or the Commonwealths or possessions, and is caused by, or is otherwise incident to noncombat activities of, the armed forces under his jurisdiction, or is caused by a member thereof or by a civilian employee of the military department concerned or the Coast Guard, as the case may be. The claim of an insured, but not that of a subrogee, may be considered under this subsection. In this section, “foreign country” includes any place under the jurisdiction of the United States in a foreign country. An officer or employee may serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but shall perform his duties under regulations of the department appointing the commission.

(b) A claim may be allowed under subsection (a) only if—

- (1) it is presented within two years after it accrues;
- (2) in the case of a national of a country at war with the United States, or of any ally of that country, the claimant is determined by the commission or by the local military commander to be friendly to the United States; and
- (3) it did not arise from action by an enemy or result directly or indirectly from an act of the armed forces of the United States in combat, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including its airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

(c) The Secretary concerned may appoint any officer or employee under the jurisdiction of the Secretary to act as an approval authority for claims determined to be allowable under subsection (a) in an amount in excess of \$10,000.

(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) Upon the request of the department concerned, a claim arising in that department and covered by subsection (a) may be settled and paid by a commission appointed under subsection (a) and composed of officers of an armed force under the jurisdiction of another department.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(g) Payment of claims against the Coast Guard arising while it is operating as a service in the Department of Homeland Security shall be made out of the appropriation for the operating expenses of the Coast Guard.

(h) The Secretary of Defense may designate any claims commission appointed under subsection (a) to settle and pay, as provided in this section, claims for damage caused by a civilian employee of the Department of Defense other than an employee of a military department. Payments of claims under this subsection shall be made from appropriations as provided in section 2732 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 154; Pub. L. 85–861, § 1(55), Sept. 2, 1958, 72 Stat. 1461; Pub. L. 86–223, § 1(1), Sept. 1, 1959, 73 Stat. 453; Pub. L. 86–411, Apr. 8, 1960, 74 Stat. 16; Pub. L. 90–521, §§ 1, 3, Sept. 26, 1968, 82 Stat. 874; Pub. L. 91–312, § 1, July 8, 1970, 84 Stat. 412; Pub. L. 93–336, § 2, July 8, 1974, 88 Stat. 292; Pub. L. 96–513, title V, § 511(95), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 98–564, § 2, Oct. 30, 1984, 98 Stat. 2918; Pub. L. 101–510, div. A, title XIV, § 1481(j)(4)(A), Nov. 5, 1990, 104 Stat. 1709; Pub. L. 104–316, title II, § 202(e), Oct. 19, 1996, 110 Stat. 3842; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title X, § 1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

### Historical and Revision Notes

#### 1956 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2734(a)		
2734(b)		
2734(c)	31:224d (less 98th through 109th words and provisos).	
31:224d (1st and 3d provisos).		
31:224d (2d proviso, less words after semicolon).	Jan. 2, 1942, ch. 645, §§ 1 (less last proviso), 6, 7, 55 Stat. 880; restated Apr. 22, 1943, ch. 67, §§ 1 (less last proviso), 6, 7, 57 Stat. 66, 67.	
2734(d)	31:224d (words of 2d proviso after semicolon).	
2734(e)	31:224d (98th through 109th words).	
2734(f)	31:224i.	
2734(g)	31:224h.	

In subsection (a), the words “for such purposes”, “or destruction”, “public”, “private”, “Army \* \* \* forces”, and “whether under a lease, express or implied” are omitted as surplusage. The words “armed forces under his jurisdiction” are substituted for the words “Army, Air Force, Navy, or Marine Corps”. The same words are substituted for the words “Army, Air Force, Navy, or Marine Corps forces” to reflect the opinion of the Judge Advocate General of the Army (JAGD/D–55–51000, 17 Jan. 55). The word “settle” is substituted for the words “consider, ascertain, adjust, determine”, since the word “settle”, as defined in section 2731 of this title, includes those actions. The words “a member thereof, or by a civilian employee of the department concerned” are substituted for the words “or individual members thereof, including military personnel and civilian employees”. The last sentence is substituted for the words “including places located therein which are under the temporary or permanent jurisdiction of the United States”.

In subsection (a)(2), the words “United States” are substituted for the word “Government”.

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

In subsection (b), the word “accident” is omitted as surplusage. The words “except that claims arising out of accidents or incidents occurring after December 6, 1941, but prior to May 1, 1943, may be presented at any time prior to May 1, 1944” are omitted as executed. Clauses (2) and (3) are substituted for 31:224d (3d proviso).

In subsection (c), the first 28 words of the second proviso of 31:224d and the words “but does not exceed \$5,000” are omitted as covered by subsection (a). The words “commanding officer or other” are omitted as surplusage. The word “commissioned” is inserted for clarity. The word “designated” is substituted for the words “may prescribe”.

In subsection (d), the word “may” is substituted for the words “shall have authority, if he deems”. The words “that would otherwise be covered by this section” are inserted for clarity. The words “to be meritorious” and “character of such” are omitted as surplusage.

In subsection (f), the words “a military department” are substituted for the words “service concerned” after the words “the request of the”. The words “or Commissions” and “even though not” are omitted as surplusage. The words “an armed force under the jurisdiction of another military department” are substituted for the words “service concerned” after the words “officers of the”. 31:224i (last 19 words) is omitted, since all claims are paid from one appropriation made to the Department of Defense.

### 1958 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2734(a)		
2734(d)		
2734(f)		
2734(h)	31:224d.	
31:224d.		
31:224i.		
31:224i-1.	July 28, 1956, ch. 769, § 1, 70 Stat. 703.	

In subsections (a)(1) and (2), the words “a foreign country” are substituted for the words “that country” to make clear that damage to a political subdivision or an inhabitant of a foreign country need not have occurred in that country.

In subsection (h), the word “settle” is substituted for the words “consider, ascertain, adjust, determine,”, since the word “settle”, as defined in section 2731 of this title, includes those actions. The words “as provided in this section” are substituted for the words “as described in section 224d of this title” and 31:224i-1 (2d sentence).

#### Amendments

2006—Subsec. (a). Pub. L. 109–163 substituted “Commonwealths or possessions” for “Territories, Commonwealths, or possessions” in concluding provisions.

2002—Subsec. (g). Pub. L. 107–296 substituted “Department of Homeland Security” for “Department of Transportation”.

1996—Subsec. (d). Pub. L. 104–316 substituted “Secretary of the Treasury” for “Comptroller General”.

1990—Subsec. (h). Pub. L. 101–510 substituted “as provided in section 2732 of this title” for “available to the Office of the Secretary of Defense for the payment of claims”.

1984—Subsec. (a). Pub. L. 98–564, § 2(1), substituted “\$100,000” for “\$25,000” and inserted provisions whereby employees as well as officers of the Secretary may settle claims in text preceding par. (1).

Pub. L. 98–564, § 2(2), inserted “or employee” after “An officer” in last sentence.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (c). Pub. L. 98–564, § 2(3), substituted provisions whereby the Secretary may appoint officers and employees to act as approval authority for claims in excess of \$10,000 for provisions which provided that allowance of a claim for more than \$2,500 may be subject to the approval of any commissioned officer designated by the Secretary concerned.

Subsec. (d). Pub. L. 98–564, § 2(4), substituted provisions providing that if the Secretary considers a claim in excess of \$100,000 meritorious, the Secretary may pay \$100,000 and report any excess amount to the Comptroller General for provisions which provided that for claims in excess of \$25,000 the Secretary may pay \$25,000 and certify any excess to Congress as a legal claim to be paid from appropriations.

1980—Subsec. (g). Pub. L. 96–513 substituted “Department of Transportation” for “Department of the Treasury”.

1974—Subsec. (a). Pub. L. 93–336 substituted “\$25,000” for “\$15,000”.

Subsec. (d). Pub. L. 93–336 substituted “\$25,000” for “\$15,000” in two places.

1970—Subsec. (d). Pub. L. 91–312 authorized the Secretary to pay, without certification to Congress, up to \$15,000 towards the settlement of meritorious claims in excess of \$15,000.

Subsec. (e). Pub. L. 91–312 excepted claims under subsec. (d) from requirement that all claims paid be accepted by the claimant in full satisfaction, and struck out provision limiting the application of such requirement to claims payable under subsec. (a) of this section.

1968—Subsec. (a). Pub. L. 90–521, § 1, struck out “under his jurisdiction” after “armed forces” in text preceding cl. (1) and permitted an officer to serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but required him to perform his duties under regulations of the department appointing the commission, respectively.

Subsec. (b)(3). Pub. L. 90–521, § 3, provided for allowance of claim if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including the airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

1960—Subsec. (b). Pub. L. 86–411 substituted “two years” for “one year” in cl. (1).

1959—Pub. L. 86–223, § 1(1)(A), substituted “the armed forces” for “Department of Army, Navy, or Air Force” in section catchline.

Subsec. (a). Pub. L. 86–223, § 1(1)(B), substituted “concerned” and “the military department concerned or the Coast Guard, as the case may be” for “of a military department” and “the department concerned”, respectively.

Subsecs. (c), (d). Pub. L. 86–223, § 1(1)(C), struck out “of the military department” after “Secretary”.

Subsec. (f). Pub. L. 86–223, § 1(1)(D), substituted “the department concerned” for “a military department” and deleted “military” after “another”.

Subsec. (g). Pub. L. 86–223, § 1(1)(E), substituted provision for payment of claims against the Coast Guard arising while it is operating as a service in the Department of the Treasury out of the appropriation for the operating expenses of the Coast Guard for provisions excluding such claims unless they arise, are settled and paid while the Coast Guard is operating as a service of the Navy and authorizing Coast Guard officers to serve on claims commissions or to approve settlements, only for claims against the Coast Guard.

1958—Subsec. (a). Pub. L. 85–861, § 1(55)(A)–(D), struck out “arising in foreign countries” after “meritorious claims”, and substituted “\$15,000” for “\$5,000”, “outside the United States, or the Territories, Commonwealths, or possessions,” for “in that country”, and “a foreign country” for “that country” in cls. (1) and (2).

Subsec. (d). Pub. L. 85–861, § 1(55)(A), substituted “\$15,000” for “\$5,000”.

Subsec. (f). Pub. L. 85–861, § 1(55)(E), substituted “Upon” for “In time of war and upon”.

Subsec. (h). Pub. L. 85–861, § 1(55)(F), added subsec. (h).

### **Effective Date of 2002 Amendment**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### **Effective Date of 1980 Amendment**

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.