

**TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE**  
**PART VI - PARTICULAR PROCEEDINGS**  
**CHAPTER 171 - TORT CLAIMS PROCEDURE**

**§ 2680. Exceptions**

The provisions of this chapter and section 1346 (b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods, merchandise, or other property by any officer of customs or excise or any other law enforcement officer, except that the provisions of this chapter and section 1346 (b) of this title apply to any claim based on injury or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if—

(1) the property was seized for the purpose of forfeiture under any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense;

(2) the interest of the claimant was not forfeited;

(3) the interest of the claimant was not remitted or mitigated (if the property was subject to forfeiture); and

(4) the claimant was not convicted of a crime for which the interest of the claimant in the property was subject to forfeiture under a Federal criminal forfeiture law.<sup>1</sup>

(d) Any claim for which a remedy is provided by chapter 309 or 311 of title 46 relating to claims or suits in admiralty against the United States.

(e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1–31 of Title 50, Appendix.

(f) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.

[(g) Repealed. Sept. 26, 1950, ch. 1049, § 13 (5), 64 Stat. 1043.]

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights: Provided, That, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this chapter and section 1346 (b) of this title shall apply to any claim arising, on or after the date of the enactment of this proviso, out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. For the purpose of this subsection, “investigative or law enforcement officer” means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.

(i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(k) Any claim arising in a foreign country.

(l) Any claim arising from the activities of the Tennessee Valley Authority.

(m) Any claim arising from the activities of the Panama Canal Company.

*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>).*

(n) Any claim arising from the activities of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives.

### **Footnotes**

<sup>1</sup> So in original.

(June 25, 1948, ch. 646, 62 Stat. 984; July 16, 1949, ch. 340, 63 Stat. 444; Sept. 26, 1950, ch. 1049, §§ 2(a)(2), 13 (5), 64 Stat. 1038, 1043; Pub. L. 86–168, title II, § 202(b), Aug. 18, 1959, 73 Stat. 389; Pub. L. 93–253, § 2, Mar. 16, 1974, 88 Stat. 50; Pub. L. 106–185, § 3(a), Apr. 25, 2000, 114 Stat. 211; Pub. L. 109–304, § 17(f)(4), Oct. 6, 2006, 120 Stat. 1708.)

### **Historical and Revision Notes**

Based on title 28, U.S.C., 1940 ed., § 943 (Aug. 2, 1946, ch. 753, § 421, 60 Stat. 845).

Changes were made in phraseology.

Section 946 of title 28, U.S.C., 1940 ed., which was derived from section 424(b) of the Federal Tort Claims Act, was omitted from this revised title. It preserved the existing authority of federal agencies to settle tort claims not cognizable under section 2672 of this title. Certain enumerated laws granting such authority were specifically repealed by section 424(a) of the Federal Tort Claims Act, which section was also omitted from this revised title. These provisions were not included in this revised title as they are not properly a part of a code of general and permanent law.

### **Senate Revision Amendment**

Sections 2680 and 2681 were renumbered “2679” and “2680”, respectively, by Senate amendment. See 80th Congress Senate Report No. 1559.

### **References in Text**

Sections 1–31 of Title 50, Appendix, referred to in subsec. (e), was in the original source of this section (section 943 of act Aug. 2, 1946) a reference to the Trading with the Enemy Act, as amended. The Trading with the Enemy Act is now comprised of sections 1 to 43, which are classified to sections 1 to 6, 7 to 39, and 41 to 44 of Title 50, Appendix, War and National Defense.

The date of the enactment of this proviso, referred to in subsec. (h), means Mar. 16, 1974, the date on which Pub. L. 93–253, which enacted the proviso, was approved.

Panama Canal Company, referred to in subsec. (m), deemed to refer to Panama Canal Commission, see section 3602 (b)(5) of Title 22, Foreign Relations and Intercourse.

### **Amendments**

2006—Subsec. (d). Pub. L. 109–304 substituted “chapter 309 or 311 of title 46” for “sections 741–752, 781–790 of Title 46.”

2000—Subsec. (c). Pub. L. 106–185 substituted “any goods, merchandise, or other property” for “any goods or merchandise” and “law enforcement” for “law-enforcement”, inserted “, except that the provisions of this chapter and section 1346 (b) of this title apply to any claim based on injury or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if—”, and added pars. (1) to (4).

1974—Subsec. (h). Pub. L. 93–253 inserted proviso.

1959—Subsec. (n). Pub. L. 86–168 added subsec. (n).

1950—Subsec. (g). Act Sept. 26, 1950, § 13(5), repealed subsec. (g).

Subsec. (m). Act Sept. 26, 1950, § 2, substituted “Panama Canal Company” for “Panama Railroad Company”.

1949—Subsec. (m). Act July 16, 1949, added subsec. (m).

### **Effective Date of 2000 Amendment**

Amendment by Pub. L. 106–185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106–185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

### **Effective Date of 1959 Amendment**

Amendment by Pub. L. 86–168 effective Jan. 1, 1960, see section 203(c) of Pub. L. 86–168.

### **Effective Date of 1950 Amendment**

Amendment by act Sept. 26, 1950, to take effect upon effective date of transfer to the Panama Canal Company, pursuant to the provisions of section 256 of the former Canal Zone Code, as added by section 10 of that act, of the Panama Canal together with the facilities and appurtenances related thereto, see section 14 of act Sept. 26, 1950.

### **Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468 (b), 551 (d), 552 (d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of all other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

For transfer of certain functions relating to claims and litigation, insofar as they pertain to the Air Force, from Secretary of the Army to Secretary of the Air Force, see Secretary of Defense Transfer Order No. 34 [§ 1a(2)(4)], eff. July 1, 1949.

### **Northern Mariana Islands—Applicability of Subsec. (k)**

Pub. L. 97–357, title II, § 204, Oct. 19, 1982, 96 Stat. 1708, provided: “That the Northern Mariana Islands shall not be considered a foreign country for purposes of subsection (k) of section 2680 of title 28, United States Code, with respect to claims which accrued no more than two years prior to the effective date of this Act [Oct. 19, 1982].”

### **Termination of National Emergency**

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

### **Applicability of Subsec. (j)**

Joint Res. July 3, 1952, ch. 570, § 1(a)(32), 66 Stat. 333, as amended by Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, and Joint Res. June 30, 1953, ch. 172, 67 Stat. 132, provided that subsec. (j) of this section, in addition to coming into full force and effect in time of war, should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of Title 50a, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond Aug. 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

Joint Res. July 3, 1952, ch. 570, § 6, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions of subsec. (j) of this section until July 3, 1952. This repeal was made effective June 16, 1952, by section 7 of Joint Res. July 3, 1952.