

TITLE 38 - VETERANS BENEFITS
PART I - GENERAL PROVISIONS
CHAPTER 3 - DEPARTMENT OF VETERANS AFFAIRS

§ 301. Department

- (a) The Department of Veterans Affairs is an executive department of the United States.
- (b) The purpose of the Department is to administer the laws providing benefits and other services to veterans and the dependents and the beneficiaries of veterans.
- (c) The Department is composed of the following:
- (1) The Office of the Secretary.
 - (2) The Veterans Health Administration.
 - (3) The Veterans Benefits Administration.
 - (4) The National Cemetery Administration.
 - (5) The Board of Veterans' Appeals.
 - (6) The Veterans' Canteen Service.
 - (7) The Board of Contract Appeals.
 - (8) Such other offices and agencies as are established or designated by law or by the President or the Secretary.
 - (9) Any office, agency, or activity under the control or supervision of any element named in paragraphs (1) through (8).

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 378; amended Pub. L. 105–368, title IV, § 403(a)(2), Nov. 11, 1998, 112 Stat. 3338.)

Prior Provisions

Prior section 301 was renumbered section 1101 of this title.

Provisions similar to those in subsec. (a) of this section were contained in section 2 of Pub. L. 100–527, known as the Department of Veterans Affairs Act.

Provisions similar to those in subsec. (b) of this section were contained in section 201 of this title prior to repeal by Pub. L. 102–83, § 2(a).

Amendments

1998—Subsec. (c)(4). Pub. L. 105–368 substituted “Administration” for “System”.

Order of Succession

For order of succession during any period when both Secretary and Deputy Secretary of Veterans Affairs are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, set out as a note under section 3345 of Title 5, Government Organization and Employees.

Department of Veterans Affairs Franchise Fund

Pub. L. 104–204, title I, Sept. 26, 1996, 110 Stat. 2880, as amended by Pub. L. 109–114, title II, § 208, Nov. 30, 2005, 119 Stat. 2389, provided in part that: “There is hereby established in the Treasury a Department of Veterans Affairs franchise fund, to be available without fiscal year limitation for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services: Provided, That any inventories, equipment and other assets pertaining to the services to be provided by the franchise fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize the franchise fund: Provided further, That the franchise fund may be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as

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determined by the Secretary: Provided further, That the franchise fund shall provide services on a competitive basis: Provided further, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Departmental financial management, ADP, and other support systems: Provided further, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury.”

Renaming of Veterans Health Services and Research Administration

Pub. L. 102–40, § 2, May 7, 1991, 105 Stat. 187, provided that:

“(a) Renaming.—The establishment in the Department of Veterans Affairs known as the Veterans Health Services and Research Administration is hereby redesignated as the Veterans Health Administration.

“(b) References.—Any reference to the Veterans Health Services and Research Administration (or to the Department of Medicine and Surgery of the Veterans’ Administration) in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to refer to the Veterans Health Administration.”

Department of Veterans Affairs Act

Pub. L. 100–527, §§ 1–12, 14, 16, 18, Oct. 25, 1988, 102 Stat. 2635–2642, 2644, 2645, 2648, as amended by Pub. L. 101–94, title IV, § 401, Aug. 16, 1989, 103 Stat. 628; Pub. L. 101–576, title II, § 205(c)(2), Nov. 15, 1990, 104 Stat. 2845; Pub. L. 102–83, § 3, Aug. 6, 1991, 105 Stat. 402, provided that:

“SECTION 1. SHORT TITLE.

“This Act [see Tables for classification] may be cited as the ‘Department of Veterans Affairs Act’.

“SEC. 2. ESTABLISHMENT OF VETERANS’ ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

“The Veterans’ Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government.

“[SECS. 3 to 5. Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

“SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

“The establishment within the Veterans’ Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

“SEC. 7. VETERANS BENEFITS ADMINISTRATION.

“The establishment within the Veterans’ Administration known as the Department of Veterans’ Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs.

“SEC. 8. OFFICE OF THE GENERAL COUNSEL.

“[(a) Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

“(b) Continuation of Service of General Counsel.—The individual serving on the effective date of this Act [Mar. 15, 1989] as the General Counsel of the Veterans’ Administration may act as the General Counsel of the Department of Veterans Affairs until a person is appointed under this Act to that office.

“SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

“(a) Redesignation.—The Office of Inspector General of the Veterans’ Administration, established in accordance with the Inspector General Act of 1978 [Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees], is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

“[(b) Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

“SEC. 10. REFERENCES.

“Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans’ Administration—

“(1) to the Administrator of Veterans’ Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

“(2) to the Veterans’ Administration shall be deemed to refer to the Department of Veterans Affairs;

“(3) to the Deputy Administrator of Veterans’ Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

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“(4) to the Chief Medical Director of the Veterans’ Administration shall be deemed to refer to the Chief Medical Director [now Under Secretary for Health] of the Department of Veterans Affairs;

“(5) to the Department of Medicine and Surgery of the Veterans’ Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

“(6) to the Chief Benefits Director of the Veterans’ Administration shall be deemed to refer to the Chief Benefits Director [now Under Secretary for Benefits] of the Department of Veterans Affairs;

“(7) to the Department of Veterans’ Benefits of the Veterans’ Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

“(8) to the Chief Memorial Affairs Director of the Veterans’ Administration shall be deemed to refer to the Director of the National Cemetery System [now Under Secretary of Veterans Affairs for Memorial Affairs] of the Department of Veterans Affairs; and

“(9) to the Department of Memorial Affairs of the Veterans’ Administration shall be deemed to refer to the National Cemetery System [now National Cemetery Administration] of the Department of Veterans Affairs.

“SEC. 11. SAVINGS PROVISIONS.

“(a) Continuing Effect of Legal Documents.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

“(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans’ Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans’ Administration; and

“(2) which are in effect on the effective date of this Act [Mar. 15, 1989];

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

“(b) Proceedings Not Affected.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans’ Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(c) Suits Not Affected.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Veterans’ Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans’ Administration, shall abate by reason of the enactment of this Act.

“(e) Property and Resources.—The contracts, liabilities, records, property, and other assets and interests of the Veterans’ Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

“(f) Compensation for Continued Service.—Any person—

“(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3 (e);

“(2) who continues to serve as Chief Medical Director [now Under Secretary for Health] or Chief Benefits Director [now Under Secretary for Benefits] of such department under section 3 (f) or (g), respectively;

“(3) who acts as the Director of the National Cemetery System [now Under Secretary of Veterans Affairs for Memorial Affairs] under section 3 (h); or

“(4) who acts as General Counsel of the Department of Veterans Affairs under section 8 (b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

“[SEC. 12. Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

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“SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

“After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act [Oct. 25, 1988].

“[SEC. 16. Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

“SEC. 18. EFFECTIVE DATE.

“(a) In General.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

“(b) Appointment of Secretary.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.”