

rate of the General Schedule, or at that rate under the prevailing rate schedule, as applicable.

“(3) If the technician is receiving a rate of basic compensation which is between two rates of the appropriate grade of the General Schedule, or which is between two rates of the appropriate grade or compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at the higher of those two rates under the General Schedule or appropriate prevailing rate schedule, as applicable.

“(4) If the technician is receiving a rate of basic compensation which is in excess of the maximum rate of the appropriate grade of the General Schedule, or which is in excess of the maximum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall continue to receive basic compensation without change in rate until—

“(A) he leaves that position, or

“(B) he is entitled to receive basic compensation at a higher rate,

but, when any such position becomes vacant, the rate of basic compensation of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

“(b) The conversion of positions and employees to appropriate grades of the General Schedule set forth in section 5332 of title 5, United States Code, and the initial adjustment of rates of basic compensation of those positions and technicians, provided for by this Act [see Short Title note above], shall not be considered to be transfers or promotions within the meaning of section 5334(b) of title 5, United States Code, and the regulations issued thereunder.

“(c) Each technician on the effective date of this Act [see Effective Date note above], whose position is converted to the General Schedule set forth in section 5332 of title 5, United States Code, or to the appropriate prevailing rate schedule, as applicable, who prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section, has earned, but has not been credited with, an increase in that rate, shall be granted credit for such increase before his rate of basic compensation is initially adjusted under that subsection.

“(d) Each technician on the effective date of this Act whose position is converted to the General Schedule set forth in section 5332 of title 5, United States Code, or to the appropriate prevailing rate schedule, as applicable, shall be granted credit, for purposes of his first step increase under the General Schedule or prevailing rate schedule, for all satisfactory service performed by him since his last increase in compensation prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section.

“(e) An increase in rate of basic compensation by reason of the enactment of subsection (a) of this section shall not be considered to be an equivalent increase with respect to step increases for technicians whose positions are converted to the General Schedule set forth in section 5332 of title 5, United States Code, or the appropriate prevailing rate schedule under authority of this section.”

REGULATIONS: APPROVAL BY SECRETARY OF DEFENSE; UNIFORMITY

Pub. L. 90-486, § 10, Aug. 13, 1968, 82 Stat. 760, provided that: “Regulations prescribed by the Secretary of the Army and Secretary of the Air Force under this Act [see Short Title note above] shall be approved by the Secretary of Defense and shall, so far as practicable, be uniform.”

NUMBER OF CARETAKERS FOR AIR NATIONAL GUARD

Pub. L. 90-580, title II, Oct. 17, 1968, 82 Stat. 1124, provided that the number of caretakers authorized to be employed under this section may be such as is deemed

necessary by the Secretary of the Air Force and that they may be employed without regard to their military rank as members of the Air National Guard.

Similar provisions were contained in the following prior acts:

Sept. 29, 1967, Pub. L. 90-96, title II, 81 Stat. 236.
Oct. 15, 1966, Pub. L. 89-687, title II, 80 Stat. 985.
Sept. 29, 1965, Pub. L. 89-213, title II, 79 Stat. 868.
Aug. 19, 1964, Pub. L. 88-466, title II, 78 Stat. 469.
Oct. 17, 1963, Pub. L. 88-149, title II, 77 Stat. 259.
Aug. 9, 1962, Pub. L. 87-577, title II, 76 Stat. 323.
Aug. 17, 1961, Pub. L. 87-144, title II, 75 Stat. 370.
July 7, 1960, Pub. L. 86-601, title II, 74 Stat. 344.
Aug. 18, 1959, Pub. L. 86-166, title II, 73 Stat. 372.
Aug. 22, 1958, Pub. L. 85-724, title V, 72 Stat. 723.
Aug. 2, 1957, Pub. L. 85-117, title V, 71 Stat. 322.
July 2, 1956, ch. 488, title V, 70 Stat. 466.
July 13, 1955, ch. 358, title V, 69 Stat. 313.
June 30, 1954, ch. 432, title VI, 68 Stat. 349.
Aug. 1, 1953, ch. 305, title V, 67 Stat. 349.
July 10, 1952, ch. 630, title V, 66 Stat. 530.
Oct. 18, 1951, ch. 512, title V, 65 Stat. 444.
Sept. 6, 1950, ch. 896, Ch. X, title V, 64 Stat. 751.
Oct. 29, 1949, ch. 787, title V, 63 Stat. 1017.

NUMBER OF CARETAKERS FOR ARMY NATIONAL GUARD

Pub. L. 90-580, title II, Oct. 17, 1968, 82 Stat. 1124, provided that the number of caretakers authorized to be employed under this section and those necessary to provide reimbursable services for the military departments, may be such as is deemed necessary by the Secretary of the Army.

Similar provisions were contained in the following prior acts:

Sept. 29, 1967, Pub. L. 90-96, title II, 81 Stat. 236.
Oct. 15, 1966, Pub. L. 89-687, title II, 80 Stat. 984.
Sept. 29, 1965, Pub. L. 89-213, title II, 79 Stat. 867.
Aug. 19, 1964, Pub. L. 88-446, title II, 78 Stat. 469.
Oct. 17, 1963, Pub. L. 88-149, title II, 77 Stat. 258.
Aug. 9, 1962, Pub. L. 87-577, title II, 76 Stat. 322.
Aug. 17, 1961, Pub. L. 87-144, title II, 75 Stat. 369.
July 7, 1960, Pub. L. 86-601, title II, 74 Stat. 343.
Aug. 18, 1959, Pub. L. 86-166, title II, 73 Stat. 371.
Aug. 22, 1958, Pub. L. 85-724, title III, 72 Stat. 715.
Aug. 2, 1957, Pub. L. 85-117, title III, 71 Stat. 315.
July 2, 1956, ch. 488, title III, 70 Stat. 458.
July 13, 1955, ch. 358, title III, 69 Stat. 305.
June 30, 1954, ch. 432, title IV, 68 Stat. 340.
Aug. 1, 1953, ch. 305, title III, 67 Stat. 340.
July 10, 1952, ch. 630, title III, 66 Stat. 522.
Oct. 18, 1951, ch. 512, title III, 65 Stat. 435.
Sept. 6, 1950, ch. 896, Ch. X, title III, 64 Stat. 740.
Oct. 29, 1949, ch. 787, title III, 63 Stat. 1000.
June 24, 1948, ch. 632, 62 Stat. 662.
July 30, 1947, ch. 357, title I, 61 Stat. 564.
July 16, 1946, ch. 583, 60 Stat. 556.

§ 710. Accountability for property issued to the National Guard

(a) All military property issued by the United States to the National Guard remains the property of the United States.

(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far as practicable, regulations prescribed under this section shall be uniform among the components of each service.

(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, dam-

aged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be paid from its funds or from any other non-Federal funds.

(d) If property surveyed under this section is found to be unserviceable or unsuitable, the Secretary concerned or his designated representative shall direct its disposition by sale or otherwise. The proceeds of the following under this subsection shall be deposited in the Treasury under section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934:

(1) A sale.

(2) A stoppage against a member of the National Guard.

(3) A collection from a person, or from a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, to reimburse the United States for the loss or destruction of, or damage to, the property.

(e) If a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, neglects or refuses to pay for the loss or destruction of, or damage to, property charged against it under subsection (c), the Secretary concerned may bar it from receiving any part of appropriations for the Army National Guard or the Air National Guard, as the case may be, until the payment is made.

(f)(1) Instead of the procedure prescribed by subsections (b), (c), and (d), property issued to the National Guard that becomes unserviceable through fair wear and tear in service may, under regulations to be prescribed by the Secretary concerned, be sold or otherwise disposed of after an inspection, and a finding of unserviceability because of that wear and tear, by a commissioned officer designated by the Secretary. The State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, is relieved of accountability for that property.

(2) In designating an officer to conduct inspections and make findings for purposes of paragraph (1), the Secretary concerned shall designate—

(A) in the case of the Army National Guard, a commissioned officer of the Regular Army or a commissioned officer of the Army National Guard who is also a commissioned officer of the Army National Guard of the United States; and

(B) in the case of the Air National Guard, a commissioned officer of the Regular Air Force

or a commissioned officer of the Air National Guard who is also a commissioned officer of the Air National Guard of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 615; Pub. L. 85–861, §33(c)(3), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 96–328, §1(a), (b)(1), Aug. 8, 1980, 94 Stat. 1027; Pub. L. 96–513, title V, §515(8), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 97–258, §3(h)(2), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 103–160, div. A, title V, §524(e), Nov. 30, 1993, 107 Stat. 1657; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES 1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
710(a)	32:47 (1st sentence).	June 3, 1916, ch. 134, §87;
710(b)	32:47 (2d sentence).	June 3, 1924, ch. 244, §1;
710(c)	32:47 (3d sentence).	reinstated Feb. 28, 1925,
	32:154 (last proviso of 2d par.).	ch. 371, §4; restated Aug. 27, 1954, ch. 1014, 68 Stat. 880.
710(d)	32:47 (last sentence, less proviso).	June 3, 1916, ch. 134, §110
710(e)	32:47 (1st proviso of last sentence).	(last proviso of 2d par.); restated Sept. 22, 1922, ch. 423, §6 (last proviso of 2d par.); restated Apr. 6, 1928, ch. 322 (last proviso), 45 Stat. 408.
710(f)	32:47 (last proviso of last sentence).	

In subsection (a), the words “as herein provided” are omitted as surplusage.

In subsections (b) and (f), the word “commissioned” is inserted, since 32:47 historically applied only to commissioned officers (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)).

In subsection (b), the words “by use in service or from any other cause” and “surveying” are omitted as surplusage. The words “a survey of the circumstances thereof” are substituted for the word “it”.

In subsection (c), the first 12 words of the second sentence are substituted for 32:47 (38th through 77th words of 2d sentence). Clause (2) is substituted for 32:154 (last proviso of 2d par.).

In subsection (d), the last sentence is substituted for 32:47 (words between semicolon and 1st colon of last sentence).

In subsection (e), the words “charged against it under subsection (c)” are substituted for the words “changed against such State, Territory, or the District of Columbia by the Secretary of the Army after survey by a disinterested officer appointed as hereinbefore provided”. The words “may bar it from receiving” are substituted for the words “is authorized to debar such State, Territory, or the District of Columbia from further participation in any and all”.

In subsection (f), the words “Instead of the procedure prescribed by subsections (b)–(d)” are substituted for the words “and to constitute as to such property a discretionary substitute for the examination, report, and disposition provided for elsewhere in this section”. The words “a finding of unserviceability because of that wear and tear” are substituted for the words “finding to that effect”.

1958 ACT

This change corrects a typographical error.

REFERENCES IN TEXT

Section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934, referred to in subsec. (d), is section 4(b)(22) of act June 26, 1934, ch. 756, 48 Stat. 1228, which was classified to section 725c(b)(22) of former Title 31, and was omitted from the Code in the general revision and reenactment of Title 31, Money and Finance, by Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

2006—Subsecs. (c), (d)(3), (e), (f)(1). Pub. L. 109-163 substituted “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands” for “State or Territory, Puerto Rico, or the District of Columbia” wherever appearing.

1993—Subsec. (f). Pub. L. 103-160 designated existing provisions as par. (1), substituted “subsections (b), (c), and (d)” for “subsections (b)–(d)”, struck out “of the Regular Army or the Regular Air Force, as the case may be,” after “commissioned officer”, and added par. (2).

1988—Subsecs. (c), (d)(3), (e), (f). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

1982—Subsec. (d). Pub. L. 97-258 struck out “(31 U.S.C. 725c(b)(22))” after “1934”.

1980—Pub. L. 96-328, §1(b)(1), substituted “Accountability for property issued to the National Guard” for “Reports of survey” in section catchline.

Subsec. (b). Pub. L. 96-328, §1(a), substituted provisions authorizing the Secretary of the Army, regarding the Army National Guard, and the Secretary of the Air Force, regarding the Air National Guard, to prescribe regulations for accounting for property issued by the United States to each service and for fixing responsibility for that property and requiring, as far as practicable, that the regulations prescribed be uniform among the components of each service for provisions authorizing, that if property issued to the National Guard is lost, damaged, or destroyed, or becomes unserviceable or unsuitable, a survey of the circumstances involved be conducted by a disinterested commissioned officer of the Regular Army, Army National Guard, Regular Air Force, or Air National Guard, as the case may be, and a report of the survey sent to the Secretary concerned or an officer designated by that Secretary to receive those reports.

Subsec. (c). Pub. L. 96-328, §1(a), substituted provisions authorizing the Secretary concerned to charge liability for property lost, damaged, or destroyed to a member of the Army National Guard or Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be charged, to remit or cancel the liability of a member for good cause, and to charge a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia when such loss is incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction for provisions authorizing the Secretary concerned to relieve a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of liability for loss, damage, or destruction of property unless such loss occurred through negligence.

Subsec. (d). Pub. L. 96-513 substituted “4(b)(22) of the Permanent Appropriation Repeal Act, 1934 (31 U.S.C. 725c(b)(22))” for “725c(b)(22) of title 31”.

1958—Subsec. (c). Pub. L. 85-861 substituted “of further” for “or further”.

EFFECTIVE DATE OF 1980 AMENDMENTS

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 Title 10, Armed Forces.

Pub. L. 96-328, §2, Aug. 8, 1980, 94 Stat. 1028, provided that: “The amendment made by subsection (a) of the first section of this Act [amending subsecs. (b) and (c) of this section] shall apply to liability for property issued by the United States to the National Guard that is lost, damaged, or destroyed on or after October 1, 1980. Liability for such property that is lost, damaged, or destroyed before such date shall be governed by the provisions of section 710 of title 32, United States Code, as in effect on the day before the date of the enactment of this Act [Aug. 8, 1980].”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of Title 10, Armed Forces.

§ 711. Disposition of obsolete or condemned property

Each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands shall, upon receiving new property issued to its National Guard to replace obsolete or condemned issues of property, return the replaced property to the Department of the Army or the Department of the Air Force, as the case may be, or otherwise dispose of it, as the Secretary concerned directs. No money credit may be allowed for property disposed of under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 616; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109-163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
711	32:46.	June 3, 1916, ch. 134, §85, 39 Stat. 204.

The words “to its National Guard” are inserted for clarity. The word “it” is substituted for the words “all property so replaced or condemned”. The last sentence is substituted for 32:46 (last 8 words).

AMENDMENTS

2006—Pub. L. 109-163 substituted “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands” for “State and Territory, Puerto Rico, and the District of Columbia”.

1988—Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

§ 712. Disposition of proceeds of condemned stores issued to National Guard

The following shall be covered into the Treasury:

(1) The proceeds from sales of condemned stores issued to the National Guard of a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, and not charged against its allotment.

(2) The net proceeds from collections made from any person to reimburse the United States for the loss or destruction of, or damage to, property described in clause (1).

(3) Stoppage against members of the National Guard for the loss or destruction of, or damage to, property described in clause (1).

(Aug. 10, 1956, ch. 1041, 70A Stat. 616; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109-163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
712	32:45.	June 3, 1916, ch. 134, §88, 39 Stat. 205; Oct. 31, 1951, ch. 654, §3(5), 65 Stat. 708.

The introductory clause is substituted for the words “shall be covered into the Treasury of the United States” and “as shall also”. The words “United States” are substituted for the word “Government”. The words “members of the National Guard” are substituted for the words “officers and enlisted men”.