

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

[§ 403a. Repealed. Pub. L. 105–85, div. A, title VI, § 603(c)(1), Nov. 18, 1997, 111 Stat. 1781]

Section, added Pub. L. 98–525, title VI, § 602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99–145, title VI, §§ 602(a)–(d), 604(b), Nov. 8, 1985, 99 Stat. 636–638; Pub. L. 100–26, § 8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101–189, div. A, title VI, § 602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101–510, div. A, title VI, § 602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§ 603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103–160, div. A, title VI, § 604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104–106, div. A, title VI, § 605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104–201, div. A, title VI, §§ 604(d), 606(a)–(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as an Effective Date of 1997 Amendment note under section 5561 of Title 5, Government Organization and Employees.

§ 403b. Cost-of-living allowance in the continental United States

(a) **PAYMENT AUTHORIZED.**—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) **ELIGIBLE MEMBERS.**—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) **HIGH COST AREA DEFINED.**—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage

may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

(d) **AMOUNT OF ALLOWANCE.**—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

(2) the percentage equal to the excess of—

(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

(B) the threshold percentage applicable to such fiscal year under subsection (c).

(e) **LIMITATION TO ONE ALLOWANCE.**—If primary dependents of a member reside separately in different high cost areas—

(1) the member may be paid only one cost-of-living allowance under this section; and

(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

(f) **SERVICE NOT COVERED.**—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

(A) specifies a period of 140 days or more; or

(B) states that the call or order to active duty is in support of a contingency operation.

(g) **AVERAGE SPENDABLE INCOME.**—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) **JOINT REGULATIONS.**—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) **OTHER DEFINITIONS.**—In this section:

(1) The term "primary dependent", with respect to a member, means—

(A) the member's spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.