

302c(d)(4) of this title during a duty assignment in support of a contingency operation.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the armed forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date on which the member is released from the duty to which the member was assigned in support of a contingency operation.

(Added Pub. L. 102-190, div. A, title VI, §635(a), Dec. 5, 1991, 105 Stat. 1382.)

OPERATION DESERT STORM DUTY ASSIGNMENTS

Pub. L. 102-25, title III, §305, Apr. 6, 1991, 105 Stat. 82, provided that:

“(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of title 37, United States Code, before the end of the period established for the member in subsection (c) shall be paid special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title (whichever applies) for active duty performed after November 5, 1990, and before the date of that certification and recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

“(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

- “(1) is a medical or dental officer or a nonphysician health care provider;
- “(2) has completed any required residency training; and
- “(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title during the duty assignment in connection with Operation Desert Storm.

“(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.”

§ 304. Special pay: diving duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is entitled to basic pay is entitled to special pay, in the amount set forth in subsection (b), for periods during which the member—

- (1) is assigned by orders to the duty of diving;
- (2) is required to maintain proficiency as a diver by frequent and regular dives; and
- (3) either—

(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.

(b) Special pay payable under subsection (a) shall be paid at a rate of not more than \$240 a month, in the case of an officer, and at a rate of not more than \$340 a month, in the case of an enlisted member.

(c) If, in addition to diving duty, a member is assigned by orders to one or more hazardous duties described in section 301 of this title, the member may be paid, for the same period of service, special pay under this section and incentive pay under such section 301 for each hazardous duty for which the member is qualified.

(d)(1) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to $\frac{1}{30}$ of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase—

(A) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday; or

(B) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

(2) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(e) In time of war, the President may suspend the payment of diving duty pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 97-60, title I, §115, Oct. 14, 1981, 95 Stat. 995; Pub. L. 100-180, div. A, title VI, §624(a), Dec. 4, 1987, 101 Stat. 1103; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-261, div. A, title VI, §616(a), Oct. 17, 1998, 112 Stat. 2041; Pub. L. 106-65, div. A, title VI, §617(a), (b), Oct. 5, 1999, 113 Stat. 652.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
304(a)	37:236(a), (b).	Oct. 12, 1949, ch. 681, §205, 63 Stat. 810; Mar. 31, 1955, ch. 20, §2(8)-(10), 69 Stat. 21; Aug. 17, 1961, Pub. L. 87-145, §1, 75 Stat. 382.
304(b)	37:236(c).	

In subsection (a), the last sentence is substituted for section 236(b) of existing title 37. The word “competent” is omitted as surplusage.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106-65, §617(a), substituted “\$240” for “\$200” and “\$340” for “\$300”.

Subsec. (c). Pub. L. 106-65, §617(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “A member may be paid special pay under this section and incentive pay under section 301 of this title for the same period of service only if the member is assigned by orders to a hazardous duty described in section 301(a) of this title in addition to diving duty. How-

ever, if a member is paid special pay under this section, the member is not entitled to more than one payment of incentive pay under section 301 of this title.”

1998—Subsec. (a)(3). Pub. L. 105-261 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “actually performs diving duty.”

1991—Subsec. (a). Pub. L. 102-25 struck out “of this section” after “subsection (b)”.

Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1987—Subsecs. (d), (e). Pub. L. 100-180 added subsec. (d) and redesignated former subsec. (d) as (e).

1981—Pub. L. 97-60 revised provisions of subsec. (a) into new subsecs. (a), (b), and (c), redesignated subsec. (b) as (d), and, in provisions of subsec. (a) as revised, added to enumeration of conditions attached to entitlement to special pay requirement that the member maintain proficiency as a diver by frequent and regular dives, substituted a rate of \$200 a month for officers and \$300 a month for enlisted men for former rate of \$110 a month for all members, and inserted provisions authorizing payment of both special pay under this section and incentive pay under section 301 of this title in specified circumstances.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title VI, §617(c), Oct. 5, 1999, 113 Stat. 652, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to special pay paid under such section for months beginning on or after that date.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, §616(b), Oct. 17, 1998, 112 Stat. 2041, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title VI, §624(b), Dec. 4, 1987, 101 Stat. 1104, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the fourth calendar month following the month in which this Act is enacted [Dec. 1987] and shall apply only with respect to diving duty performed on or after that date.”

§ 305. Special pay: hardship duty pay

(a) SPECIAL PAY AUTHORIZED.—A member of a uniformed service who is entitled to basic pay may be paid special pay under this section while the member is performing duty that is designated by the Secretary of Defense as hardship duty.

(b) PAYMENT ON MONTHLY OR LUMP SUM BASIS.—Special pay payable under this section may be paid on a monthly basis or in a lump sum.

(c) MAXIMUM RATE OR AMOUNT.—(1) The monthly rate of special pay payable to a member under this section may not exceed \$1,500.

(2) The amount of the lump sum payment of special pay payable to a member under this section may not exceed the product of—

(A) the maximum monthly rate in effect under paragraph (1) at the time the member qualifies for payment of special pay under this section; and

(B) the number of months during which the member will be performing the designated hardship duty.

(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this

section is in addition to any other pay and allowances to which the member is entitled.

(e) REPAYMENT.—A member who is paid special pay in a lump sum under this section, but who fails to perform the designated hardship duty during the months included in the calculation of the amount of the lump sum under subsection (c)(2), shall be subject to the repayment provisions of section 303a(e) of this title.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the payment of hardship duty pay under this section, including the specific monthly rates at which the special pay will be available.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88-132, §12(a), Oct. 2, 1963, 77 Stat. 217; Pub. L. 90-623, §3(4), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 95-485, title VIII, §804(b)(1), Oct. 20, 1978, 92 Stat. 1620; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-85, div. A, title VI, §619(a)-(c)(1), Nov. 18, 1997, 111 Stat. 1789, 1790; Pub. L. 105-261, div. A, title VI, §617(a), (c)(1), Oct. 17, 1998, 112 Stat. 2041; Pub. L. 109-163, div. A, title VI, §627, Jan. 6, 2006, 119 Stat. 3296; Pub. L. 110-181, div. A, title VI, §617, Jan. 28, 2008, 122 Stat. 150.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
305(a)	37:237.	Oct. 12, 1949, ch. 681, §206, 63 Stat. 811; May 20, 1958, Pub. L. 85-422, §1(7), 72 Stat. 125.
305(b)	37:237a.	June 30, 1954, ch. 432, §729, 68 Stat. 355.

In subsection (a), the words “Except as provided by subsection (b) of this section” are inserted for clarity. The words “is also . . . entitled” are substituted for the words “shall, in addition thereto . . . be entitled”. The words “any place outside the United States, or in Alaska or Hawaii” are substituted for the words “beyond the continental limits of the United States or in Alaska”, since, under the source statute, Hawaii was beyond the continental limits of the United States, and the United States, as defined in section 101(1) of this revised title, would otherwise include Alaska and Hawaii. This interpretation conforms to the opinion of the Comptroller General, B-138956, April 20, 1959 (38 Comp. Gen. 710).

In subsection (b), the words “Appropriation of” are substituted for the words “of the funds appropriated to”. The words “may not be paid” are substituted for the words “no part . . . shall be available for the payment”. The words “member of a uniformed service” are substituted for the words “person in the military service” to conform to subsection (a). The words “Puerto Rico” are inserted for clarity, since the source statute was applicable to that place. The words “Virgin Islands” are inserted, since that unincorporated territory is not covered by the word “possession”. The word “Territory” is omitted as obsolete.

AMENDMENTS

2008—Pub. L. 110-181 amended section generally. Prior to amendment, text read as follows:

“(a) SPECIAL PAY AUTHORIZED.—A member of a uniformed service who is entitled to basic pay may be paid special pay under this section at a monthly rate not to exceed \$750 while the member is performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.

“(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the provision of hardship duty