

a member was assigned to permanent duty within the United States and its possessions, and any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] by a member on permanent duty assignment outside the United States and its possessions which are in excess of his unallotted pay and allowances for that period, shall accrue interest at the rate in effect before enactment of this Act.”

EXTENSION OF COVERAGE TO PUBLIC HEALTH SERVICE AND COAST AND GEODETIC SURVEY PERSONNEL; RULES AND REGULATIONS

Pub. L. 89-538, §3(c), Aug. 14, 1966, 80 Stat. 348, provided that: “Regulations prescribed by the Secretary of Commerce and the Secretary of Health, Education, and Welfare [now Health and Human Services] under subsections (a) and (b) [extending savings deposits benefits to commissioned officers of the Public Health Service and the Coast and Geodetic Survey (now the National Oceanic and Atmospheric Administration), respectively] shall be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of title 10, United States Code.”

PUBLIC HEALTH SERVICE

Authority vested by this section in “the Secretary concerned” to be exercised with respect to commissioned officers of the Public Health Service, by the Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in “the Secretary concerned” to be exercised, with respect to commissioned officer corps of the National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary’s designee, see section 3071 of Title 33, Navigation and Navigable Waters.

EX. ORD. NO. 11298. INTEREST RATE

Ex. Ord. No. 11298, Aug. 14, 1966, 31 F.R. 10915, provided:

By virtue of the authority vested in me by Section 1035 of Title 10 of the United States Code, as amended by the Act of August 14, 1966, I hereby prescribe that amounts deposited by members of the uniformed services under that Section shall accrue interest at the rate of ten percent per annum, compounded quarterly.

This order shall be effective September 1, 1966.

LYNDON B. JOHNSON.

**[§ 1036. Repealed. Pub. L. 113-66, div. A, title VI, § 621(a)(2)(A), Dec. 26, 2013, 127 Stat. 783]**

Section, added Pub. L. 86-160, §1(1), Aug. 14, 1959, 73 Stat. 358; amended Pub. L. 98-94, title IX, §913(a), Sept. 24, 1983, 97 Stat. 640, provided for transportation and travel allowances for escorts for dependents of members.

**§ 1037. Counsel before foreign judicial tribunals and administrative agencies; court costs and bail**

(a) Under regulations to be prescribed by him, the Secretary concerned may employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation, before the judicial tribunals and administrative agencies of any foreign nation, of persons subject to the Uniform Code of Military Justice and of persons not subject to the Uniform Code of Military Justice who are employed by or accompanying the armed forces in an area outside the United States and the territories and possessions of the United States, the Northern Mariana Islands,

and the Commonwealth of Puerto Rico. So far as practicable, these regulations shall be uniform for all armed forces.

(b) The person on whose behalf a payment is made under this section is not liable to reimburse the United States for that payment, unless he is responsible for forfeiture of bail provided under subsection (a).

(c) Appropriations available to the military department concerned or the Department of Homeland Security, as the case may be, for the pay of persons under its jurisdiction may be used to carry out this section.

(Added Pub. L. 85-861, §1(24)(A), Sept. 2, 1958, 72 Stat. 1445; amended Pub. L. 96-513, title I, §511(31), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 99-145, title VI, §681(a), Nov. 8, 1985, 99 Stat. 665; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large)                      |
|-----------------|--------------------|---|
| 1037(a) .....   | 50:751.<br>50:752. | July 24, 1956, ch. 689 (less §3), 70 Stat. 630. |
| 1037(b) .....   | 50:754.            |   |
| 1037(c) .....   | 50:755.            |   |

In subsection (a), the words “Under regulations to be prescribed by him” and the last sentence are substituted for 50:752.

In subsection (b), the words “subject to the Uniform Code of Military Justice” are omitted as surplusage.

In subsection (c), the words “the terms and provisions of” are omitted as surplusage.

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a), is classified to chapter 47 (§801 et seq.) of this title.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-296 substituted “Department of Homeland Security” for “Department of Transportation”.

1985—Subsec. (a). Pub. L. 99-145 provided for payment of expenses for legal representation of civilians overseas.

1980—Subsec. (c). Pub. L. 96-513 substituted “Department of Transportation” for “Department of the Treasury”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VI, §681(b), Nov. 8, 1985, 99 Stat. 665, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to costs incurred after September 30, 1985.”

EFFECTIVE DATE OF 1980 AMENDMENT

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 this title.

**§ 1038. Service credit: certain service in Women’s Army Auxiliary Corps**

In computing years of active service of any female member of the armed forces, there shall be credited for all purposes, except the right to promotion, in addition to any other service that

may be credited, all active service performed in the Women's Army Auxiliary Corps after May 13, 1942, and before September 30, 1943, if that member performed active service in the armed forces after September 29, 1943. Service as an officer in the Women's Army Auxiliary Corps shall be credited as active service in the status of a commissioned officer, and service as an enrolled member of the Corps shall be credited as active service in the status of an enlisted member.

(Added Pub. L. 86-142, §1(1), Aug. 7, 1959, 73 Stat. 289.)

#### ELECTION OF PENSION OR COMPENSATION

Pub. L. 86-142, §2, Aug. 7, 1959, 73 Stat. 289, provided that a person entitled to a pension or compensation under any law administered by the Veterans' Administration, based on the active service described in section 1 of Pub. L. 86-142, which added section 1038 to Title 10, Armed Forces, could elect within 1 year after Aug. 7, 1959 to receive that pension or compensation in lieu of any compensation under the Federal Employees' Compensation Act; that such an election is irrevocable; and that the election does not entitle that person to the pension or compensation for any period before the date of election.

#### BACK PAY OR ALLOWANCES

Pub. L. 86-142, §3, Aug. 7, 1959, 73 Stat. 289, provided that: "No person is entitled to back pay or allowances because of any service credited under section 1 of this Act [enacting this section]."

#### § 1039. Crediting of minority service

For the purpose of determining eligibility for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, entitlement to retired or retainer pay, and years of service in computing retired or retainer pay of a member of the armed forces, any service which would be creditable but for the fact that it was performed by him under an enlistment or induction entered into before he attained the age prescribed by law for that enlistment or induction, shall be credited.

(Added Pub. L. 87-165, §1(1), Aug. 25, 1961, 75 Stat. 401.)

#### EFFECTIVE DATE

Pub. L. 87-165, §2, Aug. 25, 1961, 75 Stat. 401, provided that: "Section 1 [enacting this section] applies to service performed, and retirements or transfers to the Fleet Reserve or the Fleet Marine Corps Reserve effected, before and after this Act takes effect [Aug. 25, 1961]."

#### § 1040. Transportation of dependent patients

(a)(1) Except as provided in subsection (b), if a dependent accompanying a member of the uniformed services who is stationed outside the United States or in Alaska or Hawaii and who is on active duty for a period of more than 30 days requires medical attention which is not available in the locality, transportation of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. On his recovery or when it is administratively determined that the patient should be removed from the medical facility involved, the dependent may be transported at the expense of the United States to the duty station of the member or to such other place determined to be

appropriate under the circumstances. If a dependent is unable to travel unattended, travel and transportation allowances may be furnished to necessary attendants. The dependents and any attendants shall be furnished such travel and transportation allowances as specified in regulations prescribed under section 464 of title 37. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.

(2)(A) Except as provided by subparagraph (E), for purposes of paragraph (1), required medical attention of a dependent includes, in the case of a dependent authorized to accompany a member at a location described in that paragraph, obstetrical anesthesia services for childbirth equivalent to the obstetrical anesthesia services for childbirth available in a military treatment facility in the United States.

(B) In the case of a dependent at a remote location outside the continental United States who elects services described in subparagraph (A) and for whom air transportation would be needed to travel under paragraph (1) to the nearest appropriate medical facility in which adequate medical care is available, the Secretary may authorize the dependent to receive transportation under that paragraph to the continental United States and be treated at the military treatment facility that can provide appropriate obstetrical services that is nearest to the closest port of entry into the continental United States from such remote location.

(C) The second through sixth sentences of paragraph (1) shall apply to a dependent provided transportation by reason of this paragraph.

(D) The total cost incurred by the United States for the provision of transportation and expenses (including per diem) with respect to a dependent by reason of this paragraph may not exceed the cost the United States would otherwise incur for the provision of transportation and expenses with respect to that dependent under paragraph (1) if the transportation and expenses were provided to that dependent without regard to this paragraph.

(E) The Secretary may not provide transportation to a dependent under this paragraph if the Secretary determines that—

(i) the dependent would otherwise receive obstetrical anesthesia services at a military treatment facility; and

(ii) such facility, in carrying out the required number of necessary obstetric cases, would not maintain competency of its obstetrical staff unless the facility provides such services to such dependent.

(b) This section does not authorize transportation and travel expenses for a dependent for elective surgery which is determined to be not medically indicated by a medical authority designated under joint regulations to be prescribed under this section.

(c) In this section, the term "dependent" has the meaning given that term in section 1072 of this title.