

out as a note under section 510 of Title 10, Armed Forces.

§ 310. Special pay: duty subject to hostile fire or imminent danger

(a) ELIGIBILITY.—Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay under subsection (b) for any day or portion of a day in which—

(1) the member was entitled to basic pay or compensation under section 204 or 206 of this title; and

(2) the member—

(A) was subject to hostile fire or explosion of hostile mines;

(B) was on duty in an area in which the member was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period the member was on duty in the area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

(C) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

(D) was on duty in a foreign area in which the member was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

(b) SPECIAL PAY AMOUNT.—(1) Except as provided in paragraph (2), the amount of special pay authorized by subsection (a) for qualifying service during a day or portion of a day shall be the amount equal to 1/30th of the maximum monthly amount of special pay payable to a member as specified in paragraph (3).

(2) In the case of a member who is exposed to hostile fire or a hostile mine explosion event in or for a day or portion of a day, the Secretary concerned may, at the election of the Secretary, pay the member special pay under subsection (a) for such service in an amount not to exceed the maximum monthly amount of special pay payable to a member as specified in paragraph (3).

(3) The maximum monthly amount of special pay payable to a member under this subsection for any month is \$225.

(c) CONTINUATION DURING HOSPITALIZATION.—(1) A member described in paragraph (2) may be paid special pay under this section for any day (or portion of a day) of not more than three additional months during which the member is hospitalized as described in such paragraph.

(2) Paragraph (1) applies with respect to a member who—

(A) is injured or wounded under the circumstances described in subsection (a)(2)(C) and is hospitalized for the treatment of the injury or wound; or

(B) while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is hospitalized outside of the theater of the combat operation or the combat zone for the treatment of the wound, injury, or illness.

(d) LIMITATIONS AND ADMINISTRATION.—(1) In the case of an area described in subparagraph

(B) or (D) of subsection (a)(2), the Secretary of Defense shall be responsible for designating the period during which duty in the area will qualify members for special pay under this section. The effective date designated for the commencement of such a period may be a date occurring before, on, or after the actual date on which the Secretary makes the designation. If the commencement date for such a period is a date occurring before the date on which the Secretary makes the designation, the payment of special pay under this section for the period between the commencement date and the date on which the Secretary makes the designation shall be subject to the availability of appropriated funds for that purpose.

(2) A member may not be paid more than one special pay under this section for any day. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

(e) DETERMINATIONS OF FACT.—Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(Added Pub. L. 88-132, §9(a)(1), Oct. 2, 1963, 77 Stat. 216; amended Pub. L. 89-132, §4, Aug. 21, 1965, 79 Stat. 547; Pub. L. 98-94, title IX, §905(a), (b)(1), Sept. 24, 1983, 97 Stat. 636, 637; Pub. L. 99-145, title VI, §638(a), Nov. 8, 1985, 99 Stat. 649; Pub. L. 101-510, div. A, title XIII, §1322(c)(6), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102-190, div. A, title VI, §§611(a), 613, Dec. 5, 1991, 105 Stat. 1376, 1377; Pub. L. 105-261, div. A, title VI, §621, Oct. 17, 1998, 112 Stat. 2042; Pub. L. 108-11, title I, §1316(a), (c)(2), Apr. 16, 2003, 117 Stat. 570; Pub. L. 108-136, div. A, title VI, §§618(a), (b), (d)(2), 619, Nov. 24, 2003, 117 Stat. 1503, 1504; Pub. L. 108-375, div. A, title VI, §623(a), Oct. 28, 2004, 118 Stat. 1955; Pub. L. 109-163, div. A, title VI, §§636, 642(b), Jan. 6, 2006, 119 Stat. 3300, 3306; Pub. L. 111-84, div. A, title VI, §618(a), Oct. 28, 2009, 123 Stat. 2355; Pub. L. 112-81, div. A, title VI, §616(a), Dec. 31, 2011, 125 Stat. 1451; Pub. L. 112-239, div. A, title X, §1076(h)(1), Jan. 2, 2013, 126 Stat. 1955.)

AMENDMENTS

2013—Subsec. (c)(1). Pub. L. 112-239 substituted “section for” for “section for for”.

2011—Subsec. (a). Pub. L. 112-81, §616(a)(1), substituted “for any day or portion of a day” for “for any month or portion of a month” in introductory provisions.

Subsec. (b). Pub. L. 112-81, §616(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows:

“(1) The special pay authorized by subsection (a) may not exceed \$225 a month.

“(2) Except as provided in subsection (c), if a member does not satisfy the eligibility requirements specified in paragraphs (1) and (2) of subsection (a) for an entire month for receipt of special pay under subsection (a), the Secretary concerned may prorate the payment amount to reflect the duration of the member’s actual qualifying service during the month.”

Subsec. (c)(1). Pub. L. 112-81, §616(a)(3), inserted “for any day (or portion of a day) of” before “not more than three additional months”.

Subsec. (d)(2). Pub. L. 112-81, § 616(a)(4), substituted “any day” for “any month”.

2009—Subsec. (a). Pub. L. 111-84, § 618(a)(1), struck out “and Special Pay Amount” after “Eligibility” in heading and substituted “under subsection (b) for any month or portion of a month” for “at the rate of \$225 for any month” in introductory provisions.

Subsecs. (b), (c). Pub. L. 111-84, § 618(a)(3), (4), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 111-84, § 618(a)(2), struck out par. (3) which read as follows: “A member of a reserve component who is eligible for special pay under this section for a month shall receive the full amount authorized in subsection (a) for that month regardless of the number of days during that month on which the member satisfies the eligibility criteria specified in such subsection.”

Subsecs. (d), (e). Pub. L. 111-84, § 618(a)(3), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

2006—Subsec. (b). Pub. L. 109-163, § 642(b), designated existing text as par. (1), substituted “A member described in paragraph (2)” for “A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound” and “hospitalized as described in such paragraph” for “so hospitalized”, and added par. (2).

Subsec. (c). Pub. L. 109-163, § 636, added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

2004—Subsec. (a). Pub. L. 108-375, § 623(a)(2)(A), substituted “\$225” for “\$150”.

Subsec. (e). Pub. L. 108-375, § 623(a)(2)(B), struck out heading and text of subsec. (e). Text read as follows: “For the period beginning on October 1, 2003, and ending on December 31, 2005, the rate of pay authorized by subsection (a) shall be increased to \$225.”

Pub. L. 108-375, § 623(a)(1), substituted “December 31, 2005” for “December 31, 2004”.

2003—Subsec. (a). Pub. L. 108-136, § 618(a)(2), added subsec. (a) and struck out former subsec. (a) which read as follows: “Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of \$150 for any month in which he was entitled to basic pay and in which he—

“(1) was subject to hostile fire or explosion of hostile mines;

“(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

“(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

“(4) was on duty in a foreign area in which he was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.”

Pub. L. 108-11, § 1316(a), (c), as amended by Pub. L. 108-136, § 618(d)(2), temporarily substituted “\$225” for “\$150” in introductory provisions. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (b). Pub. L. 108-136, § 618(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108-136, § 618(b)(1), inserted heading.

Pub. L. 108-136, § 618(a)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108-136, § 618(b)(2), inserted heading.

Pub. L. 108-136, § 618(a)(1), redesignated subsec. (c) as (d).

Subsec. (e). Pub. L. 108-136, § 619, added subsec. (e).

1998—Subsec. (b). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102-190 substituted “Under” for “Except in time of war declared by Congress, and under” and “rate of \$150” for “lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title”.

1990—Subsec. (d). Pub. L. 101-510 struck out subsec. (d) which read as follows: “The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year.”

1985—Subsec. (a). Pub. L. 99-145 substituted “at the lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title” for “at the rate of \$65 a month” in provisions preceding cl. (1).

1983—Pub. L. 98-94, § 905(b)(1), inserted “or imminent danger” in section catchline.

Subsec. (a)(4). Pub. L. 98-94, § 905(a), added cl. (4).

1965—Subsec. (a). Pub. L. 89-132 increased rate of special pay from \$55 to \$65 a month.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VI, § 623(a)(2), Oct. 28, 2004, 118 Stat. 1955, provided that the amendments made by section 623(a)(2) are effective Jan. 1, 2006.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENTS

Pub. L. 108-136, div. A, title VI, § 618(c), Nov. 24, 2003, 117 Stat. 1504, provided that: “Subsections (a) and (b) of section 310 of title 37, United States Code, as added by subsection (a)(2), shall take effect as of September 11, 2001.”

Pub. L. 108-136, div. A, title VI, § 618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that the amendment made by section 618(d)(2) is effective Apr. 16, 2003.

Pub. L. 108-11, title I, § 1316(c), Apr. 16, 2003, 117 Stat. 570, as amended by Pub. L. 108-136, div. A, title VI, § 618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that:

“(1) The amendments made by subsections (a) and (b) [amending this section and section 427 of this title] shall expire on September 30, 2003.

“(2) Effective on September 30, 2003, the dollar amounts specified in sections 310(a) of title 37, United States Code, and 427(a)(1) of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Apr. 16, 2003] are hereby revived.”

Pub. L. 108-11, title I, § 1316(d), Apr. 16, 2003, 117 Stat. 571, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 427 of this title] shall take effect on October 1, 2002, and shall apply with respect to months beginning on or after that date.”

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VI, § 638(b), Nov. 8, 1985, 99 Stat. 649, provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1985.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, § 905(c), Sept. 24, 1983, 97 Stat. 637, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1983.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-132 effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as a note under section 203 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

RELATION TO TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY

Pub. L. 108-136, div. A, title VI, § 618(d)(1), Nov. 24, 2003, 117 Stat. 1504, provided that: “The amendment made by subsection (a)(2) [amending this section] does not affect the authority to pay an increased amount of hostile fire and imminent danger special pay under section 310 of title 37, United States Code, pursuant to—

“(A) the amendment made by subsection (a) of section 1316 of Public Law 108-11 (117 Stat. 570) [amending this section] during the period specified in subsection (c)(1) of such section, as modified by section 113 of Public Law 108-84 (117 Stat. 1044); or

“(B) the amendment made by section 619 of this Act [amending this section] during the period specified in such amendment.”

RETROACTIVE PAYMENT OF HOSTILE FIRE OR IMMINENT DANGER PAY FOR SERVICE IN EASTERN MEDITERRANEAN SEA IN OPERATION IRAQI FREEDOM

Pub. L. 108-136, div. A, title VI, § 620, Nov. 24, 2003, 117 Stat. 1504, provided that:

“(a) PAYMENT AUTHORIZED.—The Secretary of Defense may authorize the payment of hostile fire or imminent danger pay under section 310(a) of title 37, United States Code, to members of the Armed Forces who were assigned to duty, during the period beginning on March 19, 2003, and ending on April 11, 2003, in the area specified in subsection (b) in connection with Operation Iraqi Freedom at any time during that period.

“(b) SPECIFIED AREA.—The area referred to in subsection (a) is the Mediterranean Sea east of 30 degrees East Longitude (sea area only).”

RATES OF PAY FOR FISCAL YEAR 2004

Pub. L. 108-106, title I, § 1104, Nov. 6, 2003, 117 Stat. 1214, provided that: “From October 1, 2003, through September 30, 2004, (a) the rates of pay authorized by section 310(a) of title 37, United States Code, shall be \$225; and (b) the rates of pay authorized by section 427(a)(1) of title 37, United States Code, shall be \$250.”

RETROACTIVE AUTHORIZATION FOR IMMINENT DANGER PAY FOR SERVICE IN CONNECTION WITH OPERATION ENDURING FREEDOM

Pub. L. 107-107, div. A, title VI, § 624, Dec. 28, 2001, 115 Stat. 1143, provided that:

“(a) RETROACTIVE AUTHORIZATION.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the areas specified in subsection (b) in connection with the contingency operation known as Operation Enduring Freedom with respect to periods of duty served in those areas during the period beginning on September 19, 2001, and ending October 31, 2001.

“(b) SPECIFIED AREAS.—The areas referred to in subsection (a) are the following:

“(1) The land areas of Kyrgyzstan, Oman, the United Arab Emirates, and Uzbekistan.

“(2) The Red Sea, the Gulf of Aden, the Gulf of Oman, and the Arabian Sea (that portion north of 10° north latitude and west of 68° east longitude).”

TEMPORARY INCREASE IN SPECIAL PAY IN CONNECTION WITH PERSIAN GULF CONFLICT

Pub. L. 102-25, title III, § 301, Apr. 6, 1991, 105 Stat. 80, provided that:

“(a) INCREASED RATE.—In lieu of the rate of special pay specified in section 310(a) of title 37, United States Code, the rate of special pay payable under that section

shall be \$150 for each month during the period described in subsection (b).

“(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

IMMINENT DANGER PAY IN CONNECTION WITH OPERATION DESERT SHIELD

Pub. L. 101-510, div. A, title XI, § 1111(a), Nov. 5, 1990, 104 Stat. 1635, provided that: “The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the Persian Gulf area in connection with Operation Desert Shield with respect to periods of duty served after August 1, 1990, and before the date of the enactment of this Act [Nov. 5, 1990].”

§ 311. Repealed. Pub. L. 99-145, title VI, § 639(b), Nov. 8, 1985, 99 Stat. 651]

Section, added Pub. L. 90-207, § 1(2)(A), Dec. 16, 1967, 81 Stat. 651; amended Pub. L. 90-603, § 1, Oct. 18, 1968, 82 Stat. 1187; Pub. L. 90-623, § 3(5), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93-274, § 1(3), May 6, 1974, 88 Stat. 95; Pub. L. 93-394, § 1, Aug. 29, 1974, 88 Stat. 792; Pub. L. 96-284, § 4(d)(1)-(3), June 28, 1980, 94 Stat. 591, 592; Pub. L. 96-513, title IV, § 414(b), title V, § 516(7), Dec. 12, 1980, 94 Stat. 2906, 2938, provided for continuation pay for dentists in the armed forces. See section 302b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 639(f) of Pub. L. 99-145, set out as an Effective Date of 1985 Amendment note under section 302b of this title.

§ 312. Special pay: nuclear-qualified officers extending period of active service

(a) SPECIAL PAY AUTHORIZED; ELIGIBILITY.—Under regulations to be prescribed by the Secretary of the Navy, the Secretary may pay special pay under subsection (b) to an officer of the naval service who—

(1) is entitled to basic pay;

(2) has the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) executes a written agreement to remain on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants for a period of not less than three years, so long as the new period of obligated active service does not extend beyond the end of 30 years of commissioned service, in addition to any other period of obligated active service.

(b) PAYMENT AMOUNT; PAYMENT OPTIONS.—(1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed \$30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.

(2) The Secretary shall determine annually the necessity for continuance of the special pay and the rate of special pay per year for such active-service agreements accepted within each 12-month period.

(3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary, the