

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7231	31:108.	Aug. 29, 1916, ch. 417 (2d proviso under heading "Pay, Miscellaneous"), 39 Stat. 557.

The words "anywhere in the world" are substituted for "abroad and at home", and the words "decides that an expenditure should not be made public" are substituted for "may think it advisable not to specify", for clarity and consistency.

PRIOR PROVISIONS

A prior section 8631, act Aug. 10, 1956, ch. 1041, 70A Stat. 532, prohibited any officer of Air Force who was engaged in procurement or sale of quartermaster supplies from dealing in said supplies, prior to repeal by Pub. L. 90-235, § 7(b)(1), Jan. 2, 1968, 81 Stat. 763.

A prior section 8632, act Aug. 10, 1946, ch. 1041, 70A Stat. 532, provided for forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs, prior to repeal by Pub. L. 87-649, § 14c(54), Sept. 7, 1962, 76 Stat. 501, effective Nov. 1, 1962. See section 802 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7231 of this title as this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8633. Auxiliary vessels: extended lease authority

(a) AUTHORIZED CONTRACTS.—Subject to subsection (b), the Secretary of the Navy may enter into contracts with private United States shipyards for the construction of new surface vessels to be acquired on a long-term lease basis by the United States from the shipyard or other private person for any of the following:

- (1) The combat logistics force of the Navy.
- (2) The strategic sealift force of the Navy.
- (3) Other auxiliary support vessels for the Department of Defense.

(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under subsection (a) with respect to a specific vessel only if the Secretary is specifically authorized by law to enter into such a contract with respect to that vessel. As part of a request to Congress for enactment of any such authorization by law, the Secretary of the Navy shall provide to Congress the Secretary's findings under subsection (g).

(c) TERM OF CONTRACT.—In this section, the term "long-term lease" means a lease, bareboat charter, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

(d) OPTION TO BUY.—A contract entered into under subsection (a) may include options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an

amount equal to the lesser of (1) the unamortized portion of the cost of the vessel plus amounts incurred in connection with the termination of the financing arrangements associated with the vessel, or (2) the fair market value of the vessel.

(e) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

- (1) shall have been constructed in a shipyard within the United States; and
- (2) upon delivery, shall be documented under the laws of the United States.

(f) VESSEL OPERATION.—(1) The Secretary may operate a vessel held by the Secretary under a long-term lease under this section through a contract with a United States corporation with experience in the operation of vessels for the United States. Any such contract shall be for a term as determined by the Secretary.

(2) The Secretary may provide a crew for any such vessel using civil service mariners only after an evaluation taking into account—

- (A) the fully burdened cost of a civil service crew over the expected useful life of the vessel;
- (B) the effect on the private sector manpower pool; and
- (C) the operational requirements of the Department of the Navy.

(g) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—(1) The Secretary may waive the applicability of subsections (e)(2) and (f) of section 2401 of this title to a contract authorized by law as provided in subsection (b) if the Secretary makes the following findings with respect to that contract:

(A) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

(B) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

(C) The timeliness of consideration of the contract by Congress is such that such a waiver is in the interest of the United States.

(2) The Secretary shall submit a notice of any waiver under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(h) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

- (1) amounts originally made available for performance of the contract;
- (2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or
- (3) funds appropriated for those costs.

(Added Pub. L. 106-65, div. A, title X, § 1014(a)(1), Oct. 5, 1999, 113 Stat. 741, § 7233; renumbered

§ 8633, Pub. L. 115-232, div. A, title VIII, § 807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

PRIOR PROVISIONS

A prior section 8633, act Aug. 10, 1946, ch. 1041, 70A Stat. 532, provided for forfeiture of pay when dropped from rolls, prior to repeal by Pub. L. 87-649, § 14c(55), Sept. 7, 1962, 76 Stat. 502, effective Nov. 1, 1962. See section 803 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7233 of this title as this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

Pub. L. 106-65, div. A, title X, § 1014(c), Oct. 5, 1999, 113 Stat. 742, provided that: “Section 7233 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1999.”

§ 8634. Submarine safety programs: participation of NATO naval personnel

(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization may be assigned to United States commands to work on such systems and procedures.

(b) RECIPROCITY NOT REQUIRED.—The authority under subsection (a) is not an exchange program. Reciprocal assignments of members of the Navy to the naval service of a foreign country is not a condition for the exercise of such authority.

(c) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

- (A) Salary.
- (B) Per diem.
- (C) Cost of living.
- (D) Travel costs.
- (E) Cost of language or other training.
- (F) Other costs.

(2) Paragraph (1) does not apply to the following costs, which may be paid by the United States:

- (A) The cost of temporary duty directed by the Secretary of the Navy or an officer of the Navy authorized to do so.
- (B) The cost of training programs conducted to familiarize, orient, or certify members of foreign naval services regarding unique aspects of their assignments.
- (C) Costs incident to the use of the facilities of the Navy in the performance of assigned duties.

(d) RELATIONSHIP TO OTHER AUTHORITY.—The provisions of this section shall apply in the exer-

cise of any authority of the Secretary of the Navy to enter into an agreement with the government of a foreign country, subject to the concurrence of the Secretary of State, to provide for the assignment of members of the naval service of the foreign country to a Navy submarine safety program. The Secretary of the Navy may prescribe regulations for the application of this section in the exercise of such authority.

(e) TERMINATION OF AUTHORITY.—The Secretary of the Navy may not accept the assignment of a member of the naval service of a foreign country under this section after September 30, 2008.

(Added Pub. L. 108-375, div. A, title XII, § 1223(a), Oct. 28, 2004, 118 Stat. 2089, § 7234; renumbered § 8634, Pub. L. 115-232, div. A, title VIII, § 807(d)(1), Aug. 13, 2018, 132 Stat. 1836.)

PRIOR PROVISIONS

A prior section 8634, act Aug. 10, 1956, ch. 1041, 70A Stat. 532; Pub. L. 101-510, div. A, title III, § 327(c), Nov. 5, 1990, 104 Stat. 1532, generally prohibited Air Force band from being paid for performance outside air base, prior to repeal by Pub. L. 110-181, div. A, title V, § 590(b)(1), Jan. 28, 2008, 122 Stat. 138. See section 974 of this title.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7234 of this title as this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8635. Establishment of the Southern Sea Otter Military Readiness Areas

(a) ESTABLISHMENT.—The Secretary of the Navy shall establish areas, to be known as “Southern Sea Otter Military Readiness Areas”, for national defense purposes. Such areas shall include each of the following:

(1) The area that includes Naval Base Ventura County, San Nicolas Island, and Begg Rock and the adjacent and surrounding waters within the following coordinates:

N. Latitude/W. Longitude
33°27.8'/119°34.3'
33°20.5'/119°15.5'
33°13.5'/119°11.8'
33°06.5'/119°15.3'
33°02.8'/119°26.8'
33°08.8'/119°46.3'
33°17.2'/119°56.9'
33°30.9'/119°54.2'

(2) The area that includes Naval Base Coronado, San Clemente Island and the adjacent and surrounding waters running parallel to shore to 3 nautical miles from the high tide line designated by part 165 of title 33, Code of Federal Regulations, on May 20, 2010, as the San Clemente Island 3NM Safety Zone.

(b) ACTIVITIES WITHIN THE SOUTHERN SEA OTTER MILITARY READINESS AREAS.—

(1) INCIDENTAL TAKINGS UNDER ENDANGERED SPECIES ACT OF 1973.—Sections 4 and 9 of the