

that the term “rate of pay”, as used in the source law for section 9837(b) (Act of May 22, 1928, ch. 676 (45 Stat. 698), as amended), included special pay and incentive pay.

The change [in subsec. (f)] reflects the opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense (July 19, 1957), that section 1304, Revised Statutes (formerly 10 U.S.C. 872), the source law for this section, applied to warrant officers as well as to commissioned officers.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328 substituted “as a member of the Air Force, whether as a regular or a reserve in active status” for “on active duty as a member of the Air Force”.

2008—Subsec. (a). Pub. L. 110-181 made technical correction to directory language of Pub. L. 109-364, § 673(c)(1). See 2006 Amendment note below.

2006—Pub. L. 109-163 amended section catchline and text generally. Prior to amendment, text read as follows: “If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member’s indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member’s honorable discharge.”

Subsec. (a). Pub. L. 109-364, § 673(e)(3), substituted “The Secretary of the Air Force” for “If the Secretary considers it to be in the best interest of the United States, the Secretary” and inserted before period at end “, but only if the Secretary considers such action to be in the best interest of the United States”.

Pub. L. 109-364, § 673(c)(1), as amended by Pub. L. 110-181, substituted “of a person to the United States or any instrumentality of the United States incurred while the person was serving on active duty as a member of the Air Force” for “of a member of the Air Force on active duty, or a member of a reserve component of the Air Force in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty”.

Subsecs. (b) to (d). Pub. L. 109-364, § 673(c)(2), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: “The Secretary may exercise the authority in subsection (a) with respect to a member—

“(1) while the member is on active duty or in active status, as the case may be;

“(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

“(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.”

1980—Pub. L. 96-513 substituted “remission or cancellation of indebtedness of enlisted members” for “deductions from pay” in section catchline, and struck out designation “(d)” before “If he”.

1962—Pub. L. 87-649 repealed subsecs. (a) to (c) and (e) to (g) which related to deductions from pay. See subsecs. (b) to (g) of section 1007 of Title 37, Pay and Allowances of the Uniformed Services.

1958—Subsec. (b). Pub. L. 85-861, § 33(a)(45)(A), substituted “his pay for that month” for “his basic pay for that month”.

Subsec. (f). Pub. L. 85-861, § 33(a)(45)(B), substituted “an officer” for “a commissioned officer” in two places.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective Dec. 23, 2016, and applicable with respect to debt incurred on or after Oct. 7, 2001, see section 671(b)(5) of Pub. L. 114-328, set out as a note under section 4837 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title X, § 1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by

section 1063(c)(7)(C) is effective as of Oct. 17, 2006, and as if included in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109-364, as enacted.

TERMINATION DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title VI, § 683(c)(3), Jan. 6, 2006, 119 Stat. 3324, which provided for termination of amendments by Pub. L. 109-163, § 683(c), amending this section and the analysis to this chapter, on Dec. 31, 2007, and restoration of provisions as in effect on the day before Jan. 6, 2006, was repealed by Pub. L. 109-364, div. A, title VI, § 673(c)(3), Oct. 17, 2006, 120 Stat. 2272.

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.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective on Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

REGULATIONS

Secretary of Defense to prescribe regulations required for purposes of this section, as amended by Pub. L. 109-364, not later than Mar. 1, 2007, see section 673(d) of Pub. L. 109-364, set out as a note under section 4837 of this title.

§ 9838. Settlement of accounts: affidavit of squadron commander

In the settlement of the accounts of the commanding officer of a squadron for clothing and other military supplies, his affidavit may be received to show—

- (1) that vouchers or squadron books were lost;
- (2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or
- (3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Air Force to be just and proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 595.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9838	10:1302.	R.S. 225 (less 1st sentence); added Feb. 27, 1877, ch. 69 (3d par.), 19 Stat. 241.

The word “anything” is substituted for the words “any matter or circumstance”. The words “properly used” are substituted for the words “legally used and appropriated”. The words “of the case” are omitted as surplusage.

§ 9839. Settlement of accounts: oaths

The Secretary of the Air Force may detail any employee of the Department of the Air Force to