

this section], an enlisted member who, on the day before the effective date of this Act [Oct. 1, 1963], was permanently assigned to duty at a place outside the United States or in Alaska or Hawaii, shall, during the remaining period of that assignment, but not after that place is designated for the purpose of section 305(a)(2) of title 37, United States Code, be paid the basic pay to which he was entitled on that date plus special pay under section 305 of title 37, United States Code, whenever qualified thereunder as that section was in effect on the day before the effective date of this Act, if the total of that basic pay and that special pay is more than the basic pay to which he would otherwise be entitled during that period under section 2 of this Act [amending section 203 of this title].”

#### TRANSITION PROVISION

Pub. L. 105-85, div. A, title VI, §619(e), Nov. 18, 1997, 111 Stat. 1790, provided that: “Until such time as the Secretary of Defense prescribes regulations regarding the provision of hardship duty location pay under section 305 of title 37, United States Code, as amended by this section, the Secretary may continue to use the authority provided by such section 305, as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997], to provide special pay to enlisted members of the uniformed services on duty at certain places.”

#### SEA DUTY PERFORMED BETWEEN OCTOBER 1, 1978, AND SEPTEMBER 30, 1981

Pub. L. 95-485, title VIII, §804(c), Oct. 20, 1978, 92 Stat. 1621, provided that: “Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).”

#### EXECUTIVE ORDER NO. 10168

Ex. Ord. No. 10168, Oct. 11, 1950, 15 F.R. 6877, as amended by Ex. Ord. No. 10821, May 20, 1959, 24 F.R. 4123; Ex. Ord. No. 10989, Jan. 23, 1962, 27 F.R. 727; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to special pay for sea duty and duty at certain places, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

### § 305a. Special pay: career sea pay

(a) AVAILABILITY OF SPECIAL PAY.—A member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

(b) RATES; MAXIMUM.—The Secretary concerned shall prescribe the monthly rates for special pay applicable to members of each armed force under the Secretary’s jurisdiction. No monthly rate may exceed \$750.

(c) PREMIUM.—A member of a uniformed service entitled to career sea pay under this section who has served 36 consecutive months of sea duty is also entitled to a career sea pay premium for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member. The monthly amount of the premium shall be prescribed by the Secretary concerned, but may not exceed \$350.

(d) REGULATIONS.—The Secretary concerned shall prescribe regulations for the administration of this section for the armed force or armed

forces under the jurisdiction of the Secretary. The entitlements under this section shall be subject to the regulations.

(e) DEFINITION OF SEA DUTY.—(1) In this section, the term “sea duty” means duty performed by a member—

(A) while permanently or temporarily assigned to a ship and—

(i) while serving on a ship the primary mission of which is accomplished while under way;

(ii) while serving as a member of the off-crew of a two-crewed submarine;

(iii) while serving as a member of a tender-class ship (with the hull classification of submarine or destroyer); or

(iv) while serving as an off-cycle crew-member of a multi-crewed ship; or

(B) while permanently or temporarily assigned to a ship and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

(2) The Secretary concerned may designate duty performed by a member while serving on a ship the primary mission of which is accomplished either while under way or in port as “sea duty” for purposes of this section, even though the duty is performed while the member is permanently or temporarily assigned to a ship-based staff or other unit not covered by paragraph (1).

(3) For the purpose of determining the years of sea duty with which a member may be credited for purposes of this section, the term “sea duty” also includes duty performed after December 31, 1988, by a member while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship on which the member would be entitled, during a period that the ship is away from its homeport, to receive sea pay by reason of paragraph (1)(B).

(4) A ship shall be considered to be away from its homeport for purposes of this subsection when it is—

(A) at sea; or

(B) in a port that is more than 50 miles from its homeport.

(Added Pub. L. 95-485, title VIII, §804(a)(1), (2), Oct. 20, 1978, 92 Stat. 1620; amended Pub. L. 96-343, §3(a), (b), Sept. 8, 1980, 94 Stat. 1124; Pub. L. 96-579, §4(a), Dec. 23, 1980, 94 Stat. 3364; Pub. L. 97-60, title I, §116, Oct. 14, 1981, 95 Stat. 996; Pub. L. 97-295, §3(1), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 98-525, title VI, §623(a), Oct. 19, 1984, 98 Stat. 2541; Pub. L. 99-145, title VI, §634(a), Nov. 8, 1985, 99 Stat. 647; Pub. L. 100-26, §8(e)(5), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100-180, div. A, title VI, §621(a)-(c), Dec. 4, 1987, 101 Stat. 1097, 1099; Pub. L. 100-224, §5(a)(1), Dec. 30, 1987, 101 Stat. 1538; Pub. L. 100-456, div. A, title XII, §1233(b)(1), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101-189, div. A, title VI, §653(b), Nov. 29, 1989, 103 Stat. 1462; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title XI, §1111(d)(3), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 104-106, div. A, title VI, §618, Feb. 10, 1996, 110 Stat. 362; Pub. L. 105-85, div. A, title VI, §620, Nov. 18, 1997, 111 Stat. 1790; Pub. L. 106-398, §1

[[div. A], title VI, §630(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-156; Pub. L. 110-181, div. A, title VI, §618, Jan. 28, 2008, 122 Stat. 151.)

## AMENDMENTS

2008—Subsec. (e)(1)(A)(iv). Pub. L. 110-181 added cl. (iv).

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title VI, §630(a)(1)], inserted heading and substituted “A member” for “Under regulations prescribed by the President, a member” in text.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title VI, §630(a)(3)], added subsec. (b) and struck out former subsec. (b) which contained tables specifying the monthly rates for special pay under subsec. (a) for enlisted members, warrant officers, and commissioned officers.

Subsec. (c). Pub. L. 106-398, §1 [[div. A], title VI, §630(a)(3)], added subsec. (c) and struck out former subsec. (c) which read as follows: “Under regulations prescribed by the President, a member of a uniformed service who is entitled to career sea pay under this section who has served 36 consecutive months of sea duty (other than an enlisted member in a pay grade above E-4 with more than five years of sea duty) is entitled to a career sea pay premium of \$100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.”

Subsec. (d). Pub. L. 106-398, §1 [[div. A], title VI, §630(a)(3)], added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 106-398, §1 [[div. A], title VI, §630(a)(2), (b)], redesignated subsec. (d) as (e) and inserted heading.

1997—Subsec. (d)(1)(A). Pub. L. 105-85, §620(1), struck out “, ship-based staff, or ship-based aviation unit” after “assigned to a ship”.

Subsec. (d)(1)(B). Pub. L. 105-85, §620(2), struck out “or ship-based staff” after “assigned to a ship”.

Subsec. (d)(2) to (4). Pub. L. 105-85, §620(3), (4), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (d)(1)(A). Pub. L. 104-106 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way or while serving as a member of the off-crew of a two-crewed submarine; or”.

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

Subsec. (b). Pub. L. 102-190, in table pertaining to warrant officers, added provisions relating to pay grade W-5 in three places.

1989—Subsec. (b). Pub. L. 101-189 inserted “COMMISSIONED” before “OFFICERS” in heading of table relating to officers in pay grades O-1 through O-6.

1988—Subsec. (d)(2). Pub. L. 100-456 substituted “after December 31, 1988,” for “on or after the effective date specified in section 621(e)(1) of the National Defense Authorization Act for Fiscal Year 1988”.

1987—Subsec. (b). Pub. L. 100-224 substituted “Over 14” for “Over 13” in table relating to warrant officers.

Pub. L. 100-180, §621(a), in amending subsec. (b) generally, struck out “of this section” after “subsection (a)” in introductory provisions and amended table pertaining to enlisted members so as to reflect downward adjustment in monthly special pay rates for persons in pay grade E-4 having over 2 years of sea duty and for persons in pay grades E-5 through E-9 having less than 5 years of sea duty, and amended table so as to reflect upward adjustment for persons in pay grades E-5 through E-9 having over 5 years of sea duty, amended table pertaining to warrant officers so as to reflect upward adjustment for persons in pay grades W-1 through W-3 having over 9 years of sea duty and for persons in pay grade W-4 having over 10 years of sea duty, and in

table pertaining to officers for pay grade O-4 substituted “220” for “215” in the column for “Over 8”.

Subsec. (c). Pub. L. 100-180, §621(b), inserted “(other than an enlisted member in a pay grade above E-4 with more than five years of sea duty)” after first reference to “sea duty”.

Subsec. (d). Pub. L. 100-180, §621(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In this section, the term ‘sea duty’ means duty performed by a member—

“(1) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while underway or while serving as a member of the off crew of a two-crewed submarine; or

“(2) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport for 30 consecutive days or more.

A ship is considered away from its homeport for purposes of clause (2) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport.”

Pub. L. 100-26 substituted “In this section,” for “For the purposes of this section,”.

1985—Subsec. (b). Pub. L. 99-145 amended table for warrant officers for pay grade W-3 by substituting “330” for “310” in column for “Over 12”, and for pay grade W-4, substituted “320” for “310” in column for “Over 10”, substituted “330” for “310” in column for “Over 11”, and “350” for “310” in column for “Over 12”, inserted columns for “Over 14”, “Over 16”, “Over 18”, and “Over 20”, and in table for commissioned officers inserted columns for “Over 14”, “Over 16”, “Over 18”, and “Over 20”, and struck out the subscript qualifier for pay grades O-1 and O-2, which read: “Commissioned officers with at least four years of active service as enlisted members or as noncommissioned warrant officers”.

1984—Subsec. (b). Pub. L. 98-525 amended table relating to rates of pay for enlisted members by substituting “265” for “255” and “320” for “310” in column for “Over 10”, “265” for “255” and “330” for “310” in column for “Over 11”, “280” for “255”, “320” for “310”, and “350” for “310” in column for “Over 12”, and inserted columns for “Over 13”, “Over 14”, “Over 16”, and “Over 18”.

1982—Subsec. (d). Pub. L. 97-295 substituted “clause (2)” for “clause (B)” after “for purposes of”.

1981—Subsec. (d)(1). Pub. L. 97-60 inserted provisions relating to service as a member of the off crew of a two-crewed submarine.

1980—Subsec. (a). Pub. L. 96-579 substituted provision declaring a member of a uniformed service entitled to basic pay as eligible for special pay for prior provision for eligibility to such pay of an enlisted member of a uniformed service entitled to basic pay, in pay grade E-4 or above, with three years of sea duty.

Subsec. (b). Pub. L. 96-579 substituted special monthly pay table for enlisted members, warrant officers, and commissioned officers for prior special monthly rate for enlisted members for sea duty above prescribed number of years: \$29, 3 yrs.; \$40, 5 yrs.; \$52, 7 yrs.; \$63, 9 yrs.; \$75, 10 yrs.; \$86, 11 yrs.; and \$115, 12 yrs.

Pub. L. 96-343 substituted provision authorizing monthly rates of special pay of \$29 for over 3 years, \$40 for over 5 years, \$52 for over 7 years, \$63 for over 10 years, \$86 for over 11 years, and \$115 for over 12 years for provision authorizing monthly rates of special pay during fiscal year 1979 or 1980 of \$25 for over 3 years, \$35 for over 5 years, and \$55 for over 12 years and for fiscal year 1981 rates of \$25 for over 3 years, \$35 for over 5 years, \$45 for over 7 years, and \$55 for over 12 years.

Subsecs. (c), (d). Pub. L. 96-579 added subsecs. (c) and (d).

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VI, §630(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-156, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2000, and shall apply with respect to months beginning on or after that date."

## EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1987 AMENDMENT; SAVE PAY; DEFINITIONS

Pub. L. 100-180, div. A, title VI, §621(d)-(f), Dec. 4, 1987, 101 Stat. 1100, provided that:

"(d) SAVE PAY.—A member of the uniformed services who at any time during the three-month period ending on the day before the effective date applicable to that member under subsection (e) for the new rates of career sea pay is entitled to career sea pay at a rate that is higher than the rate established under such new rates for the member's pay grade and years of sea duty shall be paid such special pay, when entitled to receive it, at such higher rate until the member is permanently reassigned to duty for which the member is not entitled to such special pay. In the case of a member covered by the preceding sentence who is reduced in grade under the Uniform Code of Military Justice (chapter 47 of title 10, United States Code), the old rate of career sea pay applicable to such member under the preceding sentence which may be paid in lieu of the rate applicable to the member under the new rates of career sea pay shall be the rate under the old rates of career sea pay for the member's pay grade as so reduced and the member's years of sea duty.

"(e) EFFECTIVE DATE.—(1) Except as provided under paragraph (2), the amendments made by this section [amending this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Dec. 4, 1987] and shall apply with respect to duty performed on or after that date.

"(2) The new rates of career sea pay that are applicable to enlisted members in pay grades above pay grade E-4 who have five or more years of sea duty and the amendment made by subsection (b) [amending this section] shall take effect on the first day of the fourth month beginning after the effective date specified under paragraph (1). In the case of such members, the old rates of career sea pay shall remain in effect until the new rates take effect under the preceding sentence.

"(f) DEFINITIONS.—For purposes of subsections (d) and (e):

"(1) The term 'career sea pay' means special pay under section 305a of title 37, United States Code.

"(2) The term 'old rates', with respect to career sea pay, means the rates of such pay in effect on the date of the enactment of this Act [Dec. 4, 1987].

"(3) The term 'new rates', with respect to career sea pay, means the rates of such pay provided by the amendment made by subsection (a) [amending this section]."

## EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VI, §634(b), Nov. 8, 1985, 99 Stat. 647, provided that: "The amendment made by this section [amending this section] shall take effect on October 1, 1985."

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title VI, §623(c), Oct. 19, 1984, 98 Stat. 2542, provided that: "The amendments made by this section [amending this section and section 307 of this title] shall take effect on October 1, 1984."

## EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-579, §4(b), Dec. 23, 1980, 94 Stat. 3366, provided: "The amendment made by this section [amend-

ing this section] shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after the month in which this section is enacted [December 1980]."

Pub. L. 96-343, §3(c), Sept. 8, 1980, 94 Stat. 1124, provided that: "The amendments made by this section [amending this section and repealing section 804(a)(2) of Pub. L. 95-485, formerly set out as a note below] shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after August 1980."

## EFFECTIVE DATE

Pub. L. 95-485, title VIII, §804(a)(1), Oct. 20, 1978, 92 Stat. 1620, provided that this section is effective Oct. 1, 1978.

## REPEALS

Pub. L. 95-485, title VIII, §804(a)(2), Oct. 20, 1978, 92 Stat. 1620, which amended subsec. (b) of this section effective Oct. 1, 1981, to provide for monthly rates of special pay of \$25 for over 3 years, \$35 for over 5 years, \$45 for over 7 years, \$55 for over 9 years, \$65 for over 10 years, \$75 for over 11 years, and \$100 for over 12 years was repealed by Pub. L. 96-343, §3(b), Sept. 8, 1980, 94 Stat. 1124.

## DETERMINATION OF AMOUNT OF SEA CREDIT; PERIODS PRIOR TO OCTOBER 1, 1978

Pub. L. 95-485, title VIII, §804(a)(3), Oct. 20, 1978, 92 Stat. 1620, provided that: "In determining the amount of sea duty to be credited to an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status."

**§ 305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team**

(a) SPECIAL PAY AUTHORIZED.—The Secretary of a military department may pay special pay under this subsection to members of an armed force under the jurisdiction of the Secretary who are entitled to basic pay under section 204 and are assigned by orders to duty as members of a Weapons of Mass Destruction Civil Support Team if the Secretary determines that the payment of such special pay is needed to address recruitment or retention concerns in that armed force.

(b) MONTHLY RATE.—The monthly rate of special pay under subsection (a) may not exceed \$150.

(c) INCLUSION OF RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—(1) To the extent funds are made available to carry out this subsection, the Secretary of a military department may pay the special pay under subsection (a) to members of a reserve component of the armed forces who are entitled to compensation under section 206 of this title and who perform duty under orders as members of a Weapons of Mass Destruction Civil Support Team.

(2) The amount of the special pay for a member referred to in paragraph (1) shall be equal to  $\frac{1}{30}$  of the monthly special pay rate in effect under subsection (b) for each day on which the member performs duty under orders as members of a Weapons of Mass Destruction Civil Support Team.