

HISTORICAL AND REVISION NOTES—Continued

Revised section	Source (U.S. Code)	Source (Statutes at Large)
905(b)	10:5907.	[None.]
905(c)	10:5908(a) (last sentence).	[None.]
905(d)	10:5788(c).	[None.]
905(e)	10:5787b(c).	[None.]
905(f)	10:5505(c).	[None.]
905(g)	10:5597(h) (last sentence).	[None.]
	10:5597(i) (last 21 words).	[None.]
905(h)	10:5787(g) (last 21 words).	[None.]
	10:5787(h) (last sentence).	[None.]

AMENDMENTS

2006—Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” in two places.

1994—Subsec. (a). Pub. L. 103-337, §1676(b)(3)(A), substituted “chapter 1405” for “chapter 549”.

Subsec. (b). Pub. L. 103-337, §1676(b)(3)(B), substituted “section 14308(b)” for “section 5908”.

1980—Pub. L. 96-513 substituted “Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances” for “Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances” in section catchline, and generally revised and restructured section, and as part of such restructuring struck out former subsec. (a), redesignated former subsecs. (b) and (c) as subsecs. (a) and (b), respectively, and, in subsec. (a) as so redesignated, struck out second sentence which related to establishment of an officer’s professional and moral qualifications, and struck out former subsecs. (d) to (h).

1978—Subsec. (h). Pub. L. 95-377 inserted reference to section 5787d.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of Title 10, Armed Forces.

§ 906. Extension of enlistment: effect on pay and allowances

A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, who extends his enlistment under section 509 of title 10 is entitled to the same pay and allowances as though he had reenlisted. For the purposes of determining entitlement to reenlistment bonus or to travel and transportation allowances upon discharge, all such extensions of an enlistment are considered one continuous extension.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 90-235, §2(c), Jan. 2, 1968, 81 Stat. 757.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
906(a)	10:3263(b).	[None.]
	10:8263(b).	[None.]
906(b)	10:5539(b).	[None.]

In subsection (a), the words “who extends his enlistment” are substituted for the words “While serving under an enlistment extended”. The words “same pay and allowances as though he had reenlisted” are substituted for the last 31 words of section 3263(b) of title 10 and the last 31 words of section 8263(b) of title 10.

AMENDMENTS

1968—Pub. L. 90-235 struck out provisions formerly set out as subsec. (a) which provided that a member of the Army or Air Force who had extended his enlistment was entitled to the same pay as though he had reenlisted, redesignated as entire section provisions formerly set out as subsec. (b) and substituted “Army, Navy, Air Force, Marine Corps, or Coast Guard” for “Regular Navy or the Regular Marine Corps” and “section 509 of title 10” for “section 5539 of title 10”.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized

(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

(1) the pay and allowances to which the officer is entitled as an officer; or

(2) the pay and allowances to which the officer would be entitled if the officer were in the last enlisted grade the officer held before the appointment as an officer.

(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall, for service as such a commissioned officer, be paid the greater of—

(1) the pay and allowances to which the officer is entitled as such a commissioned officer;

(2) the pay and allowances to which the officer would be entitled if the officer were in the last warrant officer grade the officer held before the appointment as such a commissioned officer; or

(3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which the officer would be entitled if the officer were in the last enlisted grade the officer held before the appointment as an officer.

(c) For the purposes of this section—

(1) the pay and allowances of a grade formerly held by an officer include—

(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

(B) subject to subsection (e), allowances under chapter 7 of this title; and

(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had the officer remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

(d)(1) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty that creates the entitlement to, or eligibility for, that pay and would otherwise be eligible to receive that pay in the former grade:

(A) Incentive pay for hazardous duty under section 301 or 351 of this title.

(B) Submarine duty incentive pay under section 301c or 352 of this title.

(C) Special pay for diving duty under section 304 or 353(a) of this title.

(D) Hardship duty pay under section 305 or 352 of this title.

(E) Career sea pay under section 305a or 352 of this title.

(F) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b or 352 of this title.

(G) Assignment incentive pay under section 307a or 352 of this title.

(H) Special pay for duty subject to hostile fire or imminent danger under section 310 or 351 of this title.

(I) Special pay or bonus for an extension of duty at a designated overseas location under section 314 or 352 of this title.

(J) Foreign language proficiency pay under section 353(b) of this title.

(K) Critical skill retention bonus under section section¹ 355 of this title.

(2) The following special and incentive pays are dependent on a member being in an enlisted status and may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer:

(A) Special duty assignment pay under section 307 or 352 of this title.

(B) Reenlistment bonus under section 331 of this title.

(C) Enlistment bonus under section 331 of this title.

(D) Career enlisted flyer incentive pay under section 320 or 353 of this title.

(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.

(Added Pub. L. 91-484, §1(1), Oct. 21, 1970, 84 Stat. 1083; amended Pub. L. 96-343, §6(a)(1), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-85, div. A, title VI, §619(d), Nov. 18, 1997, 111 Stat. 1790; Pub. L. 105-261, div. A, title VI, §617(b), Oct. 17, 1998, 112 Stat. 2041; Pub. L.

109-163, div. A, title VI, §686(a), (b), Jan. 6, 2006, 119 Stat. 3325, 3326; Pub. L. 114-328, div. A, title VI, §618(h)(4), Dec. 23, 2016, 130 Stat. 2161; Pub. L. 115-91, div. A, title VI, §618(h), Dec. 12, 2017, 131 Stat. 1427.)

AMENDMENTS

2017—Subsec. (d)(1)(A). Pub. L. 115-91, §618(h)(1)(A), inserted “or 351” after “section 301”.

Subsec. (d)(1)(B). Pub. L. 115-91, §618(h)(1)(B), inserted “or 352” after “section 301c”.

Subsec. (d)(1)(C). Pub. L. 115-91, §618(h)(1)(C), inserted “or 353(a)” after “section 304”.

Subsec. (d)(1)(D). Pub. L. 115-91, §618(h)(1)(D), inserted “or 352” after “section 305”.

Subsec. (d)(1)(E). Pub. L. 115-91, §618(h)(1)(E), inserted “or 352” after “section 305a”.

Subsec. (d)(1)(F). Pub. L. 115-91, §618(h)(1)(F), inserted “or 352” after “section 305b”.

Subsec. (d)(1)(G). Pub. L. 115-91, §618(h)(1)(G), inserted “or 352” after “section 307a”.

Subsec. (d)(1)(H). Pub. L. 115-91, §618(h)(1)(H), inserted “or 352” after “section 314”.

Subsec. (d)(1)(J). Pub. L. 115-91, §618(h)(1)(J), substituted “353(b)” for “316”.

Subsec. (d)(1)(K). Pub. L. 115-91, §618(h)(1)(J), substituted “section 355” for “323”.

Subsec. (d)(2)(A). Pub. L. 115-91, §618(h)(2)(A), inserted “or 352” after “section 307”.

Subsec. (d)(2)(B). Pub. L. 115-91, §618(h)(2)(B), substituted “331” for “308”.

Subsec. (d)(2)(C). Pub. L. 115-91, §618(h)(2)(C), substituted “331” for “309”.

Subsec. (d)(2)(D). Pub. L. 115-91, §618(h)(2)(D), inserted “or 353” after “section 320”.

2016—Subsec. (d)(1)(H). Pub. L. 114-328 inserted “or 351” after “section 310”.

2006—Subsecs. (a), (b). Pub. L. 109-163, §686(b)(1), substituted “the officer” for “he” wherever appearing and “the appointment” for “his appointment” wherever appearing.

Subsec. (c)(2). Pub. L. 109-163, §686(b)(2), substituted “the officer remained” for “he remained”.

Subsec. (d). Pub. L. 109-163, §686(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for hardship duty under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade.”

1998—Subsec. (d). Pub. L. 105-261 substituted “hardship duty” for “duty at a hardship duty location”.

1997—Subsec. (d). Pub. L. 105-85 substituted “duty at a hardship duty location” for “duty at certain places”.

1991—Subsec. (c)(1). Pub. L. 102-25 struck out “of this section” after “subsection (d)” in subpar. (A) and after “subsection (e)” in subpar. (B).

1980—Pub. L. 96-343 substituted “and warrant officers appointed as officers:” for “appointed as officers;” in section catchline, and, in generally revising section, struck out provision for temporary appointment of enlisted members as officers, provided for pay and allowances for warrant officers who accept appointment as commissioned officers, and specified what pay and allowances include and what rates and allowances of a grade which an officer formerly held are for purposes of this section.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title VI, §686(c), Jan. 6, 2006, 119 Stat. 3326, provided that: “Subsection (d) of section

¹ So in original.

907 of title 37, United States Code, as amended by subsection (a), shall apply with respect to any acceptance by an enlisted member of the Armed Forces of an appointment as an officer made on or after the date of the enactment of this Act [Jan. 6, 2006].”

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-343, §6(c), Sept. 8, 1980, 94 Stat. 1127, provided that: “The amendments made by this section [amending this section and section 203 of this title] shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980.”

§ 908. Employment of reserves and retired members by foreign governments

(a) CONGRESSIONAL CONSENT.—Subject to subsection (b), Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

- (1) Retired members of the uniformed services.
- (2) Members of a reserve component of the armed forces.
- (3) Members of the Commissioned Reserve Corps of the Public Health Service.

(b) APPROVAL REQUIRED.—A person described in subsection (a) may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

(c) ANNUAL REPORTS ON APPROVALS FOR RETIRED GENERAL AND FLAG OFFICERS.—Not later than January 31 each year, the Secretaries of the military departments, after consulting with the Secretary of State, shall jointly submit to the Committees on Armed Services of the Senate and House of Representatives a report on each approval under subsection (b) for employment or compensation described in subsection (a) for a retired member of the armed forces in general or flag officer grade that was issued during the preceding year.

(d) MILITARY SERVICE IN FOREIGN ARMED FORCES.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.

(Added Pub. L. 97-295, §3(6)(A), Oct. 12, 1982, 96 Stat. 1304; amended Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-160, div. A, title XIV, §1433(c), Nov. 30, 1993, 107 Stat. 1834; Pub. L. 103-337, div. A, title X, §1070(d)(6), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 116-92, div. A, title VI, §651(a), Dec. 20, 2019, 133 Stat. 1431.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
908	37:801 (note).	Aug. 17, 1977, Pub. L. 95-105, §509(a)-(c), 91 Stat. 859.

In subsection (a), the words “for which” are substituted for “with respect to which” for clarity.

The text of section 509(c) of the Act of August 17, 1977, is omitted as unnecessary because of the definitions in 37:101.

AMENDMENTS

2019—Subsecs. (c), (d). Pub. L. 116-92, §651(a), added subsec. (c) and redesignated former subsec. (c) as (d).

1994—Subsec. (c). Pub. L. 103-337 substituted “1060” for “1058”.

1993—Pub. L. 103-160 inserted headings in subsecs. (a) and (b) and added subsec. (c).

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

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

SCOPE OF FIRST REPORT

Pub. L. 116-92, div. A, title VI, §651(b), Dec. 20, 2019, 133 Stat. 1431, provided that: “The first report submitted pursuant to subsection (c) of section 908 of title 37, United States Code (as amended by subsection (a) of this section), after the date of the enactment of this Act [Dec. 20, 2019] shall cover the five-year period ending with the year before the year in which such report is submitted.”

§ 909. Special and incentive pay: payment at un-reduced rates during suspension of personnel laws

(a) AUTHORITY TO CONTINUE PAYMENT AT UN-REDUCED RATES.—To ensure fairness and recognize the contributions of members of the armed forces to military essential missions, the Secretary of the military department concerned may authorize members who are involuntarily retained on active duty under section 123 or 12305 of title 10 or any other provision of law and who, immediately before retention on active duty, were entitled or eligible for special pay or incentive pay under chapter 5 of this title, to receive that special pay or incentive pay for qualifying service performed during the retention period, without a reduction in the payment rate below the rate the members received immediately before retention on active duty, notwithstanding any requirement otherwise applicable to that special pay or incentive pay that would reduce the payment rate by reason of the years of service of the members.

(b) SUSPENSION DURING TIME OF WAR.—Subsection (a) does not apply with respect to a special pay or incentive pay under chapter 5 of this title, whenever the authority to provide that special pay or incentive pay is suspended by the President or the Secretary of Defense during a time of war.

(c) QUALIFYING SERVICE DEFINED.—In this section, the term “qualifying service” means service for which a particular special pay or incentive pay is payable under the authority of a provision of chapter 5 of this title.

(Added Pub. L. 107-107, div. A, title VI, §623(a)(1), Dec. 28, 2001, 115 Stat. 1142.)

EFFECTIVE DATE

Pub. L. 107-107, div. A, title VI, §623(b), Dec. 28, 2001, 115 Stat. 1143, provided that: “Section 909 of title 37, United States Code, as added by subsection (a)(1), shall apply with respect to pay periods beginning after September 11, 2001.”

§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

(a) PAYMENT REQUIRED.—The Secretary concerned shall pay to an eligible member of a re-