

tive duty under a call or order to active duty for a period in excess of 30 days” for “armed forces”.

Subsec. (b). Pub. L. 116-283, §641(a)(2), inserted “for Employment and Compensation” after “Approval Required” in heading.

Subsec. (c). Pub. L. 116-283, §641(a)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 116-283, §641(a)(3), (b), redesignated subsec. (c) as (d), designated existing provisions as par. (1), inserted “, and each approval under subsection (c) for a payment or award described in subsection (a),” after “in subsection (a)”, and added par. (2). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 116-283, §641(a)(3), redesignated subsec. (d) as (e).

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)”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to Reserve Corps of the Public Health Service deemed to be a reference to the Ready Reserve Corps, see section 204(c)(3) of Title 42, The Public Health and Welfare.

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 UNREDUCED 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.)

Statutory Notes and Related Subsidiaries

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 reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary, when the total monthly military compensation of the member is less than the average monthly civilian income of the member. The payments shall be made on a monthly basis.

(b) **ELIGIBILITY.**—(1) A member of a reserve component is entitled to a payment under this section for any full month of active duty of the member, when the total monthly military compensation of the member is less than the average monthly civilian income of the member, while the member is on active duty under an involuntary mobilization order, following the date on which the member—

(A) completes 547 continuous days of service on active duty under an involuntary mobilization order;

(B) completes 730 cumulative days on active duty under an involuntary mobilization order during the previous 1,826 days; or

(C) is involuntarily mobilized for service on active duty for a period of 180 days or more within 180 days after the date of the member’s separation from a previous period of active duty for a period of 180 days or more.

(2) The entitlement of a member of a reserve component to a payment under this section also shall commence or, if previously commenced under paragraph (1), shall continue if the member—

(A) satisfies the required number of days on active duty specified in subparagraph (A) or (B) of paragraph (1) or was involuntarily mobilized as provided in subparagraph (C) of such paragraph; and

(B) is retained on active duty under subparagraph (A) or (B) of section 12301(h)(1) of title 10 because of an injury or illness incurred or aggravated while the member was assigned to duty in an area for which special pay under section 310, or paragraph (1) or (3) of section 351(a), of this title is available.

(3) A civilian employee of the Federal Government who is also a member of a reserve compo-

ment is not entitled to a payment under this section for any period for which the employee is entitled to—

(A) a differential payment under section 5538 of title 5; or

(B) a comparable benefit under an administratively established program for civilian employees absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services.

(c) **MINIMUM AND MAXIMUM PAYMENT AMOUNTS.**—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than \$50.

(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed \$3,000.

(d) **MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.**—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

(1) the average monthly civilian income of the member; and

(2) the member's total monthly military compensation.

(e) **DEFINITIONS.**—In this section:

(1) The term “average monthly civilian income”, with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

(2) The term “total monthly military compensation” means the amount, computed on a monthly basis, of the sum of—

(A) the amount of the regular military compensation (RMC) of the member; and

(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.

(f) **REGULATIONS.**—This section shall be administered under regulations to be prescribed by the Secretary of Defense.

(g) **TERMINATION.**—No payment shall be made to a member under this section for months beginning after December 31, 2022, unless the entitlement of the member to payments under this section commenced on or before that date.

(Added Pub. L. 109-163, div. A, title VI, § 614(a), Jan. 6, 2006, 119 Stat. 3292; amended Pub. L. 110-181, div. A, title VI, § 604, Jan. 28, 2008, 122 Stat. 145; Pub. L. 110-417, [div. A], title VI, § 605, Oct. 14, 2008, 122 Stat. 4483; Pub. L. 111-84, div. A, title VI, § 611(7), Oct. 28, 2009, 123 Stat. 2352; Pub. L. 111-383, div. A, title VI, §§ 601(a), 611(7), Jan. 7, 2011, 124 Stat. 4235, 4236; Pub. L. 112-81, div. A, title VI, § 611(7), Dec. 31, 2011, 125 Stat. 1449; Pub. L. 112-239, div. A, title VI, § 611(8), Jan. 2, 2013, 126 Stat. 1776; Pub. L. 113-66, div. A, title VI, § 611(8), Dec. 26, 2013, 127 Stat. 780; Pub. L. 113-291, div. A, title VI, § 611(8), Dec. 19, 2014, 128 Stat. 3399; Pub. L. 114-92, div. A, title VI, § 611(8),

Nov. 25, 2015, 129 Stat. 838; Pub. L. 114-328, div. A, title VI, §§ 611(8), 618(h)(5), Dec. 23, 2016, 130 Stat. 2157, 2161; Pub. L. 115-91, div. A, title VI, § 611(8), Dec. 12, 2017, 131 Stat. 1421; Pub. L. 115-232, div. A, title VI, § 611(a), Aug. 13, 2018, 132 Stat. 1796; Pub. L. 116-92, div. A, title VI, § 611(a), Dec. 20, 2019, 133 Stat. 1425; Pub. L. 116-283, div. A, title VI, § 611(a), Jan. 1, 2021, 134 Stat. 3673; Pub. L. 117-81, div. A, title VI, § 611(a), Dec. 27, 2021, 135 Stat. 1769.)

Editorial Notes

AMENDMENTS

2021—Subsec. (g). Pub. L. 117-81 substituted “December 31, 2022” for “December 31, 2021”.

Pub. L. 116-283 substituted “December 31, 2021” for “December 31, 2020”.

2019—Subsec. (g). Pub. L. 116-92 substituted “December 31, 2020” for “December 31, 2019”.

2018—Subsec. (g). Pub. L. 115-232 substituted “December 31, 2019” for “December 31, 2018”.

2017—Subsec. (g). Pub. L. 115-91 substituted “December 31, 2018” for “December 31, 2017”.

2016—Subsec. (b)(2)(B). Pub. L. 114-328, § 618(h)(5), inserted “, or paragraph (1) or (3) of section 351(a),” after “section 310”.

Subsec. (g). Pub. L. 114-328, § 611(8), substituted “December 31, 2017” for “December 31, 2016”.

2015—Subsec. (g). Pub. L. 114-92 substituted “December 31, 2016” for “December 31, 2015”.

2014—Subsec. (g). Pub. L. 113-291 substituted “December 31, 2015” for “December 31, 2014”.

2013—Subsec. (g). Pub. L. 113-66 substituted “December 31, 2014” for “December 31, 2013”.

Pub. L. 112-239 substituted “December 31, 2013” for “December 31, 2012”.

2011—Subsec. (b)(3). Pub. L. 111-383, § 601(a), added par. (3).

Subsec. (g). Pub. L. 112-81 substituted “December 31, 2012” for “December 31, 2011”.

Pub. L. 111-383, § 611(7), substituted “December 31, 2011” for “December 31, 2010”.

2009—Subsec. (g). Pub. L. 111-84 substituted “December 31, 2010” for “December 31, 2009”.

2008—Subsec. (a). Pub. L. 110-181, § 604(a), inserted before period at end of first sentence “, when the total monthly military compensation of the member is less than the average monthly civilian income of the member”.

Subsec. (b). Pub. L. 110-181, § 604(b), amended subsec. (b) generally. Prior to amendment, text read as follows: “Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

“(1) completes 18 continuous months of service on active duty under such an order;

“(2) completes 24 months on active duty during the previous 60 months under such an order; or

“(3) is involuntarily mobilized for service on active duty for a period of 180 days or more within six months or less following the member's separation from a previous period of involuntary active duty for a period of 180 days or more.”

Subsec. (g). Pub. L. 110-417 substituted “December 31, 2009” for “December 31, 2008”.

Pub. L. 110-181, § 604(c), amended subsec. (g) generally. Prior to amendment, text read as follows: “No payment shall be made under this section after December 31, 2008.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title VI, § 601(b), Jan. 7, 2011, 124 Stat. 4235, provided that: “Subsection (b)(3) of sec-

tion 910 of title 37, United States Code, as added by subsection (a), shall apply with respect to payments under such section for months beginning on or after the date of the enactment of this Act [Jan. 7, 2011].”

EFFECTIVE DATE

Pub. L. 109-163, div. A, title VI, §614(c), Jan. 6, 2006, 119 Stat. 3293, provided that: “Section 910 of title 37, United States Code, as added by subsection (a), may apply only with respect to months beginning after the end of the 180-day period beginning on the date of the enactment of this Act [Jan. 6, 2006].”

CHAPTER 19—ADMINISTRATION

- Sec.
- 1001. Regulations relating to pay and allowances.
- 1002. Additional training or duty without pay: Reserves and members of National Guard.
- 1003. Assimilation of pay and allowances.
- 1004. Computation of pay and allowances for month or part of month.
- 1005. Army, Air Force, and Space Force: prompt payments required.
- 1006. Advance payments.
- 1007. Deductions from pay.
- 1008. Presidential recommendations concerning adjustments and changes in pay and allowances.
- 1009. Adjustments of monthly basic pay.
- 1010. Commissioned officers: promotions; effective date for pay and allowances.
- 1011. Mess operations: reimbursement of expenses.¹
- 1012. Disbursement and accounting: pay of enlisted members of the National Guard.
- 1013. Payment of compensation for victims of terrorism.
- 1014. Payment date for pay and allowances.
- 1015. Recordation of installment payment obligations for incentive pays and similar benefits.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, div. A, title IX, §925(k)(1)(C), Jan. 1, 2021, 134 Stat. 3829, which directed amendment of the analysis for chapter 15 by striking item 803 and inserting a new item 1005, was executed to the analysis for this chapter by adding item 1005 and striking out former item 1005 “Army and Air Force: prompt payments required”, to reflect the probable intent of Congress.

2015—Pub. L. 114-92, div. A, title VI, §662(b), Nov. 25, 2015, 129 Stat. 859, added item 1015.

2006—Pub. L. 109-364, div. A, title X, §1046(b)(2), Oct. 17, 2006, 120 Stat. 2394, struck out item 1015 “Annual report on effects of recruitment and retention initiatives”.

1999—Pub. L. 106-65, div. A, title VI, §673(a)(2), Oct. 5, 1999, 113 Stat. 674, added item 1015.

1997—Pub. L. 105-85, div. A, title VI, §604(a)(2), Nov. 18, 1997, 111 Stat. 1784, substituted “monthly basic pay” for “compensation” in item 1009.

1990—Pub. L. 101-510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1987—Pub. L. 100-26, §8(b)(2), Apr. 21, 1987, 101 Stat. 285, redesignated item 1013 “Payment date for pay and allowances” as 1014.

1986—Pub. L. 99-500, §101(c) [title IX, §9103(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-118, and Pub. L. 99-591, §101(c) [title IX, §9103(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-118, added item 1013, relating to payment date for pay and allowances.

Pub. L. 99-399, title VIII, §806(e)(2), Aug. 27, 1986, 100 Stat. 889, added item 1013, relating to payment of compensation for victims of terrorism.

¹ So in original. Does not conform to section catchline.

1985—Pub. L. 99-145, title XIII, §1303(b)(13)(C), Nov. 8, 1985, 99 Stat. 741, inserted “: pay of enlisted members of the National Guard” in item 1012.

1982—Pub. L. 97-258, §2(i)(2)(A), Sept. 13, 1982, 96 Stat. 1061, added item 1012.

1980—Pub. L. 96-513, title V, §§506(9), 516(21), Dec. 12, 1980, 94 Stat. 2919, 2939, added items 1010 and 1011 and substituted “Force:” for “Force;” in item 1005.

1974—Pub. L. 93-419, §4, Sept. 19, 1974, 88 Stat. 1152, added item 1009.

1965—Pub. L. 89-132, §2(b), Aug. 21, 1965, 79 Stat. 547, added item 1008.

§ 1001. Regulations relating to pay and allowances

(a) A Secretary of a military department may not prescribe a regulation under this title or any other law, relating to the pay and allowances of members of an armed force under that department, unless it has been approved under procedures prescribed by the Secretary of Defense.

(b) Regulations of the Secretary concerned relating to pay and allowances matters, similar to those covered by subsection (a), for members of the Coast Guard, the National Oceanic and Atmospheric Administration, and the Public Health Service, shall, as far as practicable, conform to regulations approved under that subsection.

(c) The Secretary of Defense, the Secretary of Homeland Security, the Secretary of Commerce, or the Secretary of Health and Human Services, may obtain from the Comptroller General an advisory opinion with respect to a proposed regulation especially affecting a department under that Secretary’s jurisdiction.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 89-718, §§49(a)(1), 69, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 90-623, §3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96-513, title V, §516(22), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1001(a)	37:324 (1st sentence).	Oct. 12, 1949, ch. 681, §534; added Sept. 2, 1957.
1001(b)	37:324 (2d sentence).	Pub. L. 85-272, §4, 71 Stat. 597.
1001(c)	37:324 (less 1st and 2d sentences).	

In subsection (a), the words “within the Department of Defense” are omitted as surplusage. The words “members of the armed forces” are substituted for the words “military personnel”.

In subsection (b), the words “conform to” are substituted for the words “agree with”.

In subsection (c), the words “or departments” are omitted, since, under section 1 of title 1, words importing the singular include and apply to several persons, parties, or things.

Editorial Notes

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

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

1980—Subsec. (b). Pub. L. 96-513, §516(22)(A), substituted “National Oceanic and Atmospheric Adminis-