

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.

(b)(1) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

(2) A member of a reserve component who is eligible for special pay under this section for a month shall receive the full amount authorized in subsection (a) for that month regardless of the number of days during that month on which the member satisfies the eligibility criteria specified in such subsection.

(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(Added Pub. L. 88-132, §9(a)(1), Oct. 2, 1963, 77 Stat. 216; amended Pub. L. 89-132, §4, Aug. 21, 1965, 79 Stat. 547; Pub. L. 98-94, title IX, §905(a), (b)(1), Sept. 24, 1983, 97 Stat. 636, 637; Pub. L. 99-145, title VI, §638(a), Nov. 8, 1985, 99 Stat. 649; Pub. L. 101-510, div. A, title XIII, §1322(c)(6), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102-190, div. A, title VI, §§611(a), 613, Dec. 5, 1991, 105 Stat. 1376, 1377; Pub. L. 105-261, div. A, title VI, §621, Oct. 17, 1998, 112 Stat. 2042.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102-190 substituted “Under” for “Except in time of war declared by Congress, and under” and “rate of \$150” for “lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title”.

1990—Subsec. (d). Pub. L. 101-510 struck out subsec. (d) which read as follows: “The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year.”

1985—Subsec. (a). Pub. L. 99-145 substituted “at the lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title” for “at the rate of \$65 a month” in provisions preceding cl. (1).

1983—Pub. L. 98-94, §905(b)(1), inserted “or imminent danger” in section catchline.

Subsec. (a)(4). Pub. L. 98-94, §905(a), added cl. (4).

1965—Subsec. (a). Pub. L. 89-132 increased rate of special pay from \$55 to \$65 a month.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 638(b) of Pub. L. 99-145 provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1985.”

EFFECTIVE DATE OF 1983 AMENDMENT

Section 905(c) of Pub. L. 98-94 provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1983.”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-132 effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as a note under section 203 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

RETROACTIVE AUTHORIZATION FOR IMMINENT DANGER PAY FOR SERVICE IN CONNECTION WITH OPERATION ENDURING FREEDOM

Pub. L. 107-107, div. A, title VI, §624, Dec. 28, 2001, 115 Stat. 1143, provided that:

“(a) RETROACTIVE AUTHORIZATION.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the areas specified in subsection (b) in connection with the contingency operation known as Operation Enduring Freedom with respect to periods of duty served in those areas during the period beginning on September 19, 2001, and ending October 31, 2001.

“(b) SPECIFIED AREAS.—The areas referred to in subsection (a) are the following:

“(1) The land areas of Kyrgyzstan, Oman, the United Arab Emirates, and Uzbekistan.

“(2) The Red Sea, the Gulf of Aden, the Gulf of Oman, and the Arabian Sea (that portion north of 10° north latitude and west of 68° east longitude).”

TEMPORARY INCREASE IN SPECIAL PAY IN CONNECTION WITH PERSIAN GULF CONFLICT

Pub. L. 102-25, title III, §301, Apr. 6, 1991, 105 Stat. 80, provided that:

“(a) INCREASED RATE.—In lieu of the rate of special pay specified in section 310(a) of title 37, United States Code, the rate of special pay payable under that section shall be \$150 for each month during the period described in subsection (b).

“(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

IMMINENT DANGER PAY IN CONNECTION WITH OPERATION DESERT SHIELD

Section 1111(a) of Pub. L. 101-510 provided that: “The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the Persian Gulf area in connection with Operation Desert Shield with respect to periods of duty served after August 1, 1990, and before the date of the enactment of this Act [Nov. 5, 1990].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411a of this title; title 10 sections 701, 703, 1079, 1133; title 20 section 1087ee; title 24 section 412; title 26 section 112; title 36 section 230103; title 42 section 1382a.

[§ 311. Repealed. Pub. L. 99-145, title VI, § 639(b), Nov. 8, 1985, 99 Stat. 651]

Section, added Pub. L. 90-207, §1(2)(A), Dec. 16, 1967, 81 Stat. 651; amended Pub. L. 90-603, §1, Oct. 18, 1968, 82 Stat. 1187; Pub. L. 90-623, §3(5), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93-274, §1(3), May 6, 1974, 88 Stat. 95; Pub. L. 93-394, §1, Aug. 29, 1974, 88 Stat. 792; Pub. L. 96-284, §4(d)(1)-(3), June 28, 1980, 94 Stat. 591, 592; Pub. L. 96-513, title IV, §414(b), title V, §516(7), Dec. 12, 1980, 94 Stat. 2906, 2938, provided for continuation pay for dentists in the armed forces. See section 302b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 639(f) of Pub. L. 99-145, set out as an Effective Date of 1985 Amendment note under section 302b of this title.

§ 312. Special pay: nuclear-qualified officers extending period of active service

(a) Under regulations to be prescribed by the Secretary of the Navy, an officer of the naval service who—

(1) is entitled to basic pay;

(2) has the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) executes a written agreement to remain on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants for a period of three, four, or five years, so long as the new period of obligated active service does not extend beyond the end of 26 years of commissioned service, in addition to any other period of obligated active service,

may, upon the acceptance by the Secretary or his designee of the written agreement, in addition to all other compensation to which he is entitled, be paid a sum of money not to exceed \$25,000 for each year of the active-service agreement. The Secretary of the Navy shall determine annually the necessity for continuance of the special pay and the rate of special pay per year for such active-service agreements accepted within each 12-month period. Upon acceptance of the agreement by the Secretary or his designee, the total amount payable shall be paid in equal annual installments over the length of the contract, commencing at the expiration of any existing period of obligated active service. The Secretary (or his designee) may accept an active service agreement under this section not more than one year in advance of the end of an officer's existing period of obligated active service under such an agreement. In such a case, the amount of the special pay may be paid commencing with the date of acceptance of the agreement, with the number of installments being equal to the number of years covered by the contract plus one.

(b) Pursuant to regulations prescribed by the Secretary of the Navy and subject to such exceptions as may be prescribed in those regulations, refunds, on a pro rata basis, of sums paid pursuant to this section may be required if the officer having received the payment fails to complete the full period of active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants which he agreed to serve.

(c) Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the additional period of active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer.

(d)(1) An officer who is performing obligated service under an agreement under subsection (a) may, if the amount that may be paid under such subsection is higher than at the time the officer executed such agreement, execute a new agreement under that subsection. The period of such an agreement shall be a period equal to or exceeding the original period of the officer's exist-

ing agreement, so long as the period of obligated active service under the new agreement does not extend beyond the end of 26 years of commissioned service. If a new agreement is executed under this subsection, the existing active-service agreement shall be cancelled, effective on the day before an anniversary date of that agreement after the date on which the amount that may be paid under this section is increased.

(2) This subsection shall be carried out under regulations prescribed by the Secretary of the Navy.

(e) The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2003, execute the required written agreement to remain in active service.

(Added Pub. L. 91-20, §1(1), June 3, 1969, 83 Stat. 12; amended Pub. L. 92-581, §1(1), (2), Oct. 27, 1972, 86 Stat. 1277; Pub. L. 94-356, §2, July 12, 1976, 90 Stat. 901; Pub. L. 96-513, title V, §516(8), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §2(a), Dec. 23, 1980, 94 Stat. 3359; Pub. L. 99-145, title VI, §632(a), Nov. 8, 1985, 99 Stat. 643; Pub. L. 101-189, div. A, title VI, §614(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-337, div. A, title VI, §613(g), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104-106, div. A, title VI, §613(e), Feb. 10, 1996, 110 Stat. 360; Pub. L. 104-201, div. A, title VI, §613(d), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105-85, div. A, title VI, §§613(d), 624(a), Nov. 18, 1997, 111 Stat. 1786, 1793; Pub. L. 105-261, div. A, title VI, §613(d), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106-65, div. A, title VI, §§613(e), 624(a), Oct. 5, 1999, 113 Stat. 650, 654; Pub. L. 106-398, §1 [[div. A], title VI, §623(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-152; Pub. L. 107-107, div. A, title VI, §613(a), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107-314, div. A, title VI, §613(a), Dec. 2, 2002, 116 Stat. 2568.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-314 substituted “December 31, 2003” for “December 31, 2002”.

2001—Subsec. (e). Pub. L. 107-107 substituted “December 31, 2002” for “December 31, 2001”.

2000—Subsec. (e). Pub. L. 106-398 substituted “December 31, 2001” for “December 31, 2000”.

1999—Subsec. (a). Pub. L. 106-65, §624(a), substituted “\$25,000” for “\$15,000” in concluding provisions.

Subsec. (e). Pub. L. 106-65, §613(e), substituted “December 31, 2000” for “December 31, 1999”.

1998—Subsec. (e). Pub. L. 105-261 substituted “December 31, 1999” for “September 30, 1999”.

1997—Subsec. (a). Pub. L. 105-85, §624(a), substituted “\$15,000” for “\$12,000” in concluding provisions.

Subsec. (e). Pub. L. 105-85, §613(d), substituted “September 30, 1999” for “September 30, 1998”.

1996—Subsec. (e). Pub. L. 104-201 substituted “September 30, 1998” for “September 30, 1997”.

Pub. L. 104-106 substituted “September 30, 1997” for “September 30, 1996”.

1994—Subsec. (e). Pub. L. 103-337 substituted “September 30, 1996” for “September 30, 1995”.

1991—Subsec. (d)(1). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1989—Subsec. (e). Pub. L. 101-189 substituted “September 30, 1995” for “September 30, 1990”.

1985—Subsec. (a). Pub. L. 99-145, §632(a)(1)(D), in provisions following numbered clauses, substituted “\$12,000” for “\$7,000”, “annually” for “semiannually”, “12-month period” for “six-month period”, and “shall be paid in equal annual installments over the length of