

**[§ 801. Repealed. Pub. L. 103-355, title VI, § 6001(a)(1), Oct. 13, 1994, 108 Stat. 3362]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89-718, §§ 49(a)(1), 68, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 96-513, title V, § 516(20), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 101-194, title V, § 505(a), Nov. 30, 1989, 103 Stat. 1756; Pub. L. 101-510, div. A, title XIV, § 1484(c)(2), Nov. 5, 1990, 104 Stat. 1716, prohibited payment from any appropriation to officer, for period of three years after name of officer was placed on retired list of Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Regular Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service, who was engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to agency of Department of Defense, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service.

**§ 802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs**

A member of the Army, Navy, Air Force, or Marine Corps, on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, a member whose pay is forfeited for more than one month is entitled to \$5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence under this section shall be made as prescribed by the Secretary concerned, and are final.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)               | Source (Statutes at Large)    |
|-----------------|----------------------------------|-------------------------------|
| 802 .....       | 10:3632.<br>10:6111.<br>10:8632. | [None.]<br>[None.]<br>[None.] |

The words “Navy . . . or Marine Corps” are substituted for the words “naval service”, in section 6111 of title 10, to conform to the definition of that term in section 5001(a)(3) of title 10. The words “and conclusive” are omitted as surplusage.

**§ 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls**

A commissioned officer of the Army or the Air Force who is dropped from the rolls under section 1161(b) of title 10 for absence without authority for three months forfeits all pay due or to become due.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)   | Source (Statutes at Large) |
|-----------------|----------------------|----------------------------|
| 803 .....       | 10:3633.<br>10:8633. | [None.]<br>[None.]         |

**[§ 804. Repealed. Pub. L. 104-106, div. A, title XI, § 1122(c)(1), Feb. 10, 1996, 110 Stat. 463]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486, provided that pay and allowances do not accrue to enlisted

member of Army or Air Force who is in confinement under sentence of dishonorable discharge, while execution of sentence to discharge is suspended.

**[§ 805. Repealed. Pub. L. 99-145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486, required commanding officer to discourage the sale of pay by members of naval service. See section 701 of this title.

**CHAPTER 17—MISCELLANEOUS RIGHTS AND BENEFITS**

|        |                                                                                                                 |
|--------|-----------------------------------------------------------------------------------------------------------------|
| Sec.   |                                                                                                                 |
| 901.   | Wartime pay of officer of armed force exercising command higher than his grade.                                 |
| 902.   | Pay of crews of wrecked or lost naval vessels.                                                                  |
| 903.   | Retired members recalled to active duty; former members.                                                        |
| [904.] | Repealed.]                                                                                                      |
| 905.   | Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances. |
| 906.   | Extension of enlistment: effect on pay and allowances.                                                          |
| 907.   | Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.                     |
| 908.   | Employment of reserves and retired members by foreign governments.                                              |
| 909.   | Special and incentive pay: payment at un-reduced rates during suspension of personnel laws.                     |

## AMENDMENTS

2001—Pub. L. 107-107, div. A, title VI, § 623(a)(2), Dec. 28, 2001, 115 Stat. 1143, added item 909.

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.

1982—Pub. L. 97-295, § 3(6)(B), Oct. 12, 1982, 96 Stat. 1304, added item 908.

1980—Pub. L. 96-513, title V, § 506(8), Dec. 12, 1980, 94 Stat. 2919, struck out item 904 “Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances” and 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 item 905.

Pub. L. 96-343, § 6(a)(2), Sept. 8, 1980, 94 Stat. 1127, substituted “and warrant officers appointed as officers:” for “appointed as officers:” in item 907.

1970—Pub. L. 91-484, § 1(2), Oct. 21, 1970, 84 Stat. 1084, added item 907.

**§ 901. Wartime pay of officer of armed force exercising command higher than his grade**

In time of war, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O-7) appropriate to the command so exercised.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large)                                     |
|-----------------|--------------------|----------------------------------------------------------------|
| 901 .....       | 37:235a.           | Apr. 26, 1898, ch. 191, § 7 (less last proviso), 30 Stat. 365. |

Applicability of the source law to the Air Force is based on Transfer Order No. 25(zzz), of the Secretary of Defense, dated October 14, 1948. Its applicability, other than to the Army and the Air Force, is based upon an opinion of the Judge Advocate General of the Navy, JAG 135: DDC; dmt.; 4229, dated July 29, 1960. The words “(but not above that of pay grade O-7)” are substituted for section 235a (proviso) of existing title 37.

**§ 902. Pay of crews of wrecked or lost naval vessels**

(a) When the accounts of the disbursing officer of a naval vessel are lost as a result of the destruction of the vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

(b) When a naval vessel is lost or has not been heard from for so long that her loss may be presumed, the Secretary of the Navy may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

(c) When the crew of a naval vessel is separated from that vessel because of her wreck, loss, or destruction, the pay and emoluments of those officers and enlisted members that the Secretary considers (because of the sentence of a court-martial or the finding of a court of inquiry, or by other satisfactory evidence) to have done their utmost to save the vessel and, after the wreck, loss, or destruction, to have behaved themselves according to the discipline of the Navy, continue and shall be paid to them until their discharge or death, whichever is earlier.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486; Pub. L. 104-316, title I, § 118, Oct. 19, 1996, 110 Stat. 3836.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 902(a) .....           | 10:6144.                  | [None.]                           |
| 902(b) .....           | 10:6145.                  | [None.]                           |
| 902(c) .....           | 37:243.                   | R.S. 1574.                        |

In subsections (a) and (c), the words “naval vessel” are substituted for the words “any vessel of the United States”, in section 243 of existing title 37, and the words “vessel in the employ of the United States”, in section 6144 of title 10, for clarity and to conform to subsection (b).

In subsection (c), the word “continues” is substituted for the words “go on”. The words “whichever is earlier” are inserted for clarity. The words “or the findings of a” are inserted since a court of inquiry cannot impose a sentence.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 substituted “the Secretary of the Navy may” for “the General Accounting Office, under the direction of the Secretary of the Navy, may”.

**§ 903. Retired members recalled to active duty; former members**

A retired member or former member of a uniformed service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve, who is

serving on active duty is entitled to the pay and allowances to which he is entitled, under this title, for the grade, rank, or rating in which he is serving. In addition, while on active duty, he is entitled to the pay and allowances, while on leave of absence or while sick, of a member of a uniformed service of similar grade, rank, or rating who is entitled to basic pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>            |
|------------------------|---------------------------|----------------------------------------------|
| 903 .....              | 37:314.                   | Oct. 12, 1949, ch. 681, § 514, 63 Stat. 831. |

The word “rating” is inserted for clarity. The words “is entitled to” are substituted for the words “shall . . . be entitled to receive and have the same . . . rights”. The last 41 words of section 314 of existing title 37 are omitted, since the sections mentioned therein were repealed by section 53(b) of the Act of August 10, 1956, ch. 1041 (70A Stat. 646). The subject of death benefits and entitlement thereto is now covered by chapter 75 of title 10.

**[§ 904. Repealed. Pub. L. 96-513, title IV, § 403(a), Dec. 12, 1980, 94 Stat. 2904]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487; Pub. L. 90-130, § 3(2), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90-623, § 3(8), Oct. 22, 1968, 82 Stat. 1315, set forth provisions relating to effective date of beginning of pay and allowances of officers of Navy or Marine Corps promoted under chapter 545 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, but with authority to prescribe regulations under the amendment by section 403(a) of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

**§ 905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances**

(a) A reserve officer who is promoted under chapter 1405 of title 10 to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he becomes eligible for promotion to that grade.

(b) A reserve officer who is promoted under section 14308(b) of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 488; Pub. L. 95-377, § 9, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96-513, title IV, § 403(b), Dec. 12, 1980, 94 Stat. 2904; Pub. L. 103-337, div. A, title XVI, § 1676(b)(3), Oct. 5, 1994, 108 Stat. 3019.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 905(a) .....           | 10:6141.                  | [None.]                           |