

[CHAPTER 931]

AN ACT

To grant to personnel of the armed forces equal treatment in the matter of leave, and for other purposes.

August 9, 1946
[H. R. 4051]
[Public Law 704]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Forces Leave Act of 1946".

Armed Forces
Leave Act of 1946.
Ante, p. 912.

SEC. 2. As used in this Act—

(a) The term "member of the armed forces" means any member of the Army of the United States, United States Navy, United States Marine Corps, or the United States Coast Guard.

"Member of the
armed forces."

(b) The term "discharge" means (1), in the case of enlisted personnel, separation or release from active duty under honorable conditions or appointment as a commissioned officer or warrant officer; and (2), in the case of commissioned or warrant officers, separation or release from active duty under honorable conditions.

"Discharge."

(c) The term "spouse" means a lawful wife or husband.

"Spouse."

(d) The term "child" includes—

"Child."

(1) a legitimate child;

(2) a child legally adopted;

(3) a stepchild, if, at the time of death of the member or former member of the armed forces, such stepchild is a member of the deceased's household;

(4) an illegitimate child, but in the case of a male member or former male member of the armed forces only if he has been judicially ordered or decreed to contribute to such child's support; has been judicially decreed to be the putative father of such child; or has acknowledged under oath in writing that he is the father of such child; and

(5) a person to whom the member or former member of the armed forces at the time of death stands in loco parentis and so stood for not less than twelve months prior to the date of death.

(e) The term "parent" includes father and mother, grandfather and grandmother, stepfather and stepmother, father and mother through adoption, and persons who, for a period of not less than one year prior to the death of the member or former member of the armed forces, stood in loco parentis to such member or former member: *Provided*, That not more than two parents may receive the benefits provided under this Act and preference shall be given to the parent or parents, not exceeding two, who actually exercised parental relationship at the time of or most nearly prior to the date of the death of such member or former member of the armed forces.

"Parent."

(f) The term "Secretary" means in the case of personnel of the Army, the Secretary of War; in the case of personnel of the Navy and Marine Corps, the Secretary of the Navy; and in the case of personnel of the Coast Guard, the Secretary of the Treasury, and the designated representatives of each such Secretary.

"Secretary."

(g) The term "cash" includes a check upon the Treasurer of the United States.

"Cash."

SEC. 3. (a) Each member of the armed forces shall be entitled to leave at the rate of two and one-half calendar days for each month of active service, excluding periods of (1) absence from duty without leave, (2) absence over leave, and (3) confinement as the result of a sentence of court martial. Except as provided in subsection (b) of this section, such leave may be accumulated in an amount not to exceed one hundred and twenty calendar days. Any leave so accumulated shall not, however, survive death occurring during active military service. Enlisted members or former enlisted members of the armed forces shall be considered to be entitled to such leave from and after

Members entitled
to leave.

Accumulated leave.

September 8, 1939, but shall not be considered to have any leave accumulated or accrued as of the date of the enactment of this Act, or the date of discharge if prior to such date of enactment, in excess of the amount which would have been accumulated and accrued if their leave had been accumulated and accrued from and after September 8, 1939, on the same basis as leave is accumulated and accrued in the case of commissioned officers in the Regular components of their respective branches of the armed forces. Except in the case of leave to be settled and compensated for under section 6 of this Act, leave may be taken by a member on a calendar-day basis as vacation or absence from duty with pay, annually as accruing or otherwise, in accordance with regulations to be issued by the several Secretaries. Such regulations shall provide equal treatment for officers and enlisted men, shall establish to the fullest extent practicable uniform policies for the several branches of the armed forces, and shall provide that leave shall be taken annually as accruing to the extent consistent with military requirements and other exigencies. Members who reenlist after the date of enactment of this Act may be authorized reenlistment leave in the discretion of the Secretary, for a period not exceeding ninety days, and such leave shall be deducted from leave accrued during active service prior to reenlistment or charged against any leave which may accrue during future active service or both. In the case of members who are retired after the date of enactment of this Act and after retirement are continued on or recalled to active duty, leave accrued during service prior to retirement may be carried over to the period of service after retirement. Leave taken prior to discharge before or after the enactment of this Act shall be considered as active military service; but leave settled and compensated for under section 6 of this Act shall not be considered as active military service.

(b) Notwithstanding any other provision of this Act or of any other law or regulation, no member of the armed forces (other than a member on terminal leave on September 1, 1946) shall be permitted to accumulate or to have to his credit, at any time after August 31, 1946, accumulated or accrued leave aggregating in excess of sixty days.

SEC. 4. Leave to be settled and compensated for under section 6 of this Act shall be compensable as follows:

(a) In the case of leave accumulated as an enlisted member of the armed forces, on the basis of the base and longevity pay applicable to such member on the date of his discharge from enlisted service if discharged before August 31, 1946, or on August 31, 1946, if not so discharged, and an allowance computed at the rate of 70 cents a day for subsistence, plus, in the case of enlisted members of the first three grades with dependents on August 31, 1946, or former enlisted members of the first three grades with dependents at the time of discharge if prior to such date, an allowance computed at the rate of \$1.25 a day for quarters.

(b) In the case of leave accumulated or accrued as a member of the armed forces as a warrant or commissioned officer, on the basis of the base and longevity pay and allowances applicable to such member on August 31, 1946.

In the case of all other leave provided under this Act, members shall be entitled during such leave to the same pay and allowances they would receive if not on leave and to any additional or other allowance or allowances otherwise authorized or provided by law for members while on leave. Determination of the number of calendar days of leave to which a member or former member is entitled, including the number of calendar days of absence from duty or vacation to be counted or charged against such leave, shall be made

Leave taken on calendar-day basis.

Equal treatment, etc.

Reenlistment leave.

Retired members recalled, etc., to active duty.

Leave taken prior to discharge.

Accumulated leave after Aug. 31, 1946.

Compensable leave.

Enlisted members.

Warrant or commissioned officers.

Other leave.

Determination of number of days.

in accordance with regulations to be prescribed by the respective Secretaries, which regulations shall provide equal treatment of officers and enlisted men and shall establish to the fullest extent practicable uniform policies for the several branches of the armed forces. In the case of the leave of enlisted members or former enlisted members attributable to the period prior to the date of enactment of this Act, the Secretary may in the determination of the number of calendar days of absence from duty or vacation to be counted or charged against such leave rely on such records and evidence, including applicants' sworn statements as to the material facts, as he may determine proper. All decisions by the Secretary under this section shall be final and conclusive and shall not be subject to review by any court or by any officer of the United States.

SEC. 5. (a) Leave to which enlisted members of the armed forces discharged prior to September 1, 1946, and former enlisted members of the armed forces discharged prior to the date of enactment of this Act, are entitled under the provisions of section 3 of this Act shall, to the extent not taken, be settled and compensated for only in the manner provided in section 6 of this Act and if application is made to the Secretary not later than September 1, 1947, or, in the case of any such member or former member whose record is corrected after the date of enactment of this Act to show discharge under honorable conditions, not later than September 1, 1947, or within one year after the date on which such record is corrected, whichever is later.

(b) In any case in which a member of the armed forces on active duty on September 1, 1946 (other than a member on terminal leave on such date) has to his credit on August 31, 1946, accumulated or accrued leave aggregating in excess of sixty days, such leave in excess of sixty days shall be settled and compensated for only in the manner provided in section 6 of this Act and if application is made to the Secretary not later than September 1, 1947.

(c) In no event shall the number of calendar days of leave settled and compensated for under section 6 of this Act exceed one hundred and twenty calendar days; and in no event shall the number of calendar days of leave so settled and compensated for, plus—

(1) in the case of a member on active duty on September 1, 1946 (other than a member on terminal leave on such date), the number of calendar days of leave accumulated or standing to such member's credit on such date; or

(2) in the case of a member or former member placed on terminal leave prior to September 1, 1946, the number of calendar days of such terminal leave,

exceed one hundred and twenty calendar days.

SEC. 6. (a) Leave by this Act provided to be settled and compensated for under this section shall be settled and compensated for as follows:

(1) Settlement and compensation shall be made entirely in cash—

(i) when the amount due is less than \$50;

(ii) in the case of any enlisted member of the armed forces discharged prior to January 1, 1943; or

(iii) in any case covered by subsection (b) or (c) of this section.

(2) In all other cases settlement and compensation shall be made in bonds of the United States to the highest multiple of \$25 and in cash to the extent of the full amount of any difference. Any such bond issued pursuant to an application made under subsection (a) of section 5 shall be dated as of the 1st day of January, the 1st day of April, the 1st day of July, or the 1st day of October, whichever next follows the date of discharge, and any such bond issued pursuant to an application

Finality of decisions.

Members discharged prior to Sept. 1, 1946, etc.

Leave in excess of 60 days.

Maximum compensatory leave.

Settlement and compensation.

Cash.

U. S. bonds and cash.

40 Stat. 288.
31 U. S. C. § 774
(2); Supp. V, § 754a et
seq.
Ante, p. 316.

Payment in event
of death.

Payment to holder,
etc., between ages 17
and 21.

Interest:

Finality of deci-
sions.

Settlement with sur-
vivors.

made under subsection (b) of section 5 shall be dated as of October 1, 1946. Each such bond shall mature five years from the date thereof. The bonds issued under this Act shall be issued by the Secretary of the Treasury under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and through such agencies as he may designate. Except as provided in subsection (d), such bonds shall be nonnegotiable and shall not be transferable by sale, exchange, assignment, pledge, hypothecation, or otherwise. Such bonds shall be issued only to and in the names of living members or living former members of the armed forces. In the event of the death of any holder of any such bond or of any check issued pursuant to this subsection, payment of the bond shall be made by the Secretary of the Treasury prior to, upon, or after its maturity upon application at the option of such holder's survivors and payment of the check shall be made by the Secretary of the Treasury upon application by such survivors as follows: To such holder's surviving spouse and children, if any, in equal shares; and if such holder leaves no surviving spouse or child or children, then in equal shares to such holder's surviving parents, if any. If there is no such survivor, any such bond shall be retired, and any such check shall be canceled and the amount of the bond or check covered into the general fund of the Treasury. Payment of any such bond or any such check to any holder, or any survivor entitled thereto under the provisions of this subsection, between seventeen and twenty-one years of age shall constitute a complete discharge of the obligations of the United States under this Act. Where the Secretary of the Treasury is of the opinion that any holder of any such bond or any such check or any survivor entitled to payment under the provisions of this subsection is, by reason of being either under seventeen years of age or under mental disability, incapable of satisfactorily looking after his own interests, payment of such bond or such check may be made in the same manner, and with the same effect, as settlement and compensation made under the provisions of subsection (c). Interest on each bond issued under this Act shall accrue at the rate of $2\frac{1}{2}$ per centum per annum from the date of such bond to the date of maturity or to the last day of the month in which payment of the principal of the bond is made, whichever is earlier, and shall be paid with such principal. All decisions by the Secretary of the Treasury under this section with respect to the issuance and payment of bonds and under this paragraph with respect to the issuance and payment of checks shall be final and conclusive and shall not be subject to review by any court or by any officer of the United States. The provisions of this section with respect to the issuance and payment of bonds shall be carried out subject to regulations of the Secretary of the Treasury.

(b) Leave by this Act provided to be settled and compensated for under this section shall, in the case of any member or former member of the armed forces who dies after discharge, or on or after September 1, 1946, if not discharged prior to such date, and before settlement and compensation has been effected, be settled and compensated for, on application therefor, with such member's or former member's survivors, as follows: To such member's or former member's surviving spouse and children, if any, in equal shares; and if such member or former member leaves no surviving spouse or child or children, then in equal shares to his surviving parents, if any. If there is no such survivor, no settlement and compensation shall be made under this Act. Settlement and compensation under this subsection with any such survivor between seventeen and twenty-one years of age shall constitute a complete discharge of the obligations of the United States under this Act.

(c) Where the Secretary is of the opinion that any member or former member of the armed forces or any survivor of any such member or former member is, by reason of being either under seventeen years of age or under mental disability, incapable of satisfactorily looking after his own interests, such Secretary may settle and compensate under this section with a proper person selected by him for the use and benefit of such member, former member or survivor, without the necessity of resorting to judicial proceedings for the appointment of a legal representative. Settlement and compensation made under the provisions of this subsection shall constitute a complete discharge of the obligations of the United States under this Act. The provisions of this subsection shall not apply when a legal guardian or committee has been judicially appointed for any such member, former member, or survivor, except as to any settlement and compensation made prior to the receipt of notice of appointment: *Provided*, That no fee, commission, or charge shall be demanded or accepted by any representative of any member, former member, or survivor appointed in accordance with the provisions of this subsection and the exaction or acceptance of any such fee, commission, or charge shall be deemed a misdemeanor punishable by a fine of not exceeding \$500 or imprisonment for not exceeding six months, or both.

(d) (1) Pursuant to regulations prescribed by him, the Administrator of Veterans' Affairs is authorized and directed to accept an assignment of a bond issued to the insured under this section, the proceeds of which shall be used in payment of premiums or in payment of the difference in reserve in case of conversion to insurance on another plan or in payment of a policy loan made prior to July 31, 1946, on a United States Government life insurance policy or a national service life insurance policy: *Provided*, That such assignment may not be used by the insured directly or indirectly as a means of securing in cash the proceeds of such bond or any portion thereof prior to the date of its maturity or the maturity of such policy by death, whichever is the earlier, and such assignment shall be deemed to constitute an agreement by the insured to this effect.

(2) Any bond assigned under this subsection shall be redeemed at any time, upon presentation to the Secretary of the Treasury, and the proceeds thereof shall be paid and credited to the appropriate fund or appropriation designated by the Administrator.

SEC. 7. All amounts paid or payable under section 6 of this Act, in cash, bonds, or both, shall not be assignable except as provided in subsection (d) of such section, shall be exempt from claims of creditors, including any claim of the United States, and shall not be subject to attachment, levy, or seizure by or under any legal or equitable process whatever. All such amounts (except interest in the case of bonds) shall be exempt from taxation.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Amounts expended hereunder shall be included in the annual reports to the Congress by the Departments concerned.

SEC. 9. The Act approved May 8, 1874 (18 Stat. 43), as amended by the Act approved July 29, 1876 (19 Stat. 102; 10 U. S. C. 842), is hereby repealed. Such repeal shall not affect any unused leave accumulated (including leave accruing at the rate of two and one-half days per month after July 1, 1946) prior to the date of enactment of this Act.

Approved August 9, 1946.

Settlement for members, etc., under age or mentally disabled.

Nonapplicability.

Acceptance of fee etc.

Penalty.

Assignment of bond for payment of insurance premiums.

Restriction.

Redemption of bond.

Exemption from claims, taxation, etc.

Appropriation authorized.
Ante, p. 912.
Reports to Congress.

Repeal.