Ex. Ord. No. 11414, June 11, 1968, 33 F.R. 8645, provided for adjustment of pay rates effective July 1, 1968.

§ 204. Entitlement

(a) The following persons are entitled to the basic pay of the pay grade to which assigned or distributed, in accordance with their years of service computed under section 205 of this title—

(1) a member of a uniformed service who is on active duty; and

(2) a member of a uniformed service, or a member of the National Guard who is not a Reserve of the Army or the Air Force, who is participating in full-time training, training duty with pay, or other full-time duty, provided by law, including participation in exercises or the performance of duty under section 10302, 10305, 10502, or 12402 of title 10, or section 503, 504, 505, or 506 of title 32.

(b) For the purposes of subsection (a), under regulations prescribed by the President, the time necessary for a member of a uniformed service who is called or ordered to active duty for a period of more than 30 days to travel from his home to his first duty station and from his last duty station to his home, by the mode of transportation authorized in his call or orders, is considered active duty.

(c) A member of the National Guard who is called into Federal service for a period of 30 days or less is entitled to basic pay from the date when he appears at the place of company rendezvous. However, this subsection does not authorize any expenditure before arriving at the place of rendezvous that is not authorized by law to be paid after arrival at that place.

(d) Full-time training, training duty with pay, or other full-time duty performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, is active duty for the purposes of this section.

(e) A payment accruing under any law to a member of a uniformed service incident to his release from active duty or for his return home incident to that release may be paid to him before his departure from his last duty station, whether or not he actually performs the travel involved. If a member receives a payment under this subsection but dies before that payment would have been made but for this subsection, no part of that payment may be recovered by the United States.

(f) A cadet of the United States Military Academy or the United States Air Force Academy, or a midshipman of the United States Naval Academy, who, upon graduation from one of those academies, is appointed as a second lieutenant of the Army or the Air Force is entitled to the basic pay of pay grade O–1 beginning upon the date of his graduation.

(g)(1) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service);

(C) while traveling directly to or from such duty or training;

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training; or

(E) in line of duty while—

(i) serving on funeral honors duty under section 12503 of title 10 or section 115 of title 32;

(ii) traveling to or from the place at which the duty was to be performed; or

(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.

(2) In the case of a member who receives earned income from nonmilitary employment or self-employment performed in any month in which the member is otherwise entitled to pay and allowances under paragraph (1), the total pay and allowances shall be reduced by the amount of such income. In calculating earned income for the purpose of the preceding sentence, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service);

(C) while traveling directly to or from such duty or training;

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inac-

tive-duty training, at or in the vicinity of the site of the inactive-duty training; or

(E) in line of duty while—

(i) serving on funeral honors duty under section 12503 of title 10 or section 115 of title 32;

(ii) traveling to or from the place at which the duty was to be performed; or

(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.

(2) The monthly entitlement may not exceed the member's demonstrated loss of earned income from nonmilitary or self-employment. In calculating such loss of income, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

(i)(1) The total amount of pay and allowances paid under subsections (g) and (h) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

(2) Pay and allowances may not be paid under subsection (g) or (h) for a period of more than six months. The Secretary concerned may extend such period in any case if the Secretary determines that it is in the interests of fairness and equity to do so.

(3) A member is not entitled to benefits under subsection (g) or (h) if the injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member.

(4) Regulations with respect to procedures for paying pay and allowances under subsections (g) and (h) shall be prescribed—

(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

(B) by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(j) A member of the uniformed services who is entitled to medical or dental care under section 1074a of title 10 is entitled to travel and transportation allowances, or a monetary allowance in place thereof, for necessary travel incident to such care, and return to his home upon discharge from treatment.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 457; Pub. L. 96–513, title V, §506(4), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 98–94, title X, §1012(b), Sept. 24, 1983, 97 Stat. 665; Pub. L. 99–433, title V, §531(b), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 99–661, div. A, title VI, §604(b), Nov. 14, 1986, 100 Stat. 3875; Pub. L. 100–456, div. A, title VI, §631(a), (b), Sept. 29, 1988, 102 Stat. 1984, 1985; Pub. L. 102–25, title VII, §701(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title XVI, §1676(b)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 104–106, div. A, title VII, §702(c), Feb. 10, 1996, 110 Stat. 371; Pub. L. 105–85, div. A, title V, §513(f), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 106–398, §1 [[div. A], title VI, §665(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–168; Pub. L. 107–107, div. A, title V, §513(d), Dec. 28, 2001, 115 Stat. 1093; 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)*
204(a)	37:232(d) (1st sentence, less provisos).	Oct. 12, 1949, ch. 681, §201(d), 63 Stat. 807; redesignated as ''(d)'' by Mar. 31, 1955, ch. 20, §2(2), 69 Stat. 19; Aug. 10, 1956, ch. 1041, §20(a), 70A Stat. 627; May 20, 1958, Pub. L. 85–422, §1(4), 72 Stat. 124.
204(b)	37:232(d) (1st proviso of 1st sentence).	
204(c)	37:232(d) (2d proviso of 1st sentence).	
204(d)	37:232(d) (last proviso of 1st sentence).	
204(e)	37:232(d) (less 1st sentence).	
204(f)	37:308a.	Dec. 20, 1886, ch. 2, 24 Stat. 351; June 2, 1950, ch. 217, §2, 64 Stat. 195.
204(g)	10:3687 (as applicable to pay and allowances).	[None.]
	10:8687 (as applicable to pay and allowances).	[None.]
204(h)	32:318 (as applicable to pay and allowances).	[None.]
204(i)	10:6148(a) (as applicable to pay and allowances).	[None.]
	10:6148(b) (as applicable to pay and allowances).	[None.]

[The citations to section 232(d) of existing title 37, above, are to the language of subsection (d) set forth in the codification note under section 232, rather than that erroneously set forth in the text of the section.]

In subsection (a), the last 27 words are substituted for the words ''or performance of the duties provided for by sections 5, 81, 94, 97 and 99 of the National Defense Act, as amended,'' to reflect the current citations. So much of the introductory clause as follows the exception is substituted for the 36 words preceding 1st proviso of 1st sentence of section 232(d) of existing title 37. The words ''on the active list'' are omitted as covered by the words ''active duty'' as defined in section 101(18) of this revised title. The words ''(provided for or authorized in the National Defense Act, as amended, or in the Naval Reserve Act of 1938, as amended)'' are omitted as covered by the words ''provided by law''.

In subsection (b), the words ''For the purposes of subsection (a)'' are inserted for clarity. The words ''active duty for a period of more than 30 days'' are substituted for the words ''extended active duty in excess of thirty days''. The words ''call or'' are inserted to conform to the words ''called or''.

In subsection (c), the words ''and allowances'' are omitted, since, under chapter 7 of this revised title, entitlement to allowances depends upon entitlement to basic pay. The last sentence is substituted for the last 38 words of the 2d proviso of the 1st sentence of section 232(d) of existing title 37.

In subsection (d), the words ''for the purposes of this section'' are substituted for the words ''and which entitles them to receive basic pay . . . in the service of the United States''. The words ''pursuant to this section'' are omitted as surplusage.

In subsection (e), the words ''or active duty for training'' are omitted as covered by the words ''active duty'' as defined in section 101(18) of this revised title.

In subsection (f), the words ''is appointed'' are substituted for the words ''has been or may be commissioned''. The words ''under the laws appointing such graduates to the Army'' and the last 16 words of section 308a of existing title 37 are omitted as surplusage. The words ''to the date of his acceptance of and qualification under his commission'' are omitted, since the member concerned would continue to be entitled to basic pay after that acceptance and qualification. The words ''or the United States Naval Academy'' are inserted to reflect section 541 of title 10, under which graduates of that Academy may be appointed in the Army or the Air Force.

In subsection (i), the inclusion of the Coast Guard Reserve is based on the authority contained in section 755(c) of title 14.

AMENDMENTS

2002—Subsec. (i)(4)(B). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2001—Subsecs. (g)(1)(D), (h)(1)(D). Pub. L. 107–107 struck out '', if the site is outside reasonable commuting distance from the member's residence'' before semicolon.

2000—Subsec. (g)(1)(E). Pub. L. 106–398, § 1 [[div. A], title VI, § 665(a)(1)], added subpar. (E).

Subsec. (h)(1)(E). Pub. L. 106–398, § 1 [[div. A], title VI, § 665(a)(2)], added subpar. (E).

1997—Subsecs. (g)(1)(D), (h)(1)(D). Pub. L. 105–85 inserted ''while remaining overnight immediately before the commencement of inactive-duty training, or'' after ''in line of duty''.

1996—Subsec. (g)(1)(D). Pub. L. 104–106, § 702(c)(1), added subpar. (D).

Subsec. (h)(1)(D). Pub. L. 104–106, § 702(c)(2), added subpar. (D).

1994—Subsec. (a)(2). Pub. L. 103–337 substituted ''10302, 10305, 10502, or 12402'' for ''3021, 3496, 3541, 8021, 8496, or 8541''.

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1988—Subsec. (g). Pub. L. 100–456, § 631(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member—

''(1) is called or ordered to active duty for a period of more than 30 days; and

''(2) is physically disabled in line of duty from injury, illness, or disease.''

Subsec. (h). Pub. L. 100–456, § 631(a), amended subsec. (h) generally, substituting pars. (1) and (2) for former pars. (1) to (5).

Subsecs. (i), (j). Pub. L. 100–456, § 631(b), added subsec. (i) and redesignated former subsec. (i) as (j).

1986—Subsec. (a)(2). Pub. L. 99–433 substituted ''3021'' and ''8021'' for ''3033'' and ''8033'', respectively.

Subsec. (g). Pub. L. 99–661, § 604(b)(1), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''A member of the Army or the Air Force (other than of the Regular Army or the Regular Air Force) is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever—

''(1) he is called or ordered to active duty (other than for training under section 270(b) of title 10) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

''(2) he is called or ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed.''

Subsec. (h). Pub. L. 99–661, § 604(b)(1), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''A member of the National Guard is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever he is called or ordered to perform training under section 502, 503, 504, or 505 of title 32—

''(1) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

''(2) for any period of time, and is disabled in line of duty from injury while so employed.''

Subsecs. (i), (j). Pub. L. 99–661, § 604(b)(2), (3), redesignated subsec. (j) as (i) and struck out former subsec. (i) which read as follows: ''A member of the Naval Reserve, Fleet Reserve, Marine Corps Reserve, Fleet Marine Corps Reserve, or Coast Guard Reserve is entitled to the pay and allowances provided by law or regulation for a member of the Regular Navy, Regular Marine Corps, or Regular Coast Guard, as the case may be, of corresponding grade and length of service, under the same conditions as those described in clauses (1) and (2) of subsection (g) of this section.''

1983—Subsec. (j). Pub. L. 98–94 added subsec. (j).

1980—Subsec. (a). Pub. L. 96–513 substituted ''The following persons'' for ''Except for members covered by section 202(i) of this title, the following persons''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title VI, § 665(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–169, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to months beginning on or after the date of the enactment of this Act [Oct. 30, 2000].''

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 1988 AMENDMENT

Section 631(d) of Pub. L. 100–456 provided that: ''The amendments made by this section [amending this section and section 206 of this title] shall apply with respect to persons who, after the date of enactment of this Act [Sept. 29, 1988], incur or aggravate an injury, illness, or disease, or who die as the result of incurring or aggravating an injury, illness, or disease.''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 applicable only in cases of injuries incurred or aggravated on or after Sept. 24, 1983, see section 1012(c) of Pub. L. 98–94, set out as an Effective Date note under section 1074a of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

§ 205. Computation: service creditable

(a) Subject to subsections (b) and (c), for the purpose of computing the basic pay of a member of a uniformed service, his years of service are computed by adding—

(1) all periods of active service as an officer, Army field clerk, flight officer, aviation midshipman, or enlisted member of a uniformed service;

(2) all periods during which he was enlisted or held an appointment as an officer, Army field clerk, or flight officer of—

(A) a regular component of a uniformed service;

(B) the Regular Army Reserve;

(C) the Organized Militia before July 1, 1916;

(D) the National Guard;