

- (1) is deployed; and  
 (2) at any time during that month—

(A) has been deployed for 191 or more consecutive days (or a lower number of consecutive days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness);

(B) has been deployed, out of the preceding 730 days, for a total of 401 or more days (or a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness); or

(C) in the case of a member of a reserve component, is on active duty—

(i) under a call or order to active duty for a period of more than 30 days that is the second (or later) such call or order to active duty (whether voluntary or involuntary) for that member in support of the same contingency operation; or

(ii) for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of title 10, if such period begins within one year after the date on which the member was released from previous service on active duty for a period of more than 30 days under a call or order issued under such a provision of law.

(b) DEFINITION OF DEPLOYED.—In this section, the term “deployed”, with respect to a member, means that the member is deployed or in a deployment within the meaning of section 991(b) of title 10 (including any definition of “deployment” prescribed under paragraph (4) of that section).

(c) RATE.—The monthly rate of the allowance payable to a member under this section shall be determined by the Secretary concerned, not to exceed \$1,000 per month.

(d) PAYMENT OF CLAIMS.—A claim of a member for payment of the high-deployment allowance that is not fully substantiated by the record-keeping system applicable to the member under section 991(c) of title 10 shall be paid if the member furnishes the Secretary concerned with other evidence determined by the Secretary as being sufficient to substantiate the claim.

(e) RELATIONSHIP TO OTHER ALLOWANCES.—A high-deployment allowance payable to a member under this section is in addition to any other pay or allowance payable to the member under any other provision of law.

(f) NATIONAL SECURITY WAIVER.—No allowance may be paid under this section to a member for any month during which the applicability of section 991 of title 10 to the member is suspended under subsection (d) of that section.

(g) AUTHORITY TO EXCLUDE CERTAIN DUTY ASSIGNMENTS.—The Secretary concerned may exclude members serving in specified duty assignments from eligibility for the high-deployment allowance while serving in those assignments. Any such specification of duty assignments may only be made with the approval of the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness. Specification of a particular duty assignment for purposes of this subsection may not be imple-

mented so as to apply to the member serving in that position at the time of such specification.

(h) PAYMENT FROM OPERATION AND MAINTENANCE FUNDS.—The monthly allowance payable to a member under this section shall be paid from appropriations available for operation and maintenance for the armed force in which the member serves.

(Added Pub. L. 106-65, div. A, title V, §586(b), Oct. 5, 1999, 113 Stat. 638, §435; renumbered §436 and amended, Pub. L. 106-398, §1 [[div. A], title V, §574(c), title X, §1087(b)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A-137, 1654A-292; Pub. L. 107-107, div. A, title V, §592(a), Dec. 28, 2001, 115 Stat. 1125; Pub. L. 108-136, div. A, title V, §541(b)(1)-(5)(A), Nov. 24, 2003, 117 Stat. 1476, 1477.)

#### AMENDMENTS

2003—Pub. L. 108-136, §541(b)(5)(A), substituted “High-deployment allowance: lengthy or numerous deployments; frequent mobilizations” for “Per diem allowance for lengthy or numerous deployments” in section catchline.

Subsec. (a). Pub. L. 108-136, §541(b)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of the military department concerned shall pay a high-deployment per diem allowance to a member of the armed forces under the Secretary’s jurisdiction for each day on which the member (1) is deployed, and (2) has, as of that day, been deployed 401 or more days out of the preceding 730 days. The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.”

Subsec. (c). Pub. L. 108-136, §541(b)(2), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “The amount of the high-deployment per diem payable to a member under this section is \$100.”

Subsec. (d). Pub. L. 108-136, §541(b)(4)(A), struck out “per diem” before “allowance”.

Subsec. (e). Pub. L. 108-136, §541(b)(4)(B), substituted “allowance” for “per diem” after “high-deployment”.

Subsec. (f). Pub. L. 108-136, §541(b)(4)(C), substituted “allowance” for “per diem” and “month during which” for “day on which”.

Subsecs. (g), (h). Pub. L. 108-136, §541(b)(3), added subsecs. (g) and (h).

2001—Subsec. (a). Pub. L. 107-107 inserted at end “The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.”

2000—Pub. L. 106-398, §1 [[div. A], title X, §1087(b)(4)], renumbered section 435 of this title as this section.

Subsec. (a). Pub. L. 106-398, §1 [[div. A], title V, §574(c)(1)], substituted “401 or more days out of the preceding 730 days” for “251 days or more out of the preceding 365 days”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title V, §574(c)(2)], substituted “prescribed under paragraph (4)” for “prescribed under paragraph (3)”.

#### EFFECTIVE DATE

Pub. L. 106-65, div. A, title V, §586(d)(2), Oct. 5, 1999, 113 Stat. 639, provided that: “Section 435 [now 436] of title 37, United States Code (as added by subsection (b)) [this section], shall take effect on October 1, 2001.”

#### CHAPTER 9—LEAVE

Sec.	
501.	Payments for unused accrued leave.
502.	Absences due to sickness, wounds, and certain other causes.

Sec.	
503.	Absence without leave or over leave.
504.	Cadets and midshipmen: chapter does not apply to.

## AMENDMENTS

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.

**§ 501. Payments for unused accrued leave**

(a) In this section, the term “discharge” means—

(1) in the case of an enlisted member, separation or release from active duty under honorable conditions, termination of an enlistment in conjunction with the commencement of a successive enlistment (without regard to the date of the expiration of the term of the enlistment being terminated), or appointment as an officer;

(2) in the case of an officer, separation or release from active duty under honorable conditions; and

(3) in the case of either an officer or an enlisted member, death while on active duty unless the decedent was put to death as lawful punishment for a crime or a military offense.

(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant in any uniformed service.

(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after February 9, 1976.

(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within any uniformed service.

(5) The limitation in the second sentence of paragraph (3) and in subsection (f) shall not apply with respect to leave accrued—

(A) by a member of a reserve component while serving on active duty in support of a contingency operation;

(B) by a member of the armed forces in the Retired Reserve while serving on active duty in support of a contingency operation;

(C) by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps or a member of the Fleet Reserve or Fleet Marine Corps Reserve

while the member is serving on active duty in support of a contingency operation; or

(D) by a member of a reserve component while serving on active duty, full-time National Guard duty, or active duty for training for a period of more than 30 days but not in excess of 365 days.

(c) Unused accrued leave for which payment is made under subsection (b) is not considered as service for any purpose.

(d)(1) Payments for unused accrued leave under subsections (b) and (g), in the case of a member who dies while on active duty or in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made in accordance with section 2771 of title 10. In the case of a member who dies while on active duty, payment for unused accrued leave under subsections (b) and (g) shall be based upon the unused accrued leave the member carried forward into the leave year during which he died plus the unused leave that accrued to him during that leave year.

(2) The limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection.

(e)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration who is discharged under other than honorable conditions forfeits all accrued leave to his credit at the time of his discharge.

(2) The Secretary concerned may require that a member of a uniformed service who is discharged before completing six months of active duty because of a failure to serve satisfactorily (as determined by the Secretary concerned) forfeit all accrued leave to his credit at the time of his discharge.

(f) The number of days upon which payment under subsection (b) or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after February 9, 1976. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.

(g) An officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is credited with accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, shall, if his application for that leave is approved by the Secretary of Health and Human Services, be paid for that leave in a lump-sum on the basis of his basic pay, subsistence allowance, and allowance for quarters whether or not he is receiving that allowance on that date. However, the number of days upon which the lump-sum payment is based is subject to subsection (f). A lump-sum payment may not be made under this subsection to an officer—

(1) whose appointment expires or is terminated and who, without a break in active service, accepts a new appointment;