

creased the rates for such allowance to a level not less than 7 percent greater than the rates in effect on Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a)(1) of this section which was payable to a member of the uniformed services who was entitled to that allowance during such period and who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL YEAR 1983 RATES

Pub. L. 98-94, title IX, §906, Sept. 24, 1983, 97 Stat. 637, as amended by Pub. L. 98-525, title VI, §602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that during the period beginning on Oct. 1, 1983, and ending on Jan. 1, 1985, the rates at which the variable housing allowance under subsec. (a)(2) of this section was paid was to be the same as the rates in effect on Sept. 30, 1983.

VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR 1981; AMOUNT; REGULATIONS

Pub. L. 96-343, §4(c), Sept. 8, 1980, 94 Stat. 1125, provided that during fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under this section could be paid a variable housing allowance whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which was a high housing cost area with respect to such member, and a member with dependents who was assigned to an unaccompanied tour of duty outside the United States could be paid a variable housing allowance while serving such tour of duty for any period during which the member's dependents resided in an area of the United States which would qualify the member to receive a variable housing allowance if assigned to duty in that area.

PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, §302(f), 63 Stat. 812, as amended by Pub. L. 87-531, §1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$51.30 per month, was repealed by Pub. L. 87-531, §2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, §5, July 10, 1962, 76 Stat. 153, provided that: "The Secretaries of the departments concerned

shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E-4 (over 4 years' service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 ([former] 50 App. U.S.C. 2210, 2211)."

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

§ 403a. Housing treatment for certain members of the armed forces, and their spouses and other dependents, undergoing a permanent change of station within the United States

(a) HOUSING TREATMENT FOR CERTAIN MEMBERS WHO HAVE A SPOUSE OR OTHER DEPENDENTS.—

(1) HOUSING TREATMENT REGULATIONS.—The Secretary of Defense shall prescribe regulations that permit a member of the armed forces described in paragraph (2) who is undergoing a permanent change of station within the United States to request the housing treatment described in subsection (b) during the covered relocation period of the member.

(2) ELIGIBLE MEMBERS.—A member described in this paragraph is any member who—

(A) has a spouse who is gainfully employed or enrolled in a degree, certificate or license granting program at the beginning of the covered relocation period;

(B) has one or more dependents attending an elementary or secondary school at the beginning of the covered relocation period;

(C) has one or more dependents enrolled in the Exceptional Family Member Program; or

(D) is caring for an immediate family member with a chronic or long-term illness at the beginning of the covered relocation period.

(b) HOUSING TREATMENT.—

(1) CONTINUATION OF HOUSING FOR THE SPOUSE AND OTHER DEPENDENTS.—If a spouse or other dependent of a member whose request under subsection (a) is approved resides in Government-owned or Government-leased housing at the beginning of the covered relocation period, the spouse or other dependent may continue to reside in such housing during a period determined in accordance with the regulations prescribed pursuant to this section.

(2) EARLY HOUSING ELIGIBILITY.—If a spouse or other dependent of a member whose request under subsection (a) is approved is eligible to reside in Government-owned or Government-leased housing following the member's permanent change of station within the United States, the spouse or other dependent may commence residing in such housing at any time during the covered relocation period.

(3) TEMPORARY USE OF GOVERNMENT-OWNED OR GOVERNMENT-LEASED HOUSING INTENDED FOR MEMBERS WITHOUT A SPOUSE OR DEPENDENT.—If

a spouse or other dependent of a member relocates at a time different from the member in accordance with a request approved under subsection (a), the member may be assigned to Government-owned or Government-leased housing intended for the permanent housing of members without a spouse or dependent until the member's detachment date or the spouse or other dependent's arrival date, but only if such Government-owned or Government-leased housing is available without displacing a member without a spouse or dependent at such housing.

(4) **EQUITABLE BASIC ALLOWANCE FOR HOUSING.**—If a spouse or other dependent of a member relocates at a time different from the member in accordance with a request approved under subsection (a), the amount of basic allowance for housing payable may be based on whichever of the following areas the Secretary concerned determines to be the most equitable:

(A) The area of the duty station to which the member is reassigned.

(B) The area in which the spouse or other dependent resides, but only if the spouse or other dependent resides in that area when the member departs for the duty station to which the member is reassigned, and only for the period during which the spouse or other dependent resides in that area.

(C) The area of the former duty station of the member, but only if that area is different from the area in which the spouse or other dependent resides.

(c) **RULE OF CONSTRUCTION RELATED TO CERTAIN BASIC ALLOWANCE FOR HOUSING PAYMENTS.**—Nothing in this section shall be construed to limit the payment or the amount of basic allowance for housing payable under section 403(d)(3)(A) of this title to a member whose request under subsection (a) is approved.

(d) **HOUSING TREATMENT EDUCATION.**—The regulations prescribed pursuant to this section shall ensure the relocation assistance programs under section 1056 of title 10 include, as part of the assistance normally provided under such section, education about the housing treatment available under this section.

(e) **DEFINITIONS.**—In this section:

(1) **COVERED RELOCATION PERIOD.**—(A) Subject to subparagraph (B), the term “covered relocation period”, when used with respect to a permanent change of station of a member of the armed forces, means the period that—

(i) begins 180 days before the date of the permanent change of station; and

(ii) ends 180 days after the date of the permanent change of station.

(B) The regulations prescribed pursuant to this section may provide for a shortening or lengthening of the covered relocation period of a member for purposes of this section.

(2) **DEPENDENT.**—The term “dependent” has the meaning given that term in section 401 of this title.

(3) **PERMANENT CHANGE OF STATION.**—The term “permanent change of station” means a permanent change of station described in section 452(b)(2) of this title.

(Added Pub. L. 115–91, div. A, title VI, § 604(a)(1), Dec. 12, 2017, 131 Stat. 1419.)

PRIOR PROVISIONS

A prior section 403a, added Pub. L. 98–525, title VI, § 602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99–145, title VI, §§ 602(a)–(d), 604(b), Nov. 8, 1985, 99 Stat. 636–638; Pub. L. 100–26, § 8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101–189, div. A, title VI, § 602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101–510, div. A, title VI, § 602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§ 603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103–160, div. A, title VI, § 604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104–106, div. A, title VI, § 605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104–201, div. A, title VI, §§ 604(d), 606(a)–(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances, prior to repeal by Pub. L. 105–85, div. A, title VI, § 603(c)(1), Nov. 18, 1997, 111 Stat. 1781.

EFFECTIVE DATE

Pub. L. 115–91, div. A, title VI, § 604(b), Dec. 12, 2017, 131 Stat. 1420, provided that: “The amendments made by this section [enacting this section] shall take effect on October 1, 2018.”

§ 403b. Cost-of-living allowance in the continental United States

(a) **PAYMENT AUTHORIZED.**—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) **ELIGIBLE MEMBERS.**—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) **HIGH COST AREA DEFINED.**—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the