

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FISCAL YEAR OF RECORDATION OF OBLIGATIONS

Pub. L. 94-212, title VII, §744, Feb. 9, 1976, 90 Stat. 175, provided that: "Obligations hereafter incurred for advance payments of pay and allowances pursuant to section 1006 of title 37, United States Code, shall be recorded as obligations only in the fiscal year in which such payments are earned."

§ 1007. Deductions from pay

(a) The pay of an officer of an armed force may be withheld, under section 5512 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary of Defense (or the Secretary of Homeland Security, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy), or upon the denial of relief of an officer pursuant to section 3527 of title 31.

(b) An amount due to the United States from an enlisted member of the Army or the Air Force for articles sold to him on credit under section 4621(a)(1) or 9621(a)(1) of title 10, as the case may be, shall be deducted from the next pay due him after the sale is reported.

(c)(1) Under regulations prescribed by the Secretary concerned, an amount that a member of the uniformed services is administratively determined to owe the United States or any of its instrumentalities may be deducted from the member's pay in monthly installments.

(2) After the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received by a member of the uniformed services for any month to less than one-third of the member's pay for that month.

(3)(A) If the indebtedness of a member of the uniformed services to the United States is due to the overpayment of pay or allowances to the member through no fault of the member, the amount of the overpayment shall be recovered in monthly installments. The amount deducted from the pay of the member for a month to recover the overpayment amount may not exceed 15 percent of the member's pay for that month unless the member requests or consents to collection of the overpayment at an accelerated rate.

(B) In all cases described in subparagraph (A), the Secretary concerned shall provide a reasonable opportunity for the member to request a delay in the imposition of the repayment requirement to recover the indebtedness. Before beginning collection efforts, the Secretary concerned shall consider the reasons provided by the member for the requested delay, including the financial ability of the member to repay the

indebtedness, and the hardship that immediate collection would impose on the member and the member's dependents.

(C)(i) In accordance with clause (ii), if the indebtedness of a member of the uniformed services to the United States occurs, through no fault of the member, as a result of the overpayment of pay or allowances to the member or upon the settlement of the member's accounts, the Secretary concerned may not recover the indebtedness from the member, including a retired or former member, using deductions from the pay of the member, deductions from retired or separation pay, or any other collection method unless recovery of the indebtedness commences before the end of the 10-year period beginning on the date on which the indebtedness was incurred.

(ii) Clause (i) applies with respect to indebtedness incurred on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017.

(D)(i) Not later than January 1 of each of 2017 through 2027, the Director of the Defense Finance and Accounting Service shall review all cases occurring during the 10-year period prior to the date of the review of indebtedness of a member of the uniformed services, including a retired or former member, to the United States in which—

(I) the recovery of the indebtedness commenced after the end of the 10-year period beginning on the date on which the indebtedness was incurred; or

(II) the Director did not otherwise notify the member of such indebtedness during such 10-year period.

(ii) The Director shall submit to the congressional defense committees and the Committees on Veterans' Affairs of the House of Representatives and the Senate each review conducted under clause (i), including the amounts owed to the United States by the members included in such review.

(4)(A) If a member of the uniformed services, through no fault of the member, incurs a wound, injury, or illness while in the line of duty in a combat operation or combat zone designated by the President or the Secretary of Defense, any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member's pay until—

(i) the member is notified of the overpayment; and

(ii) the later of the following occurs:

(I) The end of the 180-day period beginning on the date of the completion of the tour of duty of the member in the combat operation or combat zone.

(II) The end of the 90-day period beginning on the date of the reassignment of the member from a military treatment facility or other medical unit outside of the theater of operations.

(B) Subparagraph (A) shall not apply if the member, after receiving notification of the overpayment, requests or consents to initiation at an earlier date of the collection of the overpayment of the pay or allowances.

(d) Subject to subsection (c), an amount due the United States from an enlisted member of the Army or the Air Force may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, who had the care of, or was using, the property when it was damaged, shall be deducted from his pay.

(f) If, upon final settlement of the accounts of an officer of the Army or the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue an officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary of the Army or the Secretary of the Air Force, as the case may be, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army or the Air Force for rations bought on credit, and for articles bought on credit under section 4621(a)(1) or 9621(a)(1) of title 10, shall be deducted from the next pay due that officer after the sale is reported.

(h)(1) Upon request by a service relief society and subject to paragraph (2), an amount owed by a member of the uniformed services to the relief society may be deducted from the pay on final statement of such member and paid to that relief society.

(2) An amount may not be deducted under paragraph (1) from the pay of a member unless the Secretary concerned makes a determination of the amount owed in accordance with the regulations prescribed under subsection (c). Any amount determined to be owed to a service relief society under this paragraph shall be considered an amount that the member is administratively determined to owe the United States under subsection (c) and shall be collectible in accordance with such subsection.

(3) The Secretaries concerned shall prescribe regulations to carry out this subsection.

(4) In this subsection, the term “service relief society” means the Army Emergency Relief, the Air Force Aid Society, the Navy Relief Society, or the Coast Guard Mutual Assistance.

(i)(1) There shall be deducted each month from the pay of each enlisted member, warrant officer, and limited duty officer of the armed forces on active duty an amount (determined under paragraph (3)) not to exceed \$1.00.

(2) Amounts deducted under paragraph (1) shall be deposited in the Armed Forces Retirement Home Trust Fund.

(3) The Secretary of Defense or, in the case of the Coast Guard, the Commandant, after consultation with the Armed Forces Retirement Home Board, shall determine from time to time the amount to be deducted under paragraph (1) from the pay of enlisted members, warrant officers, and limited duty officers on the basis of the financial needs of the Armed Forces Retirement

Home. The amount to be deducted may be fixed at different amounts on the basis of grade or length of service, or both.

(4) This subsection does not apply to an enlisted member, warrant officer, or limited duty officer of a reserve component.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 491; Pub. L. 89–718, §§ 71, 72, Nov. 2, 1966, 80 Stat. 1124; Pub. L. 90–83, § 5(3), Sept. 11, 1967, 81 Stat. 221; Pub. L. 98–525, title XIII, § 1305, Oct. 19, 1984, 98 Stat. 2613; Pub. L. 99–145, title VI, § 684, Nov. 8, 1985, 99 Stat. 666; Pub. L. 100–180, div. A, title VI, § 633(a), Dec. 4, 1987, 101 Stat. 1105; Pub. L. 101–189, div. A, title III, § 343(a), Nov. 29, 1989, 103 Stat. 1420; Pub. L. 101–510, div. A, title XV, § 1533(b), Nov. 5, 1990, 104 Stat. 1735; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title X, § 1054(a)(7), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 103–337, div. A, title III, § 371(a), Oct. 5, 1994, 108 Stat. 2735; Pub. L. 104–106, div. A, title IX, § 913(c)(2), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104–201, div. A, title X, § 1009(c)(1), Sept. 23, 1996, 110 Stat. 2635; Pub. L. 106–65, div. A, title X, § 1066(d)(5), Oct. 5, 1999, 113 Stat. 773; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title X, § 1006(b), Dec. 2, 2002, 116 Stat. 2633; Pub. L. 109–364, div. A, title VI, § 674, Oct. 17, 2006, 120 Stat. 2272; Pub. L. 111–84, div. A, title VI, § 661(a)–(c), Oct. 28, 2009, 123 Stat. 2370; Pub. L. 111–281, title II, § 205(b)(2), Oct. 15, 2010, 124 Stat. 2911; Pub. L. 114–328, div. A, title VI, § 671(a), Dec. 23, 2016, 130 Stat. 2173.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1007(a)	10:2772.	[None.]
	14:461(b).	[None.]
1007(b)	10:4837(a).	[None.]
	10:9837(a).	[None.]
1007(c)	10:4837(b).	[None.]
	10:9837(b).	[None.]
1007(d)	10:4837(c).	[None.]
	10:9837(c).	[None.]
1007(e)	10:4837(e).	[None.]
	10:9837(e).	[None.]
1007(f)	10:4837(f).	[None.]
	10:9837(f).	[None.]
1007(g)	10:4837(g).	[None.]
	10:9837(g).	[None.]

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (c)(3)(C)(ii), is the date of enactment of Pub. L. 114–328, which was approved Dec. 23, 2016.

PRIOR PROVISIONS

Provisions similar to those in subsec. (i) of this section were contained in section 44c of Title 24, Hospitals and Asylums, prior to repeal by Pub. L. 101–189, § 347(4).

AMENDMENTS

2016—Subsec. (c)(3)(C), (D). Pub. L. 114–328 added subpars. (C) and (D).

2010—Subsec. (i)(3). Pub. L. 111–281, § 205(b)(2)(A), inserted “or, in the case of the Coast Guard, the Commandant” after “Secretary of Defense”.

Subsec. (i)(4), (5). Pub. L. 111–281, § 205(b)(2)(B), (C), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “In this subsection, the term ‘armed forces’ does not include the Coast Guard when it is not operating as a service in the Navy.”

2009—Subsec. (c)(3). Pub. L. 111–84, § 661(a), (b), designated existing provisions as subpar. (A), substituted “15 percent” for “20 percent”, and added subpar. (B).

Subsec. (c)(4). Pub. L. 111-84, § 661(c), amended par. (4) generally. Prior to amendment, text read as follows: “If a member of the uniformed services is injured or wounded under the circumstances described in section 310(a)(2)(C) of this title or, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense, any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member’s pay until—

“(A) the end of the 90-day period beginning on the date on which the member is notified of the overpayment; or

“(B) such earlier date as may be requested or agreed to by the member.”

2006—Subsec. (c). Pub. L. 109-364 designated existing provisions as pars. (1) and (2), in pars. (1) and (2) substituted “the member’s pay” for “his pay”, in par. (2) substituted “After” for “However, after” and inserted “by a member of the uniformed services” after “actually received”, and added pars. (3) and (4).

2002—Subsec. (a). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (e). Pub. L. 107-314 substituted “Army, Navy, Air Force, or Marine Corps” for “Army or the Air Force”.

1999—Subsec. (b). Pub. L. 106-65 struck out at end “An amount due the United States from an enlisted member of the Army or the Air Force for tobacco sold to him by the United States under section 4623 or 9623 of title 10 shall be deducted from his pay in the manner provided for the settlement of clothing accounts.”

1996—Subsec. (a). Pub. L. 104-201 inserted “(or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy)” after “Secretary of Defense”.

Pub. L. 104-106 substituted “Secretary of Defense, or upon the denial of relief of an officer pursuant to section 3527 of title 31” for “Secretary concerned”.

1994—Subsec. (i)(1). Pub. L. 103-337 substituted “\$1.00” for “50 cents”.

1992—Subsec. (i)(3). Pub. L. 102-484 substituted “, warrant officers, and limited duty officers” for “and warrant officers”.

1991—Subsec. (d). Pub. L. 102-25 struck out “of this section” after “subsection (c)”.

1990—Subsec. (i)(1). Pub. L. 101-510, § 1533(b)(1), substituted “, warrant officer, and limited duty officer” for “and warrant officer”.

Subsec. (i)(2). Pub. L. 101-510, § 1533(b)(2), added par. (2) and struck out former par. (2) which read as follows: “Amounts deducted under paragraph (1) shall be—

“(A) deposited in the Soldiers’ Home, permanent fund, in the case of deductions from the pay of enlisted members and warrant officers in the Army and Air Force; and

“(B) credited to the funds available for the operation of the Naval Home, in the case of deductions from the pay of enlisted members and warrant officers in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).”

Subsec. (i)(2)(B). Pub. L. 101-510, § 1533(b)(1), which directed amendment of subpar. (B) by substituting “, warrant officer, and limited duty officer” for “and warrant officer”, could not be executed because the words “and warrant officer” did not appear.

Subsec. (i)(3). Pub. L. 101-510, § 1533(b)(3), substituted “Armed Forces Retirement Home Board” for “Governor of the Naval Home and the board of commissioners for the United States Soldiers’ and Airmen’s Home” and “of the Armed Forces Retirement Home” for “of the homes”.

Pub. L. 101-510, § 1533(b)(1), which directed amendment of par. (3) by substituting “, warrant officer, and limited duty officer” for “and warrant officer”, could not be executed because the words “and warrant officer” did not appear.

Subsec. (i)(5). Pub. L. 101-510, § 1533(b)(4), substituted “, warrant officer, or limited duty officer” for “or warrant officer”.

1989—Subsec. (i). Pub. L. 101-189 added subsec. (i).

1987—Subsec. (h). Pub. L. 100-180 added subsec. (h).

1985—Subsec. (c). Pub. L. 99-145 substituted “uniformed services” for “armed forces”.

1984—Subsec. (c). Pub. L. 98-525 substituted “a member of the armed forces” for “an enlisted member of the Army or the Air Force”.

1967—Subsec. (b). Pub. L. 90-83 struck out requirement that, in case of a member of the Army, the report be made to Chief of Finance.

1966—Subsec. (a). Pub. L. 89-718, § 71, substituted “section 5512 of title 5” for “section 82 of title 5”.

Subsec. (c). Pub. L. 89-718, § 72, substituted “pay” for “basic pay” as the amount which cannot be reduced below one-third through deductions from enlisted men of the Army or Air Force who have been administratively determined to owe the United States, payable by deductions in monthly installments.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title VI, § 661(d), Oct. 28, 2009, 123 Stat. 2370, provided that: “The amendments made by this section [amending this section] shall apply only with respect to an overpayment of pay or allowances made to a member of the uniformed services after the date of the enactment of this Act [Oct. 28, 2009].”

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107-314 applicable with respect to loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of United States under control of Department of Defense occurring on or after effective date of regulations prescribed pursuant to section 2787 of Title 10, Armed Forces, see section 1006(d) of Pub. L. 107-314, set out as an Effective Date note under section 2787 of Title 10.

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 1994 AMENDMENT

Pub. L. 103-337, div. A, title III, § 371(d)(1), Oct. 5, 1994, 108 Stat. 2735, provided that: “(1) The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995, and apply to years that begin on or after that date.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101-510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title III, § 343(b), Nov. 29, 1989, 103 Stat. 1421, provided that:

“(1) Except as provided in paragraph (2), subsection (i) of section 1007 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989].

“(2) With respect to deductions from the pay of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy), such subsection shall take effect on October 1, 1990.”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title VI, § 633(b), Dec. 4, 1987, 101 Stat. 1106, provided that: “Subsection (h) of section 1007 of title 37, United States Code (as added by subsection (a)), shall apply with respect to debts incurred by members of the uniformed services after the date of the enactment of this Act [Dec. 4, 1987].”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.

§ 1008. Presidential recommendations concerning adjustments and changes in pay and allowances

(a) The President shall direct an annual review of the adequacy of the pays and allowances authorized by this title for members of the uniformed services.

(b) Whenever the President considers it appropriate, but in no event later than January 1, 1967, and not less than once each four years thereafter, he shall direct a complete review of the principles and concepts of the compensation system for members of the uniformed services. Upon completion of such review he shall submit a detailed report to Congress summarizing the results of such review together with any recommendations he may have proposing changes in the statutory salary system and other elements of the compensation structure provided members of the uniformed services.

(Added Pub. L. 89-132, §2(a), Aug. 21, 1965, 79 Stat. 546; amended Pub. L. 104-106, div. A, title VI, §642(b), Feb. 10, 1996, 110 Stat. 368.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106 struck out at end “Upon completion of this review, but not later than March 31 of each year, the President shall submit to Congress a detailed report summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances authorized by this title.”

EFFECTIVE DATE

Section effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

DELEGATION OF REPORTING FUNCTION

Memorandum of the President of the United States, June 9, 1989, 54 F.R. 25561, provided:

Memorandum for the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I authorize you to submit to the Congress the report summarizing the results of the review of the principles and concepts of the compensation system for members of the uniformed services, as required by P.L. 89-132, Sec. 2(a), August 21, 1965 (37 U.S.C. 1008(b)).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§ 1009. Adjustments of monthly basic pay

(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.

(b) EFFECTIVENESS OF ADJUSTMENT.—An adjustment under this section shall have the force and effect of law.

(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—(1) An adjustment made under this

section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of one percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be one-half of one percentage point higher than the percentage that would otherwise be applicable under such paragraph.

(3) In this subsection:

(A) The term “ECI” means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

(B) The term “base quarter” for any year is the three-month period ending on September 30 of such year.

(d) PROTECTION OF MEMBER’S TOTAL COMPENSATION WHILE PERFORMING CERTAIN DUTY.—(1) The total daily equivalent amount of the elements of compensation described in paragraph (3), together with other pay and allowances under this title, to be paid to a member of the uniformed services who is temporarily assigned to duty away from the member’s permanent duty station or to duty under field conditions at the member’s permanent duty station shall not be less, for any day during the assignment period, than the total amount, for the day immediately preceding the date of the assignment, of the elements of compensation and other pay and allowances of the member.

(2) Paragraph (1) shall not apply with respect to an element of compensation or other pay or allowance of a member during an assignment described in such paragraph to the extent that the element of compensation or other pay or allowance is reduced or terminated due to circumstances unrelated to the assignment.

(3) The elements of compensation referred to in this subsection mean—

(A) the monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

(B) the basic allowance for subsistence authorized members of the uniformed services by section 402 of this title; and

(C) the basic allowance for housing authorized members of the uniformed services by section 403 of this title.

(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.

(2) In evaluating an economic condition affecting the general welfare under this subsection,