

**TITLE 37 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
CHAPTER 5 - SPECIAL AND INCENTIVE PAYS
SUBCHAPTER I - EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS
AUTHORITIES**

§ 307a. Special pay: assignment incentive pay

(a) **Authority.**— The Secretary concerned may pay incentive pay under this section to a member of a uniformed service who performs service, while entitled to basic pay, in an assignment designated by the Secretary concerned. Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.

(b) **Written Agreement.**—

(1) The Secretary concerned may require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a monthly basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the monthly rate of the incentive pay.

(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay.

(c) **Maximum Rate or Amount.**—

(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is \$3,000.

(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

(A) the product of

(i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and

(ii) the number of months in the period for which incentive pay will be paid; divided by

(B) the number of installments over such period.

(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.

(d) **Repayment.**— A member who enters into an agreement under this section and receives incentive pay under the agreement in a lump sum or installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303a (e) of this title.

(e) **Relationship to Other Pay and Allowances.**— Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(f) Status Not Affected by Temporary Duty or Leave.— The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of—

- (1) temporary duty performed by the member pursuant to orders; or
- (2) absence of the member for authorized leave, other than leave authorized for a period ending upon the discharge of the member or the release of the member from active duty.

(g) Termination of Authority.— No agreement under this section may be entered into after December 31, 2009.

(Added Pub. L. 107–314, div. A, title VI, § 616(a)(1), Dec. 2, 2002, 116 Stat. 2569; amended Pub. L. 108–375, div. A, title VI, §§ 614(b), 617 (a), (b), Oct. 28, 2004, 118 Stat. 1947, 1948; Pub. L. 109–163, div. A, title VI, §§ 624(b), 628, 687 (b)(13), Jan. 6, 2006, 119 Stat. 3295, 3296, 3329; Pub. L. 109–364, div. A, title VI, § 614(b), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–417, [div. A], title VI, § 614(b), Oct. 14, 2008, 122 Stat. 4485.)

Amendments

2008—Subsec. (g). Pub. L. 110–417 substituted “December 31, 2009” for “December 31, 2008”.

2006—Subsec. (a). Pub. L. 109–163, § 628(a)(1), struck out “monthly” before “incentive pay” and inserted at end “Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.”

Subsec. (b). Pub. L. 109–163, § 628(a)(2), designated existing provisions as par. (1), substituted “the payment of incentive pay on a monthly basis” for “incentive pay” in first sentence, and added par. (2).

Subsec. (c). Pub. L. 109–163, § 628(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “The maximum monthly rate of incentive pay payable to a member under this section is \$1,500.”

Subsec. (d). Pub. L. 109–163, § 687(b)(13), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

“(1) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service. The Secretary concerned may waive repayment of an amount of incentive pay under this section, in whole or in part, if the Secretary determines that conditions and circumstances warrant.

“(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).”

Pub. L. 109–163, § 628(c), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–163, § 628(c)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–163, § 628(c)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 109–163, § 624(b), substituted “December 31, 2007” for “December 31, 2006”.

Subsec. (g). Pub. L. 109–364 substituted “December 31, 2008” for “December 31, 2007”.

Pub. L. 109–163, § 628(c)(1), redesignated subsec. (f) as (g).

2004—Subsec. (b). Pub. L. 108–375, § 617(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The period for which incentive pay will be provided under this section and the monthly rate of the incentive pay for a member shall be specified in a written agreement between the Secretary concerned and the member. Agreements entered into by the Secretary of a military department shall require the concurrence of the Secretary of Defense.”

Subsec. (e). Pub. L. 108–375, § 617(b), substituted “by reason of—” and pars. (1) and (2) for “by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.”

Subsec. (f). Pub. L. 108–375, § 614(b), substituted “December 31, 2006” for “December 31, 2005”.

Effective Date of 2004 Amendment

Pub. L. 108–375, div. A, title VI, § 617(c), Oct. 28, 2004, 118 Stat. 1949, provided that: “Paragraph (2) of section 307a (e) of title 37, United States Code, as added by subsection (b), shall apply with respect to authorized leave occurring on or after the date of the enactment of this Act [Oct. 28, 2004].”

Savings Provision

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

Payment of Assignment Incentive Pay for Reserve Members Serving in Combat Zone for More Than 22 Months

Pub. L. 110–181, div. A, title VI, § 624, Jan. 28, 2008, 122 Stat. 153, provided that:

“(a) Payment.—The Secretary of a military department may pay assignment incentive pay under section 307a of title 37, United States Code, to a member of a reserve component under the jurisdiction of the Secretary for each month during the eligibility period of the member determined under subsection (b) during which the member served for any portion of the month in a combat zone associated with Operating [probably should be “Operation”] Enduring Freedom or Operation Iraqi Freedom in excess of 22 months of qualifying service.

“(b) Eligibility Period.—The eligibility period for a member extends from January 1, 2005, through the end of the active duty service of the member in a combat zone associated with Operating [probably should be “Operation”] Enduring Freedom or Operation Iraqi Freedom if the service on active duty during the member’s most recent period of mobilization to active duty began before January 19, 2007.

“(c) Amount of Payment.—The monthly rate of incentive pay payable to a member under this section is \$1,000.

“(d) Qualifying Service.—For purposes of this section, qualifying service includes cumulative mobilized service on active duty under sections 12301 (d), 12302, and 12304 of title 10, United States Code, during the period beginning on January 1, 2003, through the end of the member’s active duty service during the member’s most recent period of mobilization to active duty beginning before January 19, 2007.”

Annual Report

Pub. L. 107–314, div. A, title VI, § 616(b), Dec. 2, 2002, 116 Stat. 2570, provided that: “Not later than February 28, 2004, and February 28, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority provided under section 307a of title 37, United States Code, as added by subsection (a), including an assessment of the utility of that authority.”