

May 29, 1954, ch. 249, § 19 (f), 68 Stat. 167; May 31, 1956, ch. 348, § 1 (2), 70 Stat. 222.)

Repealed, except as affected by amendments subsequent to Mar. 31, 1955, by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See §§ 3964, 3992, 8964, 8992 of Title 10, Armed Forces.

AMENDMENTS

1956—Act May 31, 1956, amended section by striking the words "during the period September 9, 1940, to June 30, 1946," following the words "the cognizant Secretary".

1954—Act May 29, 1954, struck out all provisions with respect to entitlement to retirement and retired pay, and computation of retired pay, after twenty years' service, such provisions being superseded.

SAVINGS PROVISIONS

Act May 31, 1956, as not depriving any member of Armed Forces of retirement pay to which he was entitled on effective date, see note set out under section 1002 of this Appendix.

RESTRICTION ON ADVANCEMENT OR INCREASED PAY

Act May 31, 1956, as not entitling advancement on retired list or increase in retired pay for any period before effective date. See note set out under section 1002 of this Appendix.

Chapter 23.—ENLISTED FORCE

§ 621c. Enlistment of aliens in Regular Army.

With the approval of the Secretary of State, the Secretary of the Army, under such regulations as the Secretary of the Army may prescribe, is authorized until June 30, 1957, to accept original enlistments or reenlistments in the Regular Army for periods of not less than five years or not to exceed twelve thousand five hundred qualified unmarried male aliens (without dependents as defined in section 4 of the Act of June 16, 1942 (56 Stat. 361), as amended), who are not less than eighteen years of age or more than thirty-five years of age; and, with the approval of the Secretary of State to accept reenlistment of any such alien upon the expiration of his original term of enlistment for such period or periods as the Secretary of the Army may determine: *Provided*, That persons enlisted under the provisions of this section shall be integrated into established units with citizen soldiers and not segregated into separate organizations for aliens. (As amended July 12, 1955, ch. 330, 69 Stat. 297.)

REFERENCES IN TEXT

Section 4 of the act of June 16, 1942 (56 Stat. 361), as amended, referred to in the text, was formerly classified to section 104 of Title 37, Pay and Allowances, and was repealed by act Oct. 12, 1949, ch. 681, § 531 (b) (34), 63 Stat. 839.

AMENDMENTS

1955—Act July 12, 1955, amended section by extending it from June 30, 1955, until June 30, 1957.

§ 628b. Same; voluntary extensions for periods of less than one year.

The term of enlistment of any enlisted man in the Army and the Air Force may, by his voluntary written agreement, under such regulations as may be prescribed by the Secretary concerned, be extended for a period of less than one year from the date of expiration of the then existing term of enlistment, and subsequent to said date such enlisted men as extend the term of enlistment as authorized in this

section shall be entitled to and shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of their term of enlistment, and such extension shall not operate to deprive them upon discharge at the termination thereof of any right, privilege, or benefit to which they would be entitled at the expiration of the former term of enlistment. (July 12, 1955, ch. 334, § 2, 69 Stat. 299.)

§ 629. Repealed. July 24, 1956, ch. 692, § 2 (1), 70 Stat. 631.

Additionally repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Prior repeal as taking precedence. See section 49 (a) of such act Aug. 10, 1956.

Section, acts June 4, 1920, ch. 227, subch. II, § 1, 41 Stat. 809; May 5, 1950, ch. 169, § 6 (a), 64 Stat. 145, required soldiers to make good time lost.

§ 629a. Enlisted members to make up time lost during enlistments.

An enlisted member of the Army or Air Force who—

- (1) deserts;
- (2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;
- (3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;
- (4) is confined for more than one day under a sentence which has become final; or
- (5) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period which, when added to the period that he served before his absence from duty, amounts to the term for which he was enlisted or inducted. (July 24, 1956, ch. 692, § 1, 70 Stat. 631.)

CODIFICATION

Section is also classified as section 183b of Title 34, Appendix, Navy, and as a note under section 367 of Title 14, Coast Guard.

Chapter 25.—PAY AND ALLOWANCES

§ 694. War-time pay of officer exercising command higher than his grade.

In time of war every officer serving with troops operating against an enemy who shall exercise, under assignment in orders issued by competent authority, a command above that pertaining to his grade, shall be entitled to receive the pay and allowances of the grade appropriate to the command so exercised: *Provided*, That a rate of pay exceeding that of a brigadier general shall not be paid in any case by reason of such assignment. (Apr. 26, 1898, ch. 191, § 7, 30 Stat. 365.)

Section was omitted from Title 10, Armed Forces.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date

July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 846. Pay during captivity.

Every noncommissioned officer and private of the Regular Army, and every officer, noncommissioned officer, and private of any militia or volunteer corps in the service of the United States who is captured by the enemy, shall be entitled to receive during his captivity, notwithstanding the expiration of his term of service, the same pay, subsistence, and allowance to which he may be entitled, while in the actual service of the United States; but this provision shall not be construed to entitle any prisoner of war of such militia corps to any pay or compensation after the date of his parole, except the traveling expenses allowed by law. (R. S. § 1288.)

Section was omitted from Title 10, Armed Forces.

DERIVATION

Act Mar. 30, 1814, ch. 37, § 14, 3 Stat. 115.

§ 861. Repealed. July 11, 1955, ch. 306, § 1, 69 Stat. 294.

Additionally repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Prior repeal as taking precedence. See section 49 (a) of such act Aug. 10, 1956.

Section, R. S. § 1268, provided for monthly payments of pay, rental allowances and subsistence to officers.

§ 862. Promptness required in payment of troops.

The Army shall be paid in such manner that the arrears shall at no time exceed two months, unless circumstances shall render further arrears unavoidable. (R. S. § 1189.)

Section was omitted from Title 10, Armed Forces.

DERIVATION

Act Mar. 16, 1802, ch. 9, § 13, 2 Stat. 135.

§ 862a. Payment of enlisted men in places having no paymaster.

The Secretary of the Army is also authorized to arrange for the payment of the enlisted men serving at posts or places where no paymaster is on duty, by check or by currency, to be sent to them by mail or express, at the expense and risk of the United States. (Feb. 27, 1893, ch. 168, 27 Stat. 479; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

Section was omitted from Title 10, Armed Forces.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

§ 865. Computation of pay for month or fraction of month.

Where the compensation of any person in the military service of the United States is annual or monthly the following rules for division of time and computation of pay for services rendered are established: Annual compensation shall be divided into twelve equal installments, one of which shall be the pay for each calendar month; and in making payments for a fractional part of a month, one-thirtieth of one of such installments, or of a monthly

compensation, shall be the daily rate of pay. For the purpose of computing such compensation and for computing time for services rendered during a fractional part of a month in connection with annual or monthly compensation, each and every month shall be held to consist of thirty days, without regard to the actual number of days in any calendar month, thus excluding the 31st of any calendar month from the computation and treating February as if it actually had thirty days. Any person entering the service of the United States during a thirty-one day month and serving until the end thereof shall be entitled to pay for that month from the date of entry to the 30th day of said month, both days inclusive; and any person entering said service during the month of February and serving until the end thereof shall be entitled to one month's pay, less as many thirtieths thereof as there were days elapsed prior to date of entry: *Provided*, That for one day's unauthorized absence on the 31st day of any calendar month one day's pay shall be forfeited. (June 12, 1906, ch. 3078, 34 Stat. 248.)

Section was omitted from Title 10, Armed Forces.

§ 868. Repealed. July 12, 1955, ch. 328, § 5 (1), 69 Stat. 296.

Additionally repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Prior repeal as taking precedence. See section 49 (a) of such act Aug. 10, 1956.

Section, acts June 30, 1906, ch. 3914, § 1, 34 Stat. 750; Dec. 7, 1944, ch. 519, 58 Stat. 795; Feb. 25, 1946, ch. 35, § 4, 60 Stat. 30, provided for the settlement of accounts of deceased officers or enlisted men, and is now covered by sections 361—365 of Title 37, Pay and Allowances.

EFFECTIVE DATE OF REPEAL

Repeal of section by act July 12, 1955, effective as of the effective date of the payment provisions of sections 361—365 of Title 37, Pay and Allowances, except with respect to the deaths of members occurring prior to such effective date, see note under section 365 of such Title 37.

§ 869. Payment to indorsees of officers' pay accounts.

Section 492 of Title 31 shall not be construed as precluding officers of the Finance Department from drawing checks in favor of the person or institution designated by indorsement made on his monthly pay account by any officer of the Army if the pay account has been deposited for payment on maturity in conformity with such regulations as the Secretary of the Army may prescribe: *Provided further*, That payment by the United States of a check on the indorsement of the indorsee specified on the pay account shall be a full acquittance for the amount due on the pay account. (Mar. 2, 1913, ch. 93, 37 Stat. 710; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

Section was omitted from Title 10, Armed Forces.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

§§ 903, 903a. Repealed. Aug. 1, 1956, ch. 837, title V, § 502 (1, 3), 70 Stat. 886, eff. January 1, 1957.

Additionally repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Prior repeal as taking

precedence. See section 49 (a) of such act Aug. 10, 1956.

Section 903, acts Dec. 17, 1919, ch. 6, § 1, 2, 41 Stat. 367; Mar. 2, 1923, ch. 178, title I, 42 Stat. 1385; Dec. 17, 1943, ch. 343, § 1, 57 Stat. 599, provided for the payment of a death gratuity to survivors of officers or enlisted men, and is now covered by sections 1131—1134 of Title 38, Pensions, Bonuses, and Veterans' Relief.

Section 903a, act Mar. 8, 1928, ch. 153, 45 Stat. 249, provided for payment of death gratuity to survivor of Army nurse, and is now covered by sections 1131—1134 of Title 38, Pensions, Bonuses, and Veterans' Relief.

Chapter 26.—RETIREMENT

§ 943a. Retirement on voluntary application.

Repealed, except as affected by amendments subsequent to Mar. 31, 1955, by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See §§ 3911, 8911 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 2 of act July 16, 1953, as amended by act May 31, 1956, ch. 348, § 2 (a), 70 Stat. 222, provided that: "This Act [amending this section and section 971b] takes effect on June 29, 1948."

Act May 31, 1956, as not depriving any member of Armed Forces of retirement pay to which he was entitled on effective date and as not entitling advancement on retired list or increase in retired pay for any period before effective date. See notes set out under section 1002 of this Appendix.

§ 971b. Rate of pay of officers retired on own application; computation of service; grade on retirement.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 2 of act July 16, 1953, as amended by act May 31, 1956, ch. 348, § 2 (a), 70 Stat. 222, provided that "This Act [amending this section and section 943a] takes effect on June 29, 1948."

Act May 31, 1956, as not depriving any member of Armed Forces of retirement pay to which he was entitled on effective date and as not entitling advancement on retired list or increase in retired pay for any period before effective date. See notes set out under section 1002 of this Appendix.

RESERVE OFFICERS VOLUNTARILY RETIRED BETWEEN JUNE 29, 1948, AND AUG. 1, 1953; APPLICATION FOR INCREASED RATE

Sec. 2 (b) of act May 31, 1956, ch. 348, 70 Stat. 222, provided that: "A retired member of the Army or the Air Force who would have been eligible to be retired in a higher grade or advanced to a higher grade on a retired list if the amendment made by subsection (a) of this section had been in effect at the time of his discharge or release from active duty as a commissioned officer, shall, if he applies within one year after the effective date of this Act [May 31, 1956], be advanced on the applicable retired list to that higher grade, and be entitled to retired pay on and after the effective date of this Act [May 31, 1956] at the rate prescribed by section 5 of the Act of July 31, 1935 (49 Stat. 507), as amended [this section], for that grade."

§ 1001. Establishment of officers' retired list; placement of names.

Effective upon June 29, 1948, the Secretary of the Army and the Secretary of the Air Force shall each establish for their respective services an officers' retired list, upon which shall be placed the names of all the commissioned officers of the Regular Army or the Regular Air Force, as the case may be, heretofore or hereafter retired from active service under any provision of law, without limit to the number of officers who may be placed thereon. Any provision of law requiring commissioned officers of the Regular

Army or the Regular Air Force to be placed on the limited or unlimited retired list hereafter shall be deemed to refer to the officers' retired list established pursuant to this section. (As amended July 24, 1956, ch. 677, § 2 (f), 70 Stat. 623.)

Repealed, except as affected by amendments subsequent to Mar. 31, 1955, by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See §§ 3966, 8966 of Title 10, Armed Forces.

AMENDMENTS

1956—Act July 24, 1956, amended section to eliminate provisions which required publication in the official registers of the officers' retired list.

§ 1002. Advancement to highest temporary grade on active duty; active service period; pay.

Each commissioned officer of the Regular Army or of any reserve component of the Army of the United States, and each commissioned officer of the Regular Air Force or of any reserve component of the Air Force of the United States, heretofore or hereafter retired or granted retirement pay under any provision of law shall be advanced on the applicable officers' retired list to the highest temporary grade in which he served satisfactorily for not less than six months while serving on active duty, as determined by the cognizant Secretary, and shall receive retired pay at the rate prescribed by law, computed on the basis of the base and longevity pay which he would receive if serving on active duty in such higher grade: *Provided*, That retired pay of such highest grade shall be without credit for service on the retired list. (As amended May 31, 1956, ch. 348, § 1 (1), 77 Stat. 222.)

Repealed, except as affected by amendments subsequent to Mar. 31, 1955, by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See §§ 3963, 3991, 8963, 8991 of Title 10, Armed Forces.

AMENDMENTS

1956—Act May 31, 1956, amended section by striking the words "during the period September 9, 1940, to June 30, 1946," following the words "the cognizant Secretary."

SAVINGS PROVISIONS

Subsec. (d) of section 4 of act May 31, 1956, provided that: "No part of this Act [which is classified to this section and sections 594, 943a note, 971b note, 1004 and 1005 of this title, and sections 350i (b) (2), and (e), and 410c note of Title 34, Navy] deprives any member or former member of the Armed Forces of entitlement to the retired or retirement pay to which he was entitled on the day before the day on which that part takes effect."

RESTRICTION ON ADVANCEMENT OR INCREASED PAY

Section 5 of act May 31, 1956, provided that: "No person is entitled to advancement on the retired list or to an increase in retired or retirement pay because of this Act [which is classified to this section and sections 594, 943a note, 971b note, 1004 and 1005 of this title, and sections 350i (b) (2), and (e), and 410c note of Title 34, Navy] for any period before the effective date of this Act."

§ 1003. Advancement of nurses, female dietitians, physical therapists, and officers to highest grade on active duty; active service period; pay.

Each member of the Army Nurse Corps, established by chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended, each female dietitian or physical therapist appointed pursuant to the Act