

§ 971. Service credit: officers may not count enlisted service performed while serving as cadet or midshipman.

(a) The period of service under an enlistment or period of obligated service while also serving as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy or in the Naval Reserve, under an appointment accepted after June 25, 1956, may not be counted in computing, for any purpose, the length of service of an officer of an armed force.

(b) In computing length of service for any purpose—

(1) no officer of the Navy or Marine Corps may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, if he was appointed as a midshipman or cadet after March 4, 1913; and

(2) no commissioned officer of the Army or Air Force may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, if he was appointed as a midshipman or cadet after August 24, 1912.

(As amended Pub. L. 90-235, § 6(a)(1), Jan. 2, 1968, 81 Stat. 761.)

#### AMENDMENTS

1968—Pub. L. 90-235 designated existing provisions as subsec. (a) and added subsec. (b).

§ 973. Duties: regular officers; performance of civil functions restricted.

(a) No officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The acceptance of such a civil office or the exercise of its functions by such an officer terminates his military appointment. (Added Pub. L. 90-235, § 4(a)(5)(A), Jan. 2, 1968, 81 Stat. 759.)

§ 974. Civilian employment: enlisted members.

Except as provided in section 6223 of this title no enlisted member of an armed force on active duty may be ordered or permitted to leave his post to engage in a civilian pursuit or business, or a performance in civil life, for emolument, hire, or otherwise, if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession. (Added Pub. L. 90-235, § 6(a)(6)(A), Jan. 2, 1968, 81 Stat. 762.)

## Chapter 51.—RESERVE COMPONENTS: STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

§ 1002. Standards and qualifications: result of failure to comply with.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 123 of this title.

§ 1005. Commissioned officers: retention until completion of required service.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 123 of this title.

§ 1006. Commissioned officers: retention of after completing 18 or more, but less than 20 years of service.

(c) A reserve commissioned officer on active duty (other than for training) who, on the date on which he would otherwise be removed from an active status under section 3846, 3848, 3851, 3852, 6389, 6397, 6403, 6410, 8846, 8848, 8851, or 8852 of this title or section 787 of title 14, and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, may, in the discretion of the Secretary concerned, be retained on active duty for a period of not more than two years, if at the end of that period he will be qualified for retirement under one of those sections and will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title. An officer who is retained on active duty under this section may not be removed from an active status while he is on that duty. For officers covered by section 3846, 3847, 3848, 3851, or 3852 of this title, the ages at which transfer from an active status or discharge is required are those set forth in section 3843, 3844, or 3845 of this title, or section 21(e) of the Act enacting this section, as the case may be. (As amended Pub. L. 90-130, § 1(4), Nov. 8, 1967, 81 Stat. 374.)

#### AMENDMENTS

1967—Subsec. (c). Pub. L. 90-130 eliminated references to sections 3847 and 8847 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 123 of this title.

§ 1007. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 123 of this title.

## Chapter 53.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

1035. Deposits of savings.

1040. Transportation of dependent patients.

1040. Replacement of certificate of discharge.

#### AMENDMENTS

1968—Pub. L. 90-235, § 7(a)(2)(B), Jan. 2, 1968, 81 Stat. 763, added item 1040: "Replacement of certificate of discharge". Another item 1040: "Transportation of dependent patients", was added by Pub. L. 89-140, § 1(2), Aug. 28, 1965, 79 Stat. 579.

1966—Pub. L. 89-538, § 1(2), Aug. 14, 1966, 80 Stat. 347, substituted "Deposits of savings" for "Enlisted members' deposits" in item 1035.

1965—Pub. L. 89-140, § 1(2), Aug. 28, 1965, 79 Stat. 579, added item 1040 "Transportation of dependent patients."

Pub. L. 89-132, § 9(b), Aug. 21, 1965, 79 Stat. 548, added item 1040 "Free postage from combat zone" which was repealed by Pub. L. 89-315, § 3(b), Nov. 1, 1965, 79 Stat. 1165.

#### § 1035. Deposits of savings.

(a) Under joint regulations prescribed by the Secretaries concerned, a member of the armed force who is on a permanent duty assignment outside the United States or its possessions may deposit during that tour of duty not more than his unallotted current pay and allowances in amounts of \$5 or more, with any branch, office, or officer of a uniformed service. Amounts so deposited shall be deposited in the Treasury and kept as a separate fund, and shall be accounted for in the same manner as public funds.

(b) Interest at a rate prescribed by the President, not to exceed 10 per centum a year, will accrue on amounts deposited under this section. However, the maximum amount upon which interest may be paid under this Act to any member is \$10,000. Interest under this subsection shall terminate ninety days after the member's return to the United States or its possessions.

(c) Except as provided in joint regulations prescribed by the Secretaries concerned, payments of deposits, and interest thereon, may not be made to the member while he is on duty outside the United States or its possessions.

(d) An amount deposited under this section, with interest thereon, is exempt from liability for the member's debts, including any indebtedness to the United States or any instrumentality thereof, and is not subject to forfeiture by sentence of a court-martial.

(e) The Secretary concerned, or his designee, may in the interest of a member who is in a missing status (as defined in section 551(2) of title 37) or his dependents, initiate, stop, modify, and change allotments, and authorize a withdrawal of deposits, made under this section, even though the member had an opportunity to deposit amounts under this section and elected not to do so. Interest may be computed from the day the member entered a missing status, or September 1, 1966, whichever is later. (As amended Aug. 14, 1966, Pub. L. 89-538, § 1(1), 80 Stat. 347; Nov. 3, 1967, Pub. L. 90-122, § 1, 81 Stat. 361.)

#### AMENDMENTS

1967—Subsec. (c). Pub. L. 90-122 added subsec. (c).

1966—Subsec. (a). Pub. L. 89-538 permitted not only enlisted personnel but any member of the armed forces, provided he is on permanent duty outside the United States, to participate in the savings program organized under this section and changed the fund into which such savings deposits are made.

Subsec. (b). Pub. L. 89-538 changed the rate of interest from 4 per centum per annum to a rate prescribed by the President, not to exceed 10 per centum per annum, did away with the necessity that amounts be on deposit for six months or more, set a maximum of \$10,000 upon which interest shall be paid, and provided for termination of interest 90 days after the member's return to the United States or its possessions.

Subsec. (c). Pub. L. 89-538 substituted provisions that, unless changed by joint regulations of the Secre-

taries concerned, payments of deposits and interest may not be made to the individual while stationed outside of the United States, for provisions that payment of deposits and interest could be made only to the member upon discharge, or before discharge as prescribed by the Secretary concerned, or to the member's heirs or legal representatives.

Subsec. (d). Pub. L. 89-538 re-enacted subsec. (d) substantially without change.

#### EFFECTIVE DATE OF 1967 AMENDMENT

Section 2 of Pub. L. 90-122 provided that: "This Act [which added subsec. (c) of this section] becomes effective as of September 1, 1966."

#### ADJUSTMENT OF DEPOSIT ACCOUNTS OF CERTAIN ENLISTED MEN

Pub. L. 80-738, Nov. 2, 1966, 80 Stat. 1165, provided:

"That the Secretary of a military department or his designee, shall adjust the deposit account of any enlisted member or former enlisted member of the Army, Navy, Air Force, or Marine Corps, as the case may be, who, after July 14, 1954, and before the effective date of this Act [Nov. 2, 1966], upon discharge and immediate reenlistment or retirement and immediate recall to active duty, continued, without withdrawal and redeposit, his account for deposits made under section 1035 of title 10, United States Code [this section], or prior laws authorizing enlisted members' deposits, to show that his deposits and interest accrued thereon were withdrawn and redeposited on the date of such reenlistment or recall to active duty.

"Sec. 2. The Secretary of the military department concerned, or his designee, shall pay to a former enlisted member described in section 1 of this Act any amount found due as a result of the adjustment prescribed by that section if he submits an application within two years following the date of enactment of this Act [Nov. 2, 1966]. If the member is currently serving on active duty and has an active deposit account, the amount due him will automatically be credited to such account. In the case of a deceased member, application under this section shall be made within two years following the date of enactment of this Act [Nov. 2, 1966] by the person determined to be eligible under section 2771 of Title 10, United States Code [section 2771 of this title].

"Sec. 3. All payments heretofore made which would, but for the fact of such payment, be payable under this Act are validated. However, if such a payment has been repaid to the United States, the fact of payment shall not affect entitlement under this Act."

#### RATES OF INTEREST ON DEPOSITS MADE BEFORE AUG. 14, 1966

Section 2 of Pub. L. 89-538 provided that:

"(a) Notwithstanding the first section of this Act [amending this section], an amount on deposit under section 1035 of title 10, United States Code, on the date of enactment of this Act [Aug. 14, 1966], shall accrue interest at the rate and under the conditions in effect on the day before the date of enactment of this Act [Aug. 14, 1966], until the member's current enlistment terminates or earlier, as may be jointly prescribed by the Secretaries concerned. However, a member who is on a permanent duty assignment outside the United States or its possessions on the date of enactment of this Act [Aug. 14, 1966], or who reports for that duty on or after that date but before the termination of his current enlistment, will be entitled to interest on such deposit, on and after that date, at the rate and under the conditions prescribed pursuant to section 1 [amending this section]. Payments of deposits, and interest thereon, may be made to the member's heirs or legal representatives.

"(b) Any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] while a member was assigned to permanent duty within the United States and its possessions, and any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] by a member on permanent duty assignment outside the United States and its possessions which are in excess of his unallotted pay and allowances for that period, shall accrue interest at the rate in effect before enactment of this Act."

**EXTENSION OF COVERAGE TO PUBLIC HEALTH SERVICE AND COAST AND GEODETIC SURVEY PERSONNEL; RULES AND REGULATIONS**

Section 3(c) of Pub. L. 89-538 provided that: "Regulations prescribed by the Secretary of Commerce and the Secretary of Health, Education, and Welfare under subsections (a) and (b) [extending savings deposits benefits to personnel of the Public Health Service and the Coast and Geodetic Survey respectively] shall be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of title 10, United States Code."

**EX. ORD. NO. 11298. INTEREST RATE**

Ex. Ord. No. 11298, Aug. 14, 1966, 31 F.R. 10915, provided;

By virtue of the authority vested in me by Section 1035 of Title 10 of the United States Code, as amended by the Act of August 14, 1966, I hereby prescribe that amounts deposited by members of the uniformed services under that Section shall accrue interest at the rate of ten percent per annum, compounded quarterly.

This order shall be effective September 1, 1966.

LYNDON B. JOHNSON.

**§ 1037. Counsel before foreign judicial tribunals and administrative agencies; court costs and bail.**

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 5 section 3106.

**§ 1040. Transportation of dependent patients.**

(a) Except as provided in subsection (b), if a dependent accompanying a member of the uniformed services who is stationed outside the United States and who is on active duty for a period of more than thirty days requires medical attention which is not available in the locality, transportation of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. On his recovery or when it is administratively determined that the patient should be removed from the medical facility involved, the dependent may be transported at the expense of the United States to the duty station of the member or to such other place determined to be appropriate under the circumstances. If a dependent is unable to travel unattended, round-trip transportation and travel expenses may be furnished necessary attendants.

(b) This section does not authorize transportation and travel expenses for a dependent for elective surgery which is determined to be not medically indicated by a medical authority designated under joint regulations to be prescribed under this section.

(c) "Dependent" and "uniformed services" in this section have the meanings of those terms as defined in section 1072 of this title.

(d) Transportation and travel expenses authorized by this section shall be furnished in accordance with joint regulations to be prescribed by the Secretary of the Treasury, the Secretary of Defense, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare, which shall require the use of transportation facilities of the United States insofar as practicable. (Added Pub. L. 89-140, § 1(1), Aug. 28, 1965, 79 Stat. 579.)

**CODIFICATION**

Another section 1040 was added by Pub. L. 90-235, § 7(a)(2)(A), Jan. 2, 1968, 81 Stat. 762, and is set out following this section.

Another section 1040, which related to free postage from combat zones, was added by Pub. L. 89-132, § 9(a), Aug.

21, 1965, 79 Stat. 548, and was repealed by Pub. L. 89-315, § 3(a), Nov. 1, 1965, 79 Stat. 1164. See section 4169 of Title 39, The Postal Service.

**§ 1040. Replacement of certificate of discharge.**

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from an armed force or that it was destroyed without his procurement or connivance, the Secretary concerned may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this section may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case. (Added Pub. L. 90-235, § 7(a)(2)(A), Jan. 2, 1968, 81 Stat. 762.)

**CODIFICATION**

Another section 1040 was added by Pub. L. 89-140, § 1(1), Aug. 28, 1965, 79 Stat. 579, and is set out preceding this section.

**Chapter 55.—MEDICAL AND DENTAL CARE**

**Sec.**

- 1071. Purpose of sections 1071—1087 of this title.
- 1073. Administration of sections 1071—1087 of this title.
- 1077. Medical care for dependents: authorized care in facilities of uniformed services.
- 1082. Contracts for health care: advisory committees.
- 1085. Medical and dental care from another executive department: reimbursement.
- 1086. Contracts for health care for certain members, former members, and their dependents.
- 1087. Programing facilities for certain members, former members and their dependents in construction projects of the uniformed services.

**AMENDMENTS**

1966—Pub. L. 89-614, § 2(9), Sept. 30, 1966, 80 Stat. 866, substituted "1087" for "1085" in items 1071 and 1073, "Medical care" and "authorized care in facilities of uniformed services" for "Medical and dental care" and "specific inclusions and exclusions" in item 1077, "Contracts for health care" for "Contracts for medical care for spouses and children" in item 1082, and added items 1086 and 1087.

1965—Pub. L. 89-264, § 2, Oct. 10, 1965, 79 Stat. 989, substituted "executive department" for "uniformed service" in item 1085.

**§ 1071. Purpose of sections 1071—1087 of this title.**

The purpose of sections 1071—1087 of this title is to create and maintain high morale in the uniformed services by providing an improved and uniform program of medical and dental care for members and certain former members of those services, and for their dependents. (As amended Pub. L. 89-614, § 2(1), Sept. 30, 1966, 80 Stat. 862.)

**AMENDMENTS**

1966—Pub. L. 89-614 substituted "1087" for "1085" in the catchline and the text.

**SHORT TITLE**

Section 1 of Pub. L. 89-614 provided: "That this Act [which enacted sections 1086 and 1087 and amended sections 1071—1074, 1076—1079, 1082, and 1084 of this title, and enacted provisions set out as a note under this section] may be cited as the 'Military Medical Benefits Amendments of 1966.'"

**EFFECTIVE DATE OF 1966 AMENDMENT**

Section 3 of Pub. L. 89-614 provided that: "The amendments made by this Act [see Short Title note under this section] shall become effective January 1, 1967, except