

# MAINE STATE LEGISLATURE

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CHAPTER 131  
MILITARY PERSONNEL

Subch.	Sec.
I. Commissioned Officers .....	931
II. Enlisted Men .....	971
III. Draftees and Civilian Employees .....	1001
IV. Compensation .....	1041
V. Disability Compensation .....	1081

SUBCHAPTER I

COMMISSIONED OFFICERS

- Sec.
931. Appointments; commissions; vacancies; examinations; oaths.
932. Discharge and retirement.

**§ 931. Appointments; commissions; vacancies; examinations; oaths**

Subject to the regulations prescribed by the national military establishment, all officers shall be appointed and commissioned by the Governor. Except as otherwise provided all vacancies in the State Guard and other state military or naval forces shall be filled as follows: Vacancies in the grade of colonel or lieutenant colonel of a regiment or corps shall be filled by promoting the senior officer of the regiment or corps of the next lower grade; vacancies in the grade of major in a regiment, corps or separate battalion shall be filled by promoting the senior officer of the next lower grade in the organization in which the vacancy occurs; vacancies in the grade of captain or lieutenant shall be filled by promoting the senior officer of the next lower grade in the organization in which the vacancy occurs. When it appears to the Governor to be for the best interest of the service that vacancies be otherwise filled, such vacancies, if they be within a regiment, corps or other separate organization, shall be filled by the Governor upon the recommendation of the commanding officer of such organization or upon the recommendation of the Adjutant General. Vacancies in the grade of second lieutenant shall be filled in the following manner: 1st, upon the recommendation of the commanding officer of the regiment, corps or other separate battalion, from en-

listed men of the unit, commissioned in the officers' reserve corps or from enlisted men of the unit holding state certificates of eligibility for commissions as second lieutenants; 2nd, if no such personnel holding reserve commissions or certificate of eligibility is available and recommended for promotion in the unit, all enlisted men of any company and any noncommissioned staff officer shall, if physically sound, be eligible for appointment and shall be permitted to appear before an examining board for a physical and competitive practical and theoretical examination. The enlisted man whom the board considers, after the competitive examination, to be best qualified shall be appointed to fill the vacancy. The Governor shall prescribe the scope and manner of conducting such examination, and if no enlisted man appears or if none satisfactorily passes said examination, then the Governor upon the recommendation of the commanding officer of the regiment, corps or other separate battalion shall fill the vacancy by making an appointment of any person eligible under the law to hold a commission in the National Guard or other authorized state military or naval forces. Every officer duly commissioned shall within 10 days accept the same and take the constitutional oath of office. Such oath may be taken and subscribed before any officer authorized by law to administer an oath. In case of neglect or refusal to accept the commission or to take and subscribe the oath within the time mentioned, such commission shall be canceled by the Governor and a new appointment made to fill the vacancy.

R.S.1954, c. 14, § 34.

### § 932. Discharge and retirement

Any officer who accepts an appointment in the Army, Air Force, Navy or Marine Corps of the United States, or who tenders his resignation and the same having been accepted, shall receive an honorable discharge, provided he shall not be under arrest or returned to a military court for any deficiency or delinquency and provided he shall not be indebted to the State in any manner and provided all of his accounts for money and public property shall be correct.

Any officer who shall reach the age of 64 years shall be retired.

Any officer who is found incapacitated for service by reason of physical disability shall be withdrawn from active service and placed on the retired list.

Any person who has served as a commissioned officer in the Maine National Guard or other authorized state military or naval forces for a period of not less than 9 years may, upon personal request, be placed upon the retired list. When placed upon the retired list an officer shall be given the highest rank held by him during his term of service. If at the time of his retirement he shall have served as a commissioned officer in the Maine National Guard or other authorized state military or naval forces or federal military service for a period of 15 years or more, he may be retired with a rank one grade higher than the highest rank held by him during his service. Retired officers shall be entitled to wear the uniform of the rank with which they were retired. Except as provided, no commissioned officer in the National Guard or other authorized state military or naval forces shall be removed from office without his consent, except by sentence of a general court-martial or by an efficiency board, in a manner prescribed by law. Whenever the occasion may require, the Governor, with their consent, may order to active duty any retired officer, warrant officer or enlisted man, and they shall be entitled to pay and emoluments of their grade while performing such service.

R.S.1954, c. 14, § 35.

## SUBCHAPTER II

### ENLISTED MEN

Sec.

971. Discharge.

#### § 971. Discharge

An enlisted person discharged from service in the National Guard or other state military or naval forces shall receive a discharge in such form and with such classification as is or shall be prescribed for the national military establishment and discharges may be given prior to the expiration of periods of enlistment under such regulations, not inconsistent with those established by the national military establishment for the government of the National Guard, as the Governor may prescribe.

R.S.1954, c. 14, § 43.

## SUBCHAPTER III

## DRAFTEES AND CIVILIAN EMPLOYEES

Sec.

1001. Draft; exemption for prior service; contempt.

1002. Civilian cooks.

**§ 1001. Draft; exemption for prior service; contempt**

If in time of peace, war or other emergency, any company, troop, battery or detachment of the National Guard, State Guard or other authorized military or naval force shall have failed by voluntary enlistment to obtain the minimum strength required by the laws of the United States, or of this State, the commanding officer of such company, troop, battery or detachment of the National Guard, State Guard or other authorized state military or naval force shall report to the Adjutant General the number of enlisted men required and in addition thereto a number equal to the loss expected during the succeeding 3 months, of enlisted men whose terms of active service expire during that period and who have signified their intention of not continuing in active service or reenlisting. The Adjutant General shall, upon receipt of such report, inform the Governor of the facts, and the Governor shall then draft from the unorganized militia of the town or city where such company, troop, battery or detachment is located, or from adjacent towns or cities, the number of men required to maintain such minimum strength, and in addition such number as he may deem necessary to allow for possible rejections. Such drafts shall be made by order of the Governor directed to the selectmen of the town or the mayor of the city where such company, troop, battery or detachment is located, or to the selectmen of adjacent towns or the mayors of adjacent cities, who shall, within 5 days, transmit to the Adjutant General a list containing the names of all persons in such towns or cities between the ages of 18 and 45, who are subject by law to military enrollment. The Adjutant General or some officer detailed by him shall prepare slips upon which shall be placed the names of all persons on such list and within 5 days after the receipt of such list, the Adjutant General or some officer detailed by him shall, in the presence of one of the selectmen or some other official of such towns or the mayors or other officials of such cities, place such slips in a box and draw therefrom the number required by said draft. All men whose



names are so drawn shall be ordered by the Adjutant General to report to the commanding officer of such company, troop, battery or detachment at a certain time and place and submit to the necessary physical examination. Such orders shall be in writing and a copy thereof shall be served upon each man so drafted by a sheriff, other proper officer or indifferent person, at least 6 days before the time designated for reporting to such commanding officer. From those who have passed such physical examination, a sufficient number of names shall be selected to fill all vacancies existing or expected at the date of draft, the method of selection being the same as provided, except that the Adjutant General shall be represented by the commanding officer of the company, troop, battery or detachment concerned and the drawing shall be made in the presence of those present subject to draft. All men so selected who do not volunteer to enlist shall thereupon be enrolled as members of the National Guard, State Guard or other authorized military or naval force for a period of one enlistment or for such time as the Governor may direct. All men so enrolled shall be considered as regularly enlisted and shall be subject to all federal and state laws, regulations and discipline governing the National Guard, State Guard or other authorized state military or naval force. Any person so drafted, in any order to report, as provided, who, having been personally served with a copy of such order, shall fail to appear at the time and place designated by such order or who shall fail to present to such commanding officer a sworn certificate from a physician in good standing, of physical disability, shall be punished by a fine of not less than \$10 nor more than \$50, for each day he shall fail to appear. The courts of this State shall have jurisdiction of all prosecutions under this section. All men having an honorable record of prior service in the United States Army, Air Force, Navy, Marine Corps or in the National Guard of the United States may be exempt from compulsory service under this section. Nothing under this section shall be construed as authorizing a change in the status of any person registered under the Federal Selective Service Law.

R.S.1954, c. 14, § 28.

### § 1002. Civilian cooks

The Commander in Chief may authorize the employment of cooks, to the number fixed in chapters 121 to 139, in organizations in which there are vacancies in enlisted cooks when such organizations are on duty under his orders or are called upon in aid of the civil authorities. The Commander in Chief may au-

thorize the employment and prescribe the number of cooks for all headquarters and organizations for which the enlistment of cooks is not authorized by chapters 121 to 139. Cooks during such employment shall be subject to the laws and regulations for the government of the National Guard and shall receive the same pay as enlisted cooks.

R.S.1954, c. 14, § 29.

#### **SUBCHAPTER IV**

#### **COMPENSATION**

Sec.

1041. Pay and allowance.

1042. Special allowance.

#### **§ 1041. Pay and allowance**

Each officer and enlisted man of the National Guard or other authorized state military or naval forces ordered by the Commander in Chief or under his authority for duty at encampments, maneuvers, field exercises, small arms competitions or other special duties or when called forth in aid of the civil authorities, shall, unless otherwise stated in specific orders relative to said duty, receive for every day actually on duty the same pay and allowances as officers, warrant officers and enlisted men of the same arm of service, grade and classification in the national military establishment, and no more, provided that all band musicians shall be paid not less than \$6 per day and there shall be allowed the necessary transportation, but no pay or compensation shall be allowed except as otherwise provided by law when ordered for inspection, muster, small arms practice, drill, parade, review, field service or practice marches or other special duties unless expressly authorized in the order for such duties.

When the National Guard or other authorized state military or naval forces, or any portion thereof, shall be called forth in aid of the civil authorities, or assembled in obedience to such calls, as provided for in section 703, all officers and men thereof shall receive the pay set forth in this section.

When ordered on special duty, or authorized to go on special duty, officers and enlisted men of the National Guard, State Guard or other authorized state military or naval forces shall receive compensation for their expenses while on such duty at an allowance based on the allowance allowed by the Federal Govern-

ment to officers and enlisted men of the same grades while traveling on special duty.

R.S.1954, c. 14, § 52.

### § 1042. Special allowance

In addition to all other pay and allowances provided, there shall be allowed each company commander or other officer, who in the opinion of the Adjutant General is entitled to remuneration for care and responsibility of military property and satisfactory performance of military duties, not exceeding \$50 per year; each company clerk, and each company supply sergeant, not exceeding \$25 per year, when certified by the company commander.

To all officers ordered to make inspection or other journeys necessary in the military service, there shall be allowed all actual and necessary expenses incident to the performance of said service, including such incidental expenditures as are allowed by law and regulations to officers of the regular army when inspecting the organized militia.

Whenever deemed necessary, the Adjutant General may authorize the commutation of rations for enlisted men, which shall be at the rate fixed by the regulations of the United States Army in force at the time. He shall approve all other just and reasonable claims, payments and expenditures, legally made in behalf of the military service of the State.

R.S.1954, c. 14, § 53.

## SUBCHAPTER V

### DISABILITY COMPENSATION

Sec.

1081. Eligibility and amounts.

### § 1081. Eligibility and amounts

Any member of the National Guard or other authorized state military or naval forces who shall, when on duty or assembled therefor, in case of riot, tumult, breach of the peace, insurrection or invasion, or whenever called into active service of the State by order of the Governor, or called in aid of the civil authorities, or when participating by order of the Governor in any encampment, maneuvers or field instruction of any part of the regular army or air force at or near any military post or camp

or lake or seacoast defenses of the United States, or when participating by order of the Governor in practice marches or camps of instruction, or when assembled for any regular or special drill or other duty under the command of a superior officer, receive any injury, or incur or contract any disability or disease by reason of such duty or assembly, or who shall without willful negligence on his part receive any wound, injury or disease incident thereto while performing any lawfully ordered duty which shall incapacitate him from his usual business or occupation, shall receive compensation according to Title 39, and any amendments thereto, as an employee of this State. The average weekly wage in such cases shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged, and in case of death his dependents, if any, shall be entitled to compensation as provided in said Title 39. Any member of the National Guard or other authorized state military or naval forces who suffers injury or contracts disease, not the result of his own misconduct, while in attendance at a camp of instruction authorized by the national military establishment and ordered by the Governor, shall receive the pay provided in section 1041, while he remains in a federal pay status in lieu of the compensation provided for in this section.

R.S.1954, c. 14, § 55.