

Special Rights for Military Personnel

There are many federal and New York State laws that provide the legal basis for benefits to veterans and service members who are seeking employment, are employed or are seeking reemployment. Highlighted below are sections of law that are frequently referenced.

Federal Law Title 38 of the United States Code mandates basic rights for military service members and benefits for all veterans, which may be expanded upon by individual states. Chapter 113 of Title 38 of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provides significant employment and reemployment rights for all qualified military service members.

New York State Constitution Article V, Section 6 provides a basic definition of veteran and a veteran who is disabled, and allows additional credit for qualified veterans on an examination. This credit must be granted only at the time an eligible list is established, and it may be used for only one permanent appointment for New York State or local government.

New York State Civil Service Law Section 85 - Expands the definition of veteran and a veteran who is disabled, and prescribes the periods of time of war; outlines the procedures for the use of additional credit and its withdrawal; mandates a veterans' credit roster be maintained by civil service; and provides for preference in retention upon the abolition of positions.

Section 86 - Provides transfer rights for a veteran in a non-competitive or labor class title whose position is abolished.

Section 87 - Generally provides that a veteran cannot be disqualified from holding a position due to age or disability.

New York State Military Law Section 242 - (applies to organized militia or reserves) Defines public employee and ordered military duty; provides for leaves of absence from employment for military duty; protects certain rights of employees during leave of absence for military service. **Section 243** - (generally applies to regular armed forces filled by enlistment or selective service) Defines public employee and military duty; provides for leave of absence and reemployment; provides employment rights while on military duty; provides opportunity for make-up examinations; permits deduction of military service time from age where maximum age requirements are established; provides for preferred list or reemployment list eligibility where a government position is abolished. **Section 243-b(1)** - Provides for a special military make-up examination for a candidate who has filed an application for an examination and is deprived of the opportunity to take such examination due to active military duty in the armed forces of the United States. **Section 243-b(2) and (3)** - Provides all members of the armed forces who miss the application deadline for civil service examinations due to active military service with the ability to participate in either the scheduled examination holding or a make-up examination, subject to the policy of the civil service agency administering the examination. **Section 243-c** - Provides a special filing period for a person serving on active duty in the armed forces during the filing period for a civil service examination or a person who has been discharged with other than a dishonorable discharge after the filing period has commenced.

SPECIAL NOTE: Section 243 and the ongoing War on Terror Since September 11, 2001, many members of the National Guard and Reserves have been called to active federal military duty. Periods of duty may extend for a year or more and include service overseas. Provided such duty is not *temporary or gratuitous service in any reserve or auxiliary force*, the service member may be entitled to Section 243 merit system benefits.