

AMENDMENTS

2002—Pub. L. 107-295 substituted “separation” for “severance” in section catchline, added subsecs. (b) to (d), and struck out former subsec. (b) which read as follows: “Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months’ basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section until the total amount deducted equals the amount of the lump-sum payment.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-295, title IV, § 416(c), Nov. 25, 2002, 116 Stat. 2122, provided that: “The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) [amending this section and sections 283, 286a, and 327 of this title] shall take effect 4 years after the date of enactment of this Act [Nov. 25, 2002], except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) [amending the table of sections for this chapter] of this section shall take effect 4 years after the date of enactment of this Act.”

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(p) of Pub. L. 88-130 authorized officers who failed of selection for continuation to request their discharge with severance pay computed in accordance with this section.

§ 286a. Regular warrant officers: separation pay

(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

(c) In determining a member’s years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(d) The acceptance of severance pay under this section does not deprive a person of any retire-

ment benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay.

(Added Pub. L. 96-513, title V, § 505(a)(1), Dec. 12, 1980, 94 Stat. 2918; amended Pub. L. 102-190, div. A, title XI, § 1125(b)(1), Dec. 5, 1991, 105 Stat. 1505; Pub. L. 103-337, div. A, title V, § 541(f)(2), Oct. 5, 1994, 108 Stat. 2766; Pub. L. 105-383, title II, § 201(a), (b), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107-295, title IV, § 416(a)(4), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107-295 substituted “separation” for “severance” in section catchline, added subsecs. (a) to (c), and struck out former subsecs. (a) to (c) which related to, in subsec. (a), severance pay of a regular warrant officer of the Coast Guard who is separated under section 580(a)(4)(A) of title 10, in subsec. (b), severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10, and, in subsec. (c), the calculation of part of the year of service for the purposes of this section.

1998—Subsec. (b). Pub. L. 105-383, § 201(b), inserted before period at end “, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay”.

Subsec. (d). Pub. L. 105-383, § 201(a), struck out at end “However, no person is entitled to severance pay under this section in an amount that is more than \$15,000.”

1994—Subsec. (a). Pub. L. 103-337 substituted “section 580(a)(4)(A) of title 10” for “section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)”.

1991—Subsec. (a). Pub. L. 102-190 inserted “(as in effect on the day before the effective date of the Warrant Officer Management Act)” after “section 564(a)(3) of title 10”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-295 effective 4 years after Nov. 25, 2002, see section 416(c) of Pub. L. 107-295, set out as a note under section 286 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of Title 10, Armed Forces.

§ 287. Separation for failure of selection for promotion or continuation; time of

If, under section 282, 283, 284, 285, 289, or 290 of this title, the discharge or retirement of any officer would be required less than six months following approval of the report of the board which considered but did not select him for promotion or continuation, the discharge or retirement of such officer shall be deferred until the last day of the sixth calendar month after such approval.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 92-451, §1(6), Oct. 2, 1972, 86 Stat. 755.)

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1972—Pub. L. 92-451 inserted reference to section 290.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

§ 288. Regular captains; retirement

(a) Each officer of the Regular Coast Guard serving in the grade of captain whose name is not carried on an approved list of officers selected for promotion to the grade of rear admiral (lower half) shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he, or any captain junior to him on the active duty promotion list who has not lost numbers or precedence, completes thirty years of active commissioned service in the Coast Guard. An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.

(b) Retired pay computed under section 423(a) of this title of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 93-283, §1(8), May 14, 1974, 88 Stat. 140; Pub. L. 94-546, §1(25), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 96-342, title VIII, §813(f)(1), Sept. 8, 1980, 94 Stat. 1109; Pub. L. 97-417, §2(7), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99-348, title II, §205(b)(4), July 1, 1986, 100 Stat. 700; Pub. L. 99-661, div. A, title XIII, §1343(c), Nov. 14, 1986, 100 Stat. 3995.)

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1986—Subsec. (a). Pub. L. 99-661 substituted “rear admiral (lower half)” for “commodore”.

Subsec. (b). Pub. L. 99-348 substituted “Retired pay computed under section 423(a) of this title” for “Except as provided in section 423(b) of this title, the retired pay”.

1983—Subsec. (a). Pub. L. 97-417 substituted “commodore” for “rear admiral”.

1980—Subsec. (b). Pub. L. 96-342 substituted “Except as provided in section 423(b)” for “Notwithstanding section 423”.

1976—Subsec. (a). Pub. L. 94-546 substituted “promotion year” for “fiscal year”.

1974—Subsec. (a). Pub. L. 93-283 prohibited an involuntary retirement under this section of an officer ad-

vanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone earlier than if he had not been selected from below the zone.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-283 effective Sept. 24, 1963, see section 2 of Pub. L. 93-283, set out as a note under section 214 of this title.

RETIREMENT, RETIRED PAY, AND ELECTION OF ANNUITY AS AFFECTED BY PUB. L. 88-130

Savings provisions in section 5(f)–(h) of Pub. L. 88-130 relating to retirement, retirement pay, and election, change or revocation of election of an annuity, are set out as a note under section 211 of this title.

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(a) of Pub. L. 88-130 excluded officers subject to retirement under this section during the fiscal year the selection board convened from being continued on active duty.

§ 289. Captains; continuation on active duty; involuntary retirement

(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of rear admiral (lower half) or rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years' service in that grade and who have not been selected for promotion to the grade of rear admiral (lower half). Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.

(b) Whenever he convenes a board under this section, the Secretary shall establish a continuation zone. The zone shall consist of the most senior captains eligible for consideration for continuation on active duty who have not previously been placed in a continuation zone under this section. The Secretary shall, based upon the needs of the service, prescribe the number of captains to be included in the zone.

(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be no less than 50 percent of the number considered. The board shall select from the designated continuation zone, in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

(d) The provisions of sections 253, 254, 258, and 260 of this title relating to selection for promotion shall, to the extent that they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(e) The Secretary shall prescribe by regulation the detailed procedures whereby officers in a continuation zone will be selected for continuation on active duty.

(f) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in