

§ 362. Retirement in cases where higher grade or rating has been held

Any enlisted member who is retired under any provision of section 353, 354, 355, or 357 of this title shall be retired from active service with the highest grade or rating held by him while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, but not lower than his permanent grade or rating.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 21, 64 Stat. 407; Pub. L. 97-295, § 2(9), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98-557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99-348, title II, § 205(b)(8), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Based on title 34, U.S.C., 1946 ed., § 3501(e) (July 24, 1941, ch. 320, § 10, 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28).

The requirement that the higher grade or rating be held prior to June 30, 1946, has been eliminated; this seems to be in line with the intent of Congress as expressed in section 303 of the act of June 29, 1948, ch. 708, 62 Stat. 1081. The act of July 24, 1941, 55 Stat. 605, was enacted primarily for application to Navy personnel but it is made applicable to Coast Guard personnel by its own terms (see title 34, U.S.C., 1946 ed., § 350j(b)). 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99-348 struck out “, with retired pay of the grade or rating with which retired” after “permanent grade or rating”.

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man.

1982—Pub. L. 97-295 substituted “of this title” for “of this chapter” after “357”.

1950—Act Aug. 3, 1950, struck out reference to section 356.

[§§ 363, 364. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 363, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 364, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

§ 365. Extension of enlistments

Under regulations prescribed by the Secretary, the term of enlistment of any enlisted member may, by voluntary written agreement, be extended and re-extended for a period not exceeding six full years from the date of expiration of the then-existing term of enlistment, and subsequent to such date an enlisted member who so extends his term of enlistment shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of his term of enlistment. However, the total of all such extensions of an enlistment may not exceed six years. No such extension shall operate to deprive the enlisted member concerned, upon discharge at the termination thereof, of any right, privilege, or benefit to which he would have been entitled if his term of enlistment had not been so extended.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Pub. L. 86-474, § 1(18), May 14, 1960, 74 Stat. 146; Pub. L. 98-557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 35 (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586).

Said section has been divided. Subsection (b) is placed in this section. The provisions of the first sentence of subsection (a) are placed in section 351 of this title. The proviso of subsection (a) is covered in section 367(b) of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered in section 366 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man in three places.

1960—Pub. L. 86-474 increased maximum term for extension of a reenlistment period from four to six years.

§ 366. Retention beyond term of enlistment in case of disability

Any enlisted member of the Coast Guard in the active service whose term of enlistment expires while he is suffering disease or injury incident to service and not due to misconduct, and who is in need of medical care or hospitalization, may, with his consent, be retained in such service beyond the expiration of his term of enlistment. Any such enlisted member shall be entitled to receive at Government expense medical care or hospitalization and his pay and allowances, including credit for longevity, until he shall have recovered to such extent as would enable him to meet the physical requirements for reenlistment, or until it shall have been ascertained by competent authority of the Coast Guard that the disease or injury is of a character that recovery to such an extent would be impossible. Any enlisted member whose enlistment is so extended shall be subject to forfeitures in the same manner and to the same extent as if his term of enlistment had not expired. Nothing contained in this section shall prevent any enlisted member from being held in the service without his consent under section 367 of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Pub. L. 98-557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 35b (Dec. 12, 1941, ch. 566, 55 Stat. 797).

The parenthetical part, which has no application insofar as the Coast Guard is concerned, has been eliminated.

Inasmuch as the act cited above applies equally to the Army, Navy, and Marine Corps, as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 14 of this act to eliminate reference to the Coast Guard.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man in four places.

§ 367. Detention beyond term of enlistment

Under regulations prescribed by the Secretary, an enlisted member may be detained in the Coast Guard beyond the term of his enlistment:

(1) until the first arrival of the vessel on which he is serving at its permanent station, or at a port in a State of the United States or in the District of Columbia; or

(2) if attached to a shore station beyond the continental limits of the United States or in Alaska, until his first arrival at a port in any State of the United States or in the District of Columbia where his reenlistment or discharge may be effected, or until he can be discharged or reenlisted at his station beyond the continental limits of the United States or in Alaska, whichever is earlier, but in no event to exceed three months; or

(3) during a period of war or national emergency as proclaimed by the President, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency; or

(4) for a period of not exceeding thirty days in other cases whether or not specifically covered by this section, when essential to the public interests, and the determination that such detention is essential to the public interests, made in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

Any member detained in the Coast Guard as provided in this section shall be entitled to receive pay and allowances and benefits under the same conditions as though his enlistment period had not expired, and shall be subject in all respects to the laws and regulations for the government of the Coast Guard until his discharge therefrom. Enlisted members detained under the provisions of clause (1) shall be entitled to the pay and allowances provided for enlisted personnel of the Navy detained under similar circumstances.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Aug. 3, 1950, ch. 536, § 22, 64 Stat. 407; July 24, 1956, ch. 692, §§ 2(4), 3, 70 Stat. 631; Pub. L. 98-557, §§ 15(a)(3)(A), (C), 17(b)(4), Oct. 30, 1984, 98 Stat. 2865, 2868.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 35, 35a, 35c (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586; Aug. 18, 1941, ch. 364, § 3, 55 Stat. 629; Dec. 13, 1941, ch. 570, § 5, 55 Stat. 799).

Section 35 of title 14, U.S.C., 1946 ed., has been divided. The proviso of subsection (a) is covered by subsection (b) of this section. Subsections (c) and (d) are placed in subsection (a) of this section, except that part (3) of subsection (c) is covered in section 366 of this title. The first sentence of subsection (a) is placed in section 351 of this title. Subsection (b) is placed in section 365 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98-557 struck out subsec. “(a)” designation; in provisions preceding cl. (1) substituted “enlisted member” for “enlisted man”; and in provisions following cl. (4) substituted “member detained” for “person detained”, “Enlisted members” for “Enlisted men”, and “clause (1)” for “(1) of this subsection”.

1956—Subsec. (a). Act July 24, 1956, §§ 2(4), 3, repealed cl. (3) permitting detention of enlisted members beyond term of their enlistment while waiting disciplinary action or trial and disposition of their case, struck out provisions prohibiting payment of pay or allowances

for any period beyond term of enlistment if trial of such members results in conviction, and redesignated cls. (4) and (5) as (3) and (4), respectively. See section 972(a) of Title 10, Armed Forces.

Subsecs. (b), (c). Act July 24, 1956, § 2(4), repealed subsecs. (b) and (c) which required enlisted members to make good time lost by unauthorized absence from duty, or by confinement under sentence or pending trial, or by reason of sickness resulting from misconduct. See section 972(a) of Title 10.

1950—Subsec. (c). Act Aug. 3, 1950, added subsec. (c).

DELEGATION OF AUTHORITY

For delegation of authority under this section, as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, to Secretary of Homeland Security when Coast Guard is not serving as part of Navy, see section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 368. Repealed. Pub. L. 97-322, title I, § 115(b)(1), Oct. 15, 1982, 96 Stat. 1585]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 524, related to discharge in case of under-age enlistment.

§ 369. Inclusion of certain conditions in enlistment contract

The enlistment contract shall contain the substance of sections 365 to 368, inclusive, of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

It is believed desirable to have the provisions specified included in the enlistment contract, as they include certain privileges and obligations that any man should clearly understand before enlisting. 81st Congress, House Report No. 557.

§ 370. Discharge within three months before expiration of enlistment

Under regulations prescribed by the Secretary, any enlisted member may be discharged at any time within three months before the expiration of his term of enlistment or extended enlistment without prejudice to any right, privilege, or benefit that he would have received, except pay and allowances for the unexpired period not served, or to which he would thereafter become entitled, had he served his full term of enlistment or extended enlistment.

(Added June 8, 1955, ch. 136, § 2, 69 Stat. 88; amended Pub. L. 98-557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

AMENDMENTS

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man.

§ 371. Aviation cadets; procurement; transfer

(a) The grade of aviation cadet is established as a special enlisted grade in the Coast Guard. Under such regulations as the Secretary prescribes, citizens in civil life may be enlisted as, and enlisted members of the Coast Guard with their consent may be designated as, aviation cadets.

(b) Except in time of war or national emergency declared by Congress, not less than 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Coast Guard.