(2) No award may be accepted for the routine functions of the Academy.

(Added Pub. L. 103–206, title III, § 305(a), Dec. 20, 1993, 107 Stat. 2424.)

§ 197. Cadets: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Homeland Security shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108–375, div. A, title V, § 545(d)(1), Oct. 28, 2004, 118 Stat. 1909.)

§ 198. Coast Guard history fellowships

(a) FELLOWSHIPS.—The Commandant of the Coast Guard may prescribe regulations under which the Commandant may award fellowships in Coast Guard history to individuals who are eligible under subsection (b).

(b) ELIGIBLE INDIVIDUALS.—An individual shall be eligible under this subsection if the individual is a citizen or national of the United States and—

(1) is a graduate student in United States history;

(2) has completed all requirements for a doctoral degree other than preparation of a dissertation; and

(3) agrees to prepare a dissertation in a subject area of Coast Guard history determined by the Commandant.

(c) LIMITATIONS.—The Commandant may award up to 2 fellowships annually. The Commandant may not award any fellowship under this section that exceeds $25,000 in any year.

(d) REGULATIONS.—The regulations prescribed under this section shall include—

(1) the criteria for award of fellowships;

(2) the procedures for selecting recipients of fellowships;

(3) the basis for determining the amount of a fellowship; and

(4) subject to the availability of appropriations, the total amount that may be awarded as fellowships during an academic year.

(Added Pub. L. 109–241, title II, § 209(a), July 11, 2006, 120 Stat. 522.)

CHAPTER 11—PERSONNEL

OFFICERS

A. APPOINTMENTS

Sec.
211. Original appointment of permanent commissioned officers.
[212, 213. Repealed.]
214. Appointment of temporary officers.
215. Rank of warrant officers.
216. Director of Boating Safety Office [1]
[221 to 248. Repealed.]

B. SELECTION FOR PROMOTION

251. Selection boards; convening of boards.
252. Selection boards; composition of boards.
253. Selection boards; notice of convening; communication with board.
254. Selection boards; oath of members.
255. Number of officers to be selected for promotion.
256. Promotion zones.
256a. Promotion year; defined.
257. Eligibility of officers for consideration for promotion.
258. Selection boards; information to be furnished boards.
259. Officers to be recommended for promotion.
260. Selection boards; reports.
261. Selection boards; submission of reports.
262. Failure of selection for promotion.

C. PROMOTIONS

271. Promotions; appointments.
272. Removal of officer from list of selectees for promotion.
273. Promotions; acceptance; oath of office.
274. Promotions; pay and allowances.
275. Wartime temporary service promotions.
276. Promotion of officers not included on active duty promotion list.
[277. Repealed.]

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

281. Revocation of commissions during first five years of commissioned service.
282. Regular lieutenants (junior grade); separation for failure of selection for promotion.
283. Regular lieutenants; separation for failure of selection for promotion; continuation.
284. Regular Coast Guard; officers serving under temporary appointments.
285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion.
286. Discharge in lieu of retirement; separation pay.
286a. Regular warrant officers: separation pay.
287. Separation for failure of selection for promotion or continuation; time of.
288. Regular captains; retirement.
289. Captains; continuation on active duty; involuntary retirement.
290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement.
291. Voluntary retirement after twenty years' service.
292. Voluntary retirement after thirty years' service.
293. Compulsory retirement at age of sixty-two.
294. Retirement for physical disability after selection for promotion; grade in which retired.
295. Deferment of retirement or separation for medical reasons.
[301 to 315. Repealed.]

E. SEPARATION FOR CAUSE

321. Review of records of officers.
322. Boards of inquiry.
323. Boards of review.
324. Composition of boards.
325. Rights and procedures.
326. Removal of officer from active duty; action by Secretary.

[1] So in original. Probably should be followed by a period.

Sec.
327. Officers considered for removal; retirement or discharge; separation benefits.

F. MISCELLANEOUS PROVISIONS

331. Recall to active duty during war or national emergency.
332. Recall to active duty with consent of officer.
333. Relief of retired officer promoted while on active duty.
334. Grade on retirement.
335. Physical fitness of officers.
336. United States Coast Guard Band; composition; director.

ENLISTED MEMBERS

350. Recruiting campaigns.
351. Enlistments; term, grade.
352. Promotion.
353. Compulsory retirement at age of sixty-two.
354. Voluntary retirement after thirty years' service.
355. Voluntary retirement after twenty years' service.
[356. Repealed.]
357. Involuntary retirement of enlisted members.
[358. Repealed.]
359. Recall to active duty during war or national emergency.
360. Recall to active duty with consent of member.
361. Relief of retired enlisted member promoted while on active duty.
362. Retirement in cases where higher grade or rating has been held.
[363, 364. Repealed.]
365. Extension of enlistments.
366. Retention beyond term of enlistment in case of disability.
367. Detention beyond term of enlistment.
[368. Repealed.]
369. Inclusion of certain conditions in enlistment contract.
370. Discharge within three months before expiration of enlistment.
371. Aviation cadets; procurement; transfer.
372. Aviation cadets; benefits.
373. Aviation cadets; appointment as Reserve officers.
374. Critical skill training bonus.

GENERAL PROVISIONS

421. Retirement.
422. Status of recalled personnel.
423. Computation of retired pay.
424. Limitations on retirement and retired pay.
424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.
425. Board for Correction of Military Records deadline.

SPECIAL PROVISIONS

[431. Repealed.]
432. Personnel of former Lighthouse Service.
[433 to 440. Repealed.]

HISTORICAL AND REVISION NOTES

This chapter, dealing with the appointment, enlistment, promotion, retirement and recall of all military personnel, covers subject matter which has been greatly affected by war-time legislation and, therefore, has required rather extensive rewriting of existing law in order to correlate all of the various provisions. An attempt has been made to provide for enlisted men and warrant officers in a manner similar to the way that commissioned officers are provided for; for example, the act of February 21, 1946, ch. 34, 60 Stat. 29 (title 14, U.S.C., 1946 ed., §162a), made provision for the retirement of commissioned officers on half pay after twenty years naval service, and a prewar statute provided for twenty year retirement of enlisted men on half pay. This leaves warrant officers the only military group not eligible for retirement in twenty years, and a provision such as found in section 305 of this title, granting such retirement, seems clearly indicated in order to avoid unjust discrimination.

The subject matter seemed to break down into the sub-heads of ''Commissioned Officers'', ''Warrant Officers'', ''Enlisted Men'', and ''General Provisions''. Each of the first three sub-heads parallels the other two, insofar as the applicability of statutes of the three groups permits. The last sub-head includes the broad provisions which, in the same terms, can be made applicable to all military personnel. In accord with existing Navy and Coast Guard law, the term ''commissioned officer'' includes commissioned warrant officers unless specifically excepted, or manifestly inapplicable. Heretofore Coast Guard statutes have designated commissioned warrant officers as chief warrant officers; in line with Navy designation it is changed to commissioned warrant officers throughout this title. Terms such as ''Coast Guard personnel'' or ''personnel of the Coast Guard'', as used throughout this title, are intended to include all employees of the Service, civilian and military. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Pub. L. 109–241, title II, §215(b), July 11, 2006, 120 Stat. 525, added item 216.

2004—Pub. L. 108–293, title II, §204(b), Aug. 9, 2004, 118 Stat. 1032, added item 374.

2002—Pub. L. 107–295, title IV, §§416(b), 444(b), Nov. 25, 2002, 116 Stat. 2122, 2133, substituted ''five'' for ''three'' in item 281 and ''separation'' for ''severance'' in items 286, 286a, and 327 and added item 424a.

1996—Pub. L. 104–324, title II, §§209(b), 210(b), 211(b), Oct. 19, 1996, 110 Stat. 3914, 3915, substituted ''Appointment'' for ''Original appointment'' in item 214, struck out item 277 ''Temporary promotions of warrant officers'', and added item 425.

1994—Pub. L. 103–337, div. A, title V, §541(e)(2), (f)(5)(B), Oct. 5, 1994, 108 Stat. 2766, 2767, struck out items 212 ''Original appointment of permanent commissioned warrant officers'' and 213 ''Original appointment of permanent warrant officers (W–1)'' and added item 215.

1991—Pub. L. 102–241, §6(b), Dec. 19, 1991, 105 Stat. 2212, substituted ''Involuntary retirement of enlisted members'' for ''Enlisted Personnel Board'' in item 357.

1986—Pub. L. 99–640, §10(a)(6)(B), Nov. 10, 1986, 100 Stat. 3549, struck out items 431, 433, 434, and 438.

1985—Pub. L. 99–145, title V, §514(c)(2)(B), Nov. 8, 1985, 99 Stat. 629, substituted ''rear admirals (lower half)'' for ''commodores'' in item 290.

1984—Pub. L. 98–557, §§15(a)(4)(B)(ii), (C)(ii), (E)(ii), 17(b)(2)(B), Oct. 30, 1984, 98 Stat. 2865, 2866, 2867, added item 295, in heading preceding item 350 substituted ''MEMBERS'' for ''MEN'', in item 360 substituted ''member'' for ''man'', and in item 361 substituted ''enlisted member'' for ''man''.

1983—Pub. L. 97–417, §2(9)(B), Jan. 4, 1983, 96 Stat. 2086, inserted ''and commodores'' after ''Rear admirals'' in item 290.

1982—Pub. L. 97–322, title I, §115(b)(2), Oct. 15, 1982, 96 Stat. 1585, struck out item 368.

1980—Pub. L. 96–513, title V, §505(a)(2), Dec. 12, 1980, 94 Stat. 2918, added item 286a.

1976—Pub. L. 94–546, §1(18), Oct. 18, 1976, 90 Stat. 2520, added item 256a.

1972—Pub. L. 92–451, §1(9), Oct. 2, 1972, 86 Stat. 757, substituted ''continuation on active duty'' for ''retention on the active list'' in item 290.

1966—Pub. L. 89–444, §1(25), June 9, 1966, 80 Stat. 197, substituted ''Grade on retirement'' for ''Retirement in cases where higher grade has been held'' in item 334, and added items 371, 372, and 373.

1965—Pub. L. 89–189, §1(2), Sept. 17, 1965, 79 Stat. 820, added item 336.

1963—Pub. L. 88–130, §§1(9), (10)(B), 4(c), Sept. 24, 1963, 77 Stat. 175, 177, 193, added items 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, struck out items 221 to 248, 301 to 313a, 435 to 437, 439, and 440, and struck out headings ''COMMISSIONED OFFICERS'' and ''WARRANT OFFICERS'' which preceded sections 221 and 301, respectively, of this title.

Pub. L. 88–114, §1(3), Sept. 6, 1963, 77 Stat. 144, struck out item 358.

1959—Pub. L. 86–155, §10(a)(2), Aug. 11, 1959, 73 Stat. 338, struck out items 239 and 309.

1958—Pub. L. 85–861, §33(b)(2), Sept. 2, 1958, 72 Stat. 1567, added item 440.

1957—Pub. L. 85–144, §§2(b), 3, Aug. 14, 1957, 71 Stat. 367, added item 313a and struck out items 303, 304, 305, 307, 308, and 313.

1956—Act Aug. 10, 1956, ch. 1041, §§7(b), 8(b), 9(b), 70A Stat. 620, 623, added items 350 and 435 to 438, and substituted ''Enlistments; term, grade'' for ''Enlistments'' in item 351.

Act July 20, 1956, ch. 647, §3(b), 70 Stat. 588, added item 439.

1955—Act Aug. 9, 1955, ch. 684, §1(1), 69 Stat. 620, added items 245 to 248.

Act June 8, 1955, ch. 136, §1, 69 Stat. 88, added item 370.

1950—Act Aug. 3, 1950, ch. 536, §4, 64 Stat. 406, struck out items 233, 245, 246, 306, 314, 315, 356, 363, 364, and 425.

YEAR-END STRENGTH FOR ACTIVE DUTY PERSONNEL AND AVERAGE MILITARY TRAINING STUDENT LOADS FOR EACH FISCAL YEAR AFTER FISCAL YEAR 1977; AUTHORIZATION AND APPROPRIATIONS

Pub. L. 94–406, §6, Sept. 10, 1976, 90 Stat. 1236, which had required that Congress set the active duty end strength and average training student loads for each fiscal year for the Coast Guard, appropriations for those years not to be spent relating to those areas until Congress made such determination, was repealed and reenacted as section 661 of this title by Pub. L. 97–295, §§2(20)(A), 6(b), Oct. 12, 1982, 96 Stat. 1302, 1314.

OFFICERS

A. APPOINTMENTS

§211. Original appointment of permanent commissioned officers

(a)(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualification, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

(A) Graduates of the Coast Guard Academy.

(B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.

(C) Members of the Coast Guard Reserve who have served at least 2 years as such.

(D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

(2) Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.

(b) No person shall be appointed a commissioned officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 177; amended Pub. L. 89–444, §1(11), June 9, 1966, 80 Stat. 196; Pub. L. 98–557, §15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 109–241, title II, §217(a), July 11, 2006, 120 Stat. 525.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–241 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to Presidential appointment of commissioned officers in the Regular Coast Guard in grades of ensign or above.

1984—Subsec. (a)(2). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men.

1966—Subsec. (a)(4). Pub. L. 89–444 substituted ''two years'' for ''four years''.

SAVINGS PROVISION

Section 5 of Pub. L. 88–130, as amended by Pub. L. 89–444, §3, June 9, 1966, 80 Stat. 198, provided that:

''(a) Officers in each grade who have been recommended as qualified for temporary promotion under laws and regulations in effect the day before the effective date of this Act [Sept. 24, 1963] but not promoted to the grade for which they were recommended shall be placed on a list of selectees in order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under this Act [enacting sections 41a, 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, of this title amending sections 42, 44, 46, 47, 190, 433, 759a, and 791 of this title, and enacting provisions set out as notes under sections 262, 285, and 289 of this title, and repealing sections 221 to 248, 301 to 313a, 435 to 437, 439, and 440 of this title, and act Sept. 21, 1961, 75 Stat. 538, set out as a note under section 435 of this title].

''(b) Officers who have been recommended for promotion to the grade of rear admiral under laws and regulations in effect the day before the effective date of this Act but have not been promoted to that grade shall be promoted as if they had been so recommended in the approved report of a selection board convened under this Act.

''(c) The enactment of this Act does not terminate the appointment of any officer.

''(d) An officer of the Regular Coast Guard who on the day before the effective date of this Act had been promoted to and was serving on active duty in a temporary grade higher than his permanent grade shall be considered to have been promoted to that grade under section 271 of title 14, United States Code.

''(e) An officer of the Regular Coast Guard who was appointed as a temporary commissioned officer under any provision of law in effect prior to the effective date of this Act and who is serving on active duty shall be considered to have been appointed under section 214 of title 14, United States Code, and subject to the provisions thereof. An officer of the Regular Coast Guard who was appointed as a permanent commissioned officer under any provision of law in effect prior to the effective date of this Act [Sept. 24, 1963], and who is serving on active duty shall be considered to have been appointed under section 211 of title 14, United States Code, and subject to the provisions thereof.

''(f) Each officer who would have been required to retire on June 30, 1962, under the provisions of section 288 of title 14, United States Code, had that section been in

effect on that date, shall be retired on the last day of the sixth month following the month in which this Act becomes effective. If, under section 288 of title 14, United States Code, the retirement of any other officer would be required after June 30, 1962, but less than six months following the effective date of this Act, his retirement shall be deferred until the last day of the twelfth month following the month in which this Act becomes effective, or June 30, 1964, whichever is earlier.

''(g) The enactment of this Act does not increase or decrease the retired pay of any person retired on or prior to the effective date of this Act.

''(h) Notwithstanding section 1431 of title 10, United States Code, an original election, change, or revocation of an election, made under that section by an officer who is retired under the provisions of section 282, 283, 284, 285, or 288 of title 14, United States Code, is effective if made prior to the first day of the third month following the month in which this Act is enacted [September 1963].''

[§§ 212, 213. Repealed. Pub. L. 103–337, div. A, title V, § 541(f)(5)(A), Oct. 5, 1994, 108 Stat. 2767]

Section 212, added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 177; amended Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865, related to original appointment of permanent commissioned warrant officers in Coast Guard. See section 571 et seq. of Title 10, Armed Forces.

Section 213, added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178; amended Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865, related to original appointment of permanent warrant officers (W–1) in Coast Guard. See section 571 et seq. of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1994 Amendment note under section 571 of Title 10, Armed Forces.

§ 214. Appointment of temporary officers

(a) The President may appoint temporary commissioned officers in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.

(c) An appointment under this section, or a subsequent promotion appointment of a temporary officer, may be vacated by the appointing officer at any time. Each officer whose appointment is so vacated shall revert to his permanent status.

(d) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178; amended Pub. L. 89–444, § 1(12)–(14), June 9, 1966, 80 Stat. 196; Pub. L. 93–283, § 1(5), May 14, 1974, 88 Stat. 140; Pub. L. 96–376, § 6, Oct. 3, 1980, 94 Stat. 1509; Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 103–337, div. A, title V, § 541(f)(6), Oct. 5, 1994, 108 Stat. 2767; Pub. L. 104–324, title II, § 211(a), Oct. 19, 1996, 110 Stat. 3915.)

AMENDMENTS

1996—Pub. L. 104–324, § 211(a)(1), substituted ''Appointment'' for ''Original appointment'' in section catchline.

Subsec. (b). Pub. L. 104–324, § 211(a)(2), redesignated subsec. (d) as (b).

Subsec. (c). Pub. L. 104–324, § 211(a)(2), (3), redesignated subsec. (e) as (c) and inserted '', or a subsequent promotion appointment of a temporary officer,'' after ''section''.

Subsecs. (d) to (f). Pub. L. 104–324, § 211(a)(2), redesignated subsecs. (d) to (f) as (b) to (d), respectively.

1994—Subsecs. (b), (c). Pub. L. 103–337 struck out subsecs. (b) and (c) which read as follows:

''(b) The President may appoint temporary commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the warrant officers and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.

''(c) The Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard, as the needs of the Coast Guard require, from among the enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.''

1984—Subsecs. (a) to (c). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men wherever appearing.

1980—Subsec. (d). Pub. L. 96–376 substituted prohibition against any reduction in rate of pay and allowances of temporary officer appointee to which appointee would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade for prior prohibition against reduction in pay and allowances to which appointee was entitled because of his permanent status at the time of his temporary appointment, or any reduction in pay and allowances to which appointee was entitled under a prior temporary appointment in a lower grade.

1974—Subsec. (d). Pub. L. 93–283 prohibited any reduction in the pay and allowances to which a temporary officer was entitled under a prior temporary appointment in a lower grade.

1966—Subsec. (a). Pub. L. 89–444, § 1(12), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned officers for the Regular Coast Guard not above lieutenant.

Subsec. (b). Pub. L. 89–444, § 1(13), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned warrant officers for the Regular Coast Guard.

Subsec. (c). Pub. L. 89–444, § 1(14), added licensed officers of the United States merchant marine to the group from which the Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard.

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 1974 AMENDMENT

Section 2 of Pub. L. 93–283 provided that: ''Paragraphs (5) and (8) of section 1 of this Act [amending this sec-

tion and section 288 of this title] are effective as of the original date of enactment [Sept. 24, 1963] of the sections thereby amended.''

TEMPORARY APPOINTMENTS PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(e) of Pub. L. 88–130 considering officers appointed with temporary commissions prior to Sept. 24, 1963, as appointed under this section, are set out as a note under section 211 of this title.

§ 215. Rank of warrant officers

(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.

(Added Pub. L. 103–337, div. A, title V, § 541(e)(1), Oct. 5, 1994, 108 Stat. 2766.)

EFFECTIVE DATE

Section 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 an Effective Date of 1994 Amendment note under section 571 of Title 10, Armed Forces.

§ 216. Director of Boating Safety Office

The initial appointment of the Director of the Boating Safety Office shall be in the grade of Captain.

(Added Pub. L. 109–241, title II, § 215(a), July 11, 2006, 120 Stat. 525.)

[§§ 221 to 232. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 221, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized filling of vacancies in active list of regular commissioned officers. See sections 251, 271(b) of this title.

Section 222, acts Aug. 4, 1949, ch. 393, 63 Stat. 512; May 14, 1960, Pub. L. 86–474, § 1(16), 74 Stat. 146, related to promotion to flag rank. See section 256 of this title.

Section 223, act Aug. 4, 1949, ch. 393, 63 Stat. 512, related to methods and criteria used in filling of vacancies by promotion. See sections 271, 294, and 335, of this title.

Section 224, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized filling of vacancies by appointment. See section 211 et seq. of this title.

Section 225, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized President to make permanent appointments. See section 571 et seq. of Title 10, Armed Forces.

Section 226, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized appointment of temporary commissioned officers. See section 214 of this title.

Section 227, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; May 5, 1950, ch. 169, § 15, 64 Stat. 148, related to promotion and discharge of temporary commissioned officers. See sections 275, 284 of this title.

Section 228, act Aug. 4, 1949, ch. 393, 63 Stat. 514, authorized appointment of commissioned warrant officers. See section 571 et seq. of Title 10, Armed Forces.

Section 229, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to revocation of commissions during first three years of service. See section 281 et seq. of this title.

Section 230, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; May 29, 1954, ch. 249, § 19(h), 68 Stat. 167, related to compulsory retirement of commissioned officers, with exception of commissioned warrant officers, at age 62. See section 293 of this title.

Section 231, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to voluntary retirement after 30 years service. See section 292 of this title.

Section 232, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; Aug. 4, 1955, ch. 553, § 2, 69 Stat. 493, related to voluntary retirement after 20 years service. See section 291 of this title.

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

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 234 to 238. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 234, acts Aug. 4, 1949, ch. 393, 63 Stat. 515; Aug. 3, 1950, ch. 536, § 5, 64 Stat. 406, related to retirement for failure in physical examination for promotion. See section 294 of this title.

Section 235, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to designation and assembly of a personnel board, its procedure and its recommendations. See sections 251 to 254 of this title.

Section 236, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 30 years' service.

Section 237, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 10 years' service.

Section 238, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to voluntary retirement when out of line of promotion.

[§ 239. Repealed. Pub. L. 86–155, § 10(a)(1), Aug. 11, 1959, 73 Stat. 338]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 516; Aug. 3, 1950, ch. 536, § 6, 64 Stat. 406, authorized advancement to a higher grade upon retirement in case of special commendation.

EFFECTIVE DATE OF REPEAL

Section 10(b) of Pub. L. 86–155 provided that repeal of this section and section 309 of this title shall become effective on Nov. 1, 1959.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 240 to 244. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 240, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 7, 64 Stat. 407, authorized recall of retired officers in time of war or national emergency. See section 331 of this title.

Section 241, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 8, 64 Stat. 407, related to recall to active duty with the consent of the officer. See section 332 of this title.

Section 242, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 9, 64 Stat. 407, related to relief of retired officers promoted while on active duty. See section 333 of this title.

Section 243, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 10, 64 Stat. 407; Aug. 14, 1957, Pub. L. 85–144, § 1, 71 Stat. 366, related to retirement in cases where a higher grade has been held. See section 334 of this title.

Section 244, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to resignation when out of line of promotion.

[§§ 245, 246. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 245, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 246, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 247, 248. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 247, added act Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620; amended May 14, 1960, Pub. L. 86–474, § 1(17), 74 Stat. 146, related to involuntary retirement of rear admirals and to their retention on active list. See section 290 of this title.

Section 248, added act Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620, related to involuntary retirement of captains and to their retention on active list. See section 289 of this title.

B. SELECTION FOR PROMOTION

§ 251. Selection boards; convening of boards

At least once a year and at such other times as the needs of the service require, the Secretary shall convene selection boards to recommend for promotion to the next higher grade officers on the active duty promotion list in each grade from lieutenant (junior grade) through captain, with separate boards for each grade. However, the Secretary is not required to convene a board to recommend officers for promotion to a grade when no vacancies exist in the grade concerned, and he estimates that none will occur in the next twelve months.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178.)

§ 252. Selection boards; composition of boards

A board convened under section 251 of this title shall consist of five or more officers on the active duty promotion list who are serving in or above the grade to which the board may recommend officers for promotion. No officer may be a member of two successive boards convened to consider officers of the same grade for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 253. Selection boards; notice of convening; communication with board

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, the officers eligible for consideration, and the number of officers the board may recommend for promotion shall be given to the service at large.

(b) Each officer eligible for consideration by a selection board convened under section 251 of this title may send a communication through official channels to the board, to arrive not later than the date the board convenes, inviting attention to any matter of record in the armed forces concerning himself. A communication sent under this section may not criticize any officer or reflect upon the character, conduct, or motive of any officer.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179; amended Pub. L. 89–444, § 1(15), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–444 added officers eligible for consideration to list of items for which notice must be given to the service at large before a board is convened under section 251 of this title.

§ 254. Selection boards; oath of members

Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed upon him.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 255. Number of officers to be selected for promotion

Before convening a board under section 251 of this title to recommend officers for promotion to any grade, the Secretary shall determine the total number of officers to be selected for promotion to that grade. This number shall be equal to the number of vacancies existing in the grade, plus the number of additional vacancies estimated for the next twelve months, less the number of officers on the selection list for the grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 256. Promotion zones

(a) Before convening a selection board to recommend officers for promotion to any grade above lieutenant (junior grade) and below rear admiral (lower half), the Secretary shall establish a promotion zone for the grade to be considered. The promotion zone for each grade shall consist of the most senior officers of that grade on the active duty promotion list who are eligible for consideration for promotion to the next higher grade and who have not previously been placed in a promotion zone for selection for promotion to the next higher grade. The number of officers in each zone shall be determined after considering—

(1) the needs of the service;

(2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and

(3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

However, such number of officers shall not exceed the number to be selected for promotion divided by six-tenths.

(b) Promotion zones from which officers will be selected for promotion to the grade of rear admiral (lower half) shall be established by the Secretary as the needs of the service require.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179; amended Pub. L. 89–444, § 1(16), June 9,

1966, 80 Stat. 196; Pub. L. 97–417, § 2(3), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 99–661, div. A, title XIII, § 1343(c), Nov. 14, 1986, 100 Stat. 3995.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–661 substituted ''rear admiral (lower half)'' for ''commodore''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsecs. (a), (b). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral''.

1966—Subsec. (a). Pub. L. 89–444 limited promotion zone by requiring that list of officers under consideration be officers eligible for consideration for promotion to next higher grade.

§ 256a. Promotion year; defined

For the purposes of this chapter, ''promotion year'' means the period which commences on July 1 of each year and ends on June 30 of the following year.

(Added Pub. L. 94–546, § 1(17), Oct. 18, 1976, 90 Stat. 2520.)

§ 257. Eligibility of officers for consideration for promotion

(a) An officer on the active duty promotion list becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

(1) two years in the grade of lieutenant (junior grade);

(2) three years in the grade of lieutenant;

(3) four years in the grade of lieutenant commander;

(4) four years in the grade of commander; and

(5) three years in the grade of captain.

(b) For the purpose of this section, service in a grade includes all qualifying service in that grade or a higher grade, under either a temporary or permanent appointment. However, service in a grade under a temporary service appointment under section 275 of this title is considered as service only in the grade that the officer concerned would have held had he not been so appointed.

(c) No officer may become eligible for consideration for promotion until all officers of his grade senior to him are so eligible.

(d) Except when his name is on a list of selectees, each officer who becomes eligible for consideration for promotion to the next higher grade remains eligible so long as he—

(1) continues on active duty; and

(2) is not promoted to that grade.

(e) An officer whose involuntary retirement or separation is deferred under section 295 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.

(f) The Secretary may waive subsection (a) to the extent necessary to allow officers described therein to have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179; amended Pub. L. 94–546, § 1(19), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 98–557, § 17(b)(1), Oct. 30, 1984, 98 Stat. 2867; Pub. L. 109–241, title II, § 203, July 11, 2006, 120 Stat. 520.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–241 added subsec. (f).

1984—Subsec. (e). Pub. L. 98–557 added subsec. (e).

1976—Subsec. (a). Pub. L. 94–546, § 1(19)(a), substituted ''promotion year'' for ''fiscal year''.

Subsec. (d). Pub. L. 94–546, § 1(19)(b), struck out cl. (3) ''if serving in a grade below captain, has not twice failed of selection for promotion to the next higher grade.''

§ 258. Selection boards; information to be furnished boards

The Secretary shall furnish the appropriate selection board convened under section 251 of this title with:

(1) the number of officers that the board may recommend for promotion to the next higher grade; and

(2) the names and records of all officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180; amended Pub. L. 89–444, § 1(17), June 9, 1966, 80 Stat. 196; Pub. L. 104–324, title II, § 212, Oct. 19, 1996, 110 Stat. 3915.)

AMENDMENTS

1996—Cl. (2). Pub. L. 104–324 struck out '', with identification of those officers who are in the promotion zone'' after ''officers for promotion''.

1966—Pub. L. 89–444 substituted ''officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion'' for ''officers to be considered by the board'' in cl. 2.

§ 259. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(b) The number of officers that a board convened under section 251 of this title may recommend for promotion to a grade below rear admiral (lower half) from among eligible officers junior in rank to the junior officer in the appropriate promotion zone may not exceed—

(1) 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of lieutenant or lieutenant commander;

(2) 7½ percent of the total number of officers that the board is authorized to recommend for promotion to the grade of commander; and

(3) 10 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of captain;

unless such percentage is a number less than one, in which case the board may recommend one such officer for promotion.

(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180; amended Pub. L. 97–417, § 2(4), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 107–295, title III, § 313(1), Nov. 25, 2002, 116 Stat. 2102.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–295 added subsec. (c).

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (b). Pub. L. 97–417 substituted ''commodore'' for ''real admiral''.

§ 260. Selection boards; reports

(a) Each board convened under section 251 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title.

(b) A board convened under section 251 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion of those officers whose names have been furnished to the board.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180; amended Pub. L. 107–295, title III, § 313(2), Nov. 25, 2002, 116 Stat. 2103.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 inserted ''and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title'' before period at end.

§ 261. Selection boards; submission of reports

(a) A board convened under section 251 of this title 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 revision and resubmission to the Secretary. After his final review, the Secretary shall submit the report of the board to the President for his approval, modification, or disapproval.

(b) If any officer recommended for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(c) Upon approval by the President the names of officers selected for promotion by a board convened under section 251 of this title shall be promptly disseminated to the service at large.

(d) Except as required by this section, the proceedings of a selection board shall not be disclosed to any person not a member of the board.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

§ 262. Failure of selection for promotion

(a) An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had he been recommended by the first selection board.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

PLACEMENT OUT OF LINE OF PROMOTION PRIOR TO SEPTEMBER 24, 1963

Section 2(a), (b) of Pub. L. 88–130 provided that:

''(a) Officers who have been placed permanently out of line of promotion under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having failed of selection for promotion to the next higher grade for the second time on the day before the effective date of this Act, and shall be subject to the provisions of sections 282 through 285 of title 14, United States Code, as appropriate. No officer shall be separated from the service under the above provisions prior to the last day of the sixth calendar month following the effective date of this Act.

''(b) Officers who have been placed temporarily out of line of promotion for appointment for temporary service under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept.

24, 1963] shall be considered as having once failed of selection for promotion to the next higher grade.''

C. PROMOTIONS

§271. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list. The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.

(b) Officers on the list of selectees may be promoted by appointment in the next higher grade to fill vacancies in the authorized active duty strength of the grade as determined under section 42 of this title after officers on any previous list of selectees for that grade have been promoted. Officers shall be promoted in the order that their names appear on the list of selectees. The date of rank of an officer promoted under this subsection shall be the date of his appointment in that grade.

(c) An officer serving on active duty in the grade of ensign may, if found fully qualified for promotion in accordance with regulations prescribed by the Secretary, be promoted to the grade of lieutenant (junior grade) by appointment after he has completed twelve months' active service in grade. The date of rank of an officer promoted under this subsection shall be the date of his appointment in the grade of lieutenant (junior grade) as specified by the Secretary.

(d) When a vacancy in the grade of rear admiral occurs, the senior rear admiral (lower half) serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred.

(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant. Appointments of Reserve officers shall be made as prescribed in section 12203 of title 10.

(f) The promotion of an officer who is under investigation or against whom proceedings of a court-martial or a board of officers are pending may be delayed without prejudice by the Secretary until completion of the investigation or proceedings. However, unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted. An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 181; amended Pub. L. 91–278, §1(8), June 12, 1970, 84 Stat. 305; Pub. L. 97–417, §2(5), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101–225, title II, §203(2), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 103–337, div. A, title XVI, §1677(b)(2), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 107–295, title III, §313(3), Nov. 25, 2002, 116 Stat. 2103.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 inserted at end ''The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.''

1994—Subsec. (e). Pub. L. 103–337 substituted ''section 12203 of title 10'' for ''section 593 of title 10''.

1989—Subsec. (e). Pub. L. 101–225 inserted ''except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant'' before the period at end of first sentence.

1985—Subsec. (d). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (c). Pub. L. 97–417, §2(5)(A), inserted a comma after ''ensign may''.

Subsecs. (d) to (f). Pub. L. 97–417, §2(5)(B), (C), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1970—Subsec. (c). Pub. L. 91–278 substituted ''twelve'' for ''eighteen''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

PERMANENT GRADES AND TITLES FOR OFFICERS HOLDING CERTAIN GRADES ON JANUARY 3, 1983

Section 4 of Pub. L. 97–417 provided that:

''(a) An officer of the Coast Guard who on the day before the effective date of this Act [Jan. 4, 1983]—

''(1) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

''(2) was serving on active duty in the grade of admiral or vice admiral,

shall after that date hold the permanent grade of rear admiral.

''(b) An officer who on the day before the effective date of this Act [Jan. 4, 1983] was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date hold the permanent grade of commodore, but shall retain the title of rear admiral.

''(c) An officer who on the day before the effective date of this Act [Jan. 4, 1983] was on an approved list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore with the title of rear admiral.

''(d) An officer who on the day before the effective date of this Act [Jan. 4, 1983]—

''(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

''(2) was on an approved list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

''(e) An officer of the Coast Guard who on the day before the effective date of this Act [Jan. 4, 1983] held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled after that date to

wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

''(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

''(2) ranks among commissioned officers of the Armed Forces as and is entitled to the basic pay of—

''(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

''(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

''(f) Unless entitled to a higher grade under another provision of law, an officer who on the day before the effective date of this Act [Jan. 4, 1983]—

''(1) was serving on active duty, and

''(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform, insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.''

TEMPORARY GRADES AND RECOMMENDATIONS FOR PROMOTIONS IN EFFECT PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(a), (b), and (d) of Pub. L. 88–130, protecting officers recommended for promotion or serving in temporary grade higher than permanent grade, are set out as a note under section 211 of this title.

§ 272. Removal of officer from list of selectees for promotion

(a) The President may remove the name of any officer from a list of selectees established under section 271 of this title.

(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer's name shall be removed from this list.

(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is selected for promotion by the next selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held if his name had not been removed. However, if the officer is not selected by the next selection board or if his name is again removed from the list of selectees, he shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182.)

§ 273. Promotions; acceptance; oath of office

(a) An officer who receives an appointment under section 271 of this title is considered to have accepted his appointment on its effective date, unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182; amended Pub. L. 94–546, § 1(20), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–546 substituted reference to section 3331 of title 5 for reference to section 16 of title 5.

§ 274. Promotions; pay and allowances

An officer who is promoted under section 271 of this title shall be entitled to the pay and allowances of the grade to which promoted from his date of rank in such grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182.)

§ 275. Wartime temporary service promotions

(a) In time of war, or of national emergency declared by the President or Congress, the President may suspend any section of this chapter relating to the selection, promotion, or involuntary separation of officers. Such a suspension may not continue beyond six months after the termination of the war or national emergency.

(b) When the preceding sections of this chapter relating to selection and promotion of officers are suspended in accordance with subsection (a), and the needs of the service require, the President may, under regulations prescribed by him, promote to a higher grade any officer serving on active duty in the grade of ensign or above in the Coast Guard.

(c) In time of war, or of national emergency declared by the President or Congress, the President may, under regulations to be prescribed by him, promote to the next higher warrant officer grade any warrant officer serving on active duty in a grade below chief warrant officer, W–4.

[(d) Repealed. Pub. L. 97–417, § 2(6), Jan. 4, 1983, 96 Stat. 2085.]

(e) A promotion under this section to a grade above lieutenant may be made only upon the recommendation of a board of officers convened for that purpose.

(f) A promotion under this section shall be made by an appointment for temporary service. Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone. Any other appointments under this section shall be made by the President alone.

(g) An appointment under this section, unless expressly declined, is regarded as accepted on the date specified by the Secretary as the date of the appointment, and the officer so promoted is entitled to pay and allowances of the grade to which appointed from that date.

(h) An appointment under this section does not terminate any appointments held by an officer concerned under any other provisions of this title. The President may terminate temporary appointments made under this section at any time. An appointment under this section is effective for such period as the President determines. However, an appointment may not be effective later than six months after the end of the war or national emergency. When his temporary appointment under this section is terminated or expires, the officer shall revert to his former grade.

(i) Not later than six months after the end of the war or national emergency the President shall, under such regulations as he may prescribe, reestablish the active duty promotion list with adjustments and additions appropriate to the conditions of original appointment and wartime service of all officers to be included thereon. The President may, by and with the advice and consent of the Senate, appoint officers on the reestablished active duty promotion list to fill vacancies in the authorized active duty strength of each grade. Such appointments shall be considered to have been made under section 271 of this title.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182; amended Pub. L. 92–129, title VI, § 605, Sept. 28, 1971, 85 Stat. 362; Pub. L. 97–417, § 2(6), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 109–241, title II, § 217(b), July 11, 2006, 120 Stat. 526.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–241 substituted ''Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.'' for ''An appointment under this section to a grade above captain shall be made by the President by and with the advice and consent of the Senate. An appointment under this section to grade above lieutenant commander of an officer in the Coast Guard Reserve shall be made by the President, by and with the advice and consent of the Senate.''

1983—Subsec. (d). Pub. L. 97–417 repealed subsec. (d) which had established the grade of commodore in the Coast Guard for the purposes of this section.

1971—Subsec. (f). Pub. L. 92–129 inserted provision covering appointments of officers in the Coast Guard Reserve to grades above lieutenant commander.

DELEGATION OF AUTHORITY

Authority of President under subsec. (a) of this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 276. Promotion of officers not included on active duty promotion list

Officers who are not included on the active duty promotion list may be promoted under regulations to be prescribed by the Secretary. These regulations shall, as to officers serving in connection with organizing, administering, recruiting, instructing, or training the reserve components, provide as nearly as practicable, that such officers will be selected and promoted in the same manner and will be afforded equal opportunity for promotion as officers of the corresponding grade on the active duty promotion list.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183.)

[§ 277. Repealed. Pub. L. 104–324, title II, § 210(a), Oct. 19, 1996, 110 Stat. 3915]

Section, added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183, provided that warrant officers could be temporarily promoted to higher warrant officer grades under regulations prescribed by Secretary.

CONSTRUCTION OF REPEAL

Section 210(a) of Pub. L. 104–324 provided that: ''Section 277 of title 14, United States Code, is repealed. The repeal of such section shall not be construed to affect the status of any warrant officer currently serving under a temporary promotion.''

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 281. Revocation of commissions during first five years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than five years of continuous service as a commissioned officer in the Regular Coast Guard.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183; amended Pub. L. 107–295, title IV, § 416(a)(1), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107–295 substituted ''five'' for ''three'' in section catchline and text.

§ 282. Regular lieutenants (junior grade); separation for failure of selection for promotion

Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant (junior grade) and who has failed of selection for promotion to the grade of lieutenant for the second time, shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he is eligible for retirement under any law, be retired on that date.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 94–546, § 1(21), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' in cl. (1).

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 283. Regular lieutenants; separation for failure of selection for promotion; continuation

(a) Each officer of the Regular Coast Guard appointed under section 211 of this title who is

serving in the grade of lieutenant and who has failed of selection for promotion to the grade of lieutenant commander for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or

(4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

(A) except as provided in subparagraph (B), be honorably discharged with separation pay computed under section 286 of this title;

(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.

(c) Each officer who has been continued on active duty under subsection (b) shall, unless earlier removed from active duty, be retired on the last day of the month in which he completes twenty years of active service.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 93–283, § 1(6), May 14, 1974, 88 Stat. 140; Pub. L. 94–546, § 1(22), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 97–295, § 2(9), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 104–324, title II, § 205, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 107–295, title IV, § 416(a)(2), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Subsec. (b)(2)(A). Pub. L. 107–295 substituted ''separation'' for ''severance''.

1996—Subsec. (b). Pub. L. 104–324 designated existing provisions as par. (1), struck out ''Upon the completion of such a term he shall, unless selected for further continuation, be honorably discharged with severance pay computed under section 286 of this title, or, if eligible for retirement under any law, be retired.'' at end of par. (1), and added par. (2).

1982—Subsec. (b). Pub. L. 97–295 substituted ''of this title'' for ''of this chapter'' after ''section 251''.

1976—Subsec. (a)(1). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year''.

1974—Subsec. (a)(3). Pub. L. 93–283 substituted ''he has completed at least 20 years of active service or is eligible'' for ''he is eligible''.

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.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 284. Regular Coast Guard; officers serving under temporary appointments

(a) Each officer of the Regular Coast Guard appointed under section 214 of this title who is serving in the grade of lieutenant (junior grade) or lieutenant and who has failed of selection for promotion to the grade of lieutenant or lieutenant commander, respectively, for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if on the date specified for his discharge in this section he is eligible for retirement under any law, be retired under that law on that date.

(b) Each officer subject to discharge or retirement under subsection (a) may elect to revert to his permanent grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 94–546, § 1(23), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year''.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired

pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

(a) Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 93–283, § 1(7), May 14, 1974, 88 Stat. 140; Pub. L. 94–546, § 1(24), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 107–295, title IV, § 412, Nov. 25, 2002, 116 Stat. 2118.)

AMENDMENTS

2002—Pub. L. 107–295 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1976—Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' in cl. (1).

1974—Pub. L. 93–283 substituted ''if he has completed at least 20 years of active service or is eligible'' for ''if eligible'' in cl. (1).

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

Section 3 of Pub. L. 88–130 authorized the Secretary, until July 1, 1966, to convene boards to recommend for continuation on active duty officers of the Coast Guard on the active duty promotion list in specified categories.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 286. Discharge in lieu of retirement; separation pay

(a) Each officer who is retained on active duty under section 283(a)(4), 283(b), or 285 of this title may, if he so requests, with the approval of the Secretary, be honorably discharged at any time prior to the date otherwise specified for his retirement or discharge.

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release 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.

(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 107–295, title IV, § 416(a)(3), Nov. 25, 2002, 116 Stat. 2121.)

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 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 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.)

AMENDMENTS

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.)

AMENDMENTS

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 advanced 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

revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. Except as required by the procedures of this section, the proceedings of the board shall not be disclosed to any person not a member of the board.

(g) Each officer who is considered but not recommended for continuation on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which the report of the continuation board convened under this section is approved, or the last day of the month in which he completes twenty years of active service, whichever is later.

(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 186; amended Pub. L. 94–546, § 1(26), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 97–417, § 2(8), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101–225, title II, § 203(3), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 104–324, title II, § 203, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 107–295, title IV, § 414, Nov. 25, 2002, 116 Stat. 2120.)

AMENDMENTS

2002—Subsec. (h). Pub. L. 107–295 added subsec. (h).

1996—Subsec. (f). Pub. L. 104–324 struck out ''Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.'' after ''for his approval.''

1989—Subsec. (c). Pub. L. 101–225 substituted ''50 percent'' for ''75 percent''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore'' in two places.

1983—Subsec. (a). Pub. L. 97–417 substituted ''commodore or rear admiral'' for ''rear admiral'' after ''six officers of the grade of'', and ''commodore'' for ''rear admiral'' after ''promotion to the grade of''.

1976—Subsecs. (a), (g). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' wherever appearing.

EFFECTIVE DATE

Section 6 of Pub. L. 88–130 provided that: ''Section 289 of title 14, United States Code, as enacted by section 1(10)(C) of this Act [see section 5(a) of Pub. L. 88–130, set out as a note under section 211 of this title], becomes effective three years after the effective date of this Act [Sept. 24, 1963], or on July 1, 1966, whichever is later.''

CONSIDERATION FOR RETENTION ON ACTIVE DUTY UNDER FORMER SECTION 248 OF THIS TITLE

Section 2(c) of Pub. L. 88–130 provided that: ''Officers who, prior to the effective date of this Act [Sept. 24, 1963], were considered but not selected for retention on active duty under the provisions of section 248, title 14, United States Code, shall remain subject to the provisions of subsections (b) and (c) of that section.''

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 per centum or more than 75 per centum of the number of officers being considered for continuation.

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

(d) 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 revision and resubmission to the Secretary. After final review the Secretary shall submit the report of the board to the President for approval.

(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on July 1 of the promotion year immediately following the promotion year in which the report of the continuation board convened under this section is approved.

(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on ac-

tive duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 92–451, §1(7), Oct. 2, 1972, 86 Stat. 756; Pub. L. 94–546, §1(27), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 97–136, §6(b), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97–417, §2(9)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98–557, §25(a)(2), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, §514(c)(1), (2)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 102–241, §5, Dec. 19, 1991, 105 Stat. 2210; Pub. L. 103–206, title II, §205(d), Dec. 20, 1993, 107 Stat. 2422.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–206, §205(d)(1), struck out ''or in the position of Chief of Staff'' before ''are not subject to'' in second sentence.

Subsec. (f). Pub. L. 103–206, §205(d)(2), (3), struck out ''Chief of Staff or'' before ''Superintendent'' in pars. (1) and (2).

1991—Subsec. (a). Pub. L. 102–241, §5(b)(1), substituted ''that officer'' for ''he''.

Subsec. (d). Pub. L. 102–241, §5(b)(2), struck out ''his'' before ''final review'' and ''approval''.

Subsec. (e). Pub. L. 102–241, §5(a)(1), substituted ''July 1 of the promotion year immediately following'' for ''June 30 of''.

Subsecs. (f), (g). Pub. L. 102–241, §5(a)(2), added subsecs. (f) and (g) and struck out former subsecs. (f) and (g), which read as follows:

''(f) Each officer who is continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he completes a total of thirty-six years of active commissioned service, including service creditable for retirement purposes under sections 432, 433, 434 of this title.

''(g) Notwithstanding subsection (f) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (f). An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain him under this subsection.''

1985—Pub. L. 99–145, §514(c)(2)(A), substituted ''rear admirals (lower half)'' for ''commodores'' in section catchline.

Subsec. (a). Pub. L. 99–145, §514(c)(1), substituted ''rear admiral (lower half)'' for ''commodore'' in three places.

1984—Subsec. (a). Pub. L. 98–557 substituted ''Boards'' for ''Board''.

1983—Pub. L. 97–417, §2(9)(A)(i), inserted ''and commodores'' after ''Rear admirals'' in section catchline.

Subsec. (a). Pub. L. 97–417, §2(9)(A)(ii), substituted ''commodore or rear admiral'' for ''rear admiral'' after ''promotion list serving in the grade of'' and after ''each officer serving in the grade of'', and ''five years combined service in the grades of commodore and rear admiral'' for ''five years service in that grade''.

1981—Subsec. (a). Pub. L. 97–136 inserted ''or in the position of Chief of Staff'' after ''vice admiral''.

1976—Subsecs. (a), (e) to (g). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' wherever appearing.

1972—Pub. L. 92–451 substituted ''continuation on active duty'' for ''retention on the active list'' in section catchline.

Subsecs. (a), (b). Pub. L. 92–451 added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (f) and (g), respectively.

Subsec. (c). Pub. L. 92–451 added subsec. (c). Former subsec. (c) provided that provisions of former subsecs. (a) and (b) were inapplicable to officers serving as Commandants.

Subsecs. (d), (e). Pub. L. 92–451 added subsecs. (d) and (e).

Subsec. (f). Pub. L. 92–451 incorporated provisions of former subsec. (a) in provisions designated as subsec. (f), and among other changes extended the minimum service for retirement from 35 years to 36 years of active commissioned service and deleted the alternative seven year permanent grade service.

Subsec. (g). Pub. L. 92–451 incorporated provisions of former subsec. (b) in provisions designated as subsec. (g), and among other changes, substituted officer for rear admiral.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3 of Pub. L. 92–451 provided that: ''This Act [enacting sections 50 and 51 of this title, and amending this section, sections 41, 42, 44, 47, and 287 of this title, and section 202 of Title 37, Pay and Allowances of the Uniformed Services] is effective upon enactment [Oct. 2, 1972] except that continuation boards, pursuant to subsection (a) of section 290 of title 14, United States Code, as amended by this Act [subsec. (a) of this section], may not be held until one year following enactment hereof [Oct. 2, 1972]. During the period of one year following enactment hereof the Secretary of the Department in which the Coast Guard is operating shall convene a board consisting of not less than three Coast Guard officers serving in the grade of vice admiral to recommend for continuation on active duty Coast Guard officers on the active duty promotion list serving in the grade of rear admiral, who during the fiscal year in which the board meets will complete not less than five years' service in that grade. Subsections (b) through (g) of section 290 and other sections of title 14, United States Code, as amended by this Act [sections 41, 42, 44, 47, 50, 51, and 287 of this title], apply to continuation board action taken pursuant to this section. No officer who is entitled to the basic pay of a rear admiral of the upper half may have his basic pay reduced because of the reduction which results from this Act in the number of officers entitled to the basic pay of a rear admiral of the upper half.''

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 291. Voluntary retirement after twenty years' service

Any regular commissioned officer who has completed twenty years' active service in the Coast Guard, Navy, Army, Air Force, or Marine Corps, or the Reserve components thereof, including active duty for training, at least ten years of which shall have been active commissioned service, may, upon his own application, in the discretion of the President, be retired from active service.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 99–348, title II, § 205(b)(5), July 1, 1986, 100 Stat. 700.)

AMENDMENTS

1986—Pub. L. 99–348 struck out ", with retired pay of the grade with which retired" after "from active service".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 292. Voluntary retirement after thirty years' service

Any regular commissioned officer who has completed thirty years' service may, upon his own application, in the discretion of the Secretary, be retired from active service.[1]

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 99–348, title II, § 205(b)(5), July 1, 1986, 100 Stat. 700.)

AMENDMENTS

1986—Pub. L. 99–348 which directed that ", with retired pay of the grade with which retired" be struck out was executed by striking out that phrase after "from active service" as the probable intent of Congress even though there was no comma, before "with retired".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130, providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 293. Compulsory retirement at age of sixty-two

Any regular commissioned officer, except a commissioned warrant officer, who has reached the age of sixty-two shall be retired from active service.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 99–348, title II, § 205(b)(5), July 1, 1986, 100 Stat. 700.)

AMENDMENTS

1986—Pub. L. 99–348 struck out ", with retired pay of the grade with which retired" after "from active service".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

[1] See 1986 Amendment note below.

§ 294. Retirement for physical disability after selection for promotion; grade in which retired

An officer whose name appears on an approved list of officers selected for promotion to the next higher grade and who is retired for physical disability under the provisions of chapter 61 of title 10 prior to being promoted shall be retired in the grade to which he was selected for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 295. Deferment of retirement or separation for medical reasons

(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

(b) A deferment under subsection (a)—

(1) may only be made with the consent of the officer involved; and

(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the sixty-day period beginning on the date the Secretary receives that notice.

(Added Pub. L. 98–557, § 17(b)(2)(A), Oct. 30, 1984, 98 Stat. 2867.)

[§§ 301, 302. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 301, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to permanent appointment of warrant officers. See section 571 et seq. of Title 10, Armed Forces.

Section 302, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to temporary appointments of warrant officers.

[§§ 303 to 305. Repealed. May 29, 1954, ch. 249, § 20(*o*), 68 Stat. 167]

Section 303, act Aug. 4, 1949, ch. 393, 63 Stat. 518, required compulsory retirement of warrant officers reaching age of sixty-two years, with retired pay of grade with which retired.

Section 304, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement of warrant officers after thirty years' service, with retired pay of grade with which retired.

Section 305, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement after twenty years' service, with retired pay of grade with which retired.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

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

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 519, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 307, 308. Repealed. May 29, 1954, ch. 249, § 20(*o*), 68 Stat. 167]

Section 307, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for compulsory retirement of warrant officers after thirty years' service, upon recommendation of a personnel board.

Section 308, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for retired pay of warrant officers involuntarily retired under section 307.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 309. Repealed. Pub. L. 86–155, § 10(a)(1), Aug. 11, 1959, 73 Stat. 338]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 11, 64 Stat. 407, authorized retirement of warrant officers with grade of commissioned warrant officer in case of special commendation.

EFFECTIVE DATE OF REPEAL

Repeal of section effective November 1, 1959, see section 10(b) of Pub. L. 86–155, set out as a note under section 239 of this title.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 310 to 312. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 310, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 12, 64 Stat. 407, related to recall to active duty during war or national emergency of warrant officers. See section 331 of this title.

Section 311, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 13, 64 Stat. 407, related to recall of warrant officers to active duty with consent of the officer. See section 332 of this title.

Section 312, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 14, 64 Stat. 407, related to relief of retired warrant officer promoted while on active duty. See section 333 of this title.

[§ 313. Repealed. May 29, 1954, ch. 249, § 20(*o*), 68 Stat. 167]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 15, 64 Stat. 407, provided that any warrant officer who was retired under sections 303 to 305 or 307 of this title should be retired from active service with the highest grade held by him in which his performance of duty was satisfactory, but not lower than his permanent grade, with retired pay of the grade with which retired. It implemented such sections 303 to 305 and 307 which were also repealed by act May 29, 1954. See notes under those former sections.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 313a. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section, added Pub. L. 85–144, § 2(a), Aug. 14, 1957, 71 Stat. 367, related to retirement of warrant officers in cases where higher grade has been held. See section 334 of this title.

[§§ 314, 315. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 314, act Aug. 4, 1949, ch. 393, 63 Stat. 520, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 315, act Aug. 4, 1949, ch. 393, 63 Stat. 520, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

E. SEPARATION FOR CAUSE

§ 321. Review of records of officers

The Secretary may at any time convene a board of officers to review the record of any officer of the Regular Coast Guard to determine whether he shall be required to show cause for his retention on active duty—

(1) because his performance of duty has fallen below the standards prescribed by the Secretary, or

(2) because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

§ 322. Boards of inquiry

(a) Boards of inquiry shall be convened at such places as the Secretary may prescribe to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 321 of this title should be retained on active duty.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer so required to show cause for retention.

(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

(d) If a board of inquiry determines that the officer has established that he should be retained, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321 of this title, and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302.)

AMENDMENTS

1982—Subsec. (d). Pub. L. 97–295 inserted "of this title" after "section 321".

§ 323. Boards of review

(a) Boards of review shall be convened at such times as the Secretary may prescribe, to review the records of cases of officers recommended by boards of inquiry for removal.

(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained, it shall send its recommendation to the Secretary for his action.

(c) If, after reviewing the record of the case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However, at any time after one year from the date of the determina-

tion in a case arising under clause (1) of section 321 of this title and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–295 inserted ''of this title'' after ''section 321''.

§ 324. Composition of boards

(a) A board convened under section 321, 322, or 323 of this title shall consist of at least three officers of the grade of commander or above, all of whom are serving in a grade senior to the grade of any officer considered by the board.

(b) No person may be a member of more than one board convened under section 321, 322, or 323 of this title to consider the same officer.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 325. Rights and procedures

Each officer under consideration for removal under section 322 of this title shall be—

(1) notified in writing at least thirty days before the hearing of the case by a board of inquiry of the reasons for which the officer is being required to show cause for retention;

(2) allowed reasonable time, as determined by the board of inquiry under regulations of the Secretary, to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry; and

(4) allowed full access to, and furnished copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary determines should be withheld in the interests of national security. In any case where any records are withheld under this clause, the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 326. Removal of officer from active duty; action by Secretary

The Secretary may remove an officer from active duty if his removal is recommended by a board of review under section 323 of this title. The Secretary's action in such as case is final and conclusive.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

§ 327. Officers considered for removal; retirement or discharge; separation benefits

(a) At any time during proceedings under section 322 or 323 of this title, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

(2) for discharge with separation benefits under section 286(c) of this title.

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 99–348, title II, § 205(b)(6), July 1, 1986, 100 Stat. 700; Pub. L. 105–383, title II, § 201(c), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107–295, title IV, § 416(a)(5), Nov. 25, 2002, 116 Stat. 2122.)

AMENDMENTS

2002—Pub. L. 107–295, § 416(a)(5)(A), substituted ''separation'' for ''severance'' in section catchline.

Subsec. (a)(2). Pub. L. 107–295, § 416(a)(5)(B), added par. (2) and struck out former par. (2) which read as follows: ''for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or''.

Subsec. (a)(3). Pub. L. 107–295, § 416(a)(5)(C), struck out par. (3) which read as follows: ''for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title.''

Subsec. (b)(2). Pub. L. 107–295, § 416(a)(5)(D), added par. (2) and struck out former par. (2) which read as follows: ''if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or''.

Subsec. (b)(3). Pub. L. 107–295, § 416(a)(5)(E), struck out par. (3) which read as follows: ''if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, 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.''

1998—Subsec. (b)(3). Pub. L. 105–383 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''.

1986—Subsec. (b)(1). Pub. L. 99–348 struck out '', and with the pay'' after ''in the grade''.

1982—Pub. L. 97–295 inserted ''of this title'' after ''section 322 or 323'' and ''section 321'' wherever appearing.

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.

F. MISCELLANEOUS PROVISIONS

§ 331. Recall to active duty during war or national emergency

In time of war or national emergency, the Secretary may order any regular officer on the retired list to active duty.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

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.

§ 332. Recall to active duty with consent of officer

(a) Any regular officer on the retired list may, with that officer's consent, be assigned to such duties as that officer may be able to perform.

(b) The number of retired officers on active duty in the grade of lieutenant commander, commander, or captain shall not exceed 2 percent of the authorized number of officers on active duty in each such grade. However, this limitation does not apply to retired officers of these grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189; amended Pub. L. 89–444, § 1(18), June 9, 1966, 80 Stat. 196; Pub. L. 91–278, § 1(9), June 12, 1970, 84 Stat. 305; Pub. L. 102–241, § 14, Dec. 19, 1991, 105 Stat. 2213.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–241, § 14(b), substituted ''that officer's'' for ''his'' and ''that officer'' for ''he''.

Subsec. (b). Pub. L. 102–241, § 14(a), substituted ''2'' for ''1''.

1970—Subsec. (a). Pub. L. 91–278 struck out prohibition against recall to duty in time of peace of any officer on retired list who reached age of sixty-two years.

1966—Subsec. (b). Pub. L. 89–444 provided that the percentage limitation on the number of retired officers on active duty in the grade of lieutenant commander, commander, or captain should not apply to retired officers of those grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

§ 333. Relief of retired officer promoted while on active duty

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

§ 334. Grade on retirement

(a) Any commissioned officer, other than a commissioned warrant officer, who is retired under any provision of this title, shall be retired from active service with the highest grade held by him for not less than six months while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

(b) Any warrant officer who is retired under any provision of section 580, 1263, 1293, or 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W–4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 190; amended Pub. L. 89–444, § 1(19), June 9, 1966, 80 Stat. 196; Pub. L. 99–348, title II, § 205(b)(7), July 1, 1986, 100 Stat. 700; Pub. L. 102–190, div. A, title XI, § 1125(b)(2), Dec. 5, 1991, 105 Stat. 1505; Pub. L. 103–337, div. A, title V, § 541(f)(3), Oct. 5, 1994, 108 Stat. 2766.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–337 substituted ''section 580,'' for ''section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or''.

1991—Subsec. (b). Pub. L. 102–190 substituted ''section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or 1263, 1293, or 1305 of title 10'' for ''section 564, 1263, 1293, or 1305 of title 10''.

1986—Subsec. (a). Pub. L. 99–348, § 205(b)(7)(A), struck out '', with retired pay of the grade with which retired'' after ''satisfactory''.

Subsec. (b). Pub. L. 99–348, § 205(b)(7), struck out '', with retired pay of the grade with which retired'' after ''satisfactory'' and struck out provision that when the rate of pay of such highest grade is less than the pay of the warrant grade with which the officer would otherwise be retired under section 1371 of title 10, the retired pay was to be based on the higher rate of pay.

1966—Pub. L. 89–444 substituted ''Grade on retirement'' for ''Retirement in cases where higher grade has been held'' in section catchline.

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.

§ 335. Physical fitness of officers

The Secretary shall prescribe regulations under which the physical fitness of officers to perform their duties shall be periodically determined.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 190.)

§ 336. United States Coast Guard Band; composition; director

(a) The United States Coast Guard Band shall be composed of a director and other personnel in such numbers and grades as the Secretary determines to be necessary.

(b) The Secretary may designate as the director any individual determined by the Secretary

to possess the necessary qualifications. Upon the recommendation of the Secretary, an individual so designated may be appointed by the President, by and with the advice and consent of the Senate, to a commissioned grade in the Regular Coast Guard.

(c) The initial appointment to a commissioned grade of an individual designated as director of the Coast Guard Band shall be in the grade determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual.

(d) An individual who is designated and commissioned under this section shall not be included on the active duty promotion list. He shall be promoted under section 276 of this title. However, the grade of the director may not be higher than captain.

(e) The Secretary may revoke any designation as director of the Coast Guard Band. When an individual's designation is revoked, his appointment to commissioned grade under this section terminates and he is entitled, at his option—

(1) to be discharged from the Coast Guard; or

(2) to revert to the grade and status he held at the time of his designation as director.

(Added Pub. L. 89–189, §1(1), Sept. 17, 1965, 79 Stat. 820; amended Pub. L. 102–587, title V, §5201, Nov. 4, 1992, 106 Stat. 5071; Pub. L. 107–295, title III, §311, Nov. 25, 2002, 116 Stat. 2102; Pub. L. 109–241, title II, §204(a), July 11, 2006, 120 Stat. 520.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–241, §204(a)(1), in first sentence, substituted ''The Secretary may designate as the director any individual determined by the Secretary to possess the necessary qualifications.'' for ''The Secretary shall designate the director from among qualified members of the Coast Guard.'', and, in second sentence, substituted ''an individual so designated'' for ''a member so designated''.

Subsec. (c). Pub. L. 109–241, §204(a)(2), substituted ''of an individual'' for ''of a member'' and ''determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual'' for ''of lieutenant (junior grade) or lieutenant''.

Subsec. (d). Pub. L. 109–241, §204(a)(3), substituted ''An individual'' for ''A member''.

Subsec. (e). Pub. L. 109–241, §204(a)(4), substituted ''When an individual's designation is revoked,'' for ''When a member's designation is revoked,'' and ''option—'' for ''option:''.

2002—Subsec. (d). Pub. L. 107–295 substituted ''captain'' for ''commander''.

1992—Subsec. (d). Pub. L. 102–587 substituted ''commander'' for ''lieutenant commander''.

CURRENT DIRECTOR

Pub. L. 109–241, title II, §204(b), July 11, 2006, 120 Stat. 520, provided that: ''The individual serving as Coast Guard band director on the date of enactment of this Act [July 11, 2006] may be immediately promoted to a commissioned grade, not to exceed captain, determined by the Secretary of the department in which the Coast Guard is operating to be most appropriate to the qualifications and experience of that individual.''

ENLISTED MEMBERS

AMENDMENTS

1984—Pub. L. 98–557, §15(a)(4)(E)(i), Oct. 30, 1984, 98 Stat. 2866, substituted ''MEMBERS'' for ''MEN'' in heading.

§ 350. Recruiting campaigns

The Secretary shall initiate and carry forward an intensified voluntary enlistment campaign to obtain the required personnel strengths.

(Added Aug. 10, 1956, ch. 1041, §7(a), 70A Stat. 620.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
350	34:187 (as made applicable to Coast Guard by 34:189). 34:189 (as applicable to 34:187). 50 App.:470 (last sentence).	Oct. 6, 1945, ch. 393, §§2 (as made applicable to Coast Guard by §13), 13 (as applicable to §2), 59 Stat. 538, 542. June 24, 1948, ch. 625, §20 (last sentence), 62 Stat. 627; Sept. 27, 1950, ch. 1059, §1(14), 64 Stat. 1074.

§ 351. Enlistments; term, grade

(a) Under regulations prescribed by the Secretary, the Commandant may enlist persons for minority or a period of at least two years but not more than six years.

(b) The Secretary shall prescribe the grades or ratings for persons enlisting in the Regular Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, §16, 64 Stat. 407; Aug. 10, 1956, ch. 1041, §§8(a), 53, 70A Stat. 620, 679; Pub. L. 98–557, §15(a)(3)(F), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 108–293, title II, §203, Aug. 9, 2004, 118 Stat. 1032.)

HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., §§35, 35a, 206 (May 26, 1906, ch. 2556, §1, 34 Stat. 200; Jan. 28, 1915, ch. 20, §1, 38 Stat. 800; Apr. 21, 1924, ch. 130, §6, 43 Stat. 106; 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).

Section 35 of title 14, U.S.C., 1946 ed., has been divided. The provisions of the first sentence of subsection (a) are placed in this section. The proviso of subsection (a) is covered in section 367(b) of this title. Subsection (b) is placed in section 365 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 by section 366 of this title.

Section 206 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with special temporary enlistments is incorporated in this section. That part dealing with temporary appointments of warrant officers is placed in section 302 of this title.

Certain additional details concerning the two types of enlistments are added; these details were previously covered in Coast Guard Regulations.

This section makes provision for the enlistment of personnel in the Coast Guard. The first sentence grants the necessary authority to the Secretary, changes existing law in regard to the term of enlistment from ''not to exceed four years'' to ''not to exceed six years'', and adds a provision for the enlistment of minors for their minority only, such provision being in accordance with existing law applicable to the Navy. The next three sentences establish and define the two types of enlistments that are now in effect in the Coast Guard, setting forth the basic difference in the two types. The last sentence continues a provision to the effect that original enlistments in the Coast Guard shall be temporary. This section is a combination of existing law and regulations in regard to enlistments, with changes as noted above. See title 14, U.S.C., 1946 ed., §35, and Coast Guard Regulations, sections 531 and 532. 81st Congress, House Report No. 557.

1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
351	14:351. 34:188 (as made applicable to Coast Guard by 34:189). 34:189 (as applicable to 34:188).	Aug. 4, 1949, ch. 393, §1 (351), 63 Stat. 520; Aug. 3, 1950, ch. 536, §16, 64 Stat. 407. Oct. 6, 1945, ch. 393, §5 (as made applicable to Coast Guard by §13), 13 (as applicable to §5); 59 Stat. 539, 542.

The words ''notwithstanding any other provision of law'' and ''or reenlisted'' are omitted as surplusage. 34 U.S.C. 188 (proviso) is omitted as executed.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–293 substituted ''a period of at least two years but not more than six years.'' for ''terms of full years not exceeding six years.''

1984—Subsec. (a). Pub. L. 98–557 substituted reference to persons for reference to men.

1956—Act Aug. 10, 1956, repealed and reenacted section by general amendment thereby designating existing provisions as subsec. (a) and adding subsec. (b), relating to grades or ratings of enlistees.

1950—Act Aug. 3, 1950, struck out references to two types of enlistments that were deemed necessary prior to the enactment of the Career Compensation Act.

§352. Promotion

Enlisted members shall be advanced in rating by the Commandant under regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; Pub. L. 98–557, §15(a)(3)(C), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., §23 (Apr. 16, 1908, ch. 145, §8, 35 Stat. 62).

Inasmuch as all phases of promotion of enlisted men, except the points covered by title 14, U.S.C., 1946 ed., §23, have been left to administrative control heretofore, and this has proved most satisfactory, the entire promotion of enlisted men is delegated to administrative control by this section. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''Enlisted members'' for ''Enlisted men''.

§353. Compulsory retirement at age of sixty-two

Any enlisted member who has reached the age of sixty-two shall be retired from active service.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; 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 14, U.S.C., 1946 ed., §173 (Apr. 12, 1902, ch. 501, §4, 32 Stat. 100).

Section 173 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with enlisted men is placed in this section. That part dealing with commissioned officers is placed in section 230 of this title. That part dealing with warrant officers is placed in section 303 of this title.

The compulsory retirement age is changed from 64 to 62 in order to make it the same for enlisted men as for officers. 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 ''active service''.

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

§354. Voluntary retirement after thirty years' service

Any enlisted member who has completed thirty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; 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 14, U.S.C., 1946 ed., §175 (Jan. 28, 1915, ch. 20, §3, 38 Stat. 801).

Said section has been divided. That part dealing with retirement of enlisted men is placed in this section. That part dealing with retirement of commissioned officers is placed in section 231 of this title. That part dealing with retirement of warrant officers is placed in section 304 of this title. That part providing for retired pay is incorporated in section 423 of this title. That part providing for assignment of duties to retired personnel is incorporated in sections 241, 311, and 360 of this title.

The authority to approve was granted to the Commandant in lieu of the Secretary. 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 ''active service''.

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

§355. Voluntary retirement after twenty years' service

Any enlisted member who has completed twenty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; 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 14, U.S.C., 1946 ed., §185a (May 24, 1939, ch. 146, §2, 53 Stat. 755).

Changes were made in phraseology. 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 ''active service''.

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

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

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 521, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

§357. Involuntary retirement of enlisted members

(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to re-

view the records of enlisted members who have twenty or more years of active military service.

(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

(1) because the member's performance is below the standards the Commandant prescribes; or

(2) because of professional dereliction.

(c) An enlisted member under review by the Board shall be—

(1) notified in writing of the reasons the member is being considered for involuntary retirement;

(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

(1) have twenty or more years of active service;

(2) have been considered for involuntary retirement; and

(3) it determines should be involuntarily retired.

(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within ninety days of the notification.

(h) An enlisted member, who has completed twenty years of service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

(i) An enlisted member voluntarily or involuntarily retired after twenty years of service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; Aug. 3, 1950, ch. 536, § 17, 64 Stat. 407; Pub. L. 88–114, § 1(1), Sept. 6, 1963, 77 Stat. 144; Pub. L. 98–557, § 15(a)(3)(A), (B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(9), July 1, 1986, 100 Stat. 700; Pub. L. 102–241, § 6, Dec. 19, 1991, 105 Stat. 2210.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 185, 185d (May 24, 1939, ch. 146, §§ 1, 5, 53 Stat. 755).

Subsection (b) is new and implements the preceding subsection; it seems necessary in view of certain statutes enacted as the result of World War II.

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 185d (May 24, 1939, ch. 146, § 5, 53 Stat. 756). Said section has been divided. The first sentence is incorporated in section 423 of this title. The second proviso is incorporated in section 424 of this title. The remainder is placed in this subsection.

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

AMENDMENTS

1991—Pub. L. 102–241 substituted "Involuntary retirement of enlisted members" for "Enlisted Personnel Board" in section catchline and amended text generally. Prior to amendment, text provided that the Commandant assemble annually a Coast Guard Enlisted Personnel Board to recommend enlisted members for retirement, that the recommendations be transmitted to the Commandant for approval, in which event the enlisted members concerned would be notified and given opportunity to file a written protest, which would require a subsequent annual Board determination and approval by the Commandant to effect the involuntary retirement of that member, and further provided that an enlisted member with twenty years' service retired from active duty by the Commandant pursuant to this section was to receive retired pay, and that an enlisted member voluntarily or involuntarily retired by reason of twenty years' service who had been cited for extraordinary heroism was entitled to an increase in retired pay.

1986—Subsec. (b). Pub. L. 99–348, § 205(b)(9)(A), substituted "retired pay" for "the retired pay of the grade or rating with which retired".

Subsec. (c). Pub. L. 99–348, § 205(b)(9)(B), substituted provision that retired pay be increased by an amount equal to 10 percent of the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under 423(a) of this title, or the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title for provision that the

retired pay be increased by an amount equal to 10 per cent of the active-duty pay and permanent additions thereto of the grade or rating with which retired.

1984—Pub. L. 98–557, §15(a)(3)(A), substituted reference to enlisted member for reference to enlisted man wherever appearing in subsecs. (a) to (c).

Subsec. (a). Pub. L. 98–557, §15(a)(3)(B), substituted reference to enlisted members for reference to enlisted men in two places.

1963—Subsec. (c). Pub. L. 88–114 struck out provisions which entitled enlisted men whose average marks in conduct were not less than 97½ percent of the maximum to a 10-percent increase of their retired pay.

1950—Subsec. (c). Act Aug. 3, 1950, substituted ''years' '' for ''years''.

SERVICE CREDIT FOR CERTAIN ENLISTED PERSONNEL

Act June 3, 1948, ch. 394, 62 Stat. 302, provided: ''That those enlisted men of the Coast Guard who, during 1940 and 1941, were discharged from the Coast Guard to accept employment as policemen and guards at the Ivigtut Cryolite Mine, Greenland, and who reenlisted in the Coast Guard within three months after the termination of their service as such policemen and guards, shall be credited with the time between discharge and reenlistment for purposes of longevity pay and retirement, but no increased retroactive pay shall accrue by reason of the enactment of this Act.''

ENLISTED MEN IN SERVICE ON SEPTEMBER 6, 1963

Section 2 of Pub. L. 88–114 provided that: ''The amendment made by subsection (1) of section 1 of this Act [amending this section] does not apply to any enlisted man in service on the effective date of this Act [Sept. 6, 1963].''

[§ 358. Repealed. Pub. L. 88–114, § 1(2), Sept. 6, 1963, 77 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, §1, 63 Stat. 522, limited number of retirements in a calendar year of enlisted men who had completed 20 years of service, to not more than the whole number nearest 1 percent of the total enlisted force on the active list, and any men so authorized to be retired annually who were not so retired, could be retired during any subsequent year providing the total retired in that year did not exceed 3 percent of the total enlisted force.

§ 359. Recall to active duty during war or national emergency

In times of war or national emergency, the Commandant may order any enlisted member on the retired list to active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §18, 64 Stat. 407; 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., §185c (May 24, 1939, ch. 146, §4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§240 and 310 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

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

1950—Act Aug. 3, 1950, struck out all references to pay.

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.

§ 360. Recall to active duty with consent of member

Any enlisted member on the retired list may, with his consent, be assigned to such duties as he may be able to perform, except that no enlisted member on the retired list who has reached the age of sixty-two years shall be recalled in time of peace.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §19, 64 Stat. 407; Pub. L. 98–557, §15(a)(3)(A), (4)(B)(i), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §185c (May 24, 1939, ch. 146, §4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§241 and 311 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''member'' for ''man'' in section catchline, and in text substituted reference to enlisted member for reference to enlisted man in two places.

1950—Act Aug. 3, 1950, struck out all references to pay.

§ 361. Relief of retired enlisted member promoted while on active duty

Any enlisted member on the retired list recalled to active duty who during such active duty is advanced to a higher grade or rating under a permanent or temporary appointment or promotion shall, upon relief from active duty be advanced on the retired list to the highest grade or rating held while on active duty. In case the appointment or promotion was temporary the advancement on the retired list shall be made only to such grade or rating in which the member served satisfactorily on active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §20, 64 Stat. 407; Pub. L. 98–557, §15(a)(3)(A), (G), (4)(C)(i), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., §§3501(a) and (b), 350j(b) (July 24, 1941, ch. 320, §10, 55 Stat. 605; Feb. 21, 1946, ch. 34, §8(a), 60 Stat. 28).

Said sections have application to officers only, but in accord with the general plan to make as many provisions as possible applicable both to officers and men, it seems highly desirable to provide similarly for enlisted men—a fortiori because there are cases in the Coast Guard in which enlisted men are suffering inequitably because there is no provision for advancing men on the retired list after they have been advanced in rating while serving on active duty after recall from the retired list. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 in section catchline substituted ''enlisted member'' for ''man'', and in two places in text substituted ''member'' for ''man''.

1950—Act Aug. 3, 1950, struck out all references to pay.

§ 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.

(c) No persons may be enlisted or designated as an aviation cadet unless—

(1) the person agrees in writing that, upon successful completion of the course of training as an aviation cadet, the person will accept a commission as an ensign in the Coast Guard Reserve and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under twenty-one years of age, the person has the consent of the person's parent or guardian to the agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Coast Guard, released from active duty, or discharged.

(Added Pub. L. 89–444, §1(20), June 9, 1966, 80 Stat. 196; amended Pub. L. 97–295, §2(11), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–557, §15(a)(1), Oct. 30, 1984, 98 Stat. 2864.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–557, §15(a)(1)(A), struck out ''male'' before ''citizens'' and ''enlisted members''.

Subsec. (c)(1). Pub. L. 98–557, §15(a)(1)(B), substituted ''the person'' for ''he'' in two places and struck out ''his'' after ''upon''.

Subsec. (c)(2). Pub. L. 98–557, §15(a)(1)(C), substituted ''the person'' for ''he'', ''the person's'' for ''his'', and ''the agreement'' for ''his agreement''.

1982—Subsec. (b). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

§ 372. Aviation cadets; benefits

Except as provided in section 402(c) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E–4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

(Added Pub. L. 89–444, §1(20), June 9, 1966, 80 Stat. 197.)

§ 373. Aviation cadets; appointment as Reserve officers

(a) An aviation cadet who fulfills the eligibility requirements of section 2003 of title 10 for designation as a naval aviator may be appointed an ensign in the Coast Guard Reserve and designated a Coast Guard aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary in this regard is conclusive.

(Added Pub. L. 89–444, §1(20), June 9, 1966, 80 Stat. 197; amended Pub. L. 94–546, §1(28), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546 substituted reference to section 2003 of title 10 for reference to section 6023(b) of title 10.

§ 374. Critical skill training bonus

(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

(b) If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.

(Added Pub. L. 108–293, title II, §204(a), Aug. 9, 2004, 118 Stat. 1032.)

GENERAL PROVISIONS

§ 421. Retirement

(a) Every commissioned officer, warrant officer, or enlisted member who is retired under any provisions of this title shall be retired with the permanent grade or rate held at the time of retirement, unless entitled to retire with a higher grade or rate under any provision of this title or any other law.

(b) Where an officer is entitled, under any provision of law, to retire with one grade higher than the grade in which serving at the time of retirement, the next higher grade in the case of captain shall be rear admiral (lower half), and the next higher grade in the case of commissioned warrant officer shall be lieutenant (junior grade).

(Aug. 4, 1949, ch. 393, 63 Stat. 524; Pub. L. 97–417, §2(10), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98–557, §15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 99–348, title II, §205(b)(10), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Subsection (a) is new in this form, but the provision contained therein is expressed or implied in numerous statutes relating to the retirement of military personnel.

A provision defining the next higher grade to that of commissioned warrant officer as lieutenant (junior grade), for purposes of retirement, was added.

The other provisions of said section are obsolete and are no longer needed.

Subsection (a) is new, but the provision contained in it is expressed or implied in numerous statutes relating to retirement of military personnel. It is believed desirable to include such a provision to prevent any misconstruction of retirement statutes, even though no change in existing law is intended on the point covered, either by other sections dealing with retirement or by this section.

Subsection (b) is a codification of the only provision of title 14, U.S.C., 1946 ed., §174, that it is desired to retain, and in addition designated the next higher grade for commissioned warrant officers as lieutenant (junior grade) because the pay of the commissioned warrant officers is the same as for the grade of lieutenant (junior grade) and advancing such officers to the grade of ensign would in some aspects not appear to be a promotion. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–348 substituted ''rate'' for ''rating'' in two places.

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1984—Subsec. (a). Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

1983—Subsec. (b). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral''.

§ 422. Status of recalled personnel

All retired personnel when recalled to active duty shall serve in the grade or rate in which they were serving at the time of retirement.

(Aug. 4, 1949, ch. 393, 63 Stat. 524; Pub. L. 99–348, title II, § 205(b)(10), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

This provision is desirable because many enlisted men and low-ranking officers may now retire with higher grade which they previously held on a temporary basis. If recalled in the higher grades, they might not be capable of holding same at the time of recall. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 substituted ''rate'' for ''rating''.

§ 423. Computation of retired pay

(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

(A) the sum of—

(i) the basic pay of the member's retired grade or rate, and

(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10; by

(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as 1/12 of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(Aug. 4, 1949, ch. 393, 63 Stat. 525; Aug. 3, 1950, ch. 536, § 23, 64 Stat. 407; Pub. L. 85–422, § 11(b), May 20, 1958, 72 Stat. 132; Pub. L. 88–132, § 5(i), Oct. 2, 1963, 77 Stat. 214; Pub. L. 92–455, § 2, Oct. 2, 1972, 86 Stat. 761; Pub. L. 96–342, title VIII, § 813(f)(2), Sept. 8, 1980, 94 Stat. 1109; Pub. L. 97–295, § 2(12), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–94, title IX, §§ 922(b), 923(d), Sept. 24, 1983, 97 Stat. 642, 643; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(a), July 1, 1986, 100 Stat. 699.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 162a, 167, 175c, 185d (Apr. 12, 1902, ch. 501, § 9, 32 Stat. 101; Jan. 12, 1938, ch. 3, § 3, 52 Stat. 5; May 24, 1939, ch. 146, § 5, 53 Stat. 756; Feb. 21, 1946, ch. 34, § 10, 60 Stat. 29).

Section was enlarged to include computation of retired pay in all situations. It is in accord with the provisions of Navy statutes. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 amended section generally. Prior to amendment, section provided that retired pay of a grade or rating would be computed at the rate of 2½ percent of the sum of the basic pay of that grade or rating and all permanent additions thereto including longevity credit, multiplied by the number of years of service credited, with certain exceptions, and that retired pay of an officer or member of the Coast Guard who first became a member of a uniformed service, as defined in section 1407(a)(2) of title 10, after Sept. 7, 1980, would be computed at the rate of 2½ percent of the monthly retired pay base computed under section 1407(f) of title 10, multiplied by the number of years of service credited, but that retired pay was not to be more than 75 percent of such monthly retired pay base.

1984—Subsec. (a). Pub. L. 98–557 substituted reference to enlisted member concerned for reference to enlisted man concerned.

1983—Subsec. (a). Pub. L. 98–94, § 923(d), substituted ''In computing the number of years of service by which the rate of 2½ percent is multiplied, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded'' for ''A fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ percent is multiplied''.

Pub. L. 98–94, § 922(b), inserted ''Retired pay, if not a multiple of $1, shall be rounded to the next lower multiple of $1.''

1982—Subsec. (b). Pub. L. 97–295 substituted ''after September 7, 1980'' for ''on or after the date of the en-

actment of the Department of Defense Authorization Act, 1981''.

1980—Pub. L. 96–342 designated existing provisions as subsec. (a), substituted ''Except as provided in subsection (b), the'' for ''The'', and added subsec. (b).

1972—Pub. L. 92–455 provided for computation of retired pay of an enlisted member serving as the master chief petty officer of the Coast Guard at the highest basic pay applicable to him while he so served, if that basic pay is greater than the basic pay of the grade or rating to which he was otherwise entitled at the time of retirement.

1963—Pub. L. 88–132 substituted ''basic'' for ''active-duty'' wherever appearing.

1958—Pub. L. 85–422 substituted ''that may be credited to him under section 1405 of title 10'' for ''for which he was entitled to credit in the computation of his pay when last on active duty''.

1950—Act Aug. 3, 1950, struck out reference to computation of pay of retired personnel retired by reason of physical disability.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of Title 10, Armed Forces.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of Title 10.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

§ 424. Limitations on retirement and retired pay

(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2) the retired pay base determined under section 1407 of title 10, as appropriate.

(Aug. 4, 1949, ch. 393, 63 Stat. 525; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(11), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

The two provisions of this section are considered desirable as safeguards to eliminate any possible misconstruction of situations relating to retirement and retired pay in respect to the two points covered. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 amended section generally. Prior to amendment, section read as follows: ''The provisions of any section of this title shall not be construed so as to prevent any officer or enlisted member from being placed on the retired list with the highest grade or rating and the highest retired pay to which such officer or enlisted member may be entitled under the provisions of any other section of this title or under the provisions of any other law. In no case shall the retired pay of an officer or enlisted member exceed 75 percent of the sum of the active-duty pay and all permanent additions thereto, including longevity credit to which the officer or enlisted member concerned is entitled, of the grade or rating on which his pay is computed.''

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

§ 424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.

(Added Pub. L. 107–295, title IV, § 444(a), Nov. 25, 2002, 116 Stat. 2132.)

§ 425. Board for Correction of Military Records deadline

(a) DEADLINE FOR COMPLETION OF ACTION.—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

(b) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the department in which the Coast Guard is operating, the costs of obtaining the order, including a reasonable attorney's fee.

(Added Pub. L. 104–324, title II, § 209(a), Oct. 19, 1996, 110 Stat. 3914.)

PRIOR PROVISIONS

A prior section 425, act Aug. 4, 1949, ch. 393, 63 Stat. 525, related to retiring boards, prior to repeal by act Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408. See section 1216 of Title 10, Armed Forces.

EFFECTIVE DATE

Section 209(d) of Pub. L. 104–324 provided that: ''This section [enacting this section and provisions set out as a note below] shall be effective on and after June 12, 1990.''

SPECIAL RIGHT OF APPLICATIONS AFTER DEADLINE FOR COMPLETION OF BOARD ACTION

Section 209(c) of Pub. L. 104–324 provided that: ''This section [enacting this section and provisions set out as a note above] applies to any applicant who had an application filed with or pending before the Board or the Secretary of the department in which the Coast Guard is operating on or after June 12, 1990, who files with the Board for Correction of Military Records of the Coast Guard an application for relief under the amendment made by subsection (a) [enacting this section]. If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline under that amendment, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.''

SPECIAL PROVISIONS

[§ 431. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 3, 1950, ch. 536, § 24, 64 Stat. 407, related to personnel of former Life Saving Service.

SAVINGS PROVISION

Section 10(a)(6)(A) of Pub. L. 99–640 provided in part that the repeal of sections 431, 433, 434, and 438 of this title did not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun under such sections before Nov. 10, 1986.

§ 432. Personnel of former Lighthouse Service

(a) Any person of the former Lighthouse Service commissioned as an officer in the Coast Guard shall be an extra number in his grade and in the grades to which he may be promoted. He shall take precedence (1) with other officers commissioned in his grade from the former Lighthouse Service as the Secretary of the Treasury may determine, and (2) with other line officers in his grade in accordance with the respective dates of their commissions in such grade. He shall be eligible for promotion, if otherwise qualified, at such time as the officer in a regular number in line of promotion next above him on the seniority list becomes eligible for promotion; or if there be no such officer in his grade, he shall be eligible for promotion, if otherwise qualified, when a vacancy occurs in the next higher grade. An officer so commissioned shall be assigned to duty for which he is specially qualified, and professional examinations for promotion given to such officer shall embrace only subjects which pertain to the duty to which he is assigned.

(b) Each vacancy (1) hereafter occurring in the extra numbers of such officers; (2) existing on August 5, 1939, in positions in the Lighthouse Service formerly held by personnel eligible for such commissions; and (3) created by the retirement, resignation, death, or separation from the service for any other cause, of such personnel who do not possess the qualifications prescribed by the Secretary of the Treasury or who, being qualified, do not accept a commission thereunder, shall operate to increase by one the total authorized number of line officers of the Coast Guard.

(c) All persons of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard shall be subject to all laws and regulations for the government of the Coast Guard, and nothing contained in this title shall be construed to prevent the application to any of such persons of laws and regulations concerning the military discipline of commissioned and warrant officers and enlisted members of the Coast Guard.

(d) In computing length of service, for the purpose of retirement in the Coast Guard, of any person of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard, there shall be included all service computable for retirement under the provisions of section 763 of title 33; and after July 1, 1948, in computing longevity for the purpose of pay of such person there shall be included all service of such person in the Lighthouse Service.

(e) No person so commissioned, appointed, or enlisted in the Coast Guard shall suffer any reduction in the total of the annual compensation and allowances which he was receiving on the date of his commission, appointment, or enlistment. Upon his retirement from active duty in the Coast Guard, the retired pay of any person so commissioned, appointed, or enlisted, shall not be less than an annuity computed in accordance with the provisions of section 763 of title 33, substituting, however, for purposes of such computation, the annual compensation which he was receiving on the date of his commission, appointment, or enlistment in the Coast Guard for the average annual pay received by him for the last five years of service.

(f) Notwithstanding any other provision of law, chapter 51, subchapter III of chapter 53, and sections 5542–5546 of title 5 shall not apply to civilian keepers of lighthouses and to civilians employed on lightships and other vessels of the Coast Guard.

(g)(1) The head of the department in which the Coast Guard is operating under regulations prescribed by him, may regulate the hours of duty and the pay of civilian keepers of lighthouses and civilians employed on lightships and other vessels of the Coast Guard, but such personnel may be called upon for duty in emergency circumstances or otherwise at any time or all times. The existing system governing the pay of such employees may be continued or changed except that overtime compensation, night differential, and extra pay for duty on holidays shall not be paid to such employees. In lieu thereof additional annual compensation may be authorized, which may be prescribed either as a fixed differential or as a percentage of the basic compensation otherwise applicable to such employees. In no case shall basic compensation exceed $15,000 per annum, except that nothing contained in this subsection shall operate to decrease the basic compensation of any person employed by the Coast Guard on the date of enactment of this subsection, and in no case shall additions thereto exceed 25 percent of such basic

compensation. Provision may be made for compensatory absence from duty when conditions of employment result in confinement because of isolation or in long periods of continuous duty; and provisions may likewise be made for extra allowance for service outside of the continental limits of the United States.

(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).

(Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 9, 1955, ch. 650, §§1, 2, 69 Stat. 577; Pub. L. 86–309, Sept. 21, 1959, 73 Stat. 585; Pub. L. 91–278, §1(10), June 12, 1970, 84 Stat. 305; Pub. L. 96–23, §5(a), June 13, 1979, 93 Stat. 68; Pub. L. 97–295, §2(11), (13), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–557, §15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–640, §10(a)(7), Nov. 10, 1986, 100 Stat. 3549.)

HISTORICAL AND REVISION NOTES

See note under section 431 of this title.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (g)(1), is Aug. 4, 1949.

AMENDMENTS

1986—Subsec. (g). Pub. L. 99–640 designated existing provisions as par. (1), struck out last par. relating to inclusion of additional compensation in computations of compensation for purposes of the Lighthouse Service Retirement Act, and added par. (2).

1984—Subsec. (c). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men.

1982—Subsec. (f). Pub. L. 97–295, §2(13), substituted ''chapter 51, subchapter III of chapter 53, and sections 5542–5546 of title 5'' for ''the civil service classification laws and titles II and III of the Federal Employees Pay Act of 1945 as amended''.

Subsec. (g). Pub. L. 97–295, §2(11), substituted ''percent'' for ''per centum''.

1979—Subsec. (g). Pub. L. 96–23 substituted ''$15,000'' for ''$7,500''.

1970—Subsec. (g). Pub. L. 91–278 substituted ''$7,500'' for ''$5,100''.

1959—Subsec. (g). Pub. L. 86–309 substituted ''$5,100'' for ''$3,750''.

1955—Subsec. (f). Act Aug. 9, 1955, §1, inserted ''as amended''.

Subsec. (g). Act Aug. 9, 1955, §2, authorized head of department in which the Coast Guard is operating to regulate hours of duty and pay.

RETROACTIVE PAY

Section 5(b) of Pub. L. 96–23 provided that: ''The Coast Guard may issue retroactive pay to its remaining civilian lighthouse keepers in an amount equal to the difference between what the keeper actually received and what he would have received under the General Schedule salary rates had there not been a statutory limitation of $7,500 on his annual salary. This amount is to be calculated from the time at which his salary reached the statutory limitation to the date of enactment of this Act [June 13, 1979].''

[§§ 433, 434. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section 433, acts Aug. 4, 1949, ch. 393, 63 Stat. 528; Sept. 27, 1949, ch. 586, 63 Stat. 698; Sept. 24, 1963, Pub. L. 88–130, §1(11), 77 Stat. 190; Oct. 12, 1982, Pub. L. 97–295, §2(11), (14), 96 Stat. 1302, related to personnel of former Bureau of Marine Inspection and Navigation and Bureau of Customs.

Section 434, added act Sept. 23, 1950, ch. 996, 64 Stat. 978; amended Oct. 12, 1982, Pub. L. 97–295, §2(14), 96 Stat. 1302, related to personnel appointed as constructors.

SAVINGS PROVISION

See note set out under section 431 of this title.

[§§ 435 to 437. Repealed. Pub. L. 88–130, § 4(a), Sept. 24, 1963, 77 Stat. 192]

Section 435, added act Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 620, related to temporary appointments in time of war or national emergency. See section 214 of this title.

Section 436, added act Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 621, related to temporary promotions in time of war or national emergency. See section 275 of this title.

Section 437, acts Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 622; June 28, 1962, Pub. L. 87–509, §4(b), 76 Stat. 121, related to discharge during war or emergency of officers having less than 20 years of service for unsatisfactory performance of duty.

EXTENSION OF AUTHORITY

Act July 23, 1947, ch. 301, §16, 61 Stat. 413, as amended June 3, 1948, ch. 395, 62 Stat. 302; Aug. 10, 1956, ch. 1041, §27, 70A Stat. 631; Sept. 2, 1958, Pub. L. 85–861, §6, 72 Stat. 1555; Sept. 21, 1961, Pub. L. 87–257, 75 Stat. 538, provided that notwithstanding the limitations in sections 435 and 436 of this title, the authority of such sections could be exercised until the Secretary of the Treasury determined officers holding permanent appointments on the active list equalled 95% of the number authorized, exclusive of extra numbers, or Jan. 1, 1964, whichever occurred earlier. Pub. L. 87–257, Sept. 21, 1961, 75 Stat. 538, was repealed by section 4(b) of Pub. L. 88–130.

[§ 438. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section, added act Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 623; amended June 9, 1966, Pub. L. 89–444, §1(21), 80 Stat. 197; Dec. 12, 1980, Pub. L. 96–513, title V, §505(b), 94 Stat. 2918, related to laws not applicable to warrant officers of former Life Saving Service, Lighthouse Service, Bureau of Marine Inspection and Navigation, and Bureau of Customs.

SAVINGS PROVISION

See note set out under section 431 of this title.

[§§ 439, 440. Repealed. Pub. L. 88–130, § 4(a), Sept. 24, 1963, 77 Stat. 192]

Section 439, added act July 20, 1956, ch. 647, §3(a), 70 Stat. 588, related to oath of office. See section 273(b) of this title.

Section 440, added Pub. L. 85–861, §33(b)(1), Sept. 2, 1958, 72 Stat. 1567, related to temporary promotion of warrant officers. See section 277 of this title.

CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

Sec.
461. Remission of indebtedness of enlisted members upon discharge.
[462 to 466. Repealed.]
467. Computation of length of service.
468. Procurement of personnel.
469. Training.
470. Special instruction at universities.
471. Attendance at professional meetings.
[471a. Repealed.]
472. Education loan repayment program.
[473, 474. Repealed.]
475. Leasing and hiring of quarters; rental of inadequate housing.
476. Contingent expenses.
477. Equipment to prevent accidents.
478. Rations or commutation therefor in money.
479. Sales of ration supplies to messes.
480. Flight rations.
481. Payments at time of discharge for good of service.