

(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 sec-

tion 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

Pub. L. 88-130, §6, Sept. 24, 1963, 77 Stat. 193, 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

Pub. L. 88-130, §2(c), Sept. 24, 1963, 77 Stat. 191, 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, other than the Commandant, 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 at the grade of rear admiral. A board