

PRIOR PROVISIONS

A prior section 293, 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, mandated retirement of any regular commissioned officer, except a commissioned warrant officer, at age 62, prior to repeal by Pub. L. 111-281, title II, §215(a), Oct. 15, 2010, 124 Stat. 2916.

§ 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 Repealed.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 Repealed.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 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. (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 a case is final and conclusive.