

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

Pub. L. 104-324, §209(d), Oct. 19, 1996, 110 Stat. 3914, 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

Pub. L. 104-324, §209(c), Oct. 19, 1996, 110 Stat. 3914, 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.”

§ 426. Emergency leave retention authority

(a) IN GENERAL.—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(f)(2) of title 10, as a duty assignment in support of a contingency operation.

(b) DEFINITIONS.—In this section:

(1) SPILL OF NATIONAL SIGNIFICANCE.—The term “spill of national significance” means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.

(2) DISCHARGE.—The term “discharge” has the meaning given that term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).

(Added Pub. L. 111-281, title II, §207(a), Oct. 15, 2010, 124 Stat. 2912.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

EFFECTIVE DATE

Pub. L. 111-281, title II, §207(c), Oct. 15, 2010, 124 Stat. 2912, provided that: “The amendments made by this section [enacting this section] shall be deemed to have been enacted on April 19, 2010.”

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

Pub. L. 96-23, §5(b), June 13, 1979, 93 Stat. 69, 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.
- 482. Clothing at time of discharge for good of service.
- 483. Right to wear uniform.
- 484. Protection of uniform.
- 485. Clothing for officers and enlisted personnel.
- 486. Clothing for destitute shipwrecked persons.
- 487. Procurement and sale of stores to members and civilian employees.
- 488. Advancement of public funds to personnel.
- [489, 490. Repealed.]
- 491. Medal of honor.
- 491a. Coast Guard cross.
- 492. Distinguished service medal.
- 492a. Silver star medal.
- 492b. Distinguished flying cross.
- 493. Coast Guard medal.
- 494. Insignia for additional awards.
- [495. Repealed.]
- 496. Time limit on award; report concerning deed.
- 497. Honorable subsequent service as condition to award.
- 498. Posthumous awards.
- 499. Delegation of powers to make awards; rules and regulations.
- 500. Life-saving medals.
- 501. Replacement of medals.
- 502. Award of other medals.
- 503. Awards and insignia for excellence in service or conduct.
- 504. Medal of honor: duplicate medal.
- 505. Medal of honor: presentation of Medal of Honor Flag.
- [506. Repealed.]
- 507. Disposition of effects of decedents.
- 508. Deserters; payment of expenses incident to apprehension and delivery; penalties.
- 509. Persons discharged as result of court-martial; allowances to.