

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”.