

Subsecs. (a), (b). Pub. L. 99-433, §522(d)(1), substituted subsecs. (a) and (b) for former subsecs. (a) and (b) which read as follows:

“(a) The Vice Chief of Staff and the Deputy Chiefs of Staff shall be general officers detailed to those positions.

“(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

“(1) The Vice Chief of Staff.

“(2) The Deputy Chiefs of Staff in order of seniority.”

Subsec. (c). Pub. L. 99-433, §522(d)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “If the Vice Chief of Staff is absent or disabled or if that office is vacant, the senior Deputy Chief of Staff who is not absent or disabled shall, unless otherwise directed by the Secretary of the Air Force, perform the duties of the Vice Chief of Staff until a successor is designated or the absence or disability ceases.”

Subsec. (d). Pub. L. 99-433, §522(d)(3), (4), added subsec. (d). Former subsec. (d) was redesignated (c).

1958—Subsec. (d). Pub. L. 85-599 added subsec. (d).

§ 8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) The Secretary of the Air Force shall prescribe the number of Deputy Chiefs of Staff and Assistant Chiefs of Staff, for a total of not more than eight positions.

(Added Pub. L. 99-433, title V, §522(e), Oct. 1, 1986, 100 Stat. 1062; Pub. L. 110-181, div. A, title IX, §902(c), Jan. 28, 2008, 122 Stat. 273.)

PRIOR PROVISIONS

A prior section 8035 was renumbered section 8034 of this title.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-181 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

“(1) there may not be more than five Deputy Chiefs of Staff; and

“(2) there may not be more than three Assistant Chiefs of Staff.”

§ 8036. Surgeon General: appointment; grade

There is a Surgeon General of the Air Force who is appointed by the President by and with the advice and consent of the Senate from officers of the Air Force who are in the Air Force medical department. The Surgeon General, while so serving, has the grade of lieutenant general.

(Added Pub. L. 89-288, §5(a), Oct. 22, 1965, 79 Stat. 1050; amended Pub. L. 99-433, title V, §522(g)(2), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 104-106, div. A, title V, §506(c), Feb. 10, 1996, 110 Stat. 296.)

AMENDMENTS

1996—Pub. L. 104-106 substituted “in the Air Force medical department” for “designated as medical officers under section 8067(a) of this title”.

1986—Pub. L. 99-433 substituted a semicolon for the comma in section catchline.

§ 8037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties

(a) There is a Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force. The term of office is four years. The Judge Advocate General, while so serving, has the grade of lieutenant general.

(b) The Judge Advocate General of the Air Force shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Air Force and of all officers and agencies of the Department of the Air Force;

(2) shall direct the officers of the Air Force designated as judge advocates in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is four years. An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

(e) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(f) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Air Force or the Chief of Staff of the Air Force; or

(2) the ability of officers of the Air Force who are designated as judge advocates who are assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 495, §8072; Pub. L. 96-343, §12(a), (b)(1), Sept. 8, 1980, 94 Stat. 1130, 1131; renumbered §8037, Pub. L. 99-433, title V, §522(f), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103-337, div. A, title V, §504(c), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 104-106, div. A, title V, §507(a), Feb. 10, 1996, 110 Stat. 296; Pub. L. 108-375, div. A, title V, §574(c), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 109-163, div. A, title V, §508(c), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110-181, div. A, title V, §543(c), Jan. 28, 2008, 122 Stat. 115.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
8072(a)	10:1840(a).	Sept. 19, 1951, ch. 407, §310(a), (b) (less 1st sentence), 65 Stat. 332.
8072(b)	50:741.	May 5, 1950, ch. 169, §13 (as applicable to Air Force), 64 Stat. 147.
8072(c)	10:62, 10:1840(b) (last sentence).	R.S. 1199. June 23, 1874, ch. 458, §2, 18 Stat. 244.

In subsection (a), the words “subject to the provisions of section 741 of Title 50” are omitted as surplusage. The words “but may be sooner terminated, or extended, by the President” are substituted for 10:1840(a) (last 11 words of 1st sentence, and 2d sentence). 10:1840(a) (1st 46 words of 3d sentence) is omitted as surplusage. 10:1840(a) (last sentence) is omitted as executed. The words “by the President, by and with the advice and consent of the Senate”, as they relate to the appointment as a major general in the Regular Air Force, are omitted as covered by section 8284 of this title.

In subsection (b), the words “Hereafter” and “exclusive of the present incumbents” are omitted as surplusage. The words “at least” are substituted for the words “not less than a total”.

In subsection (c), the Act of June 23, 1874, ch. 458, §2 (words before semicolon of 1st sentence, and last sentence), 18 Stat. 244, are not contained in 10:62. They are also omitted from the revised section, since the Air Force does not have organic corps created by statute.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “The Judge Advocate General, while so serving, while the grade of lieutenant general.” for “The Judge Advocate General, while so serving, shall hold a grade not lower than major general.”

2006—Subsec. (a). Pub. L. 109-163, §508(c), substituted “The Judge Advocate General, while so serving, shall hold a grade not lower than major general.” for “An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.”

Subsec. (b). Pub. L. 109-163, §1057(a)(2), struck out “or Territory” after “a State”.

2004—Subsec. (a). Pub. L. 108-375, §574(c)(1), struck out “, but may be sooner terminated or extended by the President” after “four years”.

Subsec. (c). Pub. L. 108-375, §574(c)(2)(A), struck out “shall” after “General” in introductory provisions.

Subsec. (c)(1) to (3). Pub. L. 108-375, §574(c)(2)(B)-(D), added pars. (1) and (2), redesignated former par. (1) as (3), inserted “shall” before “receive”, substituted period for “; and” at end, and struck out former par. (2) which read as follows: “perform such other legal duties as may be directed by the Secretary of the Air Force.”

Subsec. (d)(1). Pub. L. 108-375, §574(c)(3), struck out “, but may be sooner terminated or extended by the President” after “four years”.

Subsec. (f). Pub. L. 108-375, §574(c)(4), added subsec. (f).

1996—Subsec. (d)(1). Pub. L. 104-106 substituted “four years” for “two years” and “An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.” for “An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense.”

1994—Subsec. (e). Pub. L. 103-337 added subsec. (e).

1980—Pub. L. 96-343, §12(b)(1), substituted “General, Deputy Judge Advocate General:” for “General:” in section catchline.

Subsec. (d). Pub. L. 96-343, §12(a), added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 507(b) of Pub. L. 104-106 provided that: “The amendments made by subsection (a) [amending this section] apply to any appointment to the position of Deputy Judge Advocate General of the Air Force that is made after the date of the enactment of this Act [Feb. 10, 1996].”

§ 8038. Office of Air Force Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Air Force an Office of Air Force Reserve which is headed by a chief who is the adviser to the Chief of Staff on Air Force Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Air Force Reserve from general officers of the Air Force Reserve who have had at least 10 years of commissioned service in the Air Force.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Air Force Reserve unless the officer—

(A) is recommended by the Secretary of the Air Force; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Chief of Air Force Reserve shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Chief of Air Force Reserve if the Secretary of the Air Force requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT; GRADE.—(1) The Chief of Air Force Reserve is appointed for a period of four years, but may be removed for cause at any time. An officer serving as Chief of Air Force Reserve may be reappointed for one additional four-year period.

(2) The Chief of Air Force Reserve, while so serving, holds the grade of lieutenant general.

(d) BUDGET.—The Chief of Air Force Reserve is the official within the executive part of the De-