

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

**§ 327. Officers considered for removal; retirement or discharge; separation benefits**

(a) At any time during proceedings under section 322 or 323 of this title, and before the removal of an officer, the Secretary may grant a request—

- (1) for voluntary retirement, if the officer is otherwise qualified therefor; or
- (2) for discharge with separation benefits under section 286(c) of this title.

(b) Each officer removed from active duty under section 326 of this title shall—

- (1) if on that date the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or
- (2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189; amended Pub. L. 97-295, §2(10), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 99-348, title II, §205(b)(6), July 1, 1986, 100 Stat. 700; Pub. L. 105-383, title II, §201(c), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107-295, title IV, §416(a)(5), Nov. 25, 2002, 116 Stat. 2122.)

AMENDMENTS

2002—Pub. L. 107-295, §416(a)(5)(A), substituted “separation” for “severance” in section catchline.

Subsec. (a)(2). Pub. L. 107-295, §416(a)(5)(B), added par. (2) and struck out former par. (2) which read as follows: “for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or”.

Subsec. (a)(3). Pub. L. 107-295, §416(a)(5)(C), struck out par. (3) which read as follows: “for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title.”

Subsec. (b)(2). Pub. L. 107-295, §416(a)(5)(D), added par. (2) and struck out former par. (2) which read as follows: “if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month’s basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or”.

Subsec. (b)(3). Pub. L. 107-295, §416(a)(5)(E), struck out par. (3) which read as follows: “if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month’s basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, 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.”

1998—Subsec. (b)(3). Pub. L. 105-383 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”.

1986—Subsec. (b)(1). Pub. L. 99-348 struck out “, and with the pay” after “in the grade”.

1982—Pub. L. 97-295 inserted “of this title” after “section 322 or 323” and “section 321” wherever appearing.

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.

F. MISCELLANEOUS PROVISIONS

**§ 331. Recall to active duty during war or national emergency**

In time of war or national emergency, the Secretary may order any regular officer on the retired list to active duty.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

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.

**§ 332. Recall to active duty with consent of officer**

(a) Any regular officer on the retired list may, with that officer’s consent, be assigned to such duties as that officer may be able to perform.

(b) The number of retired officers on active duty in the grade of lieutenant commander, commander, or captain shall not exceed 2 percent of the authorized number of officers on active duty in each such grade. However, this limitation does not apply to retired officers of these grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189; amended Pub. L. 89-444, §1(18), June 9, 1966, 80 Stat. 196; Pub. L. 91-278, §1(9), June 12, 1970, 84 Stat. 305; Pub. L. 102-241, §14, Dec. 19, 1991, 105 Stat. 2213.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-241, §14(b), substituted “that officer’s” for “his” and “that officer” for “he”.

Subsec. (b). Pub. L. 102-241, §14(a), substituted “2” for “1”.

1970—Subsec. (a). Pub. L. 91-278 struck out prohibition against recall to duty in time of peace of any officer on retired list who reached age of sixty-two years.

1966—Subsec. (b). Pub. L. 89-444 provided that the percentage limitation on the number of retired officers on active duty in the grade of lieutenant commander, commander, or captain should not apply to retired officers of those grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

**§ 333. Relief of retired officer promoted while on active duty**

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.