

(b) Except for an officer who is serving or has served in the grade of vice admiral under section 5137(a) of this title, an officer who is retired while serving as a chief of bureau, or who, after serving at least two and one-half years as chief of bureau, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of rear admiral, and with retired pay based on that grade. An officer who is serving or has served in the grade of vice admiral under section 5137(a) of this title may, upon retirement, be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held by him while on the active list or active-duty list and with retired pay based on that grade.

(c) Except in time of war, any officer of a staff corps who has served as a chief of bureau for a full term is exempt from sea duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 285; Pub. L. 86-174, §2(2), Aug. 18, 1959, 73 Stat. 396; Pub. L. 87-649, §14c(15), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89-288, §3, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 89-718, §35(2)-(4), Nov. 2, 1966, 80 Stat. 1120; Pub. L. 96-513, title V, §503(9), Dec. 12, 1980, 94 Stat. 2911; Pub. L. 103-337, div. A, title V, §504(b)(3), (5), Oct. 5, 1994, 108 Stat. 2751.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5133(a)	5 U.S.C. 441 (less applicability to JAG).	July 1, 1918, ch. 114, 40 Stat. 717 (1st sentence on p. 717, less applicability to JAG).
	5 U.S.C. 441a (as applicable to rank, pay and allowances).	June 20, 1940, ch. 400, §1(c) (2d sentence, less applicability to retirement), 54 Stat. 493.
	5 U.S.C. 439 (last 39 words).	July 12, 1921, ch. 44, §8 (2d par., last 42 words), 42 Stat. 140.
5133(b)	5 U.S.C. 425a (as applicable to Chiefs of Bureaus).	June 22, 1938, ch. 567, 52 Stat. 839 (as applicable to Chiefs of Bureaus).
	5 U.S.C. 441a (as applicable to retirement).	June 20, 1940, ch. 400, §1(c) (2d sentence as applicable to retirement), 54 Stat. 493.
5133(c)	34 U.S.C. 225.	R.S. 1436.

In subsection (a), the language that incorporates the rank, pay, and allowances of chiefs of bureaus of the War Department for chiefs of bureaus is executed. Creation of the Department of the Air Force by the National Security Act of 1947, and the saving provisions in §305 of that act, would relate chiefs of bureaus of the Navy to the corresponding officers of both the other military departments. Since there is now positive organizational law for both of those departments providing the grades of the departmental officers, and, since in the reorganization of the departments, there is no precise counterpart of the chief of a Navy bureau, it is inappropriate to continue the incorporation by reference. Subsection (a), therefore, provides that bureau chiefs are entitled to have the rank of rear admiral with pay and allowances of a rear admiral in the upper half, which, under §516 of the Officer Personnel Act of 1947, corresponds with major general. The subsection also recognizes the possibility of appointing an officer of the Marine Corps as Chief of the Bureau of Aeronautics by providing that such an appointee has the rank, pay, and allowances of a major general.

AMENDMENTS

1994—Pub. L. 103-337, §504(b)(5), struck out “and Judge Advocate General” after “Chiefs” in section catchline.

Subsec. (a). Pub. L. 103-337, §504(b)(3)(A), struck out “or the Judge Advocate General” after “chief of bureau” and struck out at end “Unless appointed to a higher grade under another provision of law, an officer of the Marine Corps, while serving as Judge Advocate General, has the rank of major general.”

Subsec. (b). Pub. L. 103-337, §504(b)(3)(B), struck out “or the Judge Advocate General” after “chief of bureau” in two places and “or major general, as appropriate” after “grade of rear admiral”.

1980—Subsec. (b). Pub. L. 96-513 struck out second sentence relating to retired pay of an officer retired in the grade of rear admiral, and inserted “or active-duty list” after “active list” in third sentence.

1966—Pub. L. 89-718 inserted reference to the Judge Advocate General in section catchline, substituted “Judge Advocate General” for “Chief of the Bureau of Naval Weapons”, inserted “or the Judge Advocate General” after “chief of bureau” in subsec. (a), and “or the Judge Advocate General” after “chief of bureau” in subsec. (b).

1965—Subsec. (b). Pub. L. 89-288 permitted an officer who is serving or has served in the grade of vice admiral under section 5137(a) of this title, upon retirement, to be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held by him while on the active list and with the retired pay based on that grade.

1962—Subsec. (a). Pub. L. 87-649 repealed provisions which prescribed the pay and allowances of a chief of bureau and of the Chief of the Bureau of Naval Weapons, in the Marine Corps. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

1959—Pub. L. 86-174 substituted “Bureau of Naval Weapons” for “Bureau of Aeronautics”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1959 AMENDMENT

For effective date of amendment by Pub. L. 86-174 see note set out under section 5131 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Offices of Bureau Chiefs, see note set out under section 5111 of this title.

[§ 5134. Repealed. Pub. L. 87-649, §14c(16), Sept. 7, 1962, 76 Stat. 501]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, prescribed pay of deputy chiefs of bureaus. See Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 5135. Bureau Chiefs: succession to duties

(a) When there is a vacancy in the office of chief of a bureau, or during the absence or disability of the chief of a bureau, the deputy chief of that bureau, unless otherwise directed by the President, shall perform the duties of the chief until a successor is appointed or the absence or disability ceases.

(b) When subsection (a) cannot be complied with because of the absence or disability of the