

§ 5596. Navy and Marine Corps: temporary appointments of officers designated for limited duty

(a) Under such regulations as he may prescribe, the Secretary of the Navy may make temporary appointments of officers designated for limited duty in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain from sources authorized under section 5589 of this title. Such appointments shall be made by warrant if in the grade of warrant officer, W-1, and by commission if in a higher grade.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(c) The following members of the naval service are ineligible for temporary appointments under this section:

- (1) Retired members.
- (2) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty for training.
- (3) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Navy Reserve or the Marine Corps Reserve.
- (4) Members of the Navy Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(d) Officers designated for limited duty under subsection (a) may be temporarily appointed by the Secretary of the Navy in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps under such regulations as the Secretary may prescribe. Regulations prescribed under this section shall to the greatest extent practicable conform to the procedures prescribed in chapter 36 of this title for selection for promotion and promotion to higher permanent grades.

(e) The Secretary of the Navy may terminate any appointment made under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 328; Pub. L. 96-513, title III, §326, Dec. 12, 1980, 94 Stat. 2894; Pub. L. 102-190, div. A, title XI, §1113(c), (d)(2)(A), Dec. 5, 1991, 105 Stat. 1502; Pub. L. 109-163, div. A, title V, §515(b)(1)(G), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5596(c)	34 U.S.C. 3c(h) (less 14th through 53d words).	Aug. 7, 1947, ch. 512, § 302(h) (less 14th through 53d words), 61 Stat. 830.
5596(d)	34 U.S.C. 135a(a) (last sentence as applicable to temporary appointments).	May 29, 1954, ch. 249, § 3(a) (3d sentence as applicable to temporary appointments), 68 Stat. 158.
	34 U.S.C. 135c(a) (last sentence as applicable to temporary appointments).	May 29, 1954, ch. 249, § 5(a) (last sentence as applicable to temporary appointments), 68 Stat. 159.
	34 U.S.C. 330 (last sentence as applicable to temporary promotions).	May 29, 1954, ch. 249, § 7 (last sentence as applicable to temporary promotions), 68 Stat. 159.
5596(e)	34 U.S.C. 3c(g).	Aug. 7, 1947, ch. 512, § 302(g), 61 Stat. 830.
	34 U.S.C. 626-1(a).	Aug. 7, 1947, ch. 512, § 314(a), 61 Stat. 863.
5596(f)	34 U.S.C. 3c(e).	Aug. 7, 1947, ch. 512, § 302(e), 61 Stat. 830.
	34 U.S.C. 135a(b).	May 29, 1954, ch. 249, § 3(b), 68 Stat. 158.
5596(g)	34 U.S.C. 105j.	June 12, 1948, ch. 449, § 215, 62 Stat. 370.
	34 U.S.C. 625h(a).	June 12, 1948, ch. 449, § 213(a), 62 Stat. 369.
	34 U.S.C. 3c(a) (as applicable to meaning of word "officers").	Aug. 7, 1947, ch. 512, § 302(a) (as applicable to meaning of word "officers"), 61 Stat. 829.
	34 U.S.C. 3c(h) (14th through 53d words).	Aug. 7, 1947, ch. 512, § 302(h) (14th through 53d words), 61 Stat. 830.
5596(h)	34 U.S.C. 306h (as applicable to temporary appointments under 34 U.S.C. 3c(c)).	Aug. 7, 1947, ch. 512, § 316(d) (as applicable to temporary appointments under §302(c)), 61 Stat. 867.

Since appointments under this section are either made, or not made, in the discretion of the President, the proviso of 34 U.S.C. 3d, authorizing the President to suspend the operation of this section with respect to lieutenants (junior grade) and lieutenants in the Navy and first lieutenants and captains in the Marine Corps, is omitted from subsection (a) as unnecessary.

In subsections (b) and (c) the words "and above" have been executed by naming the grades they imply, to wit, chief petty officers and master and technical sergeants. In the statement of the grades to which appointments may be made, the words "including the grades of warrant officer and commissioned warrant officer" are omitted as surplusage. In the list of persons who may be appointed, reference to commissioned warrant officers is omitted because they are included within the term "warrant officers".

In subsection (f) the words "do not change the * * * status" are substituted for the words "appointments * * * shall not be vacated." The word "advancement", the words "in accordance with laws relating to the Regular Navy or Marine Corps", and the words "privileges and gratuities" are omitted as surplusage. The first proviso is omitted as unnecessary in view of the Career Compensation Act of 1949.

In subsection (g)(2) that portion of 34 U.S.C. 3c(a) which excludes officers on the retired list from the definition of the word "officers" is treated as precluding the appointment of such officers under this section. There is no express statement of law making retired enlisted members ineligible for such appointments; however, the context indicates this to be the intent of Congress. In subsection (g)(3) that portion of 34 U.S.C. 3c(a) which excludes officers on active duty for training from the definition of the word "officers" is treated as precluding the appointment of persons on training duty under this section. While there is no statement of law making enlisted members of the Naval Reserve and the Marine Corps Reserve on active duty for training ineligible for appointments under this section, the context indicates this to be the intent of Congress and clause (3) is thus written. The exception as to the Fleet Re-

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5596(a)	34 U.S.C. 3d.	Aug. 7, 1947, ch. 512, §301, 61 Stat. 829; June 30, 1951, ch. 196, §1(b), 65 Stat. 108.
5596(b)	34 U.S.C. 3c(c).	Aug. 7, 1947, ch. 512, §302(c), 61 Stat. 830.

serve is omitted as unnecessary inasmuch as, pursuant to the Armed Forces Reserve Act of 1952, the Fleet Reserve is no longer a part of the Naval Reserve but is a separate and distinct component of the Navy.

AMENDMENTS

2006—Subsec. (c)(2) to (4). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” wherever appearing.

1991—Pub. L. 102-190, §1113(d)(2)(A), struck out “warrant officers and” before “officers designated” in section catchline.

Subsec. (a). Pub. L. 102-190, §1113(c)(1), reorganized subsec. (a), striking out par. (1) relating to warrant officer grades, and striking out par. (2) designation.

Subsec. (d). Pub. L. 102-190, §1113(c)(2), substituted “subsection (a)” for “subsection (a)(2)”.

1980—Subsec. (a). Pub. L. 96-513 substituted provisions authorizing the Secretary of the Navy to make temporary appointments in warrant officer grades and of certain officers designated for limited duty for provisions authorizing such appointments only when the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeded the number of male officers on the active list in the line of the Navy.

Subsec. (b). Pub. L. 96-513 redesignated subsec. (f) as (b) and struck out former subsec. (b) which described persons eligible for temporary appointments in the Regular Navy, except in the Nurse Corps, in grades not above lieutenant and in the Regular Marine Corps in grades not above captain.

Subsec. (c). Pub. L. 96-513 redesignated subsec. (g) as (c), struck out provision restricting temporary appointments to male members of the naval service, and struck out former subsec. (c) which described persons eligible for temporary appointments in the Naval Reserve, except in the Nurse Corps, in grades not above lieutenant and in the Marine Corps Reserve in grades not above captain.

Subsec. (d). Pub. L. 96-513 substituted provisions authorizing the Secretary of the Navy to temporarily appoint officers designated for limited duty under subsec. (a)(2) in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps for provisions authorizing the Secretary to make temporary appointments in warrant officer grades.

Subsec. (e). Pub. L. 96-513 redesignated subsec. (h) as (e), substituted “Secretary of the Navy” for “President”, and struck out former subsec. (e) which provided that the number of persons appointed in the Regular Navy under this section in grades above chief warrant officer, W-4, could not exceed the difference between the actual number of officers on the active list of the Navy in the line or in the staff corps concerned and the authorized number of such officers.

Subsecs. (f) to (h). Pub. L. 96-513 redesignated subsecs. (f), (g), and (h) as (b), (c), and (e), respectively.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

For delegation to Secretary of Defense of authority vested in President by section 3c(g) of former Title 34, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, set out as a note under section 301 of Title 3, The President.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

[§§ 5597 to 5599. Repealed. Pub. L. 96-513, title III, § 327, Dec. 12, 1980, 94 Stat. 2894]

Section 5597, acts Aug. 10, 1956, ch. 1041, 70A Stat. 330; Sept. 7, 1962, Pub. L. 87-649, §§5(a), 14c(28), 76 Stat. 493, 501; Sept. 28, 1971, Pub. L. 92-129, title VI, §603(a), 85 Stat. 362, authorized temporary appointments in Navy and Marine Corps in times of war or national emergency. See section 603 of this title.

Section 5598, act Aug. 10, 1956, ch. 1041, 70A Stat. 331, authorized temporary appointments in Naval Reserve and Marine Corps Reserve in times of war or national emergency. See section 603 of this title.

Section 5599, act Aug. 10, 1956, ch. 1041, 70A Stat. 331, provided that the President alone could make appointments for temporary service in Medical Corps in grade of lieutenant (junior grade). See section 603 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[§ 5600. Repealed. Pub. L. 104-106, div. A, title XV, § 1501(c)(26), Feb. 10, 1996, 110 Stat. 499]

Section, added Pub. L. 85-861, §1(121)(A), Sept. 2, 1958, 72 Stat. 1494; amended Pub. L. 86-559, §1(41), June 30, 1960, 74 Stat. 273; Pub. L. 90-179, §5(4), Dec. 8, 1967, 81 Stat. 548; Pub. L. 96-513, title III, §328, Dec. 12, 1980, 94 Stat. 2895; Pub. L. 97-22, §6(c), July 10, 1981, 95 Stat. 130; Pub. L. 98-94, title X, §1007(c)(4), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100-180, div. A, title VII, §714(c), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 102-190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103-160, div. A, title V, §509(c), Nov. 30, 1993, 107 Stat. 1648, related to service credit upon original appointment as commissioned officer in Naval Reserve or Marine Corps Reserve. See section 12207 of this title.

EFFECTIVE DATE OF REPEAL

Pub. L. 104-106, div. A, title XV, §1501(c)(26), Feb. 10, 1996, 110 Stat. 499, provided that the repeal made by that section is effective on the effective date specified in section 1691(b)(1) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

[§ 5601. Repealed. Pub. L. 89-609, § 1(10), Sept. 30, 1966, 80 Stat. 853]

Section, added Pub. L. 85-861, §1(121)(A), Sept. 2, 1958, 72 Stat. 1495, authorized appointment of men in the Naval Reserve in the Nurse Corps.

[CHAPTER 541—REPEALED]

[§§ 5651 to 5664. Repealed. Pub. L. 96-513, title III, § 332, Dec. 12, 1980, 94 Stat. 2897]

Section 5651, act Aug. 10, 1956, ch. 1041, 70A Stat. 332, related to eligibility of officers to be running mates.

Section 5652, acts Aug. 10, 1956, ch. 1041, 70A Stat. 332; Sept. 2, 1958, Pub. L. 85-861, §1(122), 72 Stat. 1495, related, except as provided in sections 5652a, 5652b, 5652c, 5653, and 5654 of this title, to assignment of running mates from among eligible line officers to staff corps officers serving in grade of lieutenant (junior grade) on active list of Navy.