

(C) In the case of a person with a degree from an unaccredited institution that is a qualifying educational institution under this paragraph, the degree may not have been awarded more than eight years before the date on which the person is to be appointed to, or recognized in, the grade of captain or, in the case of the Navy Reserve, lieutenant, in order for that person to be considered for purposes of subsection (a) to have been awarded a baccalaureate degree by a qualifying educational institution.

(d) WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND CERTAIN MARINE CORPS OFFICERS.—(1) The Secretary of the Army may waive the applicability of subsection (a) to any officer whose original appointment in the Army as a Reserve officer is through the Army Officer Candidate School program.

(2) The Secretary of the Navy may waive the applicability of subsection (a) to any officer whose original appointment in the Marine Corps as a Reserve officer is through the Marine Corps meritorious commissioning program.

(3) Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than two years after the waiver is granted. The Secretary concerned may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.

(Added Pub. L. 102-484, div. A, title V, §515(a), Oct. 23, 1992, 106 Stat. 2406, §596; renumbered §12205 and amended Pub. L. 103-337, div. A, title V, §§519, 520, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2755, 2990; Pub. L. 104-201, div. A, title V, §§504, 505, title X, §1074(a)(22), Sept. 23, 1996, 110 Stat. 2512, 2660; Pub. L. 107-107, div. A, title V, §512(a), Dec. 28, 2001, 115 Stat. 1092; Pub. L. 109-163, div. A, title V, §515(b)(1)(KK), Jan. 6, 2006, 119 Stat. 3234.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102-190, div. A, title V, §523, Dec. 5, 1991, 105 Stat. 1363, which was set out as a note under section 591 [now 12201] of this title, prior to repeal by Pub. L. 103-35, §203(a).

AMENDMENTS

2006—Subsecs. (a), (b)(2), (3), (c)(2)(C). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

2001—Subsec. (d). Pub. L. 107-107 added subsec. (d).

1996—Subsec. (a). Pub. L. 104-201, §1074(a)(22), substituted “No person” for “After September 30, 1995, no person”.

Subsec. (b)(3). Pub. L. 104-201, §505, inserted “or the Seaman to Admiral program” after “(NAVCAD) program”.

Subsec. (c)(2)(C). Pub. L. 104-201, §504, substituted “eight years” for “three years”.

1994—Pub. L. 103-337, §1662(c)(2), renumbered section 596 of this title as this section.

Subsec. (a). Pub. L. 103-337, §519(1), substituted “a qualifying educational institution” for “an accredited educational institution”.

Subsec. (b)(2), (3). Pub. L. 103-337, §520(b), substituted “a person” for “an individual”.

Subsec. (b)(5). Pub. L. 103-337, §520(a), added par. (5).

Subsec. (c). Pub. L. 103-337, §519(2), added subsec. (c).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title V, §512(b), Dec. 28, 2001, 115 Stat. 1092, provided that: “Subsection (d) of section

12205 of title 10, United States Code, as added by subsection (a), shall apply with respect to officers appointed before, on, or after the date of the enactment of this Act [Dec. 28, 2001].”

AUTHORITY FOR TEMPORARY WAIVER FOR CERTAIN ARMY RESERVE OFFICERS OF BACCALAUREATE DEGREE REQUIREMENT FOR PROMOTION OF RESERVE OFFICERS

Pub. L. 105-261, div. A, title V, §516, Oct. 17, 1998, 112 Stat. 2008, provided that:

“(a) WAIVER AUTHORITY FOR ARMY OCS GRADUATES.—The Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to any officer who before the date of the enactment of this Act [Oct. 17, 1998] was commissioned through the Army Officer Candidate School. Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than 2 years after the waiver is granted. The Secretary may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.

“(b) EXPIRATION OF AUTHORITY.—A waiver under this section may not be granted after September 30, 2000.”

§ 12206. Commissioned officers: appointment of former commissioned officers

Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.

(Added §596a and renumbered §12206, Pub. L. 103-337, div. A, title XVI, §§1633, 1662(c)(2), Oct. 5, 1994, 108 Stat. 2965, 2990.)

AMENDMENTS

1994—Pub. L. 103-337, §1662(c)(2), renumbered section 596a of this title as this section.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 12207. Commissioned officers: service credit upon original appointment

(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.