

tion has been divided. The first sentence is incorporated in section 423 of this title. The second proviso is incorporated in section 424 of this title. The remainder is placed in this subsection.

Changes were made in phraseology. 81st Congress, House Report No. 557.

#### AMENDMENTS

1991—Pub. L. 102-241 substituted “Involuntary retirement of enlisted members” for “Enlisted Personnel Board” in section catchline and amended text generally. Prior to amendment, text provided that the Commandant assemble annually a Coast Guard Enlisted Personnel Board to recommend enlisted members for retirement, that the recommendations be transmitted to the Commandant for approval, in which event the enlisted members concerned would be notified and given opportunity to file a written protest, which would require a subsequent annual Board determination and approval by the Commandant to effect the involuntary retirement of that member, and further provided that an enlisted member with twenty years’ service retired from active duty by the Commandant pursuant to this section was to receive retired pay, and that an enlisted member voluntarily or involuntarily retired by reason of twenty years’ service who had been cited for extraordinary heroism was entitled to an increase in retired pay.

1986—Subsec. (b). Pub. L. 99-348, §205(b)(9)(A), substituted “retired pay” for “the retired pay of the grade or rating with which retired”.

Subsec. (c). Pub. L. 99-348, §205(b)(9)(B), substituted provision that retired pay be increased by an amount equal to 10 percent of the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under 423(a) of this title, or the member’s retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title for provision that the retired pay be increased by an amount equal to 10 percent of the active-duty pay and permanent additions thereto of the grade or rating with which retired.

1984—Pub. L. 98-557, §15(a)(3)(A), substituted reference to enlisted member for reference to enlisted man wherever appearing in subsecs. (a) to (c).

Subsec. (a). Pub. L. 98-557, §15(a)(3)(B), substituted reference to enlisted members for reference to enlisted men in two places.

1963—Subsec. (c). Pub. L. 88-114 struck out provisions which entitled enlisted men whose average marks in conduct were not less than 97½ percent of the maximum to a 10-percent increase of their retired pay.

1950—Subsec. (c). Act Aug. 3, 1950, substituted “years” for “years”.

#### SERVICE CREDIT FOR CERTAIN ENLISTED PERSONNEL

Act June 3, 1948, ch. 394, 62 Stat. 302, provided: “That those enlisted men of the Coast Guard who, during 1940 and 1941, were discharged from the Coast Guard to accept employment as policemen and guards at the Ivigtut Cryolite Mine, Greenland, and who reenlisted in the Coast Guard within three months after the termination of their service as such policemen and guards, shall be credited with the time between discharge and reenlistment for purposes of longevity pay and retirement, but no increased retroactive pay shall accrue by reason of the enactment of this Act.”

#### ENLISTED MEN IN SERVICE ON SEPTEMBER 6, 1963

Pub. L. 88-114, §2, Sept. 6, 1963, 77 Stat. 144, provided that: “The amendment made by subsection (1) of section 1 of this Act [amending this section] does not apply to any enlisted man in service on the effective date of this Act [Sept. 6, 1963].”

### § 358. Repealed. Pub. L. 88-114, §1(2), Sept. 6, 1963, 77 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, §1, 63 Stat. 522, limited number of retirements in a calendar year of en-

listed men who had completed 20 years of service, to not more than the whole number nearest 1 percent of the total enlisted force on the active list, and any men so authorized to be retired annually who were not so retired, could be retired during any subsequent year providing the total retired in that year did not exceed 3 percent of the total enlisted force.

### § 359. Recall to active duty during war or national emergency

In times of war or national emergency, the Commandant may order any enlisted member on the retired list to active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §18, 64 Stat. 407; Pub. L. 98-557, §15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §185c (May 24, 1939, ch. 146, §4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§240 and 310 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

#### AMENDMENTS

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man.

1950—Act Aug. 3, 1950, struck out all references to pay.

#### 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.

### § 360. Recall to active duty with consent of member

Any enlisted member on the retired list may, with his consent, be assigned to such duties as he may be able to perform, except that no enlisted member on the retired list who has reached the age of sixty-two years shall be recalled in time of peace.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §19, 64 Stat. 407; Pub. L. 98-557, §15(a)(3)(A), (4)(B)(i), Oct. 30, 1984, 98 Stat. 2865.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §185c (May 24, 1939, ch. 146, §4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§241 and 311 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

#### AMENDMENTS

1984—Pub. L. 98-557 substituted “member” for “man” in section catchline, and in text substituted reference to enlisted member for reference to enlisted man in two places.

1950—Act Aug. 3, 1950, struck out all references to pay.

### § 361. Relief of retired enlisted member promoted while on active duty

Any enlisted member on the retired list recalled to active duty who during such active

duty is advanced to a higher grade or rating under a permanent or temporary appointment or promotion shall, upon relief from active duty be advanced on the retired list to the highest grade or rating held while on active duty. In case the appointment or promotion was temporary the advancement on the retired list shall be made only to such grade or rating in which the member served satisfactorily on active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 20, 64 Stat. 407; Pub. L. 98-557, § 15(a)(3)(A), (G), (4)(C)(i), Oct. 30, 1984, 98 Stat. 2865.)

#### HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., §§3501(a) and (b), 350j(b) (July 24, 1941, ch. 320, § 10, 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28).

Said sections have application to officers only, but in accord with the general plan to make as many provisions as possible applicable both to officers and men, it seems highly desirable to provide similarly for enlisted men—a fortiori because there are cases in the Coast Guard in which enlisted men are suffering inequitably because there is no provision for advancing men on the retired list after they have been advanced in rating while serving on active duty after recall from the retired list. 81st Congress, House Report No. 557.

#### AMENDMENTS

1984—Pub. L. 98-557 in section catchline substituted “enlisted member” for “man”, and in two places in text substituted “member” for “man”.

1950—Act Aug. 3, 1950, struck out all references to pay.

### § 362. Retirement in cases where higher grade or rating has been held

Any enlisted member who is retired under any provision of section 353, 354, 355, or 357 of this title shall be retired from active service with the highest grade or rating held by him while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, but not lower than his permanent grade or rating.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 21, 64 Stat. 407; Pub. L. 97-295, § 2(9), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98-557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99-348, title II, § 205(b)(8), July 1, 1986, 100 Stat. 700.)

#### HISTORICAL AND REVISION NOTES

Based on title 34, U.S.C., 1946 ed., §3501(e) (July 24, 1941, ch. 320, § 10, 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28).

The requirement that the higher grade or rating be held prior to June 30, 1946, has been eliminated; this seems to be in line with the intent of Congress as expressed in section 303 of the act of June 29, 1948, ch. 708, 62 Stat. 1081. The act of July 24, 1941, 55 Stat. 605, was enacted primarily for application to Navy personnel but it is made applicable to Coast Guard personnel by its own terms (see title 34, U.S.C., 1946 ed., §350j(b)). 81st Congress, House Report No. 557.

#### AMENDMENTS

1986—Pub. L. 99-348 struck out “, with retired pay of the grade or rating with which retired” after “permanent grade or rating”.

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man.

1982—Pub. L. 97-295 substituted “of this title” for “of this chapter” after “357”.

1950—Act Aug. 3, 1950, struck out reference to section 356.

### [[§ 363, 364. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 363, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 364, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

### § 365. Extension of enlistments

Under regulations prescribed by the Secretary, the term of enlistment of any enlisted member may, by voluntary written agreement, be extended and re-extended for a period not exceeding six full years from the date of expiration of the then-existing term of enlistment, and subsequent to such date an enlisted member who so extends his term of enlistment shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of his term of enlistment. However, the total of all such extensions of an enlistment may not exceed six years. No such extension shall operate to deprive the enlisted member concerned, upon discharge at the termination thereof, of any right, privilege, or benefit to which he would have been entitled if his term of enlistment had not been so extended.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Pub. L. 86-474, § 1(18), May 14, 1960, 74 Stat. 146; Pub. L. 98-557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

#### HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §35 (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586).

Said section has been divided. Subsection (b) is placed in this section. The provisions of the first sentence of subsection (a) are placed in section 351 of this title. The proviso of subsection (a) is covered in section 367(b) of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered in section 366 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

#### AMENDMENTS

1984—Pub. L. 98-557 substituted reference to enlisted member for reference to enlisted man in three places.

1960—Pub. L. 86-474 increased maximum term for extension of a reenlistment period from four to six years.

### § 366. Retention beyond term of enlistment in case of disability

Any enlisted member of the Coast Guard in the active service whose term of enlistment expires while he is suffering disease or injury incident to service and not due to misconduct, and who is in need of medical care or hospitalization, may, with his consent, be retained in such service beyond the expiration of his term of enlistment. Any such enlisted member shall be entitled to receive at Government expense medical care or hospitalization and his pay and allowances, including credit for longevity, until he shall have recovered to such extent as would enable him to meet the physical requirements for reenlistment, or until it shall have been ascertained by competent authority of the Coast Guard that the disease or injury is of a char-