

“(c) An officer in the Regular Corps on active duty on the date of enactment of this Act [Apr. 8, 1960] may be retired and have his retired pay computed under section 211 of the Public Health Service Act [42 U.S.C. 212], as amended by this Act, or, if he so elects, under such section as in effect prior to the date of enactment of this Act [Apr. 8, 1960].

“(d) The limitation under subsection (f) of section 211 of the Public Health Service Act [42 U.S.C. 212(f)], as amended by this Act, on the amount of active service with the Public Health Service, other than as a commissioned officer, which may be counted for purposes of retirement or separation for physical disability, shall not apply in the case of any officer of the Reserve Corps of the Public Health Service on active duty on June 30, 1960.”

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20.

DELEGATION OF FUNCTIONS

Functions of President delegated to Secretary of Health and Human Services, see Ex. Ord. No. 11140, eff. Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

COVERAGE UNDER CIVIL SERVICE RETIREMENT ACT

Creditable service for purposes of the Civil Service Retirement Act for certain commissioned officers of the Regular or Reserve Corps of the Public Health Service, see section 6(a), (b) of Pub. L. 86-415, set out as a note under section 8332 of Title 5, Government Organization and Employees.

§ 212a. Repealed. Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, §1312, formerly title VII, §712, as added Feb. 28, 1948, ch. 83, §9(b), 62 Stat. 47; renumbered title VIII, §812, July 30, 1956, ch. 779, §3(b), 70 Stat. 721; renumbered title IX, §912, Sept. 4, 1964, Pub. L. 88-581, §4(b), 78 Stat. 919; renumbered title X, §1012, Oct. 6, 1965, Pub. L. 89-239, §3(b), 79 Stat. 931; renumbered title XI, §1112, Dec. 24, 1970, Pub. L. 91-572, §6(b), 84 Stat. 1506; renumbered title XII, §1212, May 16, 1972, Pub. L. 92-294, §3(b), 86 Stat. 137; renumbered title XIII, §1312, Nov. 16, 1973, Pub. L. 93-154, §2(b)(2), 87 Stat. 604, provided for retirement of certain officers of Reserve Corps of the Public Health Service for disability.

§ 212b. Repealed. Apr. 27, 1956, ch. 211, § 5(d), 70 Stat. 117

Section, act July 31, 1953, ch. 296, title II, §201, 67 Stat. 254, authorized recall of retired officers of the Service. See section 212(c) of this title.

§ 213. Military benefits

(a) Rights, privileges, immunities, and benefits accorded to commissioned officers or their survivors

Except as provided in subsection (b) of this section, commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers—

- (1) in time of war;
- (2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or
- (3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) Award of decorations

The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) Authority of Surgeon General

The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service deemed active military service with respect to laws administered by Secretary of Veterans Affairs

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Secretary of Veterans Affairs (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

(e) Active service deemed active military service with respect to Servicemembers Civil Relief Act

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.).

(f) Active service deemed active military service with respect to anti-discrimination laws

Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for purposes of all laws related to discrimination on the basis of race, color, sex, ethnicity, age, religion, and disability.

(July 1, 1944, ch. 373, title II, §212, 58 Stat. 689; July 15, 1954, ch. 507, §14(a), 68 Stat. 481; Aug. 1,

1956, ch. 837, title V, § 501(b)(1), 70 Stat. 881; Pub. L. 94-278, title XI, § 1101, Apr. 22, 1976, 90 Stat. 415; Pub. L. 102-54, § 13(q)(1)(C), June 13, 1991, 105 Stat. 278; Pub. L. 105-392, title IV, § 402(a), Nov. 13, 1998, 112 Stat. 3587; Pub. L. 108-189, § 2(e), Dec. 19, 2003, 117 Stat. 2866.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (d), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, which was classified generally to subchapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 837, title V, § 502(9), 70 Stat. 886.

The Servicemembers Civil Relief Act, referred to in subsec. (e), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108-189 substituted "Servicemembers Civil Relief Act" for "Soldiers' and Sailors' Civil Relief Act of 1940".

1998—Subsec. (f). Pub. L. 105-392 added subsec. (f).

1991—Subsec. (d). Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

1976—Subsec. (e). Pub. L. 94-278 added subsec. (e).

1956—Act Aug. 1, 1956, amended section generally to extend all rights, privileges, immunities, and benefits provided for commissioned officers of the Army or their surviving beneficiaries to commissioned officers of the Service, with the exception of retired pay and uniform allowances, when performing duty under certain circumstances, and to provide that active service of commissioned officers shall be deemed to be active military service in the Armed Forces for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

1954—Subsec. (a)(1). Act July 15, 1954, struck out "burial payments in the event of death," after "limited to,".

EFFECTIVE DATE OF 1956 AMENDMENT; APPLICABILITY

Act Aug. 1, 1956, ch. 837, title V, § 501(b)(2), 70 Stat. 882, provided that: "The amendment made by this subsection [amending this section] (A) shall apply only with respect to service performed on or after July 4, 1952, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans' Readjustment Assistance Act of 1952 [act July 16, 1952, ch. 875, 66 Stat. 633], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [42 U.S.C. 402(i)], or under Veterans Regulation Numbered 9(a), for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat.

1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

RECOMPUTATION OF SOCIAL SECURITY BENEFITS FOR OFFICERS ENTITLED TO OLD-AGE INSURANCE BENEFITS PRIOR TO JANUARY 1, 1957, OR FOR SURVIVORS OF OFFICERS WHO DIED PRIOR TO JANUARY 1, 1957

Act Aug. 1, 1956, ch. 837, title V, § 501(b)(3), 70 Stat. 882, provided that: "In the case of any individual—

"(A) who performed active service (i) as a commissioned officer of the Public Health Service at any time during the period beginning July 4, 1952, and ending December 31, 1956, or (ii) as a commissioned officer of the Coast and Geodetic Survey at any time during the period beginning July 29, 1945, and ending December 31, 1956; and

"(B)(i) who became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [42 U.S.C. 402(a)] prior to January 1, 1957, or

"(ii) who died prior to January 1, 1957, and whose widow, child, or parent is entitled for the month of January 1957, on the basis of his wages and self-employment income, to a monthly survivor's benefit under section 202 of such act [42 U.S.C. 402]; and

"(C) any part of whose service described in subparagraph (A) was not included in the computation of his primary insurance amount under section 215 of such act [42 U.S.C. 415] but would have been included in such computation if the amendment made by paragraph (1) of this subsection or paragraph (1) of subsection (d) had been effective prior to the date of such computation,

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [42 U.S.C. 415(f)(1)], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by him or (if he dies without filing such an application) by any person entitled to monthly survivor's benefits under section 202 of such act [42 U.S.C. 402] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner, provided in title II of the Social Security Act [42 U.S.C. 401 et seq.] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this paragraph shall be regarded as a recomputation under section 215(f) of the Social Security Act [42 U.S.C. 415(f)]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application was filed, but in no case for any month before January 1957."

DISPOSITION OF REMAINS OF DECEASED PERSONNEL

Recovery, care, and disposition of the remains of deceased members of the uniformed services and other deceased personnel, see section 1481 et seq. of Title 10, Armed Forces.

BURIAL OF CERTAIN COMMISSIONED OFFICERS

Act Apr. 30, 1956, ch. 227, 70 Stat. 124, provided: "That burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I pursuant to the act of July 1, 1902 (32 Stat. 712, 713), as amended, and Executive Order Numbered 2571 dated April 3, 1917, and of the wife, widow, minor child and, in the discretion of the Secretary of the Army, unmarried adult child of these officers is authorized: *Provided*, That the remains of the wife, widow, and children may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a

national cemetery if, upon death, the related officer is not buried in the same or an adjoining gravesite.”

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Dec. 30, 1992, 58 F.R. 3485, provided:

Memorandum for the Secretary of Defense, the Secretary of Health and Human Services

The authority of the President under section 212(b) of the Public Health Service Act (42 U.S.C. 213(b)) is hereby delegated to the Secretary of Defense. In the exercise of that authority, the Secretary of Defense shall ensure that no military ribbon, medal, or decoration is awarded to an officer of the Public Health Service without the approval of the Secretary of Health and Human Services.

The Secretary of Defense shall ensure the publication of this memorandum in the Federal Register.

GEORGE BUSH.

§ 213a. Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee

(a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1370, 1374,¹ 1375 and 1376(a).¹

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.¹

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 213 of this title.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposits of Savings.

(12) Section 1552, Correction of military records: claims incident thereto.

(13) Section 1553, Review of discharge or dismissal.

(14) Section 1554, Review of retirement or separation without pay for physical disability.

(15) Section 1124, Cash awards for suggestions, inventions, or scientific achievements.

(16) Section 1052, Reimbursement for adoption expenses.

(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.

(18) Section 1034, Protected Communications; Prohibition of Retaliatory Personnel Actions.

(b) The authority vested by title 10 in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health and Human Services or his designee. For purposes of paragraph (18) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Health and Human Services.

(July 1, 1944, ch. 373, title II, § 221, as added Aug. 10, 1956, ch. 1041, § 4, 70A Stat. 619; amended Pub. L. 85-861, § 4, Sept. 2, 1958, 72 Stat. 1547; Pub. L. 86-160, § 3, Aug. 14, 1959, 73 Stat. 359; Pub. L. 87-555, § 2, July 27, 1962, 76 Stat. 244; Pub. L. 88-132, § 5(k), Oct. 2, 1963, 77 Stat. 214; Pub. L. 88-431, § 1(d), Aug. 14, 1964, 78 Stat. 440; Pub. L. 89-538, § 3(b), Aug. 14, 1966, 80 Stat. 348; Pub. L. 92-425, § 5, Sept. 21, 1972, 86 Stat. 713; Pub. L. 96-76, title III, § 312, Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96-513, title V, § 507(f)(2), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 99-117, § 4, Oct. 7, 1985, 99 Stat. 492; Pub. L. 105-85, div. A, title VI, § 653(a), Nov. 18, 1997, 111 Stat. 1804; Pub. L. 107-107, div. A, title VI, § 653(a), Dec. 28, 2001, 115 Stat. 1153; Pub. L. 112-144, title XI, § 1129, July 9, 2012, 126 Stat. 1118.)

REFERENCES IN TEXT

Sections 1374 and 1376(a) of title 10, referred to in subsec. (a)(3), were repealed by Pub. L. 103-337, div. A, title XVI, § 1662(k)(2), (3)(A)(i), Oct. 5, 1994, 108 Stat. 3006. See sections 12771 to 12774 of Title 10, Armed Forces.

Formula No. 3 of section 1401 of title 10, referred to in subsec. (a)(4), was struck from the table set forth in section 1401(a) of title 10 by Pub. L. 103-337, div. A, title XVI, § 1662(j)(2), Oct. 5, 1994, 108 Stat. 3004.

CODIFICATION

Section was formerly classified to section 316 of title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451.

AMENDMENTS

2012—Subsec. (a)(18). Pub. L. 112-144, § 1129(a), added par. (18).

Subsec. (b). Pub. L. 112-144, § 1129(b), inserted at end “For purposes of paragraph (18) of subsection (a), the term ‘Inspector General’ in section 1034 of such title 10 shall mean the Inspector General of the Department of Health and Human Services.”

2001—Subsec. (a)(17). Pub. L. 107-107 added cl. (17).

1997—Subsec. (a)(16). Pub. L. 105-85 added cl. (16).

1985—Subsec. (a)(15). Pub. L. 99-117 added cl. (15).

1980—Subsec. (a)(3). Pub. L. 96-513 inserted reference to section 1370 of title 10.

1979—Subsec. (a)(12) to (14). Pub. L. 96-76 added cls. (12) to (14).

1972—Subsec. (a)(5). Pub. L. 92-425 substituted “Retired Serviceman's Family Protection Plan; Survivor Benefit Plan” for “Annuities Based on Retired or Retainer Pay”.

1966—Subsec. (a)(11). Pub. L. 89-538 added cl. (11).

1964—Subsec. (a)(10). Pub. L. 88-431 added cl. (10).

1963—Subsec. (b). Pub. L. 88-132 inserted reference to Secretary of Defense.

1962—Subsec. (a). Pub. L. 87-555 added cl. (9). Notwithstanding directory language that section be amended

¹ See References in Text note below.