

stances, that the issue of the uniform to that member would significantly benefit the morale and welfare of the member and be advantageous to the armed force concerned.

(b) **RETENTION OF UNIFORM AS A PERSONAL ITEM.**—Notwithstanding section 771a of this title, a uniform issued to a member under this section may be retained by the member as a personal item.

(Added Pub. L. 102-484, div. A, title III, § 377(a)(2), Oct. 23, 1992, 106 Stat. 2386.)

#### PRIOR PROVISIONS

A prior section 775 was renumbered section 776 of this title.

#### § 776. Applicability of chapter

This chapter applies in—

- (1) the United States;
- (2) the territories, commonwealths, and possessions of the United States; and
- (3) all other places under the jurisdiction of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 36, § 774; Pub. L. 99-661, div. A, title XIII, § 1343(a)(1), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100-26, § 3(6), Apr. 21, 1987, 101 Stat. 273; renumbered § 775, Pub. L. 100-180, div. A, title V, § 508(a)(1), Dec. 4, 1987, 101 Stat. 1086; renumbered § 776, Pub. L. 102-484, div. A, title III, § 377(a)(1), Oct. 23, 1992, 106 Stat. 2386.)

#### HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)                 | Source (Statutes at Large)   |
|-----------------|------------------------------------|--|
| 774 .....       | 10:1393 (less 1st and last pars.). | June 3, 1916, ch. 134, § 125 (less 1st and last pars.), 39 Stat. 216; Apr. 15, 1948, ch. 188, 62 Stat. 172; June 25, 1948, ch. 645, § 21 (as applicable to § 125 of the Act of June 3, 1916, ch. 134), 62 Stat. 864; May 24, 1949, ch. 139, §§ 15(b) (less last par.), 142 (as applicable to the Act of Apr. 15, 1948, ch. 188), 63 Stat. 91, 110. |

The words “the Canal Zone, Guam, American Samoa, and the Virgin Islands as well as to \* \* \* other” are omitted as covered by the words “possessions, and all other places under its jurisdiction”.

#### AMENDMENTS

1992—Pub. L. 102-484 renumbered section 775 of this title as this section.

1987—Pub. L. 100-180 renumbered section 774 of this title as this section.

Pub. L. 100-26 amended directory language of Pub. L. 99-661. See 1986 Amendment note below.

1986—Pub. L. 99-661, as amended by Pub. L. 100-26, amended section generally. Prior to amendment, section read as follows: “This chapter applies in the United States, the Territories, Commonwealths, and possessions, and all other places under its jurisdiction.”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-26, § 12(a), Apr. 21, 1987, 101 Stat. 289, provided that: “The amendments made by section 3 [amending this section and sections 1032, 1408, 1450, 1588, 2007, 2364, and 5150 of this title, and section 4703 of Title 20, Education, and amending provisions set out as a note under section 1006 of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in Public Law 99-661 when enacted on November 14, 1986.”

#### § 777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions

(a) **AUTHORITY.**—An officer in a grade below the grade of major general or, in the case of the Navy, rear admiral, who has been selected for promotion to the next higher grade may be authorized, under regulations and policies of the Department of Defense and subject to subsection (b), to wear the insignia for that next higher grade. An officer who is so authorized to wear the insignia of the next higher grade is said to be “frocked” to that grade.

(b) **RESTRICTIONS.**—An officer may not be authorized to wear the insignia for a grade as described in subsection (a) unless—

(1) the Senate has given its advice and consent to the appointment of the officer to that grade;

(2) the officer is serving in, or has received orders to serve in, a position for which that grade is authorized; and

(3) in the case of an officer selected for promotion to a grade above colonel or, in the case of an officer of the Navy, a grade above captain—

(A) authority for that officer to wear the insignia of that grade has been approved by the Secretary of Defense (or a civilian officer within the Office of the Secretary of Defense whose appointment was made with the advice and consent of the Senate and to whom the Secretary delegates such approval authority); and

(B) the Secretary of Defense has submitted to Congress a written notification of the intent to authorize the officer to wear the insignia for that grade.

(c) **BENEFITS NOT TO BE CONSTRUED AS ACCRUING.**—(1) Authority provided to an officer as described in subsection (a) to wear the insignia of the next higher grade may not be construed as conferring authority for that officer to—

(A) be paid the rate of pay provided for an officer in that grade having the same number of years of service as that officer; or

(B) assume any legal authority associated with that grade.

(2) The period for which an officer wears the insignia of the next higher grade under such authority may not be taken into account for any of the following purposes:

(A) Seniority in that grade.

(B) Time of service in that grade.

(d) **LIMITATION ON NUMBER OF OFFICERS FROCKED TO SPECIFIED GRADES.**—(1) The total number of colonels, Navy captains, brigadier generals, and rear admirals (lower half) on the active-duty list who are authorized as described in subsection (a) to wear the insignia for the next higher grade may not exceed 85.

(2) The number of officers of an armed force on the active-duty list who are authorized as described in subsection (a) to wear the insignia for a grade to which a limitation on total number applies under section 523(a) of this title for a fiscal year may not exceed 1 percent, or, for the grades of colonel and Navy captain, 2 percent, of the total number provided for the officers in that grade in that armed force in the adminis-