

service, service as deck officer or junior engineer.

(Pub. L. 107-372, title II, § 232, Dec. 19, 2002, 116 Stat. 3088.)

#### CODIFICATION

Provisions similar to this section are contained in section 854a of this title.

### § 3033. Suspension during war or emergency

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

(Pub. L. 107-372, title II, § 233, Dec. 19, 2002, 116 Stat. 3088.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853i(b) of this title prior to repeal by Pub. L. 107-372.

### SUBCHAPTER III—SEPARATION AND RETIREMENT OF OFFICERS

### § 3041. Involuntary retirement or separation

#### (a) Transfer of officers to retired list; separation from service

As recommended by a personnel board convened under section 3022 of this title—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

#### (b) Computations

In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) of this section plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

#### (c) Effective date of retirements and separations

A retirement or separation under subsection (a) of this section shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

(Pub. L. 107-372, title II, § 241, Dec. 19, 2002, 116 Stat. 3088.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853g of this title prior to repeal by Pub. L. 107-372.

### § 3042. Separation pay

#### (a) Authorization of payment

An officer who is separated under section 3041(a)(2) of this title and who has completed

more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) of this section unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

#### (b) Amount of separation pay

##### (1) Six or more years

In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

##### (2) Three to six years

In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

#### (c) Other conditions, requirements, and administrative provisions

The provisions of subsections (f), (g), and (h) of section 1174 of title 10 shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

(Pub. L. 107-372, title II, § 242, Dec. 19, 2002, 116 Stat. 3088.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853h of this title prior to repeal by Pub. L. 107-372.

### § 3043. Mandatory retirement for age

#### (a) Officers below grade of rear admiral (lower half)

Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

#### (b) Flag officers

Notwithstanding subsection (a) of this section, the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

(Pub. L. 107-372, title II, § 243, Dec. 19, 2002, 116 Stat. 3089.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853k of this title prior to repeal by Pub. L. 107-372.