

and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years, from the flag officers of the Navy. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as the Chief of Naval Operations only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f)<sup>1</sup> of this title) as a flag officer.

\*ERR13\*(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

(c) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

(1) preside over the Office of the Chief of Naval Operations;

(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Navy and the Marine Corps as the Secretary determines;

(5) perform the duties prescribed for him by sections 171 and 2547 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(e)(1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Chief of Naval Operations in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Naval Operations shall inform the Secretary regarding military advice rendered by members of

the Joint Chiefs of Staff on matters affecting the Department of the Navy.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Naval Operations shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Added Pub. L. 99-433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1049; amended Pub. L. 100-456, div. A, title V, §519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 108-136, div. A, title V, §501(a), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 114-92, div. A, title VIII, §802(d)(4)(B), Nov. 25, 2015, 129 Stat. 880.)

#### REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (a)(2)(B), was redesignated as section 664(d) of this title by Pub. L. 114-328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 5081 and 5082 of this title prior to enactment of Pub. L. 99-433.

A prior section 5033, acts Aug. 10, 1956, ch. 1041, 70A Stat. 279; Sept. 2, 1958, Pub. L. 85-861, §1(108), 72 Stat. 1490; Aug. 14, 1964, Pub. L. 88-426, title III, §§305(5), 306(j)(5), 78 Stat. 422, 432, related to appointment and duties of Under Secretary of the Navy, prior to repeal by Pub. L. 99-433, §511(e). See section 5015 of this title.

#### AMENDMENTS

2015—Subsec. (d)(5). Pub. L. 114-92 substituted “sections 171 and 2547” for “section 171”.

2003—Subsec. (a)(1). Pub. L. 108-136 substituted “from the flag officers of the Navy” for “from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above”.

1988—Subsec. (a)(2)(B). Pub. L. 100-456 substituted “full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)” for “joint duty assignment”.

#### REAPPOINTMENT OF INCUMBENT CHIEF OF NAVAL OPERATIONS

Pub. L. 108-136, div. A, title V, §508, Nov. 24, 2003, 117 Stat. 1458, provided that: “Notwithstanding the provisions of section 5033(a)(1) of title 10, United States Code, the President, by and with the advice and consent of the Senate, may reappoint the officer serving as Chief of Naval Operations on October 1, 2003, for an additional term as Chief of Naval Operations. Such a reappointment shall be for a term of not more than two years.”

#### WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99-433, formerly set out as a note under section 3033 of this title.

#### [§ 5034. Repealed. Pub. L. 104-106, div. A, title V, § 502(c), Feb. 10, 1996, 110 Stat. 293]

Section, added Pub. L. 99-433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1050; amended Pub. L. 102-190, div. A, title V, §505(a), Dec. 5, 1991, 105 Stat. 1358, related to retirement of Chief of Naval Operations.

A prior section 5034, acts Aug. 10, 1956, ch. 1041, 70A Stat. 279; Aug. 6, 1958, Pub. L. 85-599, §8(b)(1), 72 Stat. 519; Dec. 1, 1967, Pub. L. 90-168, §2(13), (14), 81 Stat. 523; Nov. 9, 1979, Pub. L. 96-107, title VIII, §820(c), 93 Stat. 819; Sept. 24, 1983, Pub. L. 98-94, title XII, §1212(c)(2), 97

<sup>1</sup> See References in Text note below.

Stat. 687, related to appointment and duties of Assistant Secretaries of the Navy, prior to repeal by Pub. L. 99-433, §511(e). See section 5016 of this title.

### § 5035. Vice Chief of Naval Operations

(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade.

(c) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Navy in the Office of the Chief of Naval Operations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

(Added Pub. L. 99-433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1050.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5085 of this title prior to enactment of Pub. L. 99-433.

A prior section 5035, act Aug. 10, 1956, ch. 1041, 70A Stat. 279, authorized an Assistant Secretary of the Navy for Air, provided for his appointment and duties, and prescribed his compensation, prior to repeal by Pub. L. 85-599, §8(b)(2), Aug. 6, 1958, 72 Stat. 519, eff. six months after Aug. 6, 1958. Subsec. (c) was also repealed by Pub. L. 85-861, §36B(12), Sept. 2, 1958, 72 Stat. 1571.

### § 5036. Deputy Chiefs of Naval Operations

(a) There are Deputy Chiefs of Naval Operations in the Office of the Chief of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list of the Navy serving in grades above captain. The Secretary of the Navy shall prescribe the number of Deputy Chiefs of Naval Operations under this section and Assistant Chiefs of Naval Operations under section 5037 of this title, for a total of not more than eight positions.

(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

(Added Pub. L. 99-433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1051; amended Pub. L. 108-375, div. A, title V, §502(a), Oct. 28, 2004, 118 Stat. 1875; Pub. L. 110-181, div. A, title IX, §902(b)(1), Jan. 28, 2008, 122 Stat. 273.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5086 of this title prior to enactment of Pub. L. 99-433.

A prior section 5036, acts Aug. 10, 1956, ch. 1041, 70A Stat. 280; Nov. 2, 1966, Pub. L. 89-718, §32, 80 Stat. 1119; Jan. 2, 1968, Pub. L. 90-235, §4(a)(8), 81 Stat. 759; Dec. 12, 1980, Pub. L. 96-513, title V, §513(4), 94 Stat. 2931, related to succession to duties of Secretary of the Navy, prior to repeal by Pub. L. 99-433, §511(e). See section 5017 of this title.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “There are Deputy Chiefs of Naval Operations in the Office of the Chief of Naval Operations,” for “There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations,” and inserted at end “The Secretary of the Navy shall prescribe the number of Deputy Chiefs of Naval Operations under this section and Assistant Chiefs of Naval Operations under section 5037 of this title, for a total of not more than eight positions.”

2004—Subsec. (a). Pub. L. 108-375 struck out “in the line” after “active-duty list”.

### § 5037. Assistant Chiefs of Naval Operations

(a) There are Assistant Chiefs of Naval Operations in the Office of the Chief of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list of the Navy and officers on the active-duty list of the Marine Corps. The Secretary of the Navy shall prescribe the number of Assistant Chiefs of Naval Operations in accordance with section 5036(a) of this title.

(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.

(Added Pub. L. 99-433, title V, §512(b), Oct. 1, 1986, 100 Stat. 1051; amended Pub. L. 108-375, div. A, title V, §502(b), Oct. 28, 2004, 118 Stat. 1875; Pub. L. 110-181, div. A, title IX, §902(b)(2), Jan. 28, 2008, 122 Stat. 273.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5087 of this title prior to enactment of Pub. L. 99-433.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “There are Assistant Chiefs of Naval Operations in the Office of the Chief of Naval Operations,” for “There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations,” and inserted at end “The Secretary of the Navy shall prescribe the number of Assistant Chiefs of Naval Operations in accordance with section 5036(a) of this title.”