

Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Apr. 27, 1956, ch. 211, § 4(a), 70 Stat. 117; Pub. L. 86-415, § 5(c), Apr. 8, 1960, 74 Stat. 34; Pub. L. 87-649, § 11(2), Sept. 7, 1962, 76 Stat. 497; Pub. L. 96-76, title III, § 307, Sept. 29, 1979, 93 Stat. 585; Pub. L. 96-342, title VIII, § 813(h)(1), Sept. 8, 1980, 94 Stat. 1110; Pub. L. 99-348, title II, § 207(a), July 1, 1986, 100 Stat. 701; Pub. L. 112-166, § 2(ff)(2), Aug. 10, 2012, 126 Stat. 1290.)

CODIFICATION

In subsec. (m), “section 3332 of title 5” substituted for “the Act of December 11, 1926, as amended (5 U.S.C. 21a)” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-166 struck out “, by and with the advice and consent of the Senate” after “Permanent promotions shall be made by the President”.

1986—Subsec. (g)(3). Pub. L. 99-348 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2½ per centum of basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service; or

“(B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, 2½ per centum of the monthly retired pay base computed under section 1407(h) of title 10, for each year, not in excess of thirty, of his active commissioned service in the Service.”

1980—Subsec. (g)(3). Pub. L. 96-342 revised provisions into subpars. (A) and (B) and substituted provisions respecting computation of retired pay for officers who became members of the uniformed service before Sept. 8, 1980, and for officers who became members of the uniformed service on or after Sept. 8, 1980, for provisions respecting computation of retired pay for officers.

1979—Subsec. (d)(1). Pub. L. 96-76, § 307(a), inserted applicability to warrant officers and chief warrant officers.

Subsec. (g). Pub. L. 96-76, § 307(b), in provision before par. (1), inserted applicability to separation from Service of warrant officers and chief warrant officers subsequent to one examination or two examinations, respectively, in par. (1), inserted applicability to a chief warrant officer (W-2), and in par. (2), inserted applicability to a chief warrant officer (W-3).

1962—Subsec. (g). Pub. L. 87-649 substituted “basic pay” for “pay” in cls. (1) and (2).

1960—Subsec. (g). Pub. L. 86-415 substituted “of the basic pay of the permanent grade held by him at the time of retirement for each year” for “of his active duty pay at the time of retirement for each complete year” in cl. (3).

1956—Subsec. (d)(2). Act Apr. 27, 1956, struck out “pay period and for purposes of” before “seniority in grade”.

1949—Subsec. (g). Act Oct. 12, 1949, struck out “incurred in line of duty” wherever appearing.

1948—Act Feb. 28, 1948, amended subsecs. (a) to (c) generally and added subsecs. (d) to (m).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-76 effective Oct. 1, 1979, see section 314 of Pub. L. 96-76, set out as a note under section 206 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as a note under section 854a of Title 33, Navigation and Navigable Waters.

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 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, Jan. 30, 1964, 29 F.R. 1637, as amended, set out as a note under section 202 of this title.

§ 211a. Repealed. Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936

Section, act July 1, 1944, ch. 373, title XIII, § 1311, formerly title VII, § 711, as added Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47; renumbered title VIII, § 811, July 30, 1956, ch. 779, § 3(b), 70 Stat. 721; renumbered title IX, § 911, Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919; renumbered title X, § 1011, Oct. 6, 1965, Pub. L. 89-239, § 3(b), 79 Stat. 931; renumbered title XI, § 1111, Dec. 24, 1970, Pub. L. 91-572, § 6(b), 84 Stat. 1506; renumbered title XII, § 1211, May 16, 1972, Pub. L. 92-294, § 3(b), 86 Stat. 137; renumbered title XIII, § 1311, Nov. 16, 1973, Pub. L. 93-154, § 2(b)(2), 87 Stat. 604, provided for appointment to higher grades of Public Health Service officers for mental health and hospital construction activities.

§ 211b. Repealed. Pub. L. 94-412, title V, § 501(f), Sept. 14, 1976, 90 Stat. 1258

Section, act Feb. 28, 1948, ch. 83, § 6(b)-(f), 62 Stat. 45, dealt with promotion of Public Health Service officers.

SAVINGS PROVISION

Repeal not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 211c. Promotion credit for medical officers in assistant grade

Any medical officer of the Regular Corps of the Public Health Service who—

(1)(A) was appointed to the assistant grade in the Regular Corps and whose service in such

Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment,

shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

(July 1, 1944, ch. 373, title II, § 220, as added Apr. 30, 1956, ch. 223, § 3, 70 Stat. 121.)

REFERENCES IN TEXT

For “the effective date of this section”, referred to in text, see section 7 of act Apr. 30, 1956, which provided in part that this section shall become effective the first day of the month following the day of enactment, Apr. 30, 1956.

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.

§ 212. Retirement of commissioned officers

(a) Age; voluntariness; length of service; computation of retired pay

(1) A commissioned officer of the Service shall, if he applies for retirement, be retired on or after the first day of the month following the month in which he attains the age of sixty-four years. This paragraph does not permit or require the involuntary retirement of any individual because of the age of the individual.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) Except as provided in paragraph (6), a commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay calculated by multiplying the retired pay base determined under section 1406 of title 10 by the retired pay multiplier determined under section

1409 of such title for the numbers of years of service credited to the officer under this paragraph and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d)) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37 on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e)), and who does not use, for purposes of a retirement annuity under subchapter III of chapter 83 of title 5, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay, and (E) in the case of any officer who participates in the modernized retirement system by reason of section 1409(b) of title 10 (including pursuant to an election under subparagraph (B) of that section), subparagraph (C) shall be applied by substituting “40 per centum” for “50 per centum” each place the term appears.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and except as provided in paragraph (6), his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

(A) the retired pay base determined under section 1407 of title 10; by

(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).