

CHAPTER 77—POSTHUMOUS COMMISSIONS AND WARRANTS

Sec.	
1521.	Posthumous commissions.
1522.	Posthumous warrants.
1523.	Posthumous commissions and warrants: effect on pay and allowances.
1524.	Posthumous commissions and warrants: determination of date of death.

AMENDMENTS

1966—Pub. L. 89-718, §12(a)(2), Nov. 2, 1966, 80 Stat. 1117, added item 1524.

§ 1521. Posthumous commissions

(a) The President may issue, or have issued, an appropriate commission in the name of a member of the armed forces who, after September 8, 1939—

(1) was appointed to a commissioned grade but was unable to accept the appointment because of death;

(2) successfully completed the course at an officers' training school and was recommended for appointment to a commissioned grade by the commanding officer or officer in charge of the school but was unable to accept the appointment because of death; or

(3) was officially recommended for appointment or promotion to a commissioned grade but was unable to accept the promotion or appointment because of death.

(b) A commission issued under subsection (a) shall issue as of the date of the appointment, recommendation, or official recommendation, as the case may be, and the member's name shall be carried on the records of the military or executive department concerned as if he had served in the grade, and branch if any, in which posthumously commissioned, from the date of the appointment, recommendation, or official recommendation to the date of his death.

(c) A commission issued under subsection (a) in connection with the promotion of a deceased member to a higher commissioned grade shall require certification by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 115; Pub. L. 106-398, §1 [[div. A], title V, §505], Oct. 30, 2000, 114 Stat. 1654, 1654A-102; Pub. L. 110-417, [div. A], title V, §502(a), Oct. 14, 2008, 122 Stat. 4433.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1521(a)	10:491a (words before semicolon). 10:491b (words before semicolon). 10:491c (words before semicolon). 34:285b (words before semicolon). 34:285c (words before semicolon). 34:285d (words before semicolon).	July 28, 1942, ch. 528, §§1-3, 56 Stat. 722, 723; July 17, 1953, ch. 220, §1(a)-(c), 67 Stat. 176.
1521(b)	10:491a (words after semicolon). 10:491b (words after semicolon). 10:491c (words after semicolon). 34:285b (words after semicolon).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
	34:285c (words after semicolon). 34:285d (words after semicolon).	

In subsection (a), the words “a member of” are substituted for the words “any person who, while in”, in 10:491a, 491b, 491c, and 34:285b, 285c, and 285d. The words “armed forces” are substituted for the words “military service of the United States”, in 10:491a, 491b, and 491c; and the words “naval service of the United States”, in 34:285b, 285c, and 285d (which did not appear in the source statute for the revised section, as amended by the Act of July 17, 1953, ch. 220, §1(b), 67 Stat. 177). The words “to such grade”, in 10:491a and 34:285b, “receive or”, in 10:491c and 34:285d, are omitted as surplusage.

In subsection (b), the words “if any” are substituted for words “of the service”. The words “appointment and”, in 10:491b and 34:285c, and “appointment or promotion and”, in 10:491c and 34:285d, are omitted as surplusage.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417, §502(a)(1), struck out “in line of duty” after “death” in pars. (1) to (3). Subsec. (c). Pub. L. 110-417, §502(a)(2), added subsec. (c).

2000—Subsec. (a)(3). Pub. L. 106-398, §1 [[div. A], title V, §505(a)], struck out “and the recommendation for whose appointment or promotion was approved by the Secretary concerned” after “commissioned grade”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title V, §505(b)], substituted “official recommendation” for “approval” in two places.

DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (a) of this section, see sections 1(a) and 2(a) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

DETERMINATION OF DATE OF DEATH UNDER MISSING PERSONS ACT

Act July 28, 1942, ch. 528, §5, as added July 17, 1953, ch. 220, §1(e), 67 Stat. 177, provided that for purposes of this chapter, in any case where the date of death is established under the Missing Persons Act, as amended, the date of death is the date of receipt by the head of the department concerned of evidence that the person is dead, or the date the finding of death is made under section 5 of that Act, prior to repeal by Pub. L. 89-718, §12(b), Nov. 2, 1966, 80 Stat. 1117. See section 1524 of this title.

§ 1522. Posthumous warrants

(a) The Secretary concerned may issue, or have issued, an appropriate warrant in the name of a member of the armed forces who, after September 8, 1939, was officially recommended for appointment or promotion to a grade other than a commissioned grade but was unable to accept the appointment or promotion because of death.

(b) A warrant issued under subsection (a) shall issue as of the date of the recommendation, and the member's name shall be carried on the records of the military or executive department concerned as if he had served in the grade to which posthumously appointed or promoted from the date of the recommendation to the date of his death.

(c) A warrant issued under subsection (a) in connection with the promotion of a deceased member to a higher grade shall require a finding