

PRIOR PROVISIONS

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

AMENDMENTS

2012—Subsec. (d)(1). Pub. L. 112-166 struck out “, by and with the advice and consent of the Senate” before period at end.

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.

APPOINTMENT OF COMMISSIONED OFFICERS

Pub. L. 98-498, title III, §320(c)(2), Oct. 19, 1984, 98 Stat. 2309, provided that: “After the date of the enactment of this Act [Oct. 19, 1984], no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).”

§ 3029. Temporary appointments and promotions generally

(a) Ensign

Temporary appointments in the grade of ensign may be made by the President. Each such temporary appointment terminates at the close of the next regular session of the Congress.

(b) Lieutenant (junior grade)

Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant (junior grade) by the President whenever vacancies exist in higher grades.

(c) Any one grade

When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

(Pub. L. 107-372, title II, §229, Dec. 19, 2002, 116 Stat. 3087; Pub. L. 112-166, §2(gg)(3), Aug. 10, 2012, 126 Stat. 1290.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853j-1 of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2012—Pub. L. 112-166 struck out “alone” after “President” wherever appearing and, in subsec. (a), struck out “unless the Senate sooner gives its advice and consent to the appointment” before period at end of second sentence.

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.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce by section 1(b)-(d) of Ex.

Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

§ 3030. Temporary appointment or advancement of commissioned officers in time of war or national emergency

(a) In general

Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) Limitations

Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 3061 of this title may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 3061 of this title.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 3061 of this title.

(Pub. L. 107-372, title II, §230, Dec. 19, 2002, 116 Stat. 3087.)

CODIFICATION

Provisions similar to this section are contained in section 854a-1 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Commerce by section 1(h)-(j) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

§ 3031. Pay and allowances; date of acceptance of promotion

(a) Acceptance and date of promotion

An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) Oath of office

An officer who subscribed to the oath of office required by section 3331 of title 5 shall not be required to renew such oath or to take a new oath

upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

(Pub. L. 107-372, title II, §231, Dec. 19, 2002, 116 Stat. 3087.)

CODIFICATION

Provisions similar to this section are contained in section 854a-2 of this title.

§ 3032. Service credit as deck officer or junior engineer for promotion purposes

For purposes of promotion, there shall be counted in addition to active commissioned 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) 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) 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 re-

quests 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) 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), the President may defer the retirement of an officer serving in