

[§ 687. Renumbered § 12319]

Editorial Notes

CODIFICATION

Another section 687 was renumbered section 12321 of this title.

PRIOR PROVISIONS

A prior section 687, added Pub. L. 87-651, title I, §102(a), Sept. 7, 1962, 76 Stat. 506; amended Pub. L. 89-718, §6, Nov. 2, 1966, 80 Stat. 1115, related to readjustment payment upon involuntary release of non-regulars from active duty, prior to repeal by Pub. L. 96-513, title I, §109(a), Dec. 12, 1980, 94 Stat. 2870, effective Sept. 15, 1981.

§ 688. Retired members: authority to order to active duty; duties

(a) **AUTHORITY.**—Under regulations prescribed by the Secretary of Defense, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned at any time.

(b) **COVERED MEMBERS.**—Except as provided in subsection (d), subsection (a) applies to the following members of the armed forces:

(1) A retired member of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Space Force.

(2) A member of the Retired Reserve who was retired under section 1293, 7311, 7314, 8323, 9311, or 9314 of this title.

(3) A member of the Fleet Reserve or Fleet Marine Corps Reserve.

(c) **DUTIES OF MEMBER ORDERED TO ACTIVE DUTY.**—The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

(d) **EXCLUSION OF OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS.**—The following officers may not be ordered to active duty under this section:

(1) An officer who retired under section 638 of this title.

(2) An officer who—

(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 7311, 8323, or 9311 of this title; and

(B) was retired pursuant to that request.

(e) **LIMITATION OF PERIOD OF RECALL SERVICE.**—(1) A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under that subsection for more than 12 months within the 24 months following the first day of the active duty to which ordered under that subsection.

(2) Paragraph (1) does not apply to the following officers:

(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of active duty to which ordered.

(C) An officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

(D) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.

(f) **WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.**—Subsections (d) and (e) do not apply in time of war or of national emergency declared by Congress or the President.

(Added Pub. L. 104-201, div. A, title V, §521(a), Sept. 23, 1996, 110 Stat. 2515; amended Pub. L. 105-85, div. A, title V, §502, Nov. 18, 1997, 111 Stat. 1724; Pub. L. 107-107, div. A, title V, §509(a), Dec. 28, 2001, 115 Stat. 1091; Pub. L. 115-232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116-283, div. A, title IX, §924(b)(4)(I), Jan. 1, 2021, 134 Stat. 3822.)

Editorial Notes

PRIOR PROVISIONS

A prior section 688, added Pub. L. 96-513, title I, §106, Dec. 12, 1980, 94 Stat. 2868; amended Pub. L. 98-94, title X, §1017(b)(1)-(3), Sept. 24, 1983, 97 Stat. 669; Pub. L. 99-145, title V, §516, Nov. 8, 1985, 99 Stat. 630; Pub. L. 102-190, div. A, title V, §506(a), Dec. 5, 1991, 105 Stat. 1359; Pub. L. 103-160, div. A, title V, §563, Nov. 30, 1993, 107 Stat. 1669, provided that certain retired members of the armed forces could be ordered to active duty, prior to repeal by Pub. L. 104-201, div. A, title V, §521(a), (b), Sept. 23, 1996, 110 Stat. 2515, 2517, effective Sept. 30, 1997. See sections 688 to 690 of this title.

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116-283 substituted “Regular Marine Corps, or Regular Space Force” for “or Regular Marine Corps”.

2018—Subsec. (b)(2). Pub. L. 115-232 substituted “section 1293, 7311, 7314, 8323, 9311, or 9314” for “section 1293, 3911, 3914, 6323, 8911, or 8914”.

Subsec. (d)(2)(A). Pub. L. 115-232 substituted “section 7311, 8323, or 9311” for “section 3911, 6323, or 8911”.

2001—Subsec. (e)(2)(D). Pub. L. 107-107 added subpar. (D).

1997—Subsec. (e). Pub. L. 105-85 designated existing provisions as par. (1) and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title V, §509(c), Dec. 28, 2001, 115 Stat. 1091, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 690 of this title] shall apply with respect to officers serving on active duty as a defense attaché or service attaché on or after the date of the enactment of this Act [Dec. 28, 2001].”

EFFECTIVE DATE

Pub. L. 104-201, div. A, title V, §521(b), Sept. 23, 1996, 110 Stat. 2517, provided that: “The amendments made by this section [enacting this section and sections 689 and 690 of this title, amending section 6151 of this title, and repealing former section 688 of this title] shall take effect on September 30, 1997.”

§ 688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments

(a) **AUTHORITY.**—The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements. Any such order may be made only with the consent of the member ordered to active duty and in accordance with an agreement between the Secretary and the member.

(b) **DURATION.**—The period of active duty of a member under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

(c) **LIMITATION.**—No more than a total of 1,000 members may be on active duty at any time under subsection (a).

(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The authority to order a retired member to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

(e) **INAPPLICABILITY OF CERTAIN PROVISIONS.**—Retired members ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

(f) **EXPIRATION OF AUTHORITY.**—A retired member may not be ordered to active duty under this section outside a period as follows:

(1) The period beginning on December 2, 2002, and ending on December 31, 2011.

(2) The period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018 and ending on December 31, 2022.

(g) **EXCEPTIONS DURING PERIODS OF WAR OR NATIONAL EMERGENCY.**—The limitations in subsections (c) and (f) shall not apply during a time of war or of national emergency declared by Congress or the President.

(h) **HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY DEFINED.**—In this section, the term “high-demand, low-density military capability” means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.

(Added Pub. L. 107–314, div. A, title V, § 503(a)(1), Dec. 2, 2002, 116 Stat. 2530; amended Pub. L. 109–364, div. A, title VI, § 621(b), (d)(2)(A), Oct. 17, 2006, 120 Stat. 2254, 2255; Pub. L. 111–383, div. A, title V, § 531(a), Jan. 7, 2011, 124 Stat. 4215; Pub. L. 115–91, div. A, title V, § 527, Dec. 12, 2017, 131 Stat. 1383; Pub. L. 116–283, div. A, title V, § 511, Jan. 1, 2021, 134 Stat. 3587.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2018, referred to in

subsection (f)(2), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

AMENDMENTS

2021—Subsecs. (g), (h). Pub. L. 116–283 added subsec. (g) and redesignated former subsec. (g) as (h).

2017—Subsec. (f). Pub. L. 115–91 substituted “outside a period as follows:” for “after December 31, 2011.” and added pars. (1) and (2).

2011—Subsec. (f). Pub. L. 111–383 substituted “December 31, 2011” for “December 31, 2010”.

2006—Pub. L. 109–364, § 621(d)(2)(A), substituted “Retired members: temporary authority to order to active duty in high-demand, low-density assignments” for “Retired aviators: temporary authority to order to active duty” in section catchline.

Subsec. (a). Pub. L. 109–364, § 621(b)(1), in first sentence, substituted “The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements” for “The Secretary of a military department may order to active duty a retired officer having expertise as an aviator to fill staff positions normally filled by aviators on active duty” and, in second sentence, substituted “member” for “officer” in two places.

Subsec. (b). Pub. L. 109–364, § 621(b)(2), substituted “a member” for “an officer”.

Subsec. (c). Pub. L. 109–364, § 621(b)(3), substituted “1,000 members” for “500 officers”.

Subsec. (d). Pub. L. 109–364, § 621(b)(4), substituted “member to active duty under” for “officer to active duty under”.

Subsec. (e). Pub. L. 109–364, § 621(b)(5), substituted “Retired members” for “Officers”.

Subsec. (f). Pub. L. 109–364, § 621(b)(6), substituted “A retired member” for “An officer” and “December 31, 2010” for “September 30, 2008”.

Subsec. (g). Pub. L. 109–364, § 621(b)(7), added subsec. (g).

Statutory Notes and Related Subsidiaries

TRANSITION PROVISION

Pub. L. 107–314, div. A, title V, § 503(c), Dec. 2, 2002, 116 Stat. 2531, provided that: “Any officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 589) who continues on active duty under such order to active duty after the date of the enactment of this Act [Dec. 2, 2002] shall be counted for purposes of the limitation under subsection (c) of section 688a of title 10, United States Code, as added by subsection (a).”

§ 689. Retired members: grade in which ordered to active duty and upon release from active duty

(a) **GENERAL RULE FOR GRADE IN WHICH ORDERED TO ACTIVE DUTY.**—Except as provided in subsections (b) and (c), a retired member ordered to active duty under section 688 or 688a of this title shall be ordered to active duty in the member’s retired grade.

(b) **MEMBERS RETIRED IN O–9 AND O–10 GRADES.**—A retired member ordered to active duty under section 688 or 688a of this title whose retired grade is above the grade of major general or rear admiral shall be ordered to active duty in the highest permanent grade held by such member while serving on active duty.

(c) **MEMBERS WHO PREVIOUSLY SERVED IN GRADE HIGHER THAN RETIRED GRADE.**—(1) A re-