

[CHAPTER 694]

AN ACT

August 27, 1940
[H. R. 10030]
[Public, No. 775]

Increasing the number of naval aviators in the line of the Regular Navy and Marine Corps, and for other purposes.

Naval Aviation Personnel Act of 1940.

Naval aviators. Appointments from Naval and Marine Corps Reserve.

Grade and precedence.

Provisos. Moral, etc., qualifications.

Active service requirement; age.

Waiver of service, etc., requirements.

Aviators having year or more of active service.

Additional numbers in grade.

Credit for longevity.

Eligibility for promotion, etc.

Sea service.
34 U. S. C., Supp. V, § 311.

Disability and death benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Naval Aviation Personnel Act of 1940".

SEC. 2. The President of the United States is authorized to appoint to the line of the Regular Navy and Marine Corps, by and with the advice and consent of the Senate, as many naval aviators of the Naval and Marine Corps Reserve as he may deem necessary and the authorized number of commissioned officers of the line of the Navy and the Marine Corps is increased accordingly. These officers shall be appointed to the same grade occupied by them in the Naval or Marine Corps Reserve, as the case may be, at the time of such appointment and shall take precedence in such grade in accordance with the provisions of section 8 (e) of this Act: *Provided*, That they shall first establish their moral, physical, mental, and professional qualifications in accordance with such rules and regulations as the Secretary of the Navy may prescribe: *Provided further*, That officers so appointed shall, on June 30 of the calendar year in which they are appointed, have completed not less than eighteen months of continuous active service next following the completion of their duty as aviation cadets undergoing training and shall, on June 30 of the calendar year in which appointed, be less than twenty-six years of age: *Provided further*, That during a period of six months from the date of approval of this Act the Secretary of the Navy is authorized to waive the foregoing age requirement and continuous service requirements: *Provided further*, That during a period of six months from the date of approval of this Act those naval aviators who have not undergone training as aviation cadets but who have completed not less than one year of active service other than training duty in the Naval or Marine Corps Reserve may also be so appointed regardless of their age. Officers appointed under the authority of this proviso shall, upon appointment, be additional numbers in the grade to which appointed and in any grade to which they may thereafter be promoted: *And provided further*, That in computing the pay of officers appointed under the authority of this Act, credit for longevity shall be given them for all service, including service as aviation cadets, with which they have heretofore been credited.

SEC. 3. Each officer appointed pursuant to this Act to the grade of ensign or second lieutenant and each officer so appointed to a grade above that of ensign or second lieutenant shall, respectively, become eligible for promotion, or for consideration by a line selection board as of the date the line officer next junior to him at the date of appointment becomes so eligible. The qualification of sea service prescribed in section 11 (c) of the Act of June 23, 1938 (52 Stat. 948), shall not apply to such officers while in the grade to which originally appointed.

SEC. 4. All officers, nurses, warrant officers, and enlisted men of the United States Naval Reserve or United States Marine Corps Reserve, who, if called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of thirty days, suffer disability or death in line of duty from disease or injury while so employed shall be deemed to have been in the active naval service during such period, and they or their beneficiaries shall be in all respects entitled to receive the same pensions, compensation, retirement pay, and hospital benefits as are now or may hereafter be provided by law or regulation for officers, warrant officers, nurses, and enlisted men of corresponding grades and

length of service of the Regular Navy or Marine Corps: *Provided*, That if a person who is eligible for the benefits prescribed by this Act be also eligible for pension under the provisions of the Act of June 23, 1937 (50 Stat. 305), compensation from the United States Employees' Compensation Commission under the provisions of section 304 of the Naval Reserve Act of 1938 (52 Stat. 1181) or retired pay under the provision of section 310 of the Naval Reserve Act of 1938 (52 Stat. 1183), he shall elect which benefit he shall receive.

SEC. 5. Sections 6 and 8 of the Naval Aviation Reserve Act of 1939 (53 Stat. 820; U. S. C., Supp. V, title 34, secs. 849d and 849f) are hereby repealed.

SEC. 6. When officers commissioned in the Naval or Marine Corps Reserve pursuant to the Naval Aviation Reserve Act of 1939 are released from active duty that has been continuous for one or more years, they shall be paid a lump sum of \$500 for each complete year of active service other than duty as aviation cadets undergoing training and if released from active duty otherwise than upon their own request or as a result of disciplinary action, this lump-sum payment shall be prorated for fractional parts of each year of such service. The lump-sum payments authorized herein shall be in addition to any pay, allowances, compensation, or benefits which they may otherwise be entitled to receive.

SEC. 7. The Secretary of the Navy is authorized, in his discretion, to distribute the enlisted personnel of the Marine Corps among the various grades in such numbers as he deems to be to the best interests of the naval service.

SEC. 8. The Naval Reserve Act of 1938, approved June 25, 1938 (52 Stat. 1175), as amended, is hereby amended as follows:

(a) Section 7, title I, by inserting after the words "commissioned officers" in line 1 of said section the words "exclusive of chief warrant officers", by inserting after the word "midshipmen", in lines 8 and 13, page 1177, the words "chief warrant officers", and by inserting after the word "days" in line 28, page 1177, the following provisos: "*Provided further*, That no chief warrant officer promoted to other commissioned grade or warrant officer promoted to chief warrant officer or other commissioned grade shall suffer any reduction of pay by reason of such promotion: *Provided further*, That all periods during which chief warrant officers have held commissions in the Naval Reserve shall be included in computing their pay as provided in the Act of February 16, 1929 (45 Stat. 1186)";

(b) Section 309, title III, by deleting the word "thirty", in line 5 of said section, and inserting in lieu thereof the word "twenty";

(c) Section 312, title III, delete the second proviso beginning on line 8, page 1184, and insert in lieu thereof the following: "*Provided further*, That hereafter all officers of the Naval Reserve and the Marine Corps Reserve who may be advanced to a higher grade or rank in time of peace or in time of war or national emergency under the provisions of this Act, shall be allowed the pay and allowances of the higher grade or rank from the dates of rank as stated in their commissions, as distinguished from the dates of commission, or dates of acceptance of commission, and the dates of rank as stated in their commissions shall be conclusive for all purposes";

(d) Section 313, title III, by inserting after the word "Navy", in line 5 of said section, a comma and the words "including drills performed on Sunday,".

(e) "SEC. 311. In time of peace, officers of the Naval Reserve shall take precedence according to such regulations as the Secretary of the Navy may prescribe: *Provided*, That when mobilized with the Regular Navy for war or a national emergency, each officer of the Naval Reserve shall take precedence next after that officer of the

Proviso.
Election of benefits.

38 U. S. C., Supp. V,
note at end of ch. 12.

34 U. S. C., Supp. V,
§ 855c.

34 U. S. C., Supp. V,
§ 855i.
Repeal.

Service bonus.
53 Stat. 819.
34 U. S. C., Supp. V,
§§ 849-849i, 842, 844,
853c, 850, ch. 14 (note).

In addition to pay,
etc.

Distribution of des-
ignated personnel.

Naval Reserve Act
of 1938, amendments.

34 U. S. C., Supp. V,
§ 853e.

Provisos.
Promotion of war-
rant officers; no pay
reduction.

Computation of
pay.

37 U. S. C. §§ 5, 11,
14.

34 U. S. C., Supp. V,
§ 855h.

34 U. S. C., Supp. V,
§ 855k.

Proviso.
Advancements; pay
and allowances.

34 U. S. C., Supp. V,
§ 855l.

34 U. S. C., Supp. V,
§ 855j.

Peacetime preced-
ence of Naval Re-
serve officers.

Provisos.
Precedence when
mobilized, etc.

Precedence of appointees after declaration of war, etc.

34 U. S. C. § 735.

Regular Navy of the same rank or grade whose length of service in such rank or grade on the date of the declaration of such national emergency or war is one-half or the nearest one-half of that of the Reserve officer: *Provided further*, That a Naval Reserve officer appointed after the declaration of the war or national emergency shall take precedence, upon reporting for active duty, next after the officer of the Regular Navy of the same rank or grade whose length of service in such rank or grade on the date the Reserve officer reports for active duty, is one-half or the nearest one-half of that of the Reserve officer."

SEC. 9. The Act of June 24, 1926, entitled "An Act to authorize the construction and procurement of aircraft and aircraft equipment in the Navy and Marine Corps, and to adjust and define the status of operating personnel in connection therewith" (44 Stat. 766) is hereby amended by deleting the word "rigid" in line 10 of paragraph 1 of section 3.

Approved, August 27, 1940.

[CHAPTER 695]

AN ACT

August 27, 1940
[H. R. 10213]
[Public, No. 776]

To permit American vessels to assist in the evacuation from the war zones of certain refugee children.

Neutrality Act of 1939, amendment.
Ante, pp. 7, 611.
22 U. S. C., Supp. V,
§ 245 j-3.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4, as amended, of the Neutrality Act of 1939 is amended by inserting "(a)" after "SEC. 4." and by adding at the end thereof the following new subsection:

Evacuation of refugee children by American vessels.
Ante, pp. 4, 7.
22 U. S. C., Supp. V,
§§ 245 j-1, 245 j-2.

"(b) The provisions of sections 2 (a) and 3 shall not prohibit a vessel, in ballast, unarmed, and not under convoy, and transporting refugee children, under sixteen years of age, from war zones, or combat areas, and shall not prohibit such vessel entering into such war zones or combat areas for this purpose, together with such necessary American citizen adult personnel in charge as may be approved by the Secretary of State, subject to the provisions of the immigration laws, if such vessel is proceeding under safe conduct granted by all of the States named in the proclamations issued under the authority of section 1 (a), and if such vessel has painted on a large scale prominently, distinctly, and unmistakably on each side thereof and upon the superstructure thereof plainly visible from the air an American flag and a statement to the effect that such vessel is a refugee-child rescue ship of the United States or under United States registry: *Provided*, That every such child so brought into the United States shall, previous to departure from the port of embarkation, have been so sponsored by some responsible American person, natural or corporate, that he will not become a public charge."

Approved, August 27, 1940.

Safe conduct.
Ante, p. 4.

Markings on vessels.

Proviso.
American sponsors.

[CHAPTER 704]

AN ACT

August 27, 1940
[S. 2997]
[Public, No. 777]

For the relief of the Greenlee County Board of Supervisors.

Greenlee County Board of Supervisors, Clifton, Ariz.
Payment to.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Greenlee County Board of Supervisors at Clifton, Arizona, the sum of \$1,700 in full satisfaction of the claim of said board of supervisors against the United States arising out of damage to the