

Editorial Notes

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.

AMENDMENTS

2022—Subsec. (a)(1). Pub. L. 117-263 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “an officer in the permanent grade of captain or commander may be transferred to the retired list; and”.

2020—Subsec. (d). Pub. L. 116-259 added subsec. (d).

§ 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.

(d) Exception

An officer discharged for twice failing selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer—

(1) expresses a desire not to be selected for promotion; or

(2) requests removal from the list of selectees.

(Pub. L. 107-372, title II, §242, Dec. 19, 2002, 116 Stat. 3088; Pub. L. 116-259, title IV, §402, Dec. 23, 2020, 134 Stat. 1178.)

Editorial Notes

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.

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-259 added subsec. (d).

§ 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 or separated (as specified in section 1251(e) of title 10) 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 a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

(Pub. L. 107-372, title II, §243, Dec. 19, 2002, 116 Stat. 3089; Pub. L. 117-263, div. K, title CXVII, §11705(b), Dec. 23, 2022, 136 Stat. 4157.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-263 substituted “be retired or separated (as specified in section 1251(e) of title 10)” for “be retired”.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Commerce by section 1(e) 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.

§ 3044. Retirement for length of service

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

(Pub. L. 107-372, title II, §244, Dec. 19, 2002, 116 Stat. 3089.)

Editorial Notes

PRIOR PROVISIONS

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

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce by section 1(f) 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.