

NAVY DEPARTMENT  
WASHINGTON

July 24, 1940.

C I R C U L A R   L E T T E R

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From: Secretary of the Navy.  
To: All Naval and Marine Corps Activities Concerned.  
Subject: Legislation making usual civil service procedure inapplicable to employees whose immediate removal from employment is, in the opinion of the Secretary of the Navy, warranted by the demands of national security.  
Reference: Civil Service Form 2009, effective Feb. 1, 1933.

1. Attention of all concerned is directed to the following new legislation contained in section 6 of the Act of June 28, 1940, (Public - No. 671 - 76th Congress), An Act to expedite national defense, and for other purposes:

"----: Provided further, That during the national emergency declared by the President on September 8, 1939, to exist, the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555; U.S.C., title 5, sec. 652), shall not apply to any civil service employee of the War or Navy Departments or of the Coast Guard, or their field services, whose immediate removal is, in the opinion of the Secretary concerned warranted by the demands of national security, but nothing herein shall be construed to repeal, modify, or suspend the proviso in that section. Those persons summarily removed under the authority of this section may, if in the opinion of the Secretary concerned, subsequent investigation so warrants, be reinstated, and if so reinstated shall be allowed compensation for the period of such removal at the rate they were receiving on the date of removal: And provided further, That within thirty days after such removal any such person shall have an opportunity personally to appear before the official designated by the Secretary concerned and be fully informed of the reasons for such removal, and to submit, within thirty days thereafter, such statement or affidavits, or both, as he may desire to show why he should be retained and not removed."

2. Section 6 of the Act of August 24, 1912, exclusive of the proviso therein, constitutes section 1 of Civil Service Rule XII and paragraph 90 of reference, and is the usual procedure for the removal of employees in the classified civil service. The proviso in section 6 of the Act of August 24, 1912, which is not to be construed as being repealed, modified, or suspended, is quoted below for ready reference:

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"-----: Provided, however, That membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or groups of persons of any grievance or grievances to the Congress or any Member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with."

3. This new legislation is designed to permit the summary removal of civil service employees, whose known or suspected subversive activities or connections are considered to be inimical to national security. In presenting this legislation for enactment, it was emphasized that it would not be construed as being a deprivation of civil rights, and any action taken thereunder would be in the sole interest of national defense. It is necessary, therefore, that this concept be carefully observed.

4. In the interest of security and as a part of the responsibility of command, it is directed that immediate and continuing attention be given to the question of whether there are any cases which should be disposed of under the authority of this legislation.

5. In each case in which summary removal is considered to be warranted, a confidential report in triplicate, embodying a recommendation for removal and all the circumstances on which the action is predicated, shall be submitted to the Department. The report shall also include a complete transcript of the employee's Government service, his date and place of birth, date of naturalization, if foreign born, and record of military and naval service, if any. If available, his declaration of appointee, medical certificate and civil service application and papers relating thereto, shall be forwarded with the report.

6. Pending action by the Department on a recommendation for summary removal, the employee shall be continued in an active duty status, except that in emergencies, and only under extreme circumstances, the employee may be suspended from duty, without pay, in the discretion of the Commandant or Commanding Officer. In the latter event, the report to the Department

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shall show that the employee has been suspended, and state the reason for such extraordinary action. The suspended employee will be advised that he will be fully informed of the reason therefor, upon his personal request made within thirty days after final action is taken by the Department.

7. Although Commandants and Commanding Officers are authorized by reference to discharge employees under Groups I, II and III, and leaders, leadingmen, quartermen, etc., it is necessary that all summary discharges under the provisions of this legislation be made by the Secretary of the Navy. Consequently, the notice of discharge in all such cases will be issued by the Department, and forwarded for immediate delivery to the employee concerned, whose discharge will then be effected forthwith.

8. The reason for discharge will be "In the interest of National Defense, with prejudice," and, in accordance with the Department's policy in cases of removal for cause, no accrued leave with pay will be granted.

9. Should a person so discharged request to be advised of the reason, within thirty days after the effective date of his discharge, he shall be fully informed, but the source of any information pertinent to his removal shall be treated as confidential and not revealed. He shall be further advised that he may submit, within thirty days thereafter, such written statement or affidavits, or both, as he may desire to show why he should be retained and not removed. Any such statement or affidavits which may be received from a removed employee will be forwarded to the Department with appropriate comment and recommendation.

10. Discharged employees shall be required to appear in person in order to be fully informed of the reasons for their summary removal. Such information need not be given in writing, but it may be, with the exercise of proper discretion.

11. The Head of each departmental or field activity of the naval establishment, or a suitable officer whom he may assign for the purpose, is hereby designated to advise directly persons removed from the service of the reasons for such removal, as required by the final proviso of this new legislation.

s/ LEWIS COMPTON

Acting

Department distribution:  
IV, V, VI, VII, VIII and IX.

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