

(Aug. 10, 1956, ch. 1041, 70A Stat. 101.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1275	[No source].	[No source].

The revised section is based on the various retirement provisions in this chapter and is inserted to make explicit the entitlement to retired pay upon retirement.

CHAPTER 65—RETIREMENT OF WARRANT OFFICERS FOR LENGTH OF SERVICE

- Sec.
 1293. Twenty years or more: warrant officers.
 1305. Thirty years or more: regular warrant officers.
 1315. Computation of retired pay: law applicable.

AMENDMENTS

1980—Pub. L. 96-513, title V, §501(19), Dec. 12, 1980, 94 Stat. 2908, substituted “RETIREMENT OF WARRANT OFFICERS FOR LENGTH OF SERVICE” for “RETIREMENT FOR LENGTH OF SERVICE” as chapter heading.

§ 1293. Twenty years or more: warrant officers

The Secretary concerned may, upon the warrant officer’s request, retire a warrant officer of any armed force under his jurisdiction who has at least 20 years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(Aug. 10, 1956, ch. 1041, 70A Stat. 101; Pub. L. 87-649, §6(f)(3), Sept. 7, 1962, 76 Stat. 494.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1293	10:600(d) (as applicable to 10:600(a)). 10:600(a). 34:135(d) (as applicable to 34:430(a)). 34:430(a).	May 29, 1954, ch. 249, §§2(d) (as applicable to §14(a)), 14(a), 68 Stat. 157, 162.

The words, “The Secretary concerned may * * * retire” are substituted for the words “may * * * and in the discretion of the Secretary, be retired”. 10:600(a) (last 14 words) and 34:430(a) (last 14 words) are omitted as covered by section 1315 of this title.

REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in text, is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

AMENDMENTS

1962—Pub. L. 87-649 substituted “section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)” for “section 311 of title 37.”

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

RENEWAL OF TEMPORARY EARLY RETIREMENT AUTHORITY

Pub. L. 112-213, title II, §219, Dec. 20, 2012, 126 Stat. 1558, provided that: “For fiscal years 2013 through 2018—

“(1) notwithstanding subsection (c)(2)(A) of section 4403 of the National Defense Authorization Act for Fiscal Year 1993 [Pub. L. 102-484] (10 U.S.C. 1293 note), such section shall apply to the Coast Guard in the same manner and to the same extent it applies to the Department of Defense, except that—

“(A) the Secretary of Homeland Security shall implement such section with respect to the Coast Guard and, for purposes of that implementation, shall apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel; and

“(B) the total number of commissioned officers who retire pursuant to this section may not exceed 200, and the total number of enlisted members who retire pursuant to this section may not exceed 300; and

“(2) only appropriations available for necessary expenses for the operation and maintenance of the Coast Guard shall be expended for the retired pay of personnel who retire pursuant to this section.”

TEMPORARY EARLY RETIREMENT AUTHORITY

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8053], Sept. 30, 1996, 110 Stat. 3009-71, 3009-99, provided that: “During the current fiscal year and hereafter, appropriations available for the pay and allowances of active duty members of the Armed Forces shall be available to pay the retired pay which is payable pursuant to section 4403 of Public Law 102-484 (10 U.S.C. 1293 note) under the terms and conditions provided in section 4403.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-61, title VIII, §8066, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103-335, title VIII, §8077, Sept. 30, 1994, 108 Stat. 2636.

Pub. L. 103-139, title VIII, §8095, Nov. 11, 1993, 107 Stat. 1461.

Pub. L. 104-106, div. A, title V, §566(c), Feb. 10, 1996, 110 Stat. 328, as amended by Pub. L. 107-372, title II, §272(b), Dec. 19, 2002, 116 Stat. 3094, provided that: “Section 4403 (other than subsection (f) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 [33 U.S.C. 3001 et seq.] relating to the retirement of members of such commissioned officer corps.”

[Pub. L. 104-106, div. A, title V, §566(d), Feb. 10, 1996, 110 Stat. 328, provided that: “This section [amending former section 857a of Title 33, Navigation and Navigable Waters, and enacting provisions set out as a note above] shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.”]

Pub. L. 103-337, div. A, title V, §542(d), Oct. 5, 1994, 108 Stat. 2769, as amended by Pub. L. 107-296, title XVII, §1704(e)(5), Nov. 25, 2002, 116 Stat. 2315, provided that: “Section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the Coast Guard in the same manner and to the same extent as that provision applies to the Department of Defense. The Secretary of Homeland Security shall implement the provisions of that section with respect to the Coast Guard and apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel.”

Pub. L. 102-484, div. D, title XLIV, §4403, Oct. 23, 1992, 106 Stat. 2702, as amended by Pub. L. 103-160, div. A,

title V, §561(a), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 104-106, div. A, title XV, §1504(c)(3), Feb. 10, 1996, 110 Stat. 514; Pub. L. 105-261, div. A, title V, §561(a), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106-398, §1 [div. A], title V, §571(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-134; Pub. L. 107-314, div. A, title V, §554, Dec. 2, 2002, 116 Stat. 2553; Pub. L. 112-81, title V, §504(b), Dec. 31, 2011, 125 Stat. 1390; Pub. L. 112-239, div. A, title X, §1076(k), Jan. 2, 2013, 126 Stat. 1955, provided that:

“(a) PURPOSE.—The purpose of this section is to provide the Secretary of Defense a temporary additional force management tool with which to effect the draw-down of military forces during the active force draw-down period.

“(b) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) During the active force drawdown period, the Secretary of the Army may—

“(A) apply the provisions of section 3911 of title 10, United States Code, to a regular or reserve commissioned officer with at least 15 but less than 20 years of service by substituting ‘at least 15 years’ for ‘at least 20 years’ in subsection (a) of that section;

“(B) apply the provisions of section 3914 of such title to an enlisted member with at least 15 but less than 20 years of service by substituting ‘at least 15’ for ‘at least 20’; and

“(C) apply the provisions of section 1293 of such title to a warrant officer with at least 15 but less than 20 years of service by substituting ‘at least 15 years’ for ‘at least 20 years’.

“(2) During the active force drawdown period, the Secretary of the Navy may—

“(A) apply the provisions of section 6323 of title 10, United States Code, to an officer with at least 15 but less than 20 years of service by substituting ‘at least 15 years’ for ‘at least 20 years’ in subsection (a) of that section;

“(B) apply the provisions of section 6330 of such title to an enlisted member of the Navy or Marine Corps with at least 15 but less than 20 years of service by substituting ‘15 or more years’ for ‘20 or more years’ in the first sentence of subsection (a)[(b)], in the case of an enlisted member of the Navy, and in the second sentence of subsection (b), in the case of an enlisted member of the Marine Corps; and

“(C) apply the provisions of section 1293 of such title to a warrant officer with at least 15 but less than 20 years of service by substituting ‘at least 15 years’ for ‘at least 20 years’.

“(3) During the active force drawdown period, the Secretary of the Air Force may—

“(A) apply the provisions of section 8911 of title 10, United States Code, to a regular or reserve commissioned officer with at least 15 but less than 20 years of service by substituting ‘at least 15 years’ for ‘at least 20 years’ in subsection (a) of that section; and

“(B) apply the provisions of section 8914 of such title to an enlisted member with at least 15 but less than 20 years of service by substituting ‘at least 15’ for ‘at least 20’.

“(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—

“(1) INCREASED RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.—The provisions of section 4464 of this Act (10 U.S.C. 1143a note) shall not apply with respect to a member or former member retired by reason of eligibility under this section during the active force drawdown period specified in subsection (i)(2).

“(2) COAST GUARD AND NOAA.—During the period specified in subsection (i)(2), this section does not apply as follows:

“(A) To members of the Coast Guard, notwithstanding section 542(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1293 note).

“(B) To members of the commissioned corps of the National Oceanic and Atmospheric Administration, notwithstanding section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 1293 note).

“(d) REGULATIONS.—The Secretary of each military department may prescribe regulations and policies re-

garding the criteria for eligibility for early retirement by reason of eligibility pursuant to this section and for the approval of applications for such retirement. Such criteria may include factors such as grade, years of service, and skill.

“(e) COMPUTATION OF RETIRED PAY.—Retired or retainer pay of a member retired (or transferred to the Fleet Reserve or Fleet Marine Corps Reserve) under a provision of title 10, United States Code, by reason of eligibility pursuant to subsection (b) shall be reduced by 1/2th of 1 percent for each full month by which the number of months of active service of the member are less than 240 as of the date of the member’s retirement (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve).

“(f) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and subject to the availability of appropriations for this purpose, the Secretary of each military department shall provide in accordance with this section for the payment of retired pay payable during the fiscal years covered by the other provisions of this subsection to members of the Armed Forces under the jurisdiction of that Secretary who are being retired under the authority of this section.

“(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the Armed Forces under the jurisdiction of that Secretary such amount as is necessary to pay the retired pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired pay.

“(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law used for determining the member’s years of service for eligibility to retirement) before being retired under the authority of this section.

“(4) The Secretary shall pay the member’s retired pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

“(5) For purposes of this subsection—

“(A) the transfer of an enlisted member of the Navy or Marine Corps to the Fleet Reserve or Fleet Marine Corps Reserve shall be treated as a retirement; and

“(B) the term ‘retired pay’ shall be treated as including retainer pay.

“(g) COORDINATION WITH OTHER SEPARATION PROVISIONS.—(1) A member of the Armed Forces retired under the authority of this section is not entitled to benefits under section 1174 or 1175a of title 10, United States Code.

“(2) [Amended section 638a(b)(4)(C) [now 638a(b)(3)(C)] of this title.]

“(h) MEMBERS RECEIVING SSB, VSI, OR VSP.—The Secretary of a military department may retire (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve) pursuant to the authority provided by this section a member of a reserve component who before the date of the enactment of this Act [Oct. 23, 1992] was separated from active duty pursuant to an agreement entered into under section 1174a or 1175 of title 10, United States Code or who before December 31, 2011, was separated from active duty pursuant to an agreement entered into under section 1175a of such title. The retired or retainer pay of any such member so retired (or transferred) by reason of the authority provided in this section shall be reduced by the amount of any payment to such member before the date of such retirement under the provisions of such agreement.

“(i) ACTIVE FORCE DRAWDOWN PERIOD.—For purposes of this section, the active force drawdown period is (1) the period beginning on the date of the enactment of this Act and ending on September 1, 2002, and (2) the period beginning on December 31, 2011, and ending on December 31, 2018.”

[Pub. L. 107-314, div. A, title V, § 554, Dec. 2, 2002, 116 Stat. 2553, provided that the amendment made by that section to section 4403 of Pub. L. 102-484, set out above, is effective Jan. 1, 2002.]

§ 1305. Thirty years or more: regular warrant officers

(a)(1) Subject to paragraphs (2) and (3), a regular warrant officer who has at least 30 years of active service that could be credited to the officer under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114) shall be retired 60 days after the date on which the officer completes that service, except as provided by section 8301 of title 5.

(2) In the case of a regular Army warrant officer, the calculation of years of active service under paragraph (1) shall include only years of active service as a warrant officer.

(3) In the case of a regular Navy warrant officer in the grade of chief warrant officer, W-5, the officer shall be retired 60 days after the date on which the officer completes 33 years of total active service.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to retire under this section.

(c) Under such regulations as he may prescribe, the Secretary concerned may defer the retirement under subsection (a) of any warrant officer upon the recommendation of a board of officers and with the consent of the warrant officer, but not later than 60 days after he becomes 62 years of age.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101; Pub. L. 87-649, § 6(f)(3), Sept. 7, 1962, 76 Stat. 494; Pub. L. 89-718, § 3, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 102-190, div. A, title XI, § 1116, Dec. 5, 1991, 105 Stat. 1503; Pub. L. 109-364, div. A, title V, § 505(c), Oct. 17, 2006, 120 Stat. 2179; Pub. L. 110-417, [div. A], title V, § 501, Oct. 14, 2008, 122 Stat. 4432; Pub. L. 112-239, div. A, title V, § 504, Jan. 2, 2013, 126 Stat. 1715.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1305(a)	10:600(d) (as applicable to 10:600(b)(2)). 10:600(b)(2) (last sentence). 10:600(c) (as applicable to 10:600(b)(2)). 34:135(d) (as applicable to 34:430(b)(2)). 34:430(b)(2) (last sentence). 34:430c (as applicable to 34:430(b)(2)).	May 29, 1954, ch. 249, §§ 2(d) (as applicable to § 14(b)(2)), 14(b)(2), (e) (as applicable to (b)(2)), 21(c) (as applicable to § 14(b)(2)), 68 Stat. 157, 163, 168.
1305(b)	10:600(e) (as applicable to 10:600(b)(2)). 34:430(e) (as applicable to 34:430(b)(2)).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1305(c)	10:600(b)(2) (less last sentence). 34:430(b)(2) (less last sentence).	

In subsection (a), the words “has at least” are substituted for the words “has completed”. The words “and is not so continued on active service” and “on that date which” are omitted as surplusage. 10:600(b)(2) (last 16 words of last sentence) and 34:430(b)(2) (last 16 words of last sentence) are omitted as covered by section 1315 of this title.

In subsection (b), the words “The Secretary concerned may defer” are substituted for the words “may, in the discretion of the Secretary, be deferred”. The words “determination of his” are inserted for clarity. The words “not more than” are substituted for the words “a period not to exceed”. The words “he would otherwise be required to retire under this section” are substituted for the words “retirement * * * would otherwise be required”. The words “which is required”, “possible”, “proper”, and “a period of” are omitted as surplusage.

In subsection (c), the words “the Secretary concerned may defer the retirement” are substituted for the words “in the discretion of the Secretary * * * be continued on active service”. The words “but not later than” are substituted for the words “but not beyond that date which is”.

REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a)(1), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 112-239, § 504(1), substituted “Subject to paragraphs (2) and (3), a regular warrant officer” for “A regular warrant officer (other than a regular Army warrant officer)” and “date on which the officer” for “date on which he”.

Subsec. (a)(3). Pub. L. 112-239, § 504(2), added par. (3).

2008—Subsec. (a). Pub. L. 110-417 designated existing provisions as par. (1), substituted “A regular warrant officer (other than a regular Army warrant officer) who has at least 30 years of active service that could be credited to the officer” for “A regular warrant officer who has at least 30 years of active service as a warrant officer that could be credited to him”, and added par. (2).

2006—Subsec. (a). Pub. L. 109-364 substituted “A regular warrant officer” for “(1) Except as provided in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W-5)”, inserted “as a warrant officer” after “years of active service” and “the date on which” after “60 days after”, and struck out par. (2) which read as follows:

“(2)(A) A regular Army warrant officer in the grade of chief warrant officer, W-5, who has at least 30 years of active service as a warrant officer that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114), shall be retired 60 days after the date on which he completes that service, except as provided by section 8301 of title 5.

“(B) A regular Army warrant officer in a warrant officer grade below the grade of chief warrant officer, W-5, who completes 24 years of active service as a warrant officer before he is required to be retired under paragraph (1) shall be retired 60 days after the date on which he completes 24 years of active service as a warrant officer, except as provided by section 8301 of title 5.”

1991—Subsec. (a). Pub. L. 102-190 designated existing provisions as par. (1), substituted “Except as provided