

in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W-5)" for "A permanent regular warrant officer", and added par. (2).

1966—Subsec. (a). Pub. L. 89-718 substituted "8301" for "47a".

1962—Subsec. (a). 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 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

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.

**§ 1315. Computation of retired pay: law applicable**

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

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

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1315 .....	[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 67—RETIRED PAY FOR NON-REGULAR SERVICE**

Sec. 1331. Reference to chapter 1223.

PRIOR PROVISIONS

A prior chapter 67 was transferred to part II of subtitle E of this title and renumbered chapter 1223.

AMENDMENTS

1996—Pub. L. 104-106, div. A, title XV, §1503(a)(13), Feb. 10, 1996, 110 Stat. 511, substituted "NON-REGULAR" for "NONREGULAR" in chapter heading.

**§ 1331. Reference to chapter 1223**

Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).

(Added Pub. L. 103-337, div. A, title XVI, §1662(j)(7), Oct. 5, 1994, 108 Stat. 3005.)

PRIOR PROVISIONS

Prior sections 1331 to 1338 were renumbered sections 12731 to 12738 of this title, respectively.

**CHAPTER 69—RETIRED GRADE**

Sec. 1370. Commissioned officers: general rule; exceptions.  
 1371. Warrant officers: general rule.  
 1372. Grade on retirement for physical disability: members of armed forces.  
 1373. Higher grade for later physical disability: retired officers recalled to active duty.  
 [1374. Repealed.]

Sec. 1375. Entitlement to commission: commissioned officers advanced on retired list.  
 1376. Temporary disability retired lists.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title XVI, §1671(b)(11), Oct. 5, 1994, 108 Stat. 3013, struck out item 1374 "Reserve commissioned officers: grade on retirement or transfer to Retired Reserve" and substituted "Temporary disability retired lists" for "Retired lists" in item 1376.

1980—Pub. L. 96-513, title V, §501(20), Dec. 12, 1980, 94 Stat. 2908, added item 1370.

1958—Pub. L. 85-861, §1(30), Sept. 2, 1958, 72 Stat. 1451, added item 1374.

**§ 1370. Commissioned officers: general rule; exceptions**

(a) RULE FOR RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—(1) Unless entitled to a higher retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps who retires under any provision of law other than chapter 61 or chapter 1223 of this title shall, except as provided in paragraph (2), be retired in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(2)(A) In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander, a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years.

(B) In the case of an officer to be retired in a general or flag officer grade, authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be exercised with respect to that officer only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.

(D) The President may waive subparagraph (A) in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.

(E) In the case of a grade below the grade of lieutenant general or vice admiral, the number of members of one of the armed forces in that grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed (i) the number equal to two percent of the authorized active-duty strength for that fiscal year for officers of that armed force in