

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 6324 | 34 U.S.C. 43g(h). | Apr. 16, 1947, ch. 38, §207(i), 61 Stat. 50; redesignated (h), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882. |

The words "or the reserve components thereof" are omitted because "Army", "Navy", and "Air Force", as defined in this title, include the reserve components.

AMENDMENTS

1967—Pub. L. 90-130 substituted provision reciting simply that service as a nurse in the armed forces before April 16, 1947, is considered as commissioned service for purposes of this chapter for provisions making specific reference to service under an appointment or contract or as a commissioned officer in the Nurse Corps of the Army or the Navy or as a commissioned officer of the Air Force designated as an Air Force Nurse.

1966—Pub. L. 89-609 substituted "the person's" for "her" in introductory text in two places.

1959—Pub. L. 86-197 substituted "a regular officer or a reserve officer" for "an officer".

AUTHORITY OF MILITARY DEPARTMENT SECRETARIES TO CONVENE BOARDS TO RECOMMEND DEFERMENT OF RETIREMENT OR SEPARATION OF NURSES

Secretaries authorized until July 1, 1972, to convene boards of officers to consider and recommend deferment of separation or retirement of officers of the Army Nurse Corps, officers of the Navy Nurse Corps, and Air Force nurses, as needs of the service require, see section 4(f) of Pub. L. 90-130, set out as a note under section 3069 of this title.

§ 6325. Officers: retired grade and pay

(a) Except as provided in subsection (b) or section 1370 of this title, each officer who is retired under section 6321 or 6322 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(b) Each officer who is retired while serving in the grade of admiral, vice admiral, general, or lieutenant general by virtue of an appointment under section 601 of this title or who is retired while serving in a grade to which he was appointed or promoted under section 603 of this title or promoted under section 602¹ (as in effect before February 1, 1992) or section 5721 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade he would hold if he had not received such an appointment; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(c) A warrant officer who retires under section 6321, 6322, or 6323 of this title may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 85-422, §11(a)(6)(B), May 20, 1958, 72 Stat. 131;

¹ See References in Text note below.

Pub. L. 85-861, §1(143), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88-132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 95-377, §7, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96-342, title VIII, §813(d)(3), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96-513, title V, §§503(47)(B), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 97-22, §10(b)(8), July 10, 1981, 95 Stat. 137; Pub. L. 99-348, title I, §104(c)(2), title II, §203(b)(3), July 1, 1986, 100 Stat. 691, 696; Pub. L. 102-484, div. A, title X, §1052(39), Oct. 23, 1992, 106 Stat. 2501.)

HISTORICAL AND REVISION NOTES
1956 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 6325 | 34 U.S.C. 410m. | Aug. 7, 1947, ch. 512, §316(j), 61 Stat. 868. |
| | 34 U.S.C. 626-1(a) (1st sentence). | Aug. 7, 1947, ch. 512, §314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, §205, 68 Stat. 68. |
| | 34 U.S.C. 389 (1st sentence as applicable to grade). | R.S. 1457 (1st sentence as applicable to grade). |
| | 34 U.S.C. 410c(a) (as applicable to retired pay of officers retired under 34 U.S.C. 410b). | Feb. 21, 1946, ch. 34, §7(a) (as applicable to retired pay of officers retired under §6), 60 Stat. 27; Aug. 7, 1947, ch. 512, §432(a), 61 Stat. 881. |
| | 34 U.S.C. 43g(d). | Apr. 16, 1947, ch. 38, §207(e), 61 Stat. 49; redesignated (d), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882; May 16, 1950, ch. 186, §3(i), 64 Stat. 162. |
| | 34 U.S.C. 43g(f). | Apr. 16, 1947, ch. 38, §207(g), 61 Stat. 49; redesignated (f), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882. |
| | 34 U.S.C. 410r(a), (g). | June 12, 1948, ch. 449, §207(a), (g), 62 Stat. 366. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, §213(a), 62 Stat. 369. |
| | 34 U.S.C. 430(f) (as applicable to officers retired under 34 U.S.C. 381, 34 U.S.C. 383, and 34 U.S.C. 410b). | May 29, 1954, ch. 249, §14(f), 68 Stat. 163 (as applicable to officers retired under R.S. 1443, Act of May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso), and Act of Feb. 21, 1946, ch. 34, §6, 60 Stat. 27). |

Title III of the Officer Personnel Act of 1947 authorizes temporary promotions to the grades of lieutenant through rear admiral. The purpose of §316(j) of that act (34 U.S.C. 410m) was to insure that each officer who is temporarily promoted under that Title, and who retires before he receives a permanent appointment in the grade in which he is serving, will be considered, for the purposes of the laws relating to retired grade and pay, to be serving in the grade he holds pursuant to his temporary appointment. Since §5001 of this title provides that an officer who holds a permanent appointment in one grade and a temporary appointment in a higher grade is considered as serving in the higher grade, a restatement of the substance of §316(j) is unnecessary and is omitted from subsection (a). The words "retired other than by reason of physical disability incurred in line of duty", in 34 U.S.C. 43g(d) and (f) and 34 U.S.C. 410r(g), are omitted as unnecessary, since this section relates only to officers who are voluntarily retired under this chapter. The words "basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "active-duty pay with longevity credit of the rank with which retired" in 34 U.S.C. 410c(a), for the words "active-duty pay to which entitled at the time of retirement" in 34 U.S.C. 43g(d), and for the words "active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the rank in which placed upon the retired list" in 34 U.S.C. 43g(f) and 34 U.S.C.

410r(g), to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 U.S.C. 410q. The words “basic pay” are substituted for the words “active-duty pay” and the words “creditable for basic pay” are substituted for the words “for which entitled to credit in the computation of her active-duty pay”, and for the words “for which entitled to credit in the computation of their pay while on active duty” to conform to the terminology used in the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.)

Unlike provisions of law authorizing retirement on various other grounds, R.S. 1443, which provides for the retirement of officers on their own application after 40 years of service, contains no provisions as to retired pay. R.S. 1588 provided, inter alia, that officers so retired should received retired pay at the rate of 75 percent of the sea pay of their respective grades, but that section was expressly repealed by §531(a)(7) of the Career Compensation Act of 1949, leaving no specific provision for the retired pay of officers retired under R.S. 1443. It would be absurd to assume, however, that Congress intended that an officer having 40 years of service should be retired without pay, when he could have been retired with pay at any time within the preceding 20 years. By the repeal of R.S. 1588 Congress intended merely to remove obsolete and superseded provisions as to retirement at age 62 and retirement after 45 years of service, references to sea pay, and provisions, inconsistent with later law, for half pay for officers retired for other reasons. Congress intended the retired pay of officers retired after 40 years of service to be computed according to the formula prescribed generally for retired officers, other than for officers retired by reason of physical disability, and this section is worded accordingly.

Subsection (b) is added for clarity. With respect to officers appointed under §§5231 or 5232 of this title it represents a necessary inference from 34 U.S.C. 410o and 623b(e), codified in §5233 of this title.

1958 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 6325 | [No source]. | [No source]. |

The reference to section 6323 is deleted, since it is no longer appropriate to include in this section officers retired under section 6323.

REFERENCES IN TEXT

Section 602 of this title, referred to in subsec. (b), was repealed by Pub. L. 102-190, div. A, title XI, §1113(a), Dec. 5, 1991, 105 Stat. 1502.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-484 substituted “section 602 (as in effect before February 1, 1992) or section 5721” for “section 602 or 5721”.

1986—Subsec. (a)(2). Pub. L. 99-348, §203(b)(3), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade in which he retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (b)(2). Pub. L. 99-348, §203(b)(3), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an of-

ficer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade he would have held if he had not received an appointment, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (c). Pub. L. 99-348, §104(c)(2), struck out provision that if the pay of that highest grade was less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay would be based on the higher pay.

1981—Subsec. (b). Pub. L. 97-22, in provisions preceding par. (1), substituted “appointed or promoted under section 603 of this title or promoted under section 602 or 5721 of this title” for “appointed under section 5597 of this title or promoted under section 5787 or 5787d of this title”.

1980—Subsec. (a). Pub. L. 96-513, §503(47)(B)(i), inserted “or section 1370 of this title” after “subsection (b)”.

Subsec. (a)(2). Pub. L. 96-513, §513(17), substituted “September 8, 1980” for “the date of the enactment of the Department of Defense Authorization Act, 1981” wherever appearing.

Pub. L. 96-342, §813(d)(3)(A), designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

Subsec. (b). Pub. L. 96-513, §503(47)(B)(ii), substituted “601” for “5231 or 5232”.

Subsec. (b)(2). Pub. L. 96-513, §513(17), substituted “September 8, 1980” for “the date of the enactment of the Department of Defense Authorization Act, 1981” wherever appearing.

Pub. L. 96-342, §813(d)(3)(B), designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

1978—Subsec. (b). Pub. L. 95-377 inserted “or 5787d” after “5787”.

1963—Subsecs. (a)(2), (b)(2). Pub. L. 88-132 substituted “of” for “to which he would be entitled if serving on active duty in” following “2½ percent of the basic pay”.

1958—Subsec. (a). Pub. L. 85-861 substituted “or 6322” for “6322, or 6323”.

Subsecs. (a)(2), (b)(2). Pub. L. 85-422 substituted “that may be credited to him under section 1405 of this title” for “creditable for basic pay”.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 503(47) of Pub. L. 96-513 effective Sept. 15, 1981, and amendment by section 513(17) of Pub. L. 96-513 effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-422 effective June 1, 1958, see section 9 of Pub. L. 85-422.

RECOMPUTATION OF RETIRED PAY OF ADMIRALS AND VICE ADMIRALS

Officers entitled to retired pay on May 31, 1958, who served on active duty before that day in the grade of admiral or vice admiral for a period of at least 180 days, authorized to recompute retired pay, see section 7(b), (c) of Pub. L. 85-422.

§ 6326. Enlisted members: 30 years

(a) Each enlisted member of the Regular Navy or the Regular Marine Corps who applies for retirement after completing 30 or more years of active service in the armed forces shall be retired by the President.

(b) For the purpose of subsection (a), "enlisted member" includes a member of the Regular Navy or the Regular Marine Corps who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(c) Each person retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 395; Pub. L. 85-422, §6(9), May 20, 1958, 72 Stat. 129; Pub. L. 85-861, §36B(20), Sept. 2, 1958, 72 Stat. 1571; Pub. L. 88-132, §5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 90-207, §3(3), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96-342, title VIII, §813(d)(4), Sept. 8, 1980, 94 Stat. 1105; Pub. L. 96-513, title V, §513(17), (19), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99-348, title II, §203(b)(4), July 1, 1986, 100 Stat. 696.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 6326 | 34 U.S.C. 431. | Mar. 3, 1899, ch. 413, §17, 30 Stat. 1008; Mar. 2, 1907, ch. 2515, §1, 34 Stat. 1217. |
| | 34 U.S.C. 432. | Mar. 3, 1899, ch. 413, §17, 30 Stat. 1008; June 22, 1906, ch. 3518, 34 Stat. 451; Mar. 2, 1907, ch. 2515, §1, 34 Stat. 1217; June 4, 1920, ch. 228, §3 (3d proviso as applicable to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 879 (as applicable to enlisted men). | June 4, 1920, ch. 228, §3 (3d proviso as applicable to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 3c(e). | Aug. 7, 1947, ch. 512, §302(e), 61 Stat. 829. |
| | 34 U.S.C. 350f(a) (less provisos). | July 24, 1941, ch. 320, §7(a) (less provisos), 55 Stat. 604; Nov. 30, 1942, ch. 643, 56 Stat. 1023. |
| | 34 U.S.C. 410m. | Aug. 7, 1947, ch. 512, §316(j), 61 Stat. 868. |
| | 34 U.S.C. 350i(e). | July 24, 1941, ch. 320, §10(e), 55 Stat. 605; Feb. 21, 1946, ch. 34, §8(a), 60 Stat. 28. |

In subsection (a) the word "Regular" is inserted before the words "Navy" and "Marine Corps" to reflect the longstanding interpretation that 34 U.S.C. 431 applies only to members of the Regular Navy and Regular Marine Corps. So much of the Act of March 2, 1907, ch. 2515, §1 (34 U.S.C. 431), as pertains to allowances and rations was expressly repealed by the Act of June 16, 1942, ch. 413, 56 Stat. 369. The words "active service in the armed forces" are substituted for 34 U.S.C. 432 for brevity. The reference to the former Revenue Cutter Service in 34 U.S.C. 432 is omitted as obsolete, inasmuch as

that Service was absorbed by the Coast Guard in 1915. If there are any enlisted men not yet retired who served in the Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying this title. The reference to active service in the Civil or Spanish-American War in 34 U.S.C. 432 is omitted as obsolete.

Subsection (b) is inserted to cover into the section permanent enlisted members who are temporarily appointed to commissioned or warrant grades.

In subsection (c) the word "grade" is substituted for the words "rating or rank" and the words "is entitled to retired pay at the rate of 75 percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "and with 75 per centum of the pay of the said rating or rank" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsection (d) is substituted for 34 U.S.C. 350i(e) as that section pertains to voluntary retirement of enlisted members with 30 years of active service.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-348 substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he served as master chief petty officer of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate was higher, or in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be computed by multiplying the monthly retired pay base computed under section 1407(d) by 75 percent.

1980—Subsec. (c)(2). Pub. L. 96-513 substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981" wherever appearing, and "master chief petty officer" for "senior enlisted advisor".

Pub. L. 96-342 designated existing provisions as subpar. (A), inserted provision limiting applicability to persons who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

1967—Subsec. (c)(2). Pub. L. 90-207 inserted ", or if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, he shall be entitled to retired pay at the rate of 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher" after "retirement".

1963—Subsec. (c)(2). Pub. L. 88-132 substituted "of" for "to which he would be entitled is serving on active duty in" after "75 percent of the basic pay".

1958—Subsec. (c)(2). Pub. L. 85-422 substituted "pay grade in which he was serving on the day before retirement" for "grade in which retired".

Subsec. (d). Pub. L. 85-861 repealed subsec. (d) which related to grade of members serving in a grade to which they were appointed under section 5597 or promoted under section 5787 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under