

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

section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-422 inapplicable to retired persons or to persons to whom retired pay is granted before May 31, 1958, see section 6 of Pub. L. 85-422, set out in part under section 3991 of this title.

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

§ 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay

(a) A member of the Navy Reserve or the Marine Corps Reserve may be transferred to the Retired Reserve upon his request if he has completed—

(1) at least 30 years of active service in the armed forces, other than active duty for training; or

(2) at least 20 years of active service in the armed forces other than active duty for training, the last 10 of which he served in the 11-year period immediately preceding his transfer to the Retired Reserve.

(b) Each member who is transferred to the Retired Reserve under subsection (a) is entitled, when not on active duty, to retired pay at the rate of 50 percent of the basic pay of the grade in which retired.

(c) This section applies only to persons who were members of the Navy Reserve or the Marine Corps Reserve on January 1, 1953.

(d) This section terminates on January 1, 1973. However, its termination will not affect any accrued rights to retired pay.

(e) A member who is eligible for retirement under this section, and who is also eligible for retirement under another provision or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title, is entitled to elect which of these benefits he is to receive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 395; Pub. L. 85-583, §1(1), Aug. 1, 1958, 72 Stat. 480; Pub. L. 88-132, §5(h)(5), Oct. 2, 1963, 77 Stat. 214; Pub. L. 109-163, div. A, title V, §515(b)(1)(I), (3)(B), Jan. 6, 2006, 119 Stat. 3233, 3234.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6327	50 U.S.C. 1052(a), (b), (d), (e), (f).	July 9, 1952, ch. 608, §413(a), (b), (d), (e), (f), 66 Stat. 499.

In subsection (a) the word "Federal" is omitted and the words "in the armed forces, other than active duty for training" are inserted. The words "active Federal service" are not defined in 50 U.S.C. 1052. Section 310 of the Naval Reserve Act of 1938, which 50 U.S.C. 1052 replaced, specifies active service in the "Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia in Federal status, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve." 50 U.S.C. 1052 was intended to preserve the rights of persons who, on January 1, 1953, were members of reserve components, so that they would not be prejudiced by the repeal of §310 of the Naval Reserve Act of 1938 (U.S. Code Congressional and Administrative News, 1952, p. 3584). To effect that purpose, the service that was cred-

itable under the 1938 Act must be creditable under 50 U.S.C. 1052. The words "active service in the armed forces, other than active duty for training" cover all creditable service. The Judge Advocate General of the Navy, in an opinion dated August 27, 1954 (JAG II:2:WGA:CA:mk), held that active duty for training was not creditable under the 1938 Act and is, therefore, not creditable under the 1952 Act.

AMENDMENTS

2006—Pub. L. 109-163, §515(b)(3)(B), substituted "Navy Reserve" for "Naval Reserve" in section catchline.

Subsecs. (a), (c). Pub. L. 109-163, §515(b)(1)(I), substituted "Navy Reserve" for "Naval Reserve".

1963—Subsec. (b). Pub. L. 88-132 substituted "of the grade in which retired" for "to which he would be entitled if on active duty" after "50 percent of the basic pay".

1958—Subsec. (e). Pub. L. 85-583 entitled eligible members of Naval Reserve or Marine Corps Reserve to elect to transfer to Fleet Reserve or Fleet Marine Corps Reserve.

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.

§ 6328. Computation of years of service: voluntary retirement

(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after February 10, 1996, may not be counted in computing years of service under this chapter.

(b) OFFICERS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.

(c) TIME SPENT IN SEAMAN TO ADMIRAL PROGRAM.—The months of active service in pursuit of a baccalaureate-level degree under the Seaman to Admiral (STA-21) program of the Navy of officer candidates selected for the program on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010 shall be excluded in computing the years of service of an officer who was appointed to the grade of ensign in the Navy upon completion of the program to determine the eligibility of the officer for retirement, unless the officer becomes subject to involuntary separation or retirement due to physical disability. Such active service shall be counted in computing the years of active service of the officer for all other purposes.

(Added Pub. L. 104-106, div. A, title V, §561(d)(3)(A), Feb. 10, 1996, 110 Stat. 322; amended Pub. L. 107-107, div. A, title X, §1048(c)(13), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 111-84, div. A, title V, §505, Oct. 28, 2009, 123 Stat. 2277.)

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2010, referred to in subsec. (c), is the date of enactment of Pub. L. 111-84, which was approved Oct. 28, 2009.

PRIOR PROVISIONS

A prior section 6328, acts Aug. 10, 1956, ch. 1041, 70A Stat. 396; Sept. 24, 1983, Pub. L. 98-94, title IX, §923(c)(2), 97 Stat. 643, related to treatment of fractions of years of service in computing retired pay, prior to