

and who (but for this subsection) would be covered by subsection (a), the Secretary concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.

(Added Pub. L. 103-337, div. A, title XVI, §1662(i)(1), Oct. 5, 1994, 108 Stat. 2998; amended Pub. L. 104-201, div. A, title V, §533, Sept. 23, 1996, 110 Stat. 2520; Pub. L. 108-375, div. A, title V, §522, Oct. 28, 2004, 118 Stat. 1888.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 1163(d) of this title, prior to repeal by Pub. L. 103-337, §1662(i)(2).

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375 inserted “(other than the retirement system under chapter 1223 of this title)” after “retirement system”.

1996—Pub. L. 104-201 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.

(Added Pub. L. 104-106, div. A, title V, §563(a)(2)(A), Feb. 10, 1996, 110 Stat. 325.)

CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

Sec.	
12731.	Age and service requirements.
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12732.	Entitlement to retired pay: computation of years of service.
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12741.	Retirement for service in an active status performed in the Selected Reserve of the Ready Reserve after eligibility for regular retirement.

AMENDMENTS

2009—Pub. L. 111-84, div. A, title VI, §643(e)(2), Oct. 28, 2009, 123 Stat. 2367, substituted “Retirement for service in an active status performed in the Selected Reserve

of the Ready Reserve after eligibility for regular retirement” for “Retirement from active reserve service performed after regular retirement” in item 12741.

2000—Pub. L. 106-398, §1 [[div. A], title VI, §653(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165, added item 12741.

1999—Pub. L. 106-65, div. A, title VI, §653(b)(2), Oct. 5, 1999, 113 Stat. 667, added item 12731b.

1996—Pub. L. 104-106, div. A, title VI, §632(a)(2), Feb. 10, 1996, 110 Stat. 365, added item 12740.

1994—Pub. L. 103-337, div. A, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, renumbered chapter 67 of this title as this chapter and amended analysis generally, renumbering items 1331 to 1338 as items 12731 to 12738, respectively, substituting “Entitlement to retired pay: computation of years of service” for “Computation of years of service in determining entitlement to retired pay” in item 12732 and “Computation of retired pay: computation of years of service” for “Computation of years of service in computing retired pay” in item 12733, and adding item 12739.

1992—Pub. L. 102-484, div. D, title XLIV, §4417(b), Oct. 23, 1992, 106 Stat. 2717, added item 1331a.

1986—Pub. L. 99-348, title III, §304(b)(1), July 1, 1986, 100 Stat. 703, added item 1338.

§ 12731. Age and service requirements

(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

(1) has attained the eligibility age applicable under subsection (f) to that person;

(2) has performed at least 20 years of service computed under section 12732 of this title;

(3) in the case of a person who completed the service requirements of paragraph (2) before April 25, 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight; and

(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Homeland Security, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

(A) the person performed active duty during World War I or World War II; or

(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

(2) In this subsection:

(A) The term “World War I” means the period beginning on April 6, 1917, and ending on November 11, 1918.

(B) The term “World War II” means the period beginning on September 9, 1940, and ending on December 31, 1946.

(C) The term “Korean conflict” means the period beginning on June 27, 1950, and ending on July 27, 1953.

(D) The term “Berlin crisis” means the period beginning on August 14, 1961, and ending on May 30, 1963.

(E) The term “Vietnam era” means the period beginning on August 5, 1964, and ending on March 27, 1973.

(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

(f)(1) Subject to paragraph (2), the eligibility age for purposes of subsection (a)(1) is 60 years of age.

(2)(A) In the case of a person who as a member of the Ready Reserve serves on active duty or performs active service described in subparagraph (B) after January 28, 2008, the eligibility age for purposes of subsection (a)(1) shall be reduced below 60 years of age by three months for each aggregate of 90 days on which such person so performs in any fiscal year after such date, subject to subparagraph (C). A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

(B)(i) Service on active duty described in this subparagraph is service on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) or under section 12301(d) of this title. Such service does not include service on active duty pursuant to a call or order to active duty under section 12310 of this title.

(ii) Active service described in this subparagraph is also service under a call to active service authorized by the President or the Secretary of Defense under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President or supported by Federal funds.

(iii) If a member described in subparagraph (A) is wounded or otherwise injured or becomes ill while serving on active duty pursuant to a call or order to active duty under a provision of law referred to in the first sentence of clause (i) or in clause (ii), and the member is then ordered to active duty under section 12301(h)(1) of this title to receive medical care for the wound, injury, or illness, each day of active duty under that order for medical care shall be treated as a continuation of the original call or order to active duty for purposes of reducing the eligibility age of the member under this paragraph.

(iv) Service on active duty described in this subparagraph is also service on active duty pur-

suant to a call or order to active duty authorized by the Secretary of Homeland Security under section 712 of title 14 for purposes of emergency augmentation of the Regular Coast Guard forces.

(C) The eligibility age for purposes of subsection (a)(1) may not be reduced below 50 years of age for any person under subparagraph (A).

(3) The Secretary concerned shall periodically notify each member of the Ready Reserve described by paragraph (2) of the current eligibility age for retired pay of such member under this section, including any reduced eligibility age by reason of the operation of that paragraph. Notice shall be provided by such means as the Secretary considers appropriate taking into account the cost of provision of notice and the convenience of members.

(Aug. 10, 1956, ch. 1041, 70A Stat. 102, §1331; Pub. L. 85-704, Aug. 21, 1958, 72 Stat. 702; Pub. L. 85-861, §33(a)(8), Sept. 2, 1958, 72 Stat. 1564; Pub. L. 89-652, §1, Oct. 14, 1966, 80 Stat. 902; Pub. L. 90-485, §2, Aug. 13, 1968, 82 Stat. 754; Pub. L. 95-397, title II, §206, Sept. 30, 1978, 92 Stat. 847; Pub. L. 96-513, title V, §511(47), Dec. 12, 1980, 94 Stat. 2924; Pub. L. 98-94, title IX, §924(a), Sept. 24, 1983, 97 Stat. 644; Pub. L. 101-189, div. A, title XIV, §1404(b)(1), Nov. 29, 1989, 103 Stat. 1586; renumbered §12731 and amended Pub. L. 103-337, div. A, title VI, §636, title XVI, §1662(j)(1), Oct. 5, 1994, 108 Stat. 2790, 2999; Pub. L. 104-106, div. A, title XV, §1501(b)(20), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105-261, div. A, title V, §561(n)(1), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, §1 [[div. A], title V, §571(n)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VI, §631(a), (b), Dec. 2, 2002, 116 Stat. 2571, 2572; Pub. L. 108-375, div. A, title V, §501(f), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 109-364, div. A, title X, §1071(a)(40), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 110-181, div. A, title VI, §647(a), Jan. 28, 2008, 122 Stat. 160; Pub. L. 111-84, div. A, title X, §1073(a)(35), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111-383, div. A, title VI, §633, Jan. 7, 2011, 124 Stat. 4240; Pub. L. 112-239, div. A, title VI, §681(b), Jan. 2, 2013, 126 Stat. 1795; Pub. L. 113-66, div. A, title VI, §632, Dec. 26, 2013, 127 Stat. 785.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1331(a)	10:1036a(a) (less last proviso). 10:1036d (1st sentence). 34:440i(a) (less last proviso). 34:440f (1st sentence).	June 29, 1948, ch. 708, §§302(a), (d), 305 (1st sentence), 62 Stat. 1087-1089; July 12, 1952, ch. 698, 66 Stat. 590.
1331(b)	10:1036a(d). 34:440i(d).	
1331(c)	10:1036a(a) (last proviso). 34:440i(a) (last proviso).	

In subsection (a), the words “is entitled” are substituted for the words “shall * * * be granted”. The words “in the status of a commissioned officer, warrant officer, flight officer, or enlisted person” and the references to reserve components are omitted as surplusage. Reference to the Army and the Air Force without component is inserted, since the words “reserve component”, as used in 10:1036a(a), include all members of the Army and the Air Force except members of the regular components thereof. The words “service, computed under section 1332 of this title” are substituted for the

words “satisfactory Federal service” to make it clear that some service that is not normally covered by the latter term may be counted in determining rights to retired pay under this chapter. Section 311 of the source statute, which made title III of that act applicable to the Coast Guard, was expressly repealed by the Act of August 4, 1949, ch. 393, §20, 63 Stat. 565, the act which codified Title 14 of the United States Code. 14 U.S.C. 755(e) provides for Coast Guard Reservists the same retirement benefits as those prescribed by law for the Naval Reserve, and, for this purpose, confers upon the Secretary of the Treasury the same authority as that conferred upon the Secretary of the Navy, when the Coast Guard is operating under the Treasury Department. Accordingly, the revised chapter is made expressly applicable to the Coast Guard.

In subsection (c), the words “the Army without component or other category covered by section 1332(a)(1) of this title” are inserted, since the words “reserve component”, as used in 10:1036a(a), also cover members without component and members of the other special categories listed. The words “annual training duty, or attendance at a school designated as a service school by law or by the Secretary of the appropriate military department” are inserted since the words “active Federal service”, as used in 10:1036a(a), also cover the additional service listed. The words “active duty” are substituted for the words “active Federal service” for uniformity.

1958 ACT

The change makes clear that in the determination of eligibility for retired pay for non-regular service, the service of a Regular serving in a temporary grade (that is, without component) may not be counted. See opinion of the Judge Advocate General of the Army, JAGA 1957/4463, May 13, 1957.

AMENDMENTS

2013—Subsec. (f)(2)(B)(iv). Pub. L. 112-239 added cl. (iv).

Subsec. (f)(3). Pub. L. 113-66 added par. (3).

2011—Subsec. (f)(2)(B)(iii). Pub. L. 111-383 added cl. (iii).

2009—Subsec. (f)(2)(A). Pub. L. 111-84 substituted “January 28, 2008” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008”.

2008—Subsec. (a)(1). Pub. L. 110-181, §647(a)(1), added par. (1) and struck out former par. (1) which read as follows: “is at least 60 years of age;”.

Subsec. (f). Pub. L. 110-181, §647(a)(2), added subsec. (f).

2006—Subsec. (a)(3). Pub. L. 109-364 substituted “before April 25, 2005” for “before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005”.

2004—Subsec. (a)(3). Pub. L. 108-375 inserted after par. (3) designation “in the case of a person who completed the service requirements of paragraph (2) before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005.”.

2002—Subsec. (a)(3). Pub. L. 107-314, §631(a), substituted “six years” for “eight years” and inserted before semicolon “, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight”.

Subsec. (b). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (f). Pub. L. 107-314, §631(b), struck out subsec. (f) which read as follows: “In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on October 5, 1994, and ending on December 31, 2001, the provisions of subsection (a)(3) shall be applied by substituting ‘the last six years’ for ‘the last eight years.’”

2000—Subsec. (f). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsec. (f). Pub. L. 105-261 substituted “September 30, 2001” for “September 30, 1999”.

1996—Subsec. (f). Pub. L. 104-106 substituted “October 5, 1994,” for “the date of the enactment of this subsection”.

1994—Pub. L. 103-337, §1662(j)(1), renumbered section 1331 of this title as this section and amended text generally, making changes in style and in references to other sections.

Subsec. (f). Pub. L. 103-337, §636, added subsec. (f) which read as follows: “In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting ‘the last six years’ for ‘the last eight years.’”

1989—Subsec. (d). Pub. L. 101-189 inserted “and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter,” after “this title”.

1983—Subsec. (c). Pub. L. 98-94 substituted “unless—
“(1) he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947; or

“(2) he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, after August 13, 1961, and before May 31, 1963, or after August 4, 1964, and before March 28, 1973.”.

for “unless he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947, or unless he performed active duty (other than for training) after June 26, 1950, and before July 28, 1953”.

1980—Subsec. (b). Pub. L. 96-513, §511(47)(A), substituted “Secretary of Transportation” for “Secretary of the Treasury”.

Subsec. (e). Pub. L. 96-513, §511(47)(B), struck out “United States Code,” after “title 5.”.

1978—Subsec. (d). Pub. L. 95-397 inserted provisions requiring that notice include notification of elections available under the Survivor Benefit Plan and the effects thereof.

1968—Subsec. (e). Pub. L. 90-485 added subsec. (e).

1966—Subsec. (d). Pub. L. 89-652 added subsec. (d).

1958—Subsec. (a)(3). Pub. L. 85-861 struck out provisions which related to service as a member of the Army or the Air Force without component.

Subsec. (c). Pub. L. 85-704 made persons who performed active duty (other than for training) after June 26, 1950, and before July 28, 1953, eligible for retired pay under this chapter.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-239 applicable to call or order to active duty authorized under section 712 of Title 14, Coast Guard, after Dec. 31, 2011, and deemed to have been enacted on Dec. 31, 2011, for purposes of applying the amendment to this section, section 701 of this title, and section 5538 of Title 5, Government Organization and Employees, see section 681(d) of Pub. L. 112-239, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108-375, set out as a note under section 531 of this title.

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107-314, div. A, title VI, §631(c), Dec. 2, 2002, 116 Stat. 2572, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2002. No benefit shall accrue to any person for any period before that date by reason of the enactment of those amendments.”

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1662(j)(1) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title XIV, §1404(b)(3), Nov. 29, 1989, 103 Stat. 1586, as amended by Pub. L. 101-510, div. A, title VI, §631(1), Nov. 5, 1990, 104 Stat. 1580, provided that: “The amendments made by paragraphs (1) and (2) [amending this section and section 3101 [now 5301] of Title 38, Veterans’ Benefits] shall take effect on April 1, 1992.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, §924(b), Sept. 24, 1983, 97 Stat. 644, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to retired pay payable for months beginning after September 30, 1983, or the date of the enactment of this Act [Sept. 24, 1983], whichever is later.”

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 1978 AMENDMENT

Amendment by Pub. L. 95-397 applicable to notifications after Sept. 30, 1978, see section 210(b) of Pub. L. 95-397, set out as a note under section 1447 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-485 effective Aug. 13, 1968, see section 6 of Pub. L. 90-485, set out as a note under section 1431 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

ADMINISTRATION OF RELATED PROVISIONS OF LAW OR POLICY

Pub. L. 110-181, div. A, title VI, §647(c), Jan. 28, 2008, 122 Stat. 161, provided that: “With respect to any provision of law, or of any policy, regulation, or directive of the executive branch that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to having attained the eligibility age applicable under subsection (f) of section 12731 of title 10, United States Code (as added by subsection (a)), to such member or former member for qualification for such retired pay under subsection (a) of such section.”

RESERVE RETIREMENT SYSTEM; REPORT TO CONGRESS

Pub. L. 99-348, title III, §302, July 1, 1986, 100 Stat. 702, directed Secretary of Defense to submit to Congress, not later than Feb. 1, 1988, a report on the retirement system provided under chapter 67 of this title for members of Armed Forces performing non-regular-service, including in the report any proposals of the Secretary for modifications to such system.

SURVIVOR ANNUITIES; EFFECTIVE DATE

Pub. L. 94-448, §1, Oct. 1, 1976, 90 Stat. 1499, provided: “That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code [section 1431 et seq. of this title], and under prior corresponding provisions of law, the provisions of section 1331(e) [now 12731(e)] of such title 10, relating to the date of entitlement to retired pay under chapter 67 [now 1223] of such title 10, shall be effective as of November 1, 1953.”

PAYMENT OF SURVIVOR ANNUITIES BENEFITS PRIOR TO OCTOBER 1, 1976

Pub. L. 94-448, §2, Oct. 1, 1976, 90 Stat. 1499, provided that: “No benefits shall be paid to any person for any period prior to the date of enactment of this Act [Oct. 1, 1976] as a result of the enactment of this Act.”

ENTITLEMENT TO RETIREMENT PAY AFTER OCTOBER 14, 1966; CONCLUSIVENESS

Notification of completion of requisite years of service as conclusive for entitlement to retirement pay if made after Oct. 14, 1966, see section 3 of Pub. L. 89-652, set out as a note under section 1406 of this title.

§ 12731a. Temporary special retirement qualification authority

(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

(B) after that date and before the end of the period described in subsection (b), completes 15 years of service computed under that section; and

(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on December 31, 2001.

(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2713).

(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D