

114-92, div. A, title VI, § 631(d)(2), Nov. 25, 2015, 129 Stat. 845.)

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114-92, § 631(d)(2), which was approved Nov. 25, 2015, provided that the amendment made by Pub. L. 113-76, § 10001(b)(2), which was effective Dec. 1, 2015, would not take effect. See 2014 Amendment note below.

2014—Subsec. (b)(1). Pub. L. 113-76, § 10001(b)(2), which directed insertion of “(but without the application of section 1401a(b)(4) of this title)” after “under any other provision of law”, did not take effect pursuant to Pub. L. 114-92, § 631(d)(2). See 2015 Amendment note above.

2008—Subsec. (a)(1). Pub. L. 110-181 substituted “except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:” for “except that in the case of a qualified retiree receiving veterans’ disability compensation for a disability rated as 100 percent, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, and in the case of a qualified retiree receiving veterans’ disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009.” and added subpars. (A) and (B).

2006—Subsec. (a)(1). Pub. L. 109-163 inserted “, and in the case of a qualified retiree receiving veterans’ disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009” before period at end.

2004—Subsec. (a)(1). Pub. L. 108-375, § 642(a), inserted before period at end “, except that in the case of a qualified retiree receiving veterans’ disability compensation for a disability rated as 100 percent, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004”.

Subsec. (c). Pub. L. 108-375, § 642(b), inserted “that pursuant to the second sentence of subsection (a)(1) is subject to this subsection” after “a qualified retiree” in introductory provisions.

2003—Pub. L. 108-136 amended section generally. Prior to amendment, section related to members eligible for retired pay who had service-connected disabilities: payment of retired pay and veterans’ disability compensation; and contingent effectiveness based on enactment of offsetting legislation.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-76 effective Dec. 1, 2015, immediately after the coming into effect of section 403 of Pub. L. 113-67 and the amendments made by that section, see section 10001(c) of Pub. L. 113-76, set out as a note under section 1401a of this title. Amendment did not take effect pursuant to section 631(d)(2) of Pub. L. 114-92, set out as a Repeal of Reduced Cost-of-living Adjustments for Members Under the Age of 62 note under section 1401a of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title VI, § 642(b), Jan. 28, 2008, 122 Stat. 157, provided that:

“(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect as of December 31, 2004.

“(2) TIMING OF PAYMENT OF RETROACTIVE BENEFITS.—Any amount payable for a period before October 1, 2008, by reason of the amendment made by subsection (a) shall not be paid until after that date.”

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title VI, § 641(e), Nov. 24, 2003, 117 Stat. 1516, provided that: “The amendments made by subsections (a) and (b) [amending this section and repealing section 1413 of this title] shall take effect on January 1, 2004, and shall apply to payments for months beginning on or after that date.”

PROHIBITION OF RETROACTIVE BENEFITS

Pub. L. 107-107, div. A, title VI, § 641(d), Dec. 28, 2001, 115 Stat. 1150, provided that: “If the provisions of subsection (a) of section 1414 of title 10, United States Code, becomes [sic] effective in accordance with subsection (f) of that section, no benefit may be paid to any person by reason of those provisions for any period before the effective date specified in subsection (e) of that section.”

§ 1415. Lump sum payment of certain retired pay

(a) DEFINITIONS.—In this section:

(1) COVERED RETIRED PAY.—The term “covered retired pay” means retired pay under—

(A) this title;

(B) title 14;

(C) the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.); or

(D) the Public Health Service Act (42 U.S.C. 201 et seq.).

(2) ELIGIBLE PERSON.—The term “eligible person” means a person who—

(A)(i) first becomes a member of a uniformed service on or after January 1, 2018; or

(ii) makes the election described in section 1409(b)(4)(B) or 12739(f)(2) of this title; and

(B) does not retire or separate under chapter 61 of this title.

(3) RETIREMENT AGE.—The term “retirement age” has the meaning given the term in section 216(l) of the Social Security Act (42 U.S.C. 416(l)).

(b) ELECTION OF LUMP SUM PAYMENT OF CERTAIN RETIRED PAY.—

(1) IN GENERAL.—An eligible person entitled to covered retired pay (including an eligible person who is entitled to such pay by reason of an election described in subsection (a)(2)(A)(ii)) may elect to receive—

(A) a lump sum payment of the discounted present value at the time of the election of an amount of the covered retired pay that the eligible person is otherwise entitled to receive for the period beginning on the date of retirement and ending on the date the eligible person attains the eligible person’s retirement age equal to—

(i) 50 percent of the amount of such covered retired pay during such period; or

(ii) 25 percent of the amount of such covered retired pay during such period; and

(B) a monthly amount during the period described in subparagraph (A) equal to—

(i) in the case of an eligible person electing to receive an amount described in subparagraph (A)(i), 50 percent of the amount of monthly covered retired pay the eligible person is otherwise entitled to receive during such period; and

(ii) in the case of an eligible person electing to receive an amount described in

subparagraph (A)(ii), 75 percent of the amount of monthly covered retired pay the eligible person is otherwise entitled to receive during such period¹

(2) DISCOUNTED PRESENT VALUE.—The Secretary of Defense shall compute the discounted present value of amounts of covered retired pay that an eligible person is otherwise entitled to receive for a period for purposes of paragraph (1)(A) by—

(A) estimating the aggregate amount of retired pay the person would receive for the period, taking into account cost-of-living adjustments under section 1401a of this title projected by the Secretary at the time the person separates from service and would otherwise begin receiving covered retired pay; and

(B) reducing the aggregate amount estimated pursuant to subparagraph (A) by an appropriate percentage determined by the Secretary—

(i) using average personal discount rates (as defined and calculated by the Secretary taking into consideration applicable and reputable studies of personal discount rates for military personnel and past actuarial experience in the calculation of personal discount rates under this paragraph); and

(ii) in accordance with generally accepted actuarial principles and practices.

(3) TIMING OF ELECTION.—An eligible person shall make the election under this subsection not later than 90 days before the date of the retirement of the eligible person from the uniformed services.

(4) SINGLE PAYMENT OR COMBINATION OF PAYMENTS.—An eligible person may elect to receive a lump sum payment under this subsection in a single payment or in a combination of payments.

(5) COMMENCEMENT OF PAYMENT.—An eligible person who makes an election under this subsection shall receive the lump sum payment, or the first installment of a combination of payments of the lump sum payment if elected under paragraph (4), as follows:

(A) Not later than 60 days after the date of the retirement of the eligible person from the uniformed services.

(B) In the case of an eligible person who is a member of a reserve component, not later than 60 days after the earlier of—

(i) the date on which the eligible person attains 60 years of age; or

(ii) the date on which the eligible person first becomes entitled to covered retired pay.

(6) NO SUBSEQUENT ADJUSTMENT.—An eligible person who accepts payment of a lump sum under this subsection may not seek the review of or otherwise challenge the amount of the lump sum in light of any variation in cost-of-living adjustments under section 1401a of this title, actuarial assumptions, or other factors used by the Secretary in calculating the amount of the lump sum that occur after the Secretary pays the lump sum.

¹ So in original. Probably should be followed by a period.

(c) RESUMPTION OF MONTHLY ANNUITY.—

(1) GENERAL RULE.—Subject to paragraph (2), an eligible person who makes an election described in subsection (b)(1) shall be entitled to receive the eligible person's monthly covered retired pay calculated in accordance with paragraph (2) after the eligible person attains the eligible person's retirement age.

(2) RESTORATION OF FULL RETIREMENT AMOUNT AT RETIREMENT AGE.—The retired pay of an eligible person who makes an election described in subsection (a) shall be recomputed, effective on the first day of the first month beginning after the person attains the eligible person's retirement age, so as to be an amount equal to the amount of covered retired pay to which the eligible person would otherwise be entitled on that date if the annual increases, in the retired pay of the eligible person made to reflect changes in the Consumer Price Index, had been made in accordance with section 1401a of this title.

(d) PAYMENT OF RETIRED PAY TO PERSONS NOT MAKING ELECTION.—An eligible person who does not make the election described in subsection (b)(1) shall be paid the retired pay to which the eligible person is otherwise entitled under the applicable provisions of law referred to in subsection (a)(1).

(e) REGULATIONS.—The Secretary of Defense concerned² shall prescribe regulations to carry out the provisions of this section.

(Added Pub. L. 114-92, div. A, title VI, § 633(a)(1), Nov. 25, 2015, 129 Stat. 847.)

REFERENCES IN TEXT

The National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, referred to in subsec. (a)(1)(C), is title II of Pub. L. 107-372, Dec. 19, 2002, 116 Stat. 3082, which is classified principally to chapter 43 (§3001 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 33 and Tables.

The Public Health Service Act, referred to in subsec. (a)(1)(D), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

EFFECTIVE DATE; IMPLEMENTATION

Section effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114-92, set out as an Effective Date of 2015 Amendment; Implementation note under section 8432 of Title 5, Government Organization and Employees.

CHAPTER 73—ANNUITIES BASED ON RETIRED OR RETAINER PAY

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III. Repealed]	

AMENDMENTS

2004—Pub. L. 108-375, div. A, title VI, §644(b)(2), Oct. 28, 2004, 118 Stat. 1961, struck out item for subchapter III "Supplemental Survivor Benefit Plan", effective Apr. 1, 2008.

² So in original.