

such a time that it would have been effective had he been retired on the earliest date prescribed for an officer of his kind by section 3916, 3921, 8916, or 8921 of title 10, as appropriate.”

CHANGE OR REVOCATION OF ELECTION BY CERTAIN OFFICERS OF REGULAR NAVY AND REGULAR MARINE CORPS

Pub. L. 86-616, §13, July 12, 1960, 74 Stat. 396, provided that: “An officer who has been considered but not recommended for continuation on the active list under section 1 of the Act of August 11, 1959. Public Law 86-155 (73 Stat. 333) [set out as a note under section 5701 of this title], and who retired or retires voluntarily before the second day of the month following the month in which this Act is enacted [July 1960], may, within six months following the enactment of this Act [July 12, 1960], affirm a change or revocation of an election made under section 1431 of title 10, United States Code [this section], before his retirement, if the change or revocation would have been effective under section 3 of the Act of August 11, 1959, Public Law 86-155, as amended by this Act [set out as a note under section 5701 of this title], but for his voluntary retirement. If an officer takes no action under this section, his currently valid election under section 1431 of title 10, United States Code [this section], shall remain unchanged. The computation of the revised reduction in retired pay in the case of an officer who affirms a change of election under this section shall be in accordance with section 1436 of title 10, United States Code, and according to the conditions that existed on the day the officer became eligible for retired pay. An affirmation or revocation made under this section is effective on the first day of the month in which made. No refund may be made and no additional payment may be required with respect to any period before that date.”

ELECTION OF ANNUITY BY CERTAIN PERSONNEL

Pub. L. 86-197, §4, Aug. 25, 1959, 73 Stat. 426, provided that: “Any person who, on the effective date of this Act [August 25, 1959], would not have completed 18 years of service for which he is entitled to credit in the computation of his basic pay under the laws in effect prior to the effective date of this Act, and who, as a result of the enactment of this Act [amending sections 1332 [now 12732], 3683, 3926, 6324, 8683 and 8926 of this title, and enacting provisions set out as notes under sections 3441 and 12732 of this title], is credited with more than 17 years of such service, shall be allowed twelve months from the effective date of this Act to make the election provided by section 1431(b) of title 10, United States Code [subsection (b) of this section], notwithstanding the requirement of the second sentence of that section.”

CHANGE OR REVOCATION OF ELECTION BY CERTAIN OFFICERS

Effective date of change or revocation of election by certain officers, see section 3 of Pub. L. 86-155, Aug. 11, 1959, 73 Stat. 336, set out as a note under section 5701 of this title.

PUBLIC HEALTH SERVICE

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary’s designee, see section 3071 of Title 33, Navigation and Navigable Waters.

§ 1432. Election of annuity: former members of armed forces

A person who was a former member of an armed force on November 1, 1953, and who is granted retired or retainer pay after that date, may, at the time he is granted that pay, make an election as provided in section 1431 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 109.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1432	37:372(a) (5th sentence).	Aug. 8, 1953, ch. 393, §3(a) (5th sentence), 67 Stat. 502.

§ 1433. Mental incompetency of member

If a person who would be entitled to make an election under section 1431 or 1432 of this title is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, and for that reason cannot make the election within the prescribed time, the Secretary concerned may make an election for that person upon the request of his spouse or, if there is no spouse, of his children who would be eligible to be made beneficiaries under section 1435 of this title. If the person for whom the Secretary has made an election is later determined to be mentally competent by medical officers of the Department of Veterans Affairs or by a court of competent jurisdiction, he may, within 180 days after that determination, change or revoke that election. However, deductions made from his retired or retainer pay before that date may not be refunded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 109; Pub. L. 101-189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1433	37:372 (less (a) and (b)).	Aug. 8, 1953, ch. 393, §3 (less (a) and (b)), 67 Stat. 502.

The first 19 words are substituted for 37:372(c) (1st 9 words). The words “who would be eligible to be made beneficiaries under section 1435 of this title” are inserted to reflect the limitations in 37:371(f). The words “for that reason cannot” are substituted for the words “because of such mental incompetency is incapable of”. The words “or is adjudged mentally incompetent”, “provided for in this section”, and “where appropriate is subsequently adjudged mentally competent” are omitted as surplusage. The last sentence is substituted for 37:372(c) (last sentence).

AMENDMENTS

1989—Pub. L. 101-189 substituted “Department of Veterans Affairs” for “Veterans’ Administration” in two places.

§ 1434. Kinds of annuities that may be elected

(a) The annuity that a person is entitled to elect under section 1431 or 1432 of this title shall, in conformance with actuarial tables selected by