

W-1, or above” are inserted for clarity. The word “shall” is substituted for the word “may” because the Attorney General has construed R.S. 1443 as conferring a right to retirement upon officers who apply for it after 40 years of service (30 Op. Atty. Gen. 406). The words “from active service” are omitted as surplusage. The words “after completing 40 or more years of active service” are substituted for the words “has been forty years in the service of the United States” for clarity.

In subsection (b) the accepted meaning of the words “service of the United States” is spelled out for clarity. They have been consistently interpreted to include active service in the armed forces as defined in this title.

§ 6322. Officers: 30 years

(a) An officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W-1, or above who applies for retirement after completing 30 or more years of active service may, in the discretion of the Secretary of the Navy, be retired.

(b) For the purpose of this section, an officer’s years of active service are computed by adding all his active service in the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 96-342, title VIII, § 813(d)(1), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96-513, § 513(17), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99-348, title II, § 203(b)(1), July 1, 1986, 100 Stat. 696.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6322	34 U.S.C. 383.	May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso); June 17, 1948, ch. 497, § 1(d), 62 Stat. 477.
	34 U.S.C. 879 (less applicability to enlisted men).	June 4, 1920, ch. 228, § 3 (3d proviso, less applicability to enlisted men), 41 Stat. 835.
	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.

In subsection (a) the words “Regular” and “holding a permanent appointment in the grade of warrant officer, W-1, or above” are inserted for clarity. The words “after completing 30 or more years of active service” are substituted for the words “has been thirty years in the service” for clarity. The words “retired from active service” are omitted as surplusage.

Subsection (b) is added to clarify the word “service”. It has been consistently interpreted to include active service in the armed forces as defined in this title.

In subsection (c) the words “is entitled to retired pay at the rate of 75 percent of the highest basic pay of the grade in which retired” are substituted for the words “with three-fourths of the highest pay of his grade” for clarity and uniformity of expression.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-348 struck out subsec. (c) which provided that each officer retired under this section be entitled to 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, at the rate of 75 percent of the highest basic pay of the grade in which retired, and 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, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d).

1980—Subsec. (c). Pub. L. 96-513 substituted “September 8, 1980” for “the date of the enactment of the De-

partment of Defense Authorization Act, 1981” wherever appearing.

Pub. L. 96-342 designated existing provisions as par. (1), 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 par. (2).

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.

§ 6323. Officers: 20 years

(a)(1) An officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of any month designated by the President.

(2)(A) The Secretary of Defense may authorize the Secretary of the Navy, during the period specified in subparagraph (B), to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.

(B) The period specified in this subparagraph is the period beginning on January 7, 2011, and ending on September 30, 2018.

(b) For the purposes of this section—

(1) an officer’s years of active service are computed by adding all his active service in the armed forces; and

(2) his years of service as a commissioned officer are computed by adding all his active service in the armed forces under permanent or temporary appointments in grades above warrant officer, W-1.

(c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title.

(d) A warrant officer who retires under this section 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. If the pay of that highest grade is less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay shall be based on the higher pay.

(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay computed under section 6333 of this title.

(f) Officers of the Navy Reserve and the Marine Corps Reserve who were transferred to the Retired Reserve from an honorary retired list under section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), or are transferred to the Retired Reserve under section 6327 of this title, may be retired under this section, notwithstanding their retired status, if they are otherwise eligible.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 85-861, § 1(142), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88-132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96-342, title VIII, § 813(d)(2), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96-513, title V, §§ 503(47)(A), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 99-348, title II, § 203(b)(2), July 1, 1986, 100 Stat. 696; Pub.