

(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 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; amended Pub. L. 114-328, div. A, title X, §1081(a)(4), Dec. 23, 2016, 130 Stat. 2417; Pub. L. 115-232, div. A, title X, §1081(a)(14), Aug. 13, 2018, 132 Stat. 1984.)

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.

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-232 struck out “concerned” after “The Secretary of Defense”.

2016—Subsec. (b)(1)(B)(ii). Pub. L. 114-328 inserted period at end.

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

Subchapter		Sec.
I.	Retired Serviceman's Family Protection Plan	1431
II.	Survivor Benefit Plan	1447
[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	Repealed]	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.

1990—Pub. L. 101-510, div. A, title VI, §631(1), title XIV, §1484(l)(4)(A), Nov. 5, 1990, 104 Stat. 1580, 1719, amended Pub. L. 101-189, §1404(a)(2), see 1989 Amendment note below.

1989—Pub. L. 101-189, div. A, title XIV, §1404(a)(2), Nov. 29, 1989, 103 Stat. 1586, as amended by Pub. L. 101-510, div. A, title VI, §631(1), title XIV, §1484(l)(4)(A), Nov. 5, 1990, 104 Stat. 1580, 1719, added item for subchapter III, effective Apr. 1, 1992.

1980—Pub. L. 96-513, title V, §511(54)(A), Dec. 12, 1980, 94 Stat. 2925, amended chapter heading to read: “ANNUITIES BASED ON RETIRED OR RETAINER PAY”.

1972—Pub. L. 92-425, §1(1), Sept. 21, 1972, 86 Stat. 706, added subchapter analysis and amended chapter heading by inserting “; SURVIVOR BENEFIT PLAN” after “PAY” which could not be executed as directed in view of amendment by Pub. L. 87-381.

1961—Pub. L. 87-381, §1(1), Oct. 4, 1961, 75 Stat. 810, substituted “RETIRED SERVICEMAN'S FAMILY

PROTECTION PLAN” for “ANNUITIES BASED ON RETIRED OR RETAINER PAY” in chapter heading.

SUBCHAPTER I—RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN

Sec.	
1431.	Election of annuity: members of armed forces.
1432.	Election of annuity: former members of armed forces.
1433.	Mental incompetency of member.
1434.	Kinds of annuities that may be elected.
1435.	Eligible beneficiaries.
1436.	Computation of reduction in retired pay; withdrawal for severe financial hardship.
1436a.	Coverage paid up at 30 years and age 70.
1437.	Payment of annuity.
1438.	Deposits for amounts not deducted.
1439.	Refund of amounts deducted from retired pay.
1440.	Annuities not subject to legal process.
1441.	Annuities in addition to other payments.
1442.	Recovery of annuity erroneously paid.
[1443.	Repealed.]
1444.	Regulations; determinations.
1444a.	Regulations regarding payment of annuity to a representative payee.
1445.	Correction of administrative deficiencies.
1446.	Restriction on participation.

AMENDMENTS

1999—Pub. L. 106-65, div. A, title VI, §655(b), Oct. 5, 1999, 113 Stat. 667, added item 1436a.

1991—Pub. L. 102-190, div. A, title VI, §654(b)(2), Dec. 5, 1991, 105 Stat. 1390, added item 1444a.

1972—Pub. L. 92-425, §1(2)(B), (C), Sept. 21, 1972, 86 Stat. 706, struck out item 1443 “Board of Actuaries”, and struck out “reports to Congress” from item 1444.

1961—Pub. L. 87-381, §6(2), (3), Oct. 4, 1961, 75 Stat. 812, inserted “; withdrawal for severe financial hardship” in item 1436, and added items 1445 and 1446.

§ 1431. Election of annuity: members of armed forces

(a) This section applies to all members of the armed forces except—

(1) members whose names are on a retired list other than a list maintained under section 12774(a) of this title;

(2) cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

(3) midshipmen.

(b) To provide an annuity under section 1434 of this title, a person covered by subsection (a) may elect to receive a reduced amount of the retired pay or retainer pay to which he may become entitled as a result of service in his armed force. Except as otherwise provided in this section, unless it is made before he completes nineteen years of service for which he is entitled to credit in the computation of his basic pay, the election must be made at least two years before the first day for which retired pay or retainer pay is granted. However, if, because of military operations, a member is assigned to an isolated station or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing nineteen years of that service, he may make the election, to become effective immediately, within one year after he ceases to be assigned to that station or returns to the jurisdiction of his armed force, as the case may be. A member to whom