

AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 571 of this title as this chapter and items 6321 to 6336 as 8321 to 8336, respectively.

2006—Pub. L. 109-163, div. A, title V, §515(b)(4)(B), Jan. 6, 2006, 119 Stat. 3235, substituted “Navy Reserve” for “Naval Reserve” in item 6327.

1996—Pub. L. 104-201, div. A, title V, §532(b)(2), Sept. 23, 1996, 110 Stat. 2519, added item 6336.

Pub. L. 104-106, div. A, title V, §561(d)(3)(B), Feb. 10, 1996, 110 Stat. 323, added item 6328.

1987—Pub. L. 100-180, div. A, title V, §512(e)(2), Dec. 4, 1987, 101 Stat. 1091, added items 6334 and 6335.

1986—Pub. L. 99-348, title III, §304(b)(3), July 1, 1986, 100 Stat. 704, struck out item 6328 “Treatment of fractions of years of service in computing retired pay” and substituted “Computation of” for “Treatment of fractions of dollar amounts in computing” in item 6333.

1983—Pub. L. 98-94, title IX, §922(a)(10)(B), Sept. 24, 1983, 97 Stat. 641, added item 6333.

1967—Pub. L. 90-130, §1(23)(B), Nov. 8, 1967, 81 Stat. 380, struck out “Nurse Corps” before “Officers” in item 6324.

§ 8321. Officers: 40 years

(a) Each 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 40 or more years of active service shall be retired by the Secretary of the Navy.

(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. 393, §6321; renumbered §8321, Pub. L. 115-232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6321	34 U.S.C. 381. 34 U.S.C. 879 (less applicability to enlisted men). 34 U.S.C. 626-1(a) (1st sentence).	R.S. 1443; June 17, 1948, ch. 497, §1(a), 62 Stat. 477. June 4, 1920, ch. 228, §3 (3d proviso, less applicability to enlisted men), 41 Stat. 835. 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 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.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 6321 of this title as this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and

special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8322. 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, §6322; 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; renumbered §8322, Pub. L. 115-232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6322	34 U.S.C. 383. 34 U.S.C. 879 (less applicability to enlisted men). 34 U.S.C. 626-1(a) (1st sentence).	May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso); June 17, 1948, ch. 497, §1(d), 62 Stat. 477. June 4, 1920, ch. 228, §3 (3d proviso, less applicability to enlisted men), 41 Stat. 835. 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

2018—Pub. L. 115-232 renumbered section 6322 of this title as this section.

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 Department 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 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

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.

§ 8323. 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 8333 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 8327 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, § 6323; 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. L. 101-510, div. A, title V, § 523(b), Nov. 5, 1990, 104 Stat. 1562; Pub. L. 103-160, div. A, title V, § 561(c), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105-261, div. A, title V, § 561(e), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106-398, § 1 [[div. A], title V, § 571(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A-134; Pub. L. 109-163, div. A, title V, §§ 502(b), 515(b)(1)(H), Jan. 6, 2006, 119 Stat. 3225, 3233; Pub. L. 109-364, div. A, title X, § 1071(a)(33), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111-383, div. A, title V, § 506(b), Jan. 7, 2011, 124 Stat. 4210; Pub. L. 112-239, div. A, title V, § 505(b), title X, § 1076(e)(6), Jan. 2, 2013, 126 Stat. 1715, 1951; renumbered § 8323 and amended Pub. L. 115-232, div. A, title VIII, §§ 807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6323(a), (b).	34 U.S.C. 410b.	Feb. 21, 1946, ch. 34, § 6, 60 Stat. 27.
6323(c)	34 U.S.C. 410b-1.	Apr. 14, 1949, ch. 52, § 1 (less applicability to Act of June 29, 1948, ch. 708, § 301(b), 62 Stat. 1087), 63 Stat. 47.

In subsection (b) the words “or the Reserve Components thereof” are omitted because the terms “Navy”, “Marine Corps”, and “Coast Guard” include the reserve components. The words “including active duty for training” are omitted because the term “active duty” is defined in this title as including training duty.

The Act of April 14, 1949 (34 U.S.C. 410b-1), extending the benefits of 34 U.S.C. 410b to officers on the honorary retired lists, was enacted because the Comptroller General had held that these officers, being already in a retired status, could not be retired under 34 U.S.C. 410b (U.S. Code Congressional Service, 1949, p. 1179). The provisions of the Naval Reserve Act of 1938 relating to the honorary retired lists were repealed by § 803 of the Armed Forces Reserve Act of 1952, but insofar as they provided for retirement and retired pay they were reenacted, for a period of 20 years, in § 413 of that act (50 U.S.C. 1052). Persons on the honorary retired lists when the Armed Forces Reserve Act of 1952 was passed were transferred to the appropriate Retired Reserve under § 213 of the Act. Persons qualifying for retirement under § 413 are likewise placed in the Retired Reserve. The purpose of Congress in enacting § 413 was to preserve the accrued rights of persons who were members of reserve components on January 1, 1953, the effective date of the Act (U.S. Code Congressional and Administrative News, 1952, p. 3584). One of their rights was the right to apply for retirement under 34 U.S.C. 410b upon completion of the required service, notwithstanding the fact that, before qualifying for retirement under that section, they had already acquired a retired status. Subsection (c) is worded accordingly.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6323(a), (b).	34 App.:410b.	Aug. 4, 1955, ch. 553, § 1, 69 Stat. 493; Aug. 9, 1955, ch. 678, § 1(a), (b), 69 Stat. 614.
6323(c), (e)	[No source].	[No source].
6323(d)	[No source].	[No source].
6323(f)	[No source].	[No source].

In subsection (b), the words “armed forces” are substituted for the words “Navy, Marine Corps, Army, Air Force, or Coast Guard, or the Reserve Components thereof” because “armed forces”, as defined in this title, is a collective term for these elements.