

TEMPORARY EARLY RETIREMENT AUTHORITY

For provisions authorizing the Secretary of the Army, during the period beginning Oct. 23, 1992, and ending Oct. 1, 1995, to apply this section to an enlisted member with at least 15 but less than 20 years of service by substituting “at least 15” for “at least 20”, see section 4403 of Pub. L. 102-484, set out as a note under section 1293 of this title.

§ 7317. Thirty years or more: regular enlisted members

A regular enlisted member of the Army who has at least 30 years of service computed under section 7325 of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226, §3917; renumbered §7317 and amended Pub. L. 115-232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3917	10:947 (less proviso). 10:947a (less last 11 words).	Mar. 2, 1907, ch. 2515, § 1 (1st 35 words), 34 Stat. 1217. Feb. 14, 1885, ch. 67 (less 43d through 53d words); restated Sept. 30, 1890, ch. 1125 (less 43d through 53d words), 26 Stat. 504.

The word “regular” is inserted to conform to an opinion of the Judge Advocate General of the Army (JAGA, 1953/2301, 23 Mar. 1953). The words “upon his request” are substituted for the words “upon making application to the President”, in 10:947, and “by application to the President”, in 10:947a. The words “either as a private or noncommissioned officer, or both”, in 10:947a, are omitted as surplusage. The words “shall be retired” are substituted for the words “be placed upon the retired list”, in 10:947, and “be placed on the retired list heretofore created”, in 10:947a. The words “computed under section 3925 of this title” are inserted for clarity. The 21 words before the proviso and the proviso of the Act of February 14, 1885, as restated, are not contained in 10:947a. They are also omitted from the revised section, since the proviso is executed and the 21 words before the proviso are omitted as covered by formula E of section 3991 of this title.

PRIOR PROVISIONS

A prior section 7317 was renumbered section 8687 of this title.

AMENDMENTS

2018—Pub. L. 115-232, §809(a), substituted “section 7325” for “section 3925”.

Pub. L. 115-232, §808(b)(12), renumbered section 3917 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.

§ 7318. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Army who has at least 30 years of service computed under section 7326 of this title may be retired upon his request, in the discretion of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226, §3918; renumbered §7318 and amended Pub. L. 115-232, div. A, title VIII, §§808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3918	10:943.	R.S. 1243; Dec. 16, 1930, ch. 14, § 1 (as applicable to R.S. 1243), 46 Stat. 1028.

The word “commissioned” is inserted, since the retirement of warrant officers for length of service is covered by section 1293 of this title. The word “regular” is inserted, since 10:943 is applicable historically only to officers of the Regular Army. The words “and placed on the retired list” are omitted as surplusage. The words “computed under section 3926 of this title” are inserted for clarity.

PRIOR PROVISIONS

Prior sections 7318 and 7319 were renumbered sections 8688 and 8689 of this title, respectively.

AMENDMENTS

2018—Pub. L. 115-232, §809(a), substituted “section 7326” for “section 3926”.

Pub. L. 115-232, §808(b)(12), renumbered section 3918 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.

DELEGATION OF FUNCTIONS

Functions of the President under this section to approve the request of a regular commissioned officer of the Army to retire after at least 30 years of service delegated to the Secretary of Defense to perform, without approval, ratification, or other action of the President, and with authority for the Secretary to redelegate, see Ex. Ord. No. 12396, §§1(f), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

§ 7320. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy

(a) The Secretary of the Army may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

(b) Subsection (a) applies in the case of the following officers:

(1) Any permanent professor of the United States Military Academy.

(2) The Director of Admissions of the United States Military Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226, §3920; Pub. L. 104-106, div. A, title V, §509(a)(1), Feb. 10, 1996, 110 Stat. 297; renumbered §7320, Pub. L. 115-232, div. A, title VIII, §808(b)(12), Aug. 13, 2018, 132 Stat. 1838.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3920	10:1079a(c) (proviso).	Aug. 7, 1947, ch. 512, §520(c) (proviso), 61 Stat. 912.

The word “retire” is substituted for the words “direct the retirement of”. The words “as a commissioned officer” are substituted for the word “commissioned”.

PRIOR PROVISIONS

A prior section 7320 was renumbered section 8690 of this title.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 3920 of this title as this section.

1996—Pub. L. 104-106 substituted “permanent professors and the Director of Admissions of the United States Military Academy” for “permanent professors of United States Military Academy” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of the Army may retire any permanent professor of the United States Military Academy who has more than 30 years of service as a commissioned officer.”

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.

§ 7321. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Military Academy, the Secretary of the Army shall retire the officer under any provision of this chapter under which that officer is eligible to retire.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.

(Added Pub. L. 106-65, div. A, title V, § 532(a)(1)(A), Oct. 5, 1999, 113 Stat. 602, § 3921; amended Pub. L. 108-375, div. A, title V, § 541(a)(1), (c)(1)(A), Oct. 28, 2004, 118 Stat. 1902, 1903; renumbered § 7321, Pub. L. 115-232, div. A, title VIII, § 808(b)(12), Aug. 13, 2018, 132 Stat. 1838.)

PRIOR PROVISIONS

A prior section 7321 was renumbered section 8691 of this title.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 3921 of this title as this section.

2004—Pub. L. 108-375 inserted “; waiver authority” at end of section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

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.

APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Pub. L. 106-65, div. A, title V, § 532(a)(5), Oct. 5, 1999, 113 Stat. 604, provided that: “The amendments made by this subsection [enacting this section and sections 4333a, 6371, 6951a, 8921, and 9333a of this title] shall not apply to an officer serving on the date of the enactment of this Act [Oct. 5, 1999] in the position of Superintendent of the United States Military Academy, Superintendent of the United States Naval Academy, or Superintendent of the United States Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service.”

§ 7324. Forty years or more: Army officers

(a) Except as provided in section 1186 of this title, a commissioned officer of the Army who has at least 40 years of service computed under section 7326 of this title shall be retired upon his request.

(b) Any warrant officer of the Army who has at least 40 years of service computed under section 7326(a) of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 227, § 3924; Pub. L. 96-513, title V, § 502(17), Dec. 12, 1980, 94 Stat. 2910; renumbered § 7324 and amended Pub. L. 115-232, div. A, title VIII, §§ 808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3924(a)	10:942 (as applicable to commissioned officers).	June 30, 1882, ch. 254 (last 21 words of 3d proviso under “Pay Department”), 22 Stat. 118.
3924(b)	10:942 (less applicability to commissioned officers).	

In subsection (a), the words “except as provided in section 3786 of this title” are inserted, since, under that revised section, when board proceedings are pending against a commissioned officer, his right to retire under this revised section, which is otherwise absolute, is discretionary with the Secretary under that revised section.

In subsections (a) and (b), the words “or volunteer service, or both” are omitted as obsolete in accordance with an opinion of the Attorney General, 22 Ops. Atty. Gen. 199, August 30, 1898, holding that such words refer to volunteer service in the Civil War. The words “upon his request” are substituted for the words “if he make application therefor to the President”.

In subsection (b), the applicability of 10:942 to warrant officers is based on an opinion of the Judge Advocate General of the Army (JAGA 1950/6951, 4 Jan. 1951), which holds that 10:594 (less provisos) makes 10:942 applicable to warrant officers.

AMENDMENTS

2018—Pub. L. 115-232, § 808(b)(12), renumbered section 3924 of this title as this section.

Subsec. (a). Pub. L. 115-232, § 809(a), substituted “section 7326” for “section 3926”.

Subsec. (b). Pub. L. 115-232, § 809(a), substituted “section 7326(a)” for “section 3926(a)”.

1980—Subsec. (a). Pub. L. 96-513 substituted “1186” for “3786”.

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.