

Pub. L. 103-337, §1628(3)(E), in table struck out line relating to grades of captain in Navy and colonel in Marine Corps and substituted “28 years” for “26 years”.

Pub. L. 103-337, §1628(3)(D), inserted “while on the active-duty list” after “to the next higher grade” in first sentence.

Pub. L. 103-337, §1628(3)(C), substituted “major or lieutenant colonel” for “major or above” in two places.

Pub. L. 103-337, §1628(3)(B), substituted “lieutenant commander or commander” for “lieutenant commander or above” in two places.

Pub. L. 103-337, §1628(3)(A), inserted “(1)” after “(c)”.

Subsec. (e). Pub. L. 103-337, §1628(4), struck out subsec. (e) which read as follows: “This section does not apply to women reserve officers or to reserve officers in the Nurse Corps.”

Subsec. (f). Pub. L. 103-337, §1628(4), struck out subsec. (f) which provided for transfer or discharge of rear admirals (lower half) in Naval Reserve and brigadier generals in Marine Corps Reserve on completion of 30 years service or five years in grade and for rear admirals in Naval Reserve and major generals in Marine Corps Reserve on completion of 35 years service or five years in grade and provided that rear admirals (lower half) and rear admirals in Naval Reserve and brigadier generals and major generals in Marine Corps Reserve could be considered for early retirement by continuation board. See sections 14508 and 14705 of this title.

Subsec. (g). Pub. L. 103-337, §1628(4), struck out subsec. (g) which read as follows: “An officer in an active status in the Naval Reserve in the permanent grade of ensign who is found not qualified for promotion to the grade of lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of second lieutenant who is found not qualified for promotion to the grade of first lieutenant, may (unless he is sooner promoted) be eliminated from an active status.”

1991—Subsec. (d). Pub. L. 102-190 substituted “W-5” for “W-4”.

1985—Subsec. (f)(1), (3). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1984—Subsec. (g). Pub. L. 98-525 added subsec. (g).

1981—Subsec. (f)(1), (3). Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

1980—Subsec. (b). Pub. L. 96-513, §337(a)(1), substituted “subsection (a) or (f)” for “subsection (a)”.

Subsec. (d). Pub. L. 96-513, §337(a)(2), substituted “as the years of active commissioned service of any regular officer on the active-duty” for “as any officer in the line on the active” and “or any regular officer on the active-duty list of the Marine Corps” for “or any officer on the active list of the Marine Corps”.

Subsec. (e). Pub. L. 96-513, §337(a)(3), substituted “does not apply to” for “applies to women officers appointed under section 5581 of this title, but not to other”.

Subsec. (f). Pub. L. 96-513, §337(a)(4), added subsec. (f).

1960—Subsec. (c). Pub. L. 86-559 empowered the Secretary to defer the retirement or discharge of officers serving in the grade of lieutenant commander in the Ready Reserve, in the permanent grade of lieutenant commander or above in the Naval Reserve, in the permanent grade of major or above in the Marine Corps Reserve, and in the permanent grade of captain or commander in the Medical Corps, Chaplain Corps, or Dental Corps in the Naval Reserve.

Statutory Notes and Related Subsidiaries

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 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by

that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1673(c)(1) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1628 of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 8374. Treatment of fractions of years of service in computing retired pay and separation pay

In determining the total number of years of service to be used as a multiplier in computing retired pay and separation pay on discharge under this chapter, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 415, §6404; Pub. L. 96-513, title V, §503(50), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 98-94, title IX, §923(c)(4), Sept. 24, 1983, 97 Stat. 643; renumbered §8374, Pub. L. 115-232, div. A, title VIII, §807(b)(16), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6404	34 U.S.C. 410c(a) (1st proviso).	Feb. 21, 1946, ch. 34, §7 (a) (1st proviso), 60 Stat. 27; Aug. 7, 1947, ch. 512, §432(a), 61 Stat. 881.
	34 U.S.C. 410j(g) (1st proviso).	Aug. 7, 1947, ch. 512, §312(g) (1st proviso), 61 Stat. 860.
	34 U.S.C. 410d (1st proviso).	Feb. 21, 1946, ch. 34, §9 (1st proviso), 60 Stat. 28; Aug. 7, 1947, ch. 512, §432(b), 61 Stat. 881.
	34 U.S.C. 410j(h) (1st proviso).	Aug. 7, 1947, ch. 512, §312(h) (1st proviso), 61 Stat. 860.
	34 U.S.C. 410r(h).	June 12, 1948, ch. 449, §207(h), 62 Stat. 368.
	34 U.S.C. 410r(j) (provisio).	June 12, 1948, ch. 449, §207(j) (provisio), 62 Stat. 366.
	34 U.S.C. 43g(g).	Apr. 16, 1947, ch. 38, §207(h), 61 Stat. 50; redesignated (g), Aug. 7, 1947, ch. 512, §434(d), 61 Stat. 882; May 16, 1950, ch. 186, §3(j), 64 Stat. 162.
	34 U.S.C. 625h(a).	June 12, 1948, ch. 449, §213(a), 62 Stat. 369.

The words “and a part of a year that is less than six months is disregarded” are added for clarity. The legislative history of the Career Compensation Act of 1949,

which contains a provision identical to those codified in this section, indicates that all of these provisions are construed as requiring a fractional year of less than six months to be disregarded (hearing before the Committee on Armed Services of the Senate on H.R. 5007, 81st Cong., 1st sess., p. 313, July 6, 1949).

Editorial Notes

PRIOR PROVISIONS

A prior section 8374, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528, provided that promotion of reserve commissioned officers be effective upon Federal recognition in next higher grade of Air National Guard, prior to repeal by Pub. L. 103-337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14308(f) of this title.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 6404 of this title as this section.

1983—Pub. L. 98-94 substituted “each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded” for “a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded”.

1980—Pub. L. 96-513 substituted “separation pay” for “severance pay” in section catchline and substituted “separation pay” for “lump-sum payments” in text.

Statutory Notes and Related Subsidiaries

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 1983 AMENDMENT

Amendment by Pub. L. 98-94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98-94, set out as a note under section 1174 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 8375. Navy and Marine Corps; warrant officers, W-1: limitation on dismissal

(a) No officer who holds the grade of warrant officer, W-1, may be dismissed from the Navy or the Marine Corps except in time of war, by order of the President.

(b) The President may drop from the rolls of the Navy or the Marine Corps any officer who holds the grade of warrant officer, W-1, who—

(1) has been absent without authority for at least three months; or

(2) is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Aug. 10, 1956, ch. 1041, 70A Stat. 416, §6408; renumbered §8375, Pub. L. 115-232, div. A, title VIII, §807(b)(16), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
6408	50 U.S.C. 739 (as applicable to warrant officers, W-1, of the Navy and the Marine Corps).	May 5, 1950, ch. 169, §10 (as applicable to warrant officers, W-1, of the Navy and the Marine Corps), 64 Stat. 146.

This section reflects the opinion of the Judge Advocate General of the Navy (JAG:I:2:ERS:cmr, dtd. 13 April 1954) that 50 U.S.C. 739 applies to warrant officers (now warrant officers, W-1), of the Navy and the Marine Corps. The Warrant Officer Act of 1954 established the grade of warrant officer, W-1, in lieu of the former warrant officer (as distinguished from commissioned warrant officer) grades. 50 U.S.C. 739, as applicable to officers above the grade of warrant officer, W-1, is codified in §1161 of this title.

In subsection (a) the words “by sentence of a general court-martial, or in commutation thereof” are omitted since the separation from the service of a warrant officer, W-1, by sentence of court-martial is effected by dishonorable discharge.

In subsection (b) the words “from his place of duty” are omitted as surplusage. The words “at least” are substituted for the words “or more”. The words “by a court other than a court-martial or other military court” are substituted for the words “by the civil authorities”.

Editorial Notes

PRIOR PROVISIONS

Prior sections 8375 to 8378 were repealed by Pub. L. 103-337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8375, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528; amended Pub. L. 86-559, §1(59), June 30, 1960, 74 Stat. 277; Pub. L. 96-513, title V, §514(3), Dec. 12, 1980, 94 Stat. 2935, related to transfer or discharge of officers promoted to reserve grade of brigadier general or major general ceasing to occupy those positions. See section 14314(a), (c) of this title.

Section 8376, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1528; amended Pub. L. 86-559, §1(60), June 30, 1960, 74 Stat. 277, related to promotion of commissioned officers of Air Force Reserve or Air National Guard of United States to higher reserve grades after temporary appointments. See section 14301 et seq. of this title.

Section 8377, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1529; amended Pub. L. 86-559, §1(61), June 30, 1960, 74 Stat. 277, related to effect of removal of reserve commissioned officer from recommended promotion list by President. See section 14301 et seq. of this title.

Section 8378, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1530, related to promotion of reserve commissioned officers removed from active status. See section 14317(a) of this title.

A prior section 8379, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1530, provided that appointing commissioned officers of Air National Guard was function of governors, prior to repeal by Pub. L. 103-337, div. A, title XVI, §1636(c), Oct. 5, 1994, 108 Stat. 2968, effective Feb. 10, 1996.

Prior sections 8380 and 8381 were repealed by Pub. L. 103-337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8380, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1530; amended Pub. L. 86-559, §1(62), June 30, 1960, 74 Stat. 277; Pub. L. 98-94, title X, §1015(b)(1), Sept. 24, 1983, 97 Stat. 667; Pub. L. 99-145, title V, §521(b), Nov. 8, 1985, 99 Stat. 631; Pub. L. 100-180, div. A, title V, §502(b)(1), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101-189, div. A, title V, §503(b)(1), Nov. 29, 1989, 103 Stat. 1437; Pub. L. 102-484, div. A, title V, §519(b), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 103-160, div. A, title V,