§ 6326. Enlisted members: 30 years

(a) Each enlisted member of the Regular Navy or the Regular Marine Corps who applies for retirement after completing 30 or more years of active service in the armed forces shall be retired by the President.

(b) For the purpose of subsection (a), "enlisted member" includes a member of the Regular Navy or the Regular Marine Corps who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(c) Each person retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

In subsection (a) the word "Regular" is inserted before the words "Navy" and "Marine Corps" to reflect the longstanding interpretation that 34 U.S.C. 431 applies only to members of the Regular Navy and Regular Marine Corps. So much of the Act of March 2, 1907, ch. 2515, § 1 (34 U.S.C. 431), as pertains to allowances and rations was expressly repealed by the Act of June 14, 1942, ch. 413, 56 Stat. 369. The words "active service in the armed forces" are substituted for 34 U.S.C. 432 for brevity. The reference to the former Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying this title. The reference to active service in the Civil or Spanish-American War in 34 U.S.C. 432 is omitted as obsolete, inasmuch as that Service was absorbed by the Coast Guard in 1915. If there are any enlisted men not yet retired who served in the Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying this title. The reference to active service in the Civil or Spanish-American War in 34 U.S.C. 432 is omitted as obsolete.

Subsection (b) is inserted to cover into the section permanent enlisted members who are temporarily appointed to commissioned or warrant grades.

In subsection (c) the word "grade" is substituted for the words "rating or rank" and the words "is entitled to retired pay at the rate of 75 percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "and with 75 per centum of the pay of the said rating or rank" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). Subsection (d) is substituted for 34 U.S.C. 350(e) as that section pertains to voluntary retirement of enlisted members with 30 years of active service.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–348 substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of a person who first became a member of a uniformed service, as defined in section 1407(h), before Sept. 8, 1980, be at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he served as master chief petty officer of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while serving, if that rate was higher, or in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be computed by multiplying the monthly retired pay base computed under section 1407(d) by 75 percent.


Effective Date of 1981 Amendment

Section 10(b) of Pub. L. 97–22 provided that the amendment made by that section is effective Sept. 15, 1981.

Effective Date of 1980 Amendment


Effective Date of 1963 Amendment


Effective Date of 1958 Amendment

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

Recomputation of Retired Pay of Admirals and Vice Admirals

Officers entitled to retired pay on May 31, 1958, who served on active duty before that day in the grade of admiral or vice admiral for a period of at least 180 days, authorized to recompute retired pay, see section 7(b), (c) of Pub. L. 85–422.

In subsection (a) the word "Regular" is inserted before the words "Navy" and "Marine Corps" to reflect the longstanding interpretation that 34 U.S.C. 431 applies only to members of the Regular Navy and Regular Marine Corps. So much of the Act of March 2, 1907, ch. 2515, § 1 (34 U.S.C. 431), as pertains to allowances and rations was expressly repealed by the Act of June 14, 1942, ch. 413, 56 Stat. 369. The words "active service in the armed forces" are substituted for 34 U.S.C. 432 for brevity. The reference to the former Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying this title. The reference to active service in the Civil or Spanish-American War in 34 U.S.C. 432 is omitted as obsolete.

In subsection (c) the word "grade" is substituted for the words "rating or rank" and the words "is entitled to retired pay at the rate of 75 percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "and with 75 per centum of the pay of the said rating or rank" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). Subsection (d) is substituted for 34 U.S.C. 350(e) as that section pertains to voluntary retirement of enlisted members with 30 years of active service.
§ 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay

(a) A member of the Navy Reserve or the Marine Corps Reserve may be transferred to the Retired Reserve upon his request if he has completed—

(1) at least 30 years of active service in the armed forces, other than active duty for training; or

(2) at least 20 years of active service in the armed forces other than active duty for training, the last 10 of which he served in the 11-year period immediately preceding his transfer to the Retired Reserve.

(b) Each member who is transferred to the Retired Reserve under subsection (a) is entitled, when not on active duty, to retired pay at the rate of 50 percent of the basic pay of the grade in which he retired.

(c) This section applies only to persons who were members of the Navy Reserve or the Marine Corps Reserve on January 1, 1953.

(d) This section terminates on January 1, 1973. However, its termination will not affect any accrued rights to retired pay.

(e) A member who is eligible for retirement under this section, and who is also eligible for retirement under another provision or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title, is entitled to elect which of these benefits he is to receive.


In subsection (a) the word "Federal" is omitted and the words "in the armed forces, other than active duty for training" are inserted. The words "active Federal service" are not defined in 50 U.S.C. 1052. Section 310 of the National Reserve Act of 1938, which 50 U.S.C. 1052 replaced, specifies active service in the "Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia in Federal status, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve." 50 U.S.C. 1052 was intended to preserve the rights of persons who, on January 1, 1953, were members of reserve components, so that they would not be prejudiced by the repeal of §310 of the Naval Reserve Act of 1938 (U.S. Code Congressional and Administrative News, 1952, p. 3584). To effect that purpose, the service that was creditable under the 1938 Act must be creditable under 50 U.S.C. 1052. The words "active service in the armed forces, other than active duty for training" cover all creditable service. The Judge Advocate General of the Navy, in an opinion dated August 27, 1954 (JAG II:2:WGA:CA:mk), held that active duty for training was not creditable under the 1938 Act and is, therefore, not creditable under the 1952 Act.

AMENDMENTS
1963—Subsec. (b), Pub. L. 88-132 substituted "of the grade in which retired" for "to which he would be entitled" after "50 percent of the basic pay."
1958—Subsec. (e), Pub. L. 85-583 entitled eligible members of Naval Reserve or Marine Corps Reserve to elect to transfer to Fleet Reserve or Fleet Marine Corps Reserve.

Effective Date of 1963 Amendment

§ 6328. Computation of years of service: voluntary retirement

(a) Enlisted Members.—Time required to be made up under section 972(a) of this title after February 10, 1986, may not be counted in computing years of service under this chapter.

(b) Officers.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.

(c) Time Spent in Seaman to Admiral Program.—The months of active service in pursuit of a baccalaureate-level degree under the Seaman to Admiral (STA-21) program of the Navy of officer candidates selected for the program on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010 shall be excluded in computing the years of service of an officer who was appointed to the grade of ensign in the Navy upon completion of the program to determine the eligibility of the officer for retirement, unless the officer