

L. 100-440, set out above, during the period Dec. 1, 1989, to Dec. 18, 1989, see section 604 of Pub. L. 101-237, set out as a note under section 1720B of Title 38, Veterans' Benefits. Similar provisions for the period Oct. 1, 1989, to Oct. 6, 1989, were contained in section 3(b) of Pub. L. 101-110, set out as a note under section 1720B of Title 38.

### § 6303. Annual leave; accrual

(a) An employee is entitled to annual leave with pay which accrues as follows—

(1) one-half day for each full biweekly pay period for an employee with less than 3 years of service;

(2) three-fourths day for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth days, for an employee with 3 but less than 15 years of service; and

(3) one day for each full biweekly pay period for an employee with 15 or more years of service.

In determining years of service, an employee is entitled to credit for all service of a type that would be creditable under section 8332, regardless of whether or not the employee is covered by subchapter III of chapter 83, and for all service which is creditable by virtue of subsection (e). However, an employee who is a retired member of a uniformed service as defined by section 3501 of this title is entitled to credit for active military service only if—

(A) his retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 1101 of title 38;

(B) that service was performed in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(C) on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed without a break in service of more than 30 days.

The determination of years of service may be made on the basis of an affidavit of the employee. Leave provided by this subchapter accrues to an employee who is not paid on the basis of biweekly pay periods on the same basis as it would accrue if the employee were paid on the basis of biweekly pay periods.

(b) Notwithstanding subsection (a) of this section, an employee whose current employment is limited to less than 90 days is entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under successive appointments without a break in service. After completing the 90-day period, the employee is entitled to be credited with the leave that would have accrued to him under subsection (a) of this section except for this subsection.

(c) A change in the rate of accrual of annual leave by an employee under this section takes effect at the beginning of the pay period after the pay period, or corresponding period for an

employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.

(d) Leave granted under this subchapter is exclusive of time actually and necessarily occupied in going to or from a post of duty and time necessarily occupied awaiting transportation, in the case of an employee—

(1) to whom section 6304(b) of this title applies;

(2) whose post of duty is outside the United States; and

(3) who returns on leave to the United States, or to his place of residence, which is outside the area of employment, in its territories or possessions including the Commonwealth of Puerto Rico.

This subsection does not apply to more than one period of leave in a prescribed tour of duty at a post outside the United States.

(e)(1) Not later than 180 days after the date of the enactment of this subsection, the Office of Personnel Management shall prescribe regulations under which, for purposes of determining years of service under subsection (a), credit shall, in the case of a newly appointed employee, be given for any prior service of such employee that would not otherwise be creditable for such purposes, if—

(A) such service—

(i) was performed in a position the duties of which directly relate to the duties of the position to which such employee is so appointed; and

(ii) meets such other requirements as the Office may prescribe; and

(B) in the judgment of the head of the appointing agency, the application of this subsection is necessary in order to achieve an important agency mission or performance goal.

(2) Service described in paragraph (1)—

(A) shall be creditable, for the purposes described in paragraph (1), as of the effective date of the employee's appointment; and

(B) shall not thereafter cease to be so creditable, unless the employee fails to complete a full year of continuous service with the agency.

(3) An employee shall not be eligible for the application of paragraph (1) on the basis of any appointment if, within 90 days before the effective date of such appointment, such employee has held any position in the civil service.

(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who holds a position which is subject to—

(1) section 5376 or 5383; or

(2) a pay system equivalent to either of the foregoing, as determined by the Office of Personnel Management.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 518; Pub. L. 93-181, §2, Dec. 14, 1973, 87 Stat. 705; Pub. L. 99-335, title II, §207(d), June 6, 1986, 100 Stat. 595; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-378, §2(52), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 108-411, title II, §202(a), (b), Oct. 30, 2004, 118 Stat. 2312.)

## HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2062(a), (b), (e), (i).	Oct. 30, 1951, ch. 631, §203(a), (b), (e), (i), 65 Stat. 679-681. Sept. 6, 1960, Pub. L. 86-707, § 401 “(e)”, 74 Stat. 799. Aug. 19, 1964, Pub. L. 88-448, § 203, 78 Stat. 487.
.....	5 U.S.C. 3101 (as applicable to 5 U.S.C. 2062(a)).	Aug. 19, 1964, Pub. L. 88-448, § 101 (as applicable to § 203), 78 Stat. 484.

In subsection (a), the words “Except as otherwise provided in this subsection” are omitted as unnecessary in view of the specific inclusion of the exception in the third sentence. The words “for the purposes of this subsection” are omitted as surplusage. The reference to “section 8332 of this title for the purpose of an annuity under subchapter III of chapter 83 of this title” is substituted for “section 3 of the Civil Service Retirement Act for the purposes of an annuity under such Act to reflect the codification of that Act in this title. In paragraph (B), the words “on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed” are substituted for “immediately prior to the effective date of this sentence he was employed in a civilian office to which this Act applies and, on and after such date, he continued to be employed in any such office”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

**Editorial Notes**

## REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 108-411, which was approved Oct. 30, 2004.

## AMENDMENTS

2004—Subsec. (a). Pub. L. 108-411, §202(a)(2), inserted “, and for all service which is creditable by virtue of subsection (e)” before period at end of second sentence.

Subsec. (e). Pub. L. 108-411, §202(a)(1), added subsec. (e).

Subsec. (f). Pub. L. 108-411, §202(b), added subsec. (f).  
1992—Subsec. (a). Pub. L. 102-378 amended second sentence generally. Prior to amendment, second sentence read as follows: “In determining years of service, an employee is entitled to credit for all service creditable under section 8332 of this title for the purpose of an annuity under subchapter III of chapter 83 of this title and all service creditable under section 8411 of this title for the purpose of chapter 84 of this title.”

1991—Subsec. (a)(A)(ii). Pub. L. 102-83 substituted reference to section 1101 of title 38 for reference to section 301 of title 38.

1986—Subsec. (a). Pub. L. 99-335 inserted “and all service creditable under section 8411 of this title for the purpose of chapter 84 of this title” at end of second sentence.

1973—Subsec. (b). Pub. L. 93-181 substituted “an employee whose current employment is limited to less than 90 days is entitled” and “under successive appointments” for “an employee is entitled” and “under one or more appointments” respectively.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-411, title II, §202(c), Oct. 30, 2004, 118 Stat. 2312, provided that: “None of the amendments made by subsection (a) [amending this section] shall apply in the case of any employee holding a position pursuant to an appointment made before the effective date of the regulations implementing such amendments.”

## EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-378, §9, Oct. 2, 1992, 106 Stat. 1360, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act [see Tables for classification] shall take effect as of the date of enactment of this Act [Oct. 2, 1992].

“(b) EXCEPTIONS.—(1) The amendment made by section 4(c) [amending provisions set out as a note under section 4725 of Title 2, The Congress] shall be effective as of December 31, 1991.

“(2) The amendments made by section 5(d) [amending section 8440d of this title] shall be effective as of December 9, 1991.

“(3) The amendments made by sections 2(13) and 2(17) [amending section 4109 of this title and repealing section 3342 of this title] shall be effective as of October 1, 1991.

“(4) The amendments made by sections 2(11), 2(19), 2(29), and 2(38) [amending sections 3324, 4505a, 5332, and 5403 of this title] shall be effective as of May 4, 1991.

“(5) The amendments made by section 2(25) [amending section 5302 of this title] shall be effective as of February 3, 1991.

“(6) The provisions of section 8(a) and the amendments made by sections 2(57)(A), 2(60), 2(64), 2(67), 2(71), 2(75)(A), 3(1), 3(4), 3(6), and 5(a) [amending sections 5532, 8331, 8335, 8344, 8347, 8425, 8461, 8468, and 8901 of this title, repealing section 5380 of this title, enacting provisions set out as a note under section 5532 of this title, amending provisions set out as notes under sections 2105, 5304, 5305, 5378, and 8348 of this title, and repealing provisions set out as notes under sections 5380 and 5532 of this title] shall be effective as of November 5, 1990.

“(7) The amendment made by section 2(52) [amending this section] shall be effective as of January 1, 1989, except that no amount shall become payable, as a result of the enactment of such amendment, under—

“(A) subchapter VI of chapter 55 of title 5, United States Code, based on a separation that takes effect or an election that is made before the date of enactment of this Act [Oct. 2, 1992]; or

“(B) section 5551(b) of title 5, United States Code, which is attributable to an individual’s being excepted from subchapter I of chapter 63 of such title before the date of enactment of this Act.

“(8) The amendment made by section 2(69) [amending section 8440 of this title] shall be effective as of November 10, 1988.

“(9) The amendments made by sections 2(40), 2(41), 2(42), 2(43), and 3(5) [amending sections 5541, 5542, 5544, and 5547 of this title and provisions set out as a note under section 5305 of this title] shall be effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act [Oct. 2, 1992].

“(10) The amendments made by section 2(28) [amending section 5314 of this title] shall be effective as of the first day of the first applicable pay period beginning on or after November 5, 1990.

“(11) The amendment made by section 2(49) [amending section 5724 of this title] shall apply with respect to a separation that takes effect on or after the date of enactment of this Act [Oct. 2, 1992].

“(12) The amendment made by section 5(e) [amending section 1441a of Title 12, Banks and Banking] shall apply with respect to any action (described in subclause (I) or (II) of the provisions struck by such amendment) occurring on or after the date of enactment of this Act [Oct. 2, 1992].”

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

**§ 6304. Annual leave; accumulation**

(a) Except as provided by subsections (b), (d), (e), (f), and (g) of this section, annual leave pro-