

or annuitant who performed service described in section 1 of this Act [amending this section] shall, upon application to the Civil Service Commission, be recomputed, effective on the first day of the first month following the date of enactment of this Act [Oct. 2, 1972], in accordance with section 1 of this Act.”

#### NATIONAL GUARD TECHNICIANS

Amendment by section 5(a)(4) of Pub. L. 90-486 not applicable to persons employed prior to Jan. 1, 1969 whose employment was covered by the civil service retirement provisions of section 8331 et seq. of this title, see section 5(d) of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

#### CREDITABLE SERVICE OF CERTAIN COMMISSIONED OFFICERS OF THE REGULAR OR RESERVE CORPS OF THE PUBLIC HEALTH SERVICE

Section 6(a), (b) of Pub. L. 86-415, Apr. 8, 1960, 74 Stat. 35, provided that:

“(a) Except as provided in subsection (b), service as a commissioned officer in the Regular Corps of the Public Health Service prior to July 1, 1960, shall be considered, for purposes of credit under the Civil Service Retirement Act [this subchapter], other than section 3(f) thereof [section 8333(a) of this title], as civilian service performed by an employee (as defined in such Act [this subchapter]) and commissioned officers of the Reserve Corps of the Public Health Service, subject to the Civil Service Retirement Act [this subchapter] on June 30, 1960, shall be considered as voluntarily separated on that date, with respect to service as such officers, from civilian positions subject to such Act [this subchapter].

“(b) If a commissioned officer of the Regular or Reserve Corps of the Public Health Service is retired after June 30, 1960, and becomes entitled to retired pay from the Public Health Service, all service in the Regular or Reserve Corps of the Public Health Service prior to July 1, 1960, together with any other service which is performed at any time with the Public Health Service, other than as a commissioned officer, and which is credited to the officer for purposes of such retirement, shall be considered as military service for purposes of section 3(b) of the Civil Service Retirement Act [subsecs. (c)–(e) of this section]; except that, in the case of any such officer who is retired pursuant to subsection (a) of section 211 of the Public Health Service Act [section 212(a) of Title 42], any such service which was performed prior to July 1, 1960, which was subject to the Civil Service Retirement Act [this subchapter], and with respect to which he has not, prior to his retirement, received a refund of deductions under the Civil Service Retirement Act [this subchapter], shall not be considered as military service for purposes of such section 3(b) [subsecs. (c)–(e) of this section], but only if he waives his right to have such service included for purposes of computing the amount of his retired pay from the Service.”

#### § 8333. Eligibility for annuity

(a) An employee must complete at least 5 years of civilian service before he is eligible for an annuity under this subchapter.

(b) An employee or Member must complete, within the last 2 years before any separation from service, except a separation because of death or disability, at least 1 year of creditable civilian service during which he is subject to this subchapter before he or his survivors are eligible for annuity under this subchapter based on the separation. If an employee or Member, except an employee or Member separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his pay during the service for which no eligibility for annuity is established based on the separation

shall be returned to him on the separation. Failure to meet this service requirement does not deprive the individual or his survivors of annuity rights which attached on a previous separation.

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 of this title have been deducted or deposited with respect to his last 5 years of civilian service, or, in the case of a survivor annuity under section 8341(d) or (e)(1) of this title, with respect to his total service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 569; Pub. L. 91-93, title II, §201(b), Oct. 20, 1969, 83 Stat. 138; Pub. L. 94-183, §2(34), Dec. 31, 1975, 89 Stat. 1058.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a), (b) .....	5 U.S.C. 2253(f), (g).	July 31, 1956, ch. 804, §401 “Sec. 3(f), (g)”, 70 Stat. 746.
(c) .....	5 U.S.C. 2256(f) (last sentence).	July 31, 1956, ch. 804, §401 “Sec. 6(f) (last sentence)”, 70 Stat. 750. Aug. 27, 1958, Pub. L. 85-772, §1(a), 72 Stat. 930.

In subsection (c), the words “eligible for” are substituted for “entitled to”.

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

##### AMENDMENTS

1975—Subsec. (c). Pub. L. 94-183 substituted “of this title” for “of title 5” and “of this title” for “of this chapter”.

1969—Subsec. (c). Pub. L. 91-93 provided for eligibility for a survivor annuity under section 8341(d) or (e)(1) of this title only if the requisite amounts are deducted or deposited with respect to total service period.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-93 inapplicable in cases of persons retired or otherwise separated prior to Oct. 20, 1969, their rights and of their survivors continued as if such amendment had not been enacted, see section 207(a) of Pub. L. 91-93, set out as a note under section 8331 of this title.

#### § 8334. Deductions, contributions, and deposits

(a)(1)(A) The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate,<sup>1</sup> Court of Federal Claims judge, member of the Capitol Police, member of the Supreme Court Police, nuclear materials courier, or customs and border protection officer, as the case may be, the percentage of basic pay applicable under subsection (c).

(B)(i) Except as provided in clause (ii), an equal amount shall be contributed from the appropriation or fund used to pay the employee or,

<sup>1</sup> So in original. Probably should be “United States magistrate judge.”