

Headquarters U.S. Air Force

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Reduced Eligibility Age for Retirement Pay

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Briefing has been built with embedded links to the internet for source/in-depth reference. For United States Code references at the Cornell Law website, there may be updates listed on the right side of the page.



NDAA '08 Authorization

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- The [National Defense Authorization Act for 2008](#), section 647, amended [USC Title 10, section 12731](#), reducing the eligibility age for Reserve retirement pay
 - Only eligible active duty service (as a member of the Ready Reserve) on or after **29 Jan 2008** can be credited for purposes of receiving retirement pay below age 60
 - Eligibility reduced below age 60 by 3 months for **each** cumulative total of 90 eligible days of active duty service per fiscal year
 - May not be reduced below age 50
 - Reserve retiree health care remains at age 60, regardless of eligibility age for Reserve retirement pay
 - Includes call or order to active duty under provisions:
 - [10 U.S.C. § 101\(a\)\(13\)\(b\)](#);
 - [10 U.S.C. § 12301\(d\)](#); *and*
 - [32 U.S.C. § 502\(f\)](#)

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The NDAA for 2008 recognized the country's increased reliance upon the Guard and Reserve. This increased reliance has created proposals to bring more parity in the retirement age between the RegAF and the ARC. These proposals have ranged from a Reservist receiving retirement pay immediately upon retiring (similar to the RegAF) to lowering the age to 55. Proposals to change benefits undergo review from two main perspectives: the cost and the balance of benefits between the RegAF and the ARC for recruiting and retention. Additionally, changes to benefits can encourage future participation, which this change accomplishes.

The question has been asked why this change was not retroactive. Although making it retroactive would capture the commitment level of the ARC since 9/11, the answer can be directly attributed to the cost. Only eligible active duty service on or after 29 Jan 2008 counts towards this benefit. The law does not provide credit for time served on or before that date.



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DoDI 1215.07 Service Credit for Reserve Retirement

- **DoDI 1215.07, Service Credit for Reserve Retirement**, incorporating change 1, dated 7 Nov 2008, which implements National Defense Authorization Act for 2008, section 647 explains 10 U.S.C. § 101(a)(13)(b) as follows:
 - Retired members called to AD ([10 U.S.C. § 688](#))
 - Mobilized (declared by Congress) ([10 U.S.C. § 12301\(a\)](#))
 - Mobilized (declared by President) ([10 U.S.C. § 12302](#))
 - Mobilized for other than war or nat'l emer ([10 U.S.C. § 12304](#))
 - Stop loss ([10 U.S.C. § 12305](#))
 - National Guard in federal service to repel invasion, suppress rebellion; enable execution of laws ([10 U.S.C. § 12406](#))
 - National Guard in federal service to suppress insurrections against another state; enforce federal authority; respond to emergencies; suppress rebellion prevent interference with state law ([10 U.S.C. chapter 15](#))
 - Any other provision of law during a war or during a national emergency declared by the President or Congress.

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The DoDI 1215.07 provides guidance for implementing the change to USC title 10. The NDAA defined eligible active duty as those sections referred to in section 101(a)(13)(B) or under 12301(d). In definitions of USC Title 10, section 101(a)(13)(B) lists the sections of law a member may be called to active duty under “contingency operation.” These include, “*a provision of law referred to in sections 101(a)(13)(B), 688, 12301(a), 12302, 12304, 12305, 12406, and chapter 15 (insurrection) . . .*” The sub-paragraph is referenced only to point to those eligible sections, not to make supporting a contingency operation a requirement for qualifying towards each cumulative 90 days.



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Voluntary Active Duty Service under 10 U.S.C. § 12301(d)

- **Voluntary Service under 10 U.S.C. § 12301(d) includes *both* MPA funded orders *and* RPA funded orders for the following active duty eligible service:**
 - **Voluntary active duty for contingencies and deployments**
 - **Operational Support (ADOS - formerly ADSW)**
 - **Training**
 - **School Tours**

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Duty is not limited to operational or only that performed OCONUS. As stated in DoDI 1215.07, “A member ordered to active duty under section 12301(d) of reference (c) shall receive credit for all days served regardless of the nature of the duties performed (e.g., whether performing training or operational support duties).”



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National Guard Service under 32 U.S.C. § 502(f)

- **502 (f) of title 32, U.S.C. for the purposes of responding to a national emergency declared by the President or supported by federal funds, examples include:**
 - **To secure U.S. airports following terrorist attacks**
 - **To employ National Guard to assist in aftermath of hurricane**
 - **To assist Dept of Homeland Security in securing borders**
 - **To support a National Special Security Event**



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... Some Notable Exceptions and Omissions: Ineligible Duty

- Not creditable AD service for purposes of reducing eligibility age for retired pay:
 - As an Active Guard Reserve (AGR) member ([10 U.S.C. § 12310](#))
 - Annual tour ([10 U.S.C. § 12301\(b\)](#))
 - While in captive status ([10 U.S.C. § 12301\(g\)](#))
 - Medical treatment, medical evaluation for disability purposes or medical study ([10 U.S.C. §12301\(h\)](#))
 - As a member not assigned to, or participating satisfactorily in units ([10 U.S.C. § 12303](#))
 - Under active duty agreements ([10 U.S.C. § 12311](#))
 - Disciplinary/courts-martial ([10 U.S.C. § 12315](#))
 - Muster duty ([10 U.S.C. §12319](#))
 - As a member of the Regular Component
- Inactive Duty is not eligible for reducing eligibility age for retired pay

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While most of the eligible orders will fall under 12301(d), a list of those sections that are ineligible can expedite assessing whether the orders qualify.



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An Example: Reduces age for retirement pay by 3 months

Airman Smith agreed to perform five days of active duty service on MPA orders in Feb 2008. He then volunteered for active duty service beginning June 1, 2008 for six months ending Nov. 30 (leave, reconstitution and PDMRA inclusive (as applicable)). Airman Smith thus performed 127 days in FY 2008, and 61 days in FY 2009.

Under this scenario, all of the active duty time Airman Smith performed *could* be credited toward reduced retirement age eligibility because it was active duty time performed under circumstances permitted under the new law (*i.e.*, orders for voluntary service, 10 U.S.C. § 12301(d)). However, because time credited must total 90 days or multiples of 90 days *in the aggregate per fiscal year* in order to correspondingly reduce his retirement age by three months, or multiples of three months, Airman Smith will be able to reduce his retirement age only by three months for FY 2008.

Had Airman Smith performed 53 more days in active service in total after Jan. 28, 2008, prior to going on active duty June 1, he would have served on active duty for 180 days in the aggregate in FY 2008 and thus would be able to reduce his retirement age by six months. Similarly, because Airman Smith has thus far served on active duty 61 days in FY 2009, he must perform active duty service for an additional 29 days, in the aggregate, in FY 2009 in order to reduce his retirement age by an additional three months.

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With A Great Benefit Comes Great Responsibility

- **Until automated systems are set up to capture data, tracking will present challenges – at the entry level and at ARPC**
- **Reservists should:**
 - **Ensure all active duty orders specify authorizing section of law, i.e., Auth: Title 10 USC, Section 12301(d)**
 - **Monitor days served (89 days in an FY is a day short)**
 - **Keep copies of all orders**

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This change in law is truly a great benefit which recognizes the contributions of our Reservists and encourages future participation. To ensure credit, keeping personal records and monitoring official records is vital.



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Order's Legal Authority (from DoDI 1215.06, Encl 4)

Utilization Categories	Legal Authority	Purpose of Duty	Applies To	Type of Duty	
Training	10 USC 10147	Annual Training (AT)/Drill Requirement	Reserve Only	AD/IDT	Involuntary
	10 USC 12301(b)	Annual Training	Reserve & National Guard	AD	Involuntary
	10 USC 12301(d)	Additional/Other Training Duty	Reserve & National Guard	AD	Voluntary
	32 USC 502(a)	Annual Training (AT)/Drill Requirement	National Guard Only	FTNGD/IDT	Involuntary
	32 USC 502(f)(1)	Additional Training Duty	National Guard Only	FTNGD	Involuntary
	32 USC 502(f)(2)	Additional/Other Training Duty	National Guard Only	FTNGD	Voluntary
Support	10 USC 12301(d)	AGR Duty/Operational Support/Additional Duty	Reserve & National Guard	AD	Voluntary
	32 USC 502(f)(2)	AGR Duty/Operational Support/Additional Duty	National Guard Only	FTNGD	Voluntary
	32 USC 502(f)(1)	Other Duty	National Guard Only	FTNGD	Involuntary
Mobilization	10 USC 12301(a)	Full Mobilization	Reserve & National Guard	AD	Involuntary
	10 USC 12302	Partial Mobilization	Reserve & National Guard	AD	Involuntary
	10 USC 12304	ERC	Reserve & National Guard	AD	Involuntary
	14 USC 712	Emergencies	USCGR Only	AD	Involuntary
Other	10 USC 12503	Federal Honors	Reserve & National Guard	ID	Voluntary
	32 USC 115	Federal Honors	National Guard Only	ID	Voluntary
	10 USC 12319	Muster Duty	Reserve & National Guard	ID	Involuntary
	10 USC 12301(h)	Medical Care	Reserve & National Guard	AD	Voluntary
	10 USC 12322	Medical Evaluation and Treatment	Reserve & National Guard	AD	Voluntary
	10 USC 802(d)	Disciplinary	Reserve & National Guard	AD	Involuntary
	10 USC 10148	Usaf Participation (up to 45 days)	Reserve & National Guard	AD	Involuntary
	10 USC 12301(g)	Captive Status	Reserve & National Guard	AD	Involuntary
	10 USC 12303	Usaf Participation (up to 24 months)	Reserve & National Guard	AD	Involuntary
	10 USC 12402	Duty at National Guard Bureau	National Guard Only	AD	Voluntary
	10 USC 331	Insurrection	National Guard Only	FS	Involuntary
	10 USC 332	Insurrection	National Guard Only	FS	Involuntary
	10 USC 12406	Insurrection	National Guard Only	FS	Involuntary

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Since not all active duty orders will qualify, the question on the legal authority of a particular order may be raised. DoDI 1215.07 states that only those “*on orders specifying, as the authority for such orders, a provision of law*” of those stated in the previous slides. However, not all orders specify the section of law providing the legal authority. As we can see in the table above from DoDI 1215.06, Encl. 4, orders are not published without some legal authority. When a member is ordered to Annual Training, the AF Form 938 will state that in block 11. Even if the orders do not state the legal authority, the above table specifies 10 USC § 12301(b) as the legal authority for the purpose of Annual Training. Annual training under 10 U.S.C. § 12301(b) is *not* creditable active duty service under the new law.



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AF Form 938 with Authorization

REQUEST AND AUTHORIZATION FOR ACTIVE DUTY TRAINING/ACTIVE DUTY TOUR				BY ORDER OF THE SECRETARY OF THE AIR FORCE	
AUTHORITY: 18 USC 803; Executive Order 9397					
PRINCIPAL PURPOSE: Used to request and authorize Air Force reservist tours of active duty as well as acting as a temporary duty travel order. SSN is used to make positive identification of military personnel. Becomes record copy of orders after authentication, enables reservist to procure transportation, receive reimbursement for travel expenses and be paid military pay, as applicable.					
ROUTINE USES: A copy of the order may be provided to civilian employers to substantiate active duty military requirements.					
DISCLOSURE IS VOLUNTARY: However, without this information and SSN the Air Force cannot set on your travel, pay claim and pay entitlements.					
1. NAME (Last, First, MI)	2. GRADE	3. SSN			
4. PRESENT STREET ADDRESS	5. CITY	6. STATE	7. ZIP CODE		
8. UNIT OF ASSIGNMENT	9. LOCATION	10. PAY CODE			
11. Member is ordered to _____ for _____ days plus suit for time.					
12. WILL REPORT TO (Unit and location)			13. REPORTING DATE (YYYYMMDD)	14. RELEASE DATE (YYYYMMDD)	
15. CORPORATE LIMITS			16. COMA/TRNG AREA	17. BAS CODE	
18. REMARKS: AUTH: AFMAN 36-8001 (Use travel number and complete statement of tour of duty within 7 workdays after tour completion. Travel days will not exceed DODMTR authorized travel time. Pay items is based on availability of gov't quarters and mess; contact the base lodging office after gov't quarters must be used when available.					
Auth: Title USC 10, Section 12301(d)					
19. TRNG-CAT-IND	20. TOUR-IND	21. MEAN CODE	22. MAIN-DUTY ID		
ESTIMATED COST		23. TRAVEL	24. PER DEM	25. OTHER	26. TOTAL
27. PAY AND ALLOWANCE					
TRAVEL AND PER DEM					
28. TRAVEL REQUESTING OFFICIAL (Typed name, grade, SSN)			29. SIGNATURE	30. DATE	
31. DEPARTMENT OF THE AIR FORCE (Enter designation and location of Headquarters)			32. FOR THE COMMANDER		
33. RESERVE ORDER NO			34. DATE	35. AUTHORIZING OFFICER (Typed and Signature)	
36. DISTRIBUTION					
37. STATEMENT OF TOUR OF DUTY					
	LOCATION	HOUR	DAY	MONTH	MODE OF TRAVEL
1					
2					
3					
37. I certify that I have complied with the above order. The statements on this form are true and complete. If a Federal Civil Service Employee, I certify that I have applied for appropriate leave.					
My Spouse (Circle One) was/was not in Active Duty status during this tour.					
/ (Circle One) did/did not occupy gov't quarters.					
38. MEMBER'S SIGNATURE			39. DATE	40. CERTIFYING OFFICIAL'S SIGNATURE	
41. MEMBER'S SIGNATURE			42. DATE	43. CERTIFYING OFFICIAL'S SIGNATURE	
44. MEMBER'S SIGNATURE			45. DATE	46. CERTIFYING OFFICIAL'S SIGNATURE	

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Preprinted in the remarks section, block 18, the AF Form 938 lists AFMAN 36-8001 as the authorization. AFI 36-2619 directs when placing a member on MPA (ADOS-AC funded) to add the authorization, ie Auth: Title USC 10, Section 12301(d). Adding the Title 10 section for authorization will ease the process of tracking eligible active duty days.

Note: DoDI 1215.06 has updated terms for block 11, which have not been reflected in AFMAN 36-8001. e.g. Active Duty for Special Work (ADSW) replaced with AD for Operational Support (ADOS)



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Questions

Read more at: <http://www.citamn.afrc.af.mil/news/story.asp?id=123127687>

Or visit the RE site on the AF Portal at: <https://www.my.af.mil/gcss-af/USAF/ep/globalTab.do?channelPagelId=-397531&command=org>

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