

Under certain Circumstances, RC Members Can Start Receiving RC Retirement Benefits before their 60th Birthdays

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Update on Sam Wright

9.0—Miscellaneous

Q: I am the Coast Guard Reserve petty officer who has asked the questions in the last several “Law Review” articles. I have heard some of my Coast Guard Reserve colleagues saying that under certain circumstances a Reserve Component (RC) member can start receiving his or her RC retirement benefits before he or she reaches his or her 60th birthday. Is that true?

A: Yes. Congress amended the chapter of title 10 of the United States Code that deals with RC retirement benefits in 2008 and again in 2014. As amended, the pertinent subsection now reads as follows:

In the case of a person who *as a member of the Ready Reserve* serves on active duty or performs active service described in subparagraph (B) [contingency service] after January 28, 2008, the eligibility age for purposes of subsection (a)(1) [receipt of RC retirement benefits] shall be reduced, subject to subparagraph (C), below 60 years of age by three months for each aggregate of 90 days on which such person serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014. A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.³

For example, Mary Jones, a member of the Navy Reserve, was on active duty in Southwest Asia, performing contingency service, for all of Fiscal Year 2013 (October 1, 2012 through September 30, 2013). Mary serves in the Navy Reserve long enough to qualify for RC retirement benefits.

¹ Please see www.servicemembers-lawcenter.org. You will find more than 1500 “Law Review” articles about laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. I am the author of more than 1300 of the articles.

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³ 10 U.S.C. 12731(f)(2)(A) (emphasis supplied).

Mary was born May 9, 1970, so she turns 60 on May 9, 2030. Based on having performed one year (12 months) of contingency service during Fiscal Year 2013, Mary now qualifies to start receiving her RC retirement benefits on her 59th birthday (May 9, 2029).

Q: As I explained in Law Review 16086, I served on active duty in the Coast Guard for exactly ten years, from September 2005 to September 2015. I performed contingency service in the Persian Gulf for all of Fiscal Year 2013. Does that year of contingency service qualify me to start receiving my RC retirement benefit on my 59th birthday?

A: No. Section 12731(f)(2)(A) applies to a service member who performs contingency service *as a member of the Ready Reserve*. When you performed contingency service in the Persian Gulf during Fiscal Year 2013, you were a member of the Active Component of the Coast Guard. You were not a member of the Ready Reserve. Section 12731(f)(2)(A) does not apply to your situation.

If you perform contingency service as a Coast Guard Reservist, recalled to active duty voluntarily or involuntarily sometime after you left active duty in September 2015, you can qualify for early receipt of your RC retirement benefit.

Q: In the spring of 2010, the Deepwater Horizon offshore oil platform exploded, and there was a massive oil leak that continued for months until it was finally shut off. I know several Coast Guard Reservists who were involuntarily called to active duty for months at a time in 2010 or 2011. Does that involuntary service qualify them for early receipt of their RC retirement benefits?

A: No, but if there is a new situation of that kind the Coast Guard Reservists who are involuntarily called to active duty will receive early retirement credit.

Section 712 of title 14 of the United States Code⁴ provides for involuntarily calling Coast Guard Reservists to active duty for domestic emergencies like the Deepwater Horizon emergency. Section 681 of the National Defense Authorization Act for Fiscal Year 2013 amended the definition of “contingency service” for purposes of qualifying an RC service member for early receipt of his or her RC retirement benefit. The amendment was to add involuntary service under 14 U.S.C. 712. The effective date of this amendment was December 31, 2011. This amendment was not retroactive. Thus, Coast Guard Reservists who were recalled to active duty involuntarily under 14 U.S.C. 712 in 2010 or 2011 do not qualify for early receipt of RC retirement benefits. If Coast Guard Reservists are called to active duty under section 712 after December 31, 2011, they will qualify for early receipt of RC retirement benefits.⁵

⁴ 14 U.S.C. 712. Title 14 deals with the Coast Guard.

⁵ I discuss this issue in detail in Law Review 13008 (January 2013).