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(2) A current spouse annuity based on an election under paragraph (a) of this section cannot be paid if it will, when combined with any former spouse annuity or annuities that are required by court order, exceed the maximum survivor annuity permitted under §831.641.

(3)(i) Except as provided in paragraph (b)(4) of this section, to make an election under paragraph (a) of this section, the retiree must pay the deposit computed under §831.662, in full, no later than November 28, 1987.

(ii) Except as provided in paragraph (b)(4) of this section, failure to pay the deposit, in full, before November 29, 1987, voids an election made under paragraph (a) of this section.

(4) If a retiree makes an election under paragraph (a) of this section and is prevented from paying the deposit within the 18-month time limit because OPM did not send him or her a notice of the amount of the deposit at least 30 days before the time limit expires, the time limit for making the deposit will be extended to 30 days after OPM sends the notice of the amount of the deposit.

(5) For a retiree whose annuity commenced on or after May 7, 1985, an election under paragraph (a) of this section cancels any spouse consent under §831.611 to the extent of the election.

(c) If a retiree who had elected a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity makes an election under paragraph (a) of this section that would cause the combined current spouse annuity and former spouse annuity (or annuities) to exceed the maximum allowed under §831.641, the former spouse annuity (or annuities) must be reduced to conform with that allowed under §831.641.

(d) An election under paragraph (a) of this section is void unless it is filed with OPM before the retiree dies.

[51 FR 31935, Sept. 8, 1986, as amended at 55 FR 9103, Mar. 12, 1990; 58 FR 52881, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

Subpart G—Computation of Annuities

§831.701 Effective dates of annuities.

(a) Except as provided in paragraphs (b) and (c) of this section, an annuity of an employee or Member commences on the first day of the month after—

(1) Separation from the service; or

(2) Pay ceases and the service and age requirements for title to annuity are met, if earlier than the date of separation.

(b) An annuity of—

(1) An employee involuntarily separated from service (except by removal for cause on charges of misconduct or delinquency) and eligible for an immediate annuity based on that involuntary separation;

(2) An employee or Member retiring due to a disability; and

(3) An employee or Member retiring after serving three days or less in the month of retirement—shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

(c) An annuity granted under section 8338, title 5, United States Code, commences on the appropriate birthday of the employee or Member.

(d) Survivor annuities commence as provided in §831.651.

(e) Except as provided in §831.502, annuity terminates on the date of death or on the date of any other terminating event in each case when OPM terminates the annuity.

(f) Annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate. Annuity does not accrue for the thirty-first day of any month, except in the initial month if the employee's annuity commences on the 31st of a 31-day month. For accrual purposes, the last day of a 28-day month constitutes 3 days and the last day of a 29-day month constitutes 2 days.

[48 FR 38786, Aug. 26, 1983, as amended at 51 FR 31936, Sept. 8, 1986; 58 FR 52881, Oct. 13, 1993]

§ 831.702 Adjustment of annuities.

(a)(1) An annuity which includes creditable National Guard technician service performed prior to January 1, 1969, shall be reduced by the portion of any benefits under any State retirement system to which an annuitant is entitled (or on proper application would be entitled) for any month in which the annuitant is eligible for State benefits based on the same pre-1969, service.

(2) Any cost-of-living increases in the State benefit shall require a corresponding deduction in the civil service annuity.

(3) Any cost-of-living increase to a civil service annuity shall apply to the gross annuity before deduction for benefits under any State retirement system.

(b) In the adjudication of claims arising under subchapter III of chapter 83 of title 5, United States Code, OPM shall take appropriate action to obtain the data that it considers necessary to assure the proper annuity deduction. Upon request by OPM, an annuitant shall promptly submit this data.

[48 FR 38786, Aug. 26, 1983]

§ 831.703 Computation of annuities for part-time service.

(a) *Purpose.* The computational method in this section shall be used to determine the annuity for an employee who has part-time service on or after April 7, 1986.

(b) *Definitions.* In this section—

Full-time service means any actual service in which the employee is schedule to work the number of hours and days required by the administrative workweek for his or her grade or class (normally 40 hours).

Intermittent service means any actual service performed with no prescheduled regular tour of duty.

Part-time service means any actual service performed on a less than full-time basis, by an individual whose appointment describes a regularly scheduled tour of duty, and any period of time credited as non pay status time under 5 U.S.C. 8332(f), which follows a period of part-time service without any intervening period of actual service other than part-time service. This definition is not limited to part-time career employment because it includes part-time temporary employment as well.

Post-April 6, 1986 average pay means the largest annual rate resulting from averaging, over any period of 3 consecutive years of creditable service, the annual rate of basic pay that would be payable for full-time service by an employee during that period, with each rate weighted by the time it was in effect, except that for periods of service before April 7, 1986, the actual rate of basic pay based on the employee's established tour of duty, if different, is used in the computation. The rates of pay included in the computation for intermittent service or temporary service performed on a full-time basis are the actual rates of basic pay during those periods of creditable service.

Pre-April 7, 1986, average pay means the largest annual rate resulting from averaging, over any period of 3 consecutive years of creditable service, an employee's actual rates of basic pay during that period, with each rate weighted by the time it was in effect.

Proration factor means a fraction expressed as a percentage rounded to the nearest percent. The numerator is the sum of the number of hours the employee actually worked during part-time service, and the denominator is the sum of the number of hours that a full-time employee would be schedule to work during the same period of service included in the numerator. If an employee has creditable service in addition to part-time service (full-time service, intermittent service, or temporary service performed on a full-time basis), such service must be included in the numerator and denominator of the fraction. In general, this is done by including the number of days of such intermittent service, multiplied by 8, and the number of weeks of such temporary service or full-time service, multiplied by 40 in both the numerator and the denominator. The additional credit for unused sick leave under 5 U.S.C. 8339(m) is not included in the fraction.

Temporary service means service under an appointment limited to one year or less, exclusive of intermittent service.

(c) *Pre-April 7, 1986, basic annuity.* The partial annuity for pre-April 7, 1986, service is computed in acordance with 5 U.S.C. 8339 using the pre-April 7, 1986, average pay and length of service (increased by the unused sick leave credit at time of retirement) prior to April 7, 1986.

(d) *Post-April 6, 1986, basic annuity.* The partial annuity for post-April 6, 1986, service is computed in accordance with 5 U.S.C. 8339 using the post-April 6, 1986, average pay and length of service after April 6, 1986. This amount is then multiplied by the proration factor.

(e) *Combined basic annuity.* The combined basic annuity is equal to the sum of the partial annuity amounts computed under paragraphs (c) and (d). This amount is the yearly rate of annuity (on which the monthly rate is based) before reductions for retirement before age 55; pre-October 1, 1982, nondeduction service and survivor benefits; or the reduction for an alternative annuity under section 204 of Pub. L 99–335.

(f) *Limitations.* The use of the post-April 6, 1986, average pay is limited to the purposes stated in this section. It may not be used as the basis for computing:

(1) The 80-percent limit on annuity under 5 U.S.C. 8339(f);

(2) The minimum annuity amount under 5 U.S.C. 8339(e) (concerning air traffic controller annuity) or 5 U.S.C. 8339(g) (concerning disability annuity); or

(3) A supplemental annuity under 5 U.S.C. 8344(a).

[52 FR 22434, June 12, 1987]

§ 831.704 Annuities including credit for service with a nonappropriated fund instrumentality.

An annuity that includes credit for service with a nonappropriated fund instrumentality performed after December 31, 1965, based on an election under subpart D of part 847 of this chapter is computed under part 847 of this chapter.

[61 FR 41720, Aug. 9, 1996]

Subpart H—[Reserved]

Subpart I—Law Enforcement Officers and Firefighters

SOURCE: 58 FR 64367, Dec. 7, 1993, unless otherwise noted.

§ 831.901 Applicability and purpose.

(a) This subpart contains regulations of the Office of Personnel Management (OPM) to supplement 5 U.S.C. 8336(c), which establishes special retirement eligibility for law enforcement officers and firefighters employed under the Civil Service Retirement System; 5 U.S.C. 8331(3) (C) and (D), pertaining to basic pay; 5 U.S.C. 8334(a) (1) and (c), pertaining to deductions, contributions, and deposits; 5 U.S.C. 8335(b), pertaining to mandatory retirement; and 5 U.S.C. 8339(d), pertaining to computation of annuity.

(b) The regulations in this subpart are issued pursuant to the authority given to OPM in 5 U.S.C. 8347 to prescribe regulations to carry out subchapter III of chapter 83 of title 5 of the United States Code, and in 5 U.S.C. 1104 to delegate authority for personnel management to the heads of agencies.

§ 831.902 Definitions.

In this subpart—

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For purposes of this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department