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and identifying the date when the marriage began satisfies the requirements of §838.805 and awards the former spouse a former spouse survivor annuity equal to the prorata share as defined in paragraph (a) of this section.

(c) A court order that awards a portion of a survivor annuity, as of a specified date before the employee's retirement, awards the former spouse a former spouse survivor annuity equal to the prorata share as defined in paragraph (a) of this section.

(d) A court order that awards a portion of the ''value'' of a survivor annuity as of a specific date before retirement, without specifying what ''value'' is, awards the former spouse a former spouse survivor annuity equal to a prorata share as defined in paragraph (a) of this section.

[57 FR 33574, July 29, 1992, as amended at 58 FR 52882, Oct. 13, 1993]

§838.923 Cost-of-living adjustment before the death of a retiree.

A court order that awards a former spouse survivor annuity is deemed to order OPM to add to the survivor annuity rate cost-of-living adjustments that occur before the death of a retiree (in the same manner as these adjustments are applied to the survivor rate generally) unless the court order contains an instruction expressly directing OPM not to add these adjustments to the survivor annuity rate. (See §838.735 for information concerning cost-of-living adjustments after the death of an employee or retiree.)

MISCELLANEOUS PROVISIONS

§838.931 Court orders that provide temporary awards of former spouse survivor annuities.

A provision in a court order that temporarily awards a former spouse survivor annuity satisfies the requirements of §838.804(b)(2), but the temporary award becomes permanent on the date on which OPM is barred from honoring a modification of the court order (the date of retirement or death, or, in the case of a post-retirement divorce, the date of the initial court order), as provided in sections 8341(h)(4) and 8445(d) of title 5, United States Code.

[57 FR 33574, July 29, 1992, as amended at 58 FR 43493, Aug. 17, 1993]

§838.932 Court orders that permit the former spouse to elect to receive a former spouse survivor annuity.

(a) Except as provided in paragraph (b) of this section, a court order that gives the former spouse the right to elect a former spouse survivor annuity satisfies the requirements of §838.804(b)(2) and provides a former spouse survivor annuity in the amount otherwise provided by the court order.

(b) A former spouse who has been awarded a former spouse survivor annuity by a court order that gives the former spouse the right to elect a former spouse survivor annuity may irrevocably elect not to be eligible for a former spouse survivor annuity based on the court order.

(c) The former spouse may make the election under paragraph (b) of this section at any time after the issuance of the court order. An election under paragraph (b) of this section—

(1) Must be in writing and in the form prescribed by OPM;

(2) Is effective on the first day of the month following the month in which OPM received the election; and

(3) Is irrevocable once it has become effective.

(d) The reduction in an employee annuity based on a court order that gives the former spouse the right to elect a former spouse survivor annuity terminates on the last day of the month in which OPM receives the former spouse's election under paragraph (b) of this section.

[57 FR 33574, July 29, 1992, as amended at 58 FR 43493, Aug. 17, 1993]

§838.933 Payment of the cost of a former spouse survivor annuity.

(a) A court order that unequivocally awards a former spouse survivor annuity and directs the former spouse to pay for that benefit satisfies the requirements of §838.805, and—

(1) If the former spouse has also been awarded a portion of the employee annuity then the cost of the survivor benefit will be deducted from the former spouse's share of the employee annuity