(2) the commencing date fixed for a deferred annuity or date of death, whichever is earlier, in the case of an individual who is separated with title to deferred annuity and does not claim the voluntary contribution account.

(b) The voluntary contribution account is used to purchase at retirement an annuity in addition to the annuity otherwise provided. For each $100 in the voluntary contribution account, the additional annuity consists of $7, increased by 20 cents for each full year, if any, the employee or Member is over 55 years of age at the date of retirement.

(c) A retiring employee or Member may elect a reduced additional annuity instead of the additional annuity described by subsection (b) of this section and designate in writing an individual to receive after his death an annuity of 50 percent of his reduced additional annuity. The additional annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual designated is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(d) A present or former employee or Member is entitled to be paid the voluntary contribution account if he files application for payment with the Office before receiving an additional annuity. An individual who has been paid the voluntary contribution account may not again deposit additional sums under this section until, after a separation from the service of more than 3 calendar days, he again becomes subject to this subchapter.

(e) If a present or former employee or Member not retired dies, the voluntary contribution account is paid under section 8342(c) of this title. If all additional annuities or any right thereto based on the voluntary contribution account of a deceased employee or Member terminate before the total additional annuity paid equals the account, the difference is paid under section 8342(c) of this title.


HISTORICAL AND REVISION NOTES

1966 ACT

Derivation

U.S. Code


Revised Statutes and

Statutes at Large

July 31, 1956, ch. 801, § 401

70 Stat. 756

Sec. 12.


In subsection (a), the words “after July 31, 1920” are substituted for “on or after August 1, 1920”. In paragraph (1), the words “payment under subsection (d) of this section” are based on “but such account shall not in any case include interest beyond date of payment” in former section 2262(d); the latter, accordingly, are omitted from subsection (d).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 8348(a)(1) for consistency within the subchapter and to reflect that it is the individual, rather than the position, that is subject to the subchapter.

Editorial Notes

AMENDMENTS

1962—Subsec. (a). Pub. L. 97–253 inserted “through December 31, 1964, and thereafter at the rate computed under section 8334(c) of this title.”.


Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1982 AMENDMENT


EFFECTIVE DATE OF 1978 AMENDMENT


§ 8343a. Alternative forms of annuities

(a) The Office of Personnel Management shall prescribe regulations under which any employee or Member who has a life-threatening affliction or other critical medical condition may, at the time of retiring under this subchapter (other than under section 8337 of this title), elect annuity benefits under this section instead of any other benefits under this subchapter (including any benefits under section 8341 of this title) based on the service of the employee or Member.

(b) Subject to subsection (c), the Office shall by regulation provide for such alternative forms of annuities as the Office considers appropriate, except that among the alternatives offered shall be—

(1) an alternative which provides for—

(A) payment of the lump-sum credit to the employee or Member; and

(B) payment of an annuity to the employee or Member for life; and

(2) in the case of an employee or Member who is married at the time of retirement, an alternative which provides for—

(A) payment of the lump-sum credit to the employee or Member; and

(B) payment of an annuity to the employee or Member for life, with a survivor annuity payable for the life of a surviving spouse.

(c) Each alternative provided for under subsection (b) shall, to the extent practicable, be designed such that the present value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the present value of the annuity which would otherwise be provided the employee or Member under this subchapter, as computed under subsections (a)–(i), (n), (q), (r), and (s) of section 8339.

(d) An employee or Member who, at the time of retiring under this subchapter—

(1) is married, shall be ineligible to make an election under this section unless a waiver is made under section 8339(j)(1) of this title; or
(2) has a former spouse, shall be ineligible to
make an election under this section if the
former spouse is entitled to benefits under sec-
tion 8341(h) or 8345(j) of this title (based on
the service of the employee or Member) under
the terms of a decree of divorce or annulment,
or a court order or court-approved property set-
tlement incident to any such decree, with re-
spect to which the Office has been duly noti-
fied.

(e) An employee or Member who is married at
the time of retiring under this subchapter and
who makes an election under this section may,
during the 18-month period beginning on the
date of retirement, make the election provided
for under section 8339(o) of this title, subject
to the deposit requirement thereunder.

(Added Pub. L. 99–335, title II, §204(a), June 6,
1986, 100 Stat. 591; amended Pub. L. 101–428,
101–508, title VII, §7001(a)(1), Nov. 5, 1990, 104
Stat. 1388–327; Pub. L. 103–66, title XI, § 11002(a),
106–553, §1(a)(2) [title III, §308(h)(5)], Dec. 21,
2000, 114 Stat. 2762, 2762A–89.)

Editorial Notes

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–553 substituted "(a)–(i),
(n), (q), (r), and (s)" for "(a)–(i), (n), (q), and (r)".
1997—Subsec. (c). Pub. L. 105–61, which directed the
substitution of "(q), and (r)" of section 8339 for "and (q)
of section 8339 of this title" in section 8334(a), was ex-
ecuted by making the substitution in subsec. (c) of
this section to reflect the probable intent of Congress,
because the amendment was no longer in effect in
this title.
1993—Subsec. (a). Pub. L. 103–66, §11002(a)(1), sub-
stituted "any employee or Member who has a life-
threatening affliction or other critical medical condi-
tion" for "an employee or Member".
Subsec. (f). Pub. L. 103–66, §11002(a)(2), struck out sub-
sec. (f) which prohibited election of alternative form of
annuity where commencement date would be after Dec.
1, 1990, with certain exceptions.
1990—Subsec. (c). Pub. L. 101–428 substituted "(a)–(i),
(n), and (q)" for "(a)–(i) and (n)".

Statutory Notes and Related Subsidaries

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–553 effective on the first
day of the first applicable pay period that begins on
Dec. 21, 2000, and applicable only to an individual who
is employed as a member of the Supreme Court Police
after Dec. 21, 2000, see section 1a(c)(1) [title III, §308(i),
(j)] of Pub. L. 106–553, set out in a Supreme Court Police
Retirement note under section 8331 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–61 applicable to any annuity
commencing before, on, or after Oct. 10, 1997, and ef-
fective with regard to any payment made after the first
month following Oct. 10, 1997, see section 516(b) of Pub.
L. 105–61, set out as a note under section 8334 of this
title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 11002(a) of Pub. L. 102–566 provided that: "The
amendments made by this section (including this sec-
tion and section 8420a of this title, section 4947 of Title
22, Foreign Relations and Intercourse, and section 2143
of Title 50, War and National Defense) shall become ef-
fective on October 1, 1994, and shall apply with respect
to any annuity commencing on or after that date."

EFFECTIVE DATE

Section effective June 6, 1986, see section 702(b)(3) of
Pub. L. 99–335, set out as a note under section 8401 of
this title.

APPLICABILITY OF SECTIONS 8343a(f) AND 8420a(f) TO IN-
DIVIDUALS CALLED TO OR PERFORMING DUTY IN CON-
NECTION WITH OPERATION DESERT SHIELD

Section 7001(a)(4) of Pub. L. 101–508 provided that:
"(A) In applying the provisions of section 8343a(f) or
8420a(f) of title 5, United States Code (as amended by
paragraph (1)) to any individual described in subpara-
graph (B), the reference in such provisions to 'Decem-
ber 1, 1990' shall be deemed to read 'December 1, 1991'.
"(B) This paragraph applies with respect to any indi-
vidual who—
"(i)(I) is a member of the Armed Forces of the
United States who, before December 1, 1990, was
called or ordered to active duty (other than for train-
ing) pursuant to section 672 [now 12301], 673 [now
12302], 673b [now 12303], 674 [now 12304], 675 [now
12305], or 688 of title 10, United States Code, in connection
with Operation Desert Shield;
"(ii) would have been eligible to make an election
under section 8343a or 8420a of title 5, United States
Code (as amended by paragraph (1)) as of November
30, 1990.
"(C) The Office of Personnel Management may pre-
scribe such regulations as may be necessary to carry
out this paragraph."

PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT
FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE
FORMS OF ANNUITIES

2135, as amended by Pub. L. 101–508, title VII,
§7001(a)(2)(A)–(C)(i), Nov. 5, 1990, 104 Stat. 1398–328, pro-
vided that:

"(a) IN GENERAL.—Notwithstanding any other provi-
sion of law, and except as provided in subsection (c),
y any lump-sum credit payable to an employee or Mem-
ber pursuant to the election of an alternative form of
annuity by such employee or Member under section
8433a or section 8420a of title 5, United States Code,
shall be paid in accordance with the schedule under
subsection (b) (instead of the schedule which would oth-
erwise apply), if the commencement date of the annu-
ity payable to such employee or Member occurs after
"(b) SCHEDULE OF PAYMENTS.—The schedule of pay-
ment of any lump-sum credit subject to this section is
as follows:

(1) 50 percent of the lump-sum credit shall be pay-
able on the date on which, but for the enactment of
this section, the full amount of the lump-sum credit
would otherwise be payable.

(2) The remainder of the lump-sum credit shall be pay-
able on the date which occurs 12 months after the
date on which the payment described in paragraph (1)
is paid.

An amount payable in accordance with paragraph (2)
shall be payable with interest, computed using the rate
under section 8334(c)(3) of title 5, United States Code.
"(c) EXCEPTIONS.—The Office of Personnel Manage-
ment shall prescribe regulations to provide that, unless
the individual involved indicates otherwise by written
notice to the Office (submitted at such time and in
such manner as the regulations may require), this sec-
tion shall not apply—
"(1) in the case of any individual who is separated
from Government service involuntarily, other than
§ 8344

Annuities and pay on reemployment

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay unless the individual elects to have such deductions withheld under subparagraph (A). An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1)(i) or (1)(i) of this title—

(A) deductions for the Fund may be withheld from his pay (if the employee so elects), and

his annuity on termination of employment is increased by an annuity computed under section 8339(a), (b), (d), (e), (h), (i), (n), (q), (r), and (s) as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 5 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Office of Personnel Management in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund (to the extent deposits or deductions have not otherwise been made) an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, or is elected as a Member, payment of the annuity terminates on reemployment. Upon separation from such position, an individual whose annuity is so terminated is entitled to have his rights redetermined under this subchapter, except that the amount of the annuity resulting from such redetermination shall be at least equal to the amount of the terminated annuity plus any increases under section 8340 of this title occurring after the ter-