

Act (50 U.S.C. 2011 et seq.)” for “the Central Intelligence Agency Retirement Act of 1964 for Certain Employees”.

Subsec. (d). Pub. L. 103-178, §204(b)(2)(B), substituted “the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)” for “the Central Intelligence Agency Retirement Act of 1964 for Certain Employees”.

1988—Subsec. (e). Pub. L. 100-238 struck out “matching” after “shall make a” and inserted “determined under section 4071f(a) of this title” after “participant”.

1986—Subsec. (d). Pub. L. 99-556, §405(a), which directed that subsec. (d) be amended by substituting “which was deducted and withheld from the individual’s basic pay under the other retirement system” for “which would have been deducted from pay under section 4071c(a) of this title had the individual been a participant”, was executed by making the substitution for “which would have been deducted from pay under section 4071e(a) of this title had the individual been a participant”, as the probable intent of Congress.

Subsec. (e). Pub. L. 99-556, §405(b), added subsec. (e).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, §505(i)] of Pub. L. 106-346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105-33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100-238, set out as a note under section 4054 of this title.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-556 effective Jan. 1, 1987, see section 408 of Pub. L. 99-556, set out as a note under section 4046 of this title.

##### IMPACT OF AMENDMENTS BY PUB. L. 105-33 ON AGENCY CONTRIBUTIONS

Pub. L. 105-33, title VII, §7001(e)(2), Aug. 5, 1997, 111 Stat. 662, provided that: “Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection [amending this section and section 4071e of this title].”

#### § 4071d. Entitlement to annuity

##### (a) Retirement conditions; definitions

(1) Any participant may be retired under the conditions specified in section 4051 of this title and shall be retired under the conditions specified in sections 4052 and 4053 of this title and receive benefits under this part.

(2) For the purposes of this subsection—

(A) the term “participant”, as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

(B) the term “System”, as used in those sections, means the Foreign Service Pension System.

(3) For purposes of any annuity computation under this subsection, the average pay (as used in section 8414<sup>1</sup> of title 5) of any member of the

Service whose official duty station is outside the continental United States shall be considered to be the salary that would have been paid to the member had the member’s official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5 that would have been payable to the member if the member’s official duty station had been Washington, D.C.

##### (b) Voluntary or mandatory retirement with authorization for immediate annuity; computation of annuity

(1) Any participant who retires voluntarily or mandatorily under section 4007, 4008, 4010a, 4051, 4052, or 4053 of this title under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System or for participants in the Foreign Service Pension System, and who has completed at least 5 years as a member of the Foreign Service, shall be entitled to an immediate annuity computed under paragraph (2).

(2) An annuity under paragraph (1) shall be computed—

(A) in accordance with section 8415(e)(1) of title 5 for all service while a participant in this System and for prior service creditable under this part not otherwise counted as—

(i) a member of the Service,

(ii) an employee of the Central Intelligence Agency entitled to retirement credit under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b)), or

(iii) a participant as a Member of Congress, a congressional employee, law enforcement officer, firefighter, or air traffic controller in the Civil Service Retirement System under subchapter III of chapter 83, title 5, or in the Federal Employees’ Retirement System under chapter 84 of title 5; and

(B) at the rate stated in section 8415(a) of title 5 for all other service creditable under this System including service in excess of 20 years otherwise creditable under paragraph (A).

(3) Any participant who is involuntarily retired or separated under section 4007, 4008, 4010, or 4010a of this title and who would if a participant under part I, become eligible for a refund of contributions or a deferred annuity under part I, shall, in lieu thereof, receive benefits for an involuntary separation under this part.

(4) A disability annuity under this part required to be redetermined under section 8452(b) of title 5, or computed under section 8452(c) or (d) of such title 5, shall be recomputed or computed using the formula in subsection (b)(2)(A) of this section rather than section 8415 of such title 5 (as stated in section 8452(b)(2)(A) and 8452(c) and (d) of such title). Such annuity shall also be computed in accordance with the preceding sentence if, as of the day on which such annuity commences or is restored, the annuitant satisfies the age and service requirements for entitlement to an immediate annuity under section 4051 of this title.

(5) A former participant entitled to a deferred annuity under section 8413(b) of title 5 shall not

<sup>1</sup> See References in Text note below.

be subject to section 8415(g)(1) of such title 5 if the former participant has 20 years of service creditable under this part and is at least 50 years of age as of the date on which the annuity is to commence.

(6)(A) The amount of a survivor annuity for a widow or widower of a participant or former participant shall be 50 percent of an annuity computed for the deceased under this part rather than under section 8415 of such title 5 (as stated in sections 8442(a)(1), (b)(1)(B), and (c)(2) of such title).

(B) Any calculation for a widow or widower of a participant or former participant under section 8442(f)(2)(A) shall be based on an “assumed FSRDS annuity” rather than an “assumed CSRS annuity” as stated in such section. For the purpose of this subparagraph, the term “assumed FSRDS annuity” means the amount of the survivor annuity to which the widow or widower would be entitled under part I based on the service of the deceased annuitant determined under section 8442(f)(5) of such title 5.

#### (c) Annuity supplement

A participant who is entitled to an immediate annuity under subsection (b) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with sections 8421(b) and 8421a of title 5 as if the participant were a law enforcement officer retired under section 8412(d)<sup>1</sup> of such title.

#### (d) Separation for cause based on disloyalty

Any participant who is separated for cause under section 4010 of this title shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

(Pub. L. 96-465, title I, §855, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 617; amended Pub. L. 99-556, title IV, §406, Oct. 27, 1986, 100 Stat. 3138; Pub. L. 103-178, title II, §204(b)(3), Dec. 3, 1993, 107 Stat. 2033; Pub. L. 105-277, div. G, subdiv. B, title XXIII, §2312(b), Oct. 21, 1998, 112 Stat. 2681-827; Pub. L. 105-382, §2(d)(3)(B), Nov. 13, 1998, 112 Stat. 3408; Pub. L. 107-228, div. A, title III, §322(b)(1), Sept. 30, 2002, 116 Stat. 1384; Pub. L. 112-96, title V, §5001(c)(2)(F), Feb. 22, 2012, 126 Stat. 200.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 8414 of title 5, referred to in subsec. (a)(3), does not contain the term “average pay”. Section 8415 of title 5 relates to annuity computation, and section 8401 of title 5 defines “average pay”.

The Central Intelligence Agency Retirement Act, referred to in subsec. (b)(2)(A)(ii), is Pub. L. 88-643, as revised generally by Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196. Title II of the Act is classified generally to subchapter II (§2011 et seq.) of chapter 38 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 50 and Tables.

Subsec. (d) of section 8412 of title 5, referred to in subsec. (c), was redesignated as subsec. (d)(1) of that section, and a new subsec. (d)(2) was added, by Pub. L. 117-225, §3(b)(1), Dec. 9, 2022, 136 Stat. 2294.

### AMENDMENTS

2012—Subsec. (b)(2)(A). Pub. L. 112-96, §5001(c)(2)(F)(i), substituted “section 8415(e)(1)” for “section 8415(d)(1)” in introductory provisions.

Subsec. (b)(5). Pub. L. 112-96, §5001(c)(2)(F)(ii), substituted “section 8415(g)(1)” for “section 8415(f)(1)”.

2002—Subsec. (a)(3). Pub. L. 107-228 added par. (3).

1998—Subsec. (b)(1). Pub. L. 105-277, §2312(b)(1)(A), and Pub. L. 105-382 amended par. (1) identically, inserting “4010a,” after “4008.”

Pub. L. 105-277, §2312(b)(1)(C), substituted “Service, shall” for “Service shall”.

Pub. L. 105-277, §2312(b)(1)(B), inserted “or for participants in the Foreign Service Pension System,” after “Retirement and Disability System”.

Subsec. (b)(3). Pub. L. 105-382, which directed the insertion of “4010a,” after “4008,” in par. (3), was not executed to reflect the probable intent of Congress and the amendment by Pub. L. 105-277, §2312(b)(2). See below.

Pub. L. 105-277, §2312(b)(2), substituted “4010, or 4010a” for “or 4010”.

1993—Subsec. (b)(2)(A)(ii). Pub. L. 103-178 substituted “under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))” for “under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act”.

1986—Subsec. (b)(1). Pub. L. 99-556, §406(a), substituted “as a member of the Foreign Service” for “of service subject to this subchapter”.

Subsec. (b)(2). Pub. L. 99-556, §406(b), amended par. (2) by substituting subpars. (A) and (B) for former subpars. (A) to (C). Prior to amendment, subpars. (A) to (C) read as follows:

“(A) for all service earned while a participant in this System, at the rate stated in section 8415(d) of title 5; and

“(B) for all service earned while a participant in another retirement system creditable under section 4071c(d) of this title, at the rate which would have been applicable to the individual had that individual remained a participant in the other system; and

“(C) for all volunteer service creditable under section 4071c(c) of this title, at the rate stated in section 8415(a) of title 5.”

Subsec. (b)(3) to (6). Pub. L. 99-556, §406(c), added pars. (3) to (6).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-228 applicable to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after Sept. 30, 2002, see section 322(c)(1) of Pub. L. 107-228, set out as a note under section 4046 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105-382, as amended, set out as a note under section 4044 of this title.

Amendment by Pub. L. 105-277 effective Oct. 21, 1998, except that amendment made by section 2312(b)(1)(A), (2) of Pub. L. 105-277 applicable with respect to any actions taken under section 4010a of this title on or after Jan. 1, 1996, see section 2312(c) of Pub. L. 105-277, set out as a note under section 4009 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-556 effective Jan. 1, 1987, see section 408 of Pub. L. 99-556, set out as a note under section 4046 of this title.

### § 4071e. Deductions and withholdings from pay

#### (a) Basic pay

(1) The employing agency shall deduct and withhold from the basic pay of each participant