

(2) Any contributions under this section in excess of the amounts which (but for paragraph (1)) would otherwise have been payable shall be applied toward reducing the unfunded liability of the Foreign Service Retirement and Disability System.

(3) After the unfunded liability of the Foreign Service Retirement and Disability System has been eliminated, as determined by the Secretary of State, Government contributions under this section shall be determined and made disregarding this subsection.

(Pub. L. 96-465, title I, §857, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 618; amended Pub. L. 113-67, div. A, title IV, §402(c), Dec. 26, 2013, 127 Stat. 1185.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 402(b) of the Bipartisan Budget Act of 2013, referred to in subsec. (c)(1), is section 402(b) of div. A of Pub. L. 113-67, which amended section 4071e of this title.

##### AMENDMENTS

2013—Subsec. (c). Pub. L. 113-67 added subsec. (c).

#### § 4071g. Cost-of-living adjustments

Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5 in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section.

(Pub. L. 96-465, title I, §858, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 619.)

#### Statutory Notes and Related Subsidiaries

##### DELAY IN COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1994, 1995, AND 1996

Any cost-of-living increase scheduled to take effect during fiscal year 1994, 1995, or 1996 under this section delayed until first day of third calendar month after date such increase would otherwise take effect, see section 11001 of Pub. L. 103-66, set out as a note under section 8340 of Title 5, Government Organization and Employees.

#### § 4071h. General and administrative provisions

##### (a) Administration by Secretary of State; issuance of regulations

The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapters III and VII of chapter 84 of title 5. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes.

##### (b) Appeal of determinations

Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 of title 5 or the Director of such Office, would be appealable to the Merit Systems Protection Board shall, instead,

be appealable to the Foreign Service Grievance Board, except that determinations of disability for participants shall be based upon the standards in section 4048 of this title (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

##### (c) Periodic valuations by Secretary of the Treasury

At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

(Pub. L. 96-465, title I, §859, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 619.)

#### § 4071i. Transition provisions

The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5 (the Civil Service Retirement System) to the Federal Employees' Retirement System. For this and related purposes, references made to participation in subchapter III of chapter 83 of title 5 (the Civil Service Retirement System), the Social Security Act [42 U.S.C. 301 et seq.], and title 26 shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate.

(Pub. L. 96-465, title I, §860, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 619; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

##### AMENDMENTS

1986—Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

#### § 4071j. Former spouses

##### (a) Entitlement to share in benefits; conditions; remarriage; payments as income to former spouse; disability annuitants; election regarding method of payment; maximum amount payable

(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this part, a former spouse of a participant or former participant is entitled, during the period described in subparagraph (B), to a share (determined under paragraph (2)) of all benefits otherwise payable to

such participant under this part if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this subchapter with at least 5 of such years occurring while the participant was a member of the Foreign Service.

(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

(2) The share referred to in paragraph (1) equals—

(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this subchapter; or

(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(4)(A) For purposes of title 26, payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

(B) Any reduction in payments to a participant or former participant as a result of payments to a former spouse under this subsection shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse, or other survivor under this part, and

(ii) any reduction in the annuity of the participant to provide survivor benefits under this part.

(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her creditable service, for an annuity under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this part which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this part.

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this part, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

**(b) Entitlement to survivor benefits; determination of share; disqualification upon remarriage**

(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this part to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this part to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this subchapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

**(c) Diminution of entitlement of former spouse prohibited**

A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5 or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

**(d) Transfer of participant from Foreign Service Retirement and Disability System; determination of benefit share**

If a member becomes a participant under this part after qualifying for benefits under part I and, at the time of transfer, has a former spouse entitled to benefits under part I which are determined under section 4054 or 4055 of this title (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 4054 or 4055 of this title and the service of the member as a participant under this part is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply.

**(e) Death of participant entitled to deferred annuity; spousal agreement; payment of survivor annuity**

If a participant dies after completing at least 18 months of service or a former participant dies

entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, to a former spouse, such survivor annuity shall be paid under the terms of this part as if the survivor annuity had been ordered by a court.

(Pub. L. 96-465, title I, §861, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 619; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-556, title IV, §407, Oct. 27, 1986, 100 Stat. 3139.)

#### Editorial Notes

##### AMENDMENTS

1986—Subsec. (a)(4)(A). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (b)(3). Pub. L. 99-556 added par. (3).

#### Statutory Notes and Related Subsidiaries

##### 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.

#### § 4071k. Spousal agreements

A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this chapter and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this part to a spouse or former spouse.

(Pub. L. 96-465, title I, §862, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 621.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

#### SUBCHAPTER IX—TRAVEL, LEAVE, AND OTHER BENEFITS

#### § 4081. Travel and related expenses

The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

- (1) proceeding to and returning from assigned posts of duty;
- (2) authorized or required home leave;

(3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;

(4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;

(5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

(6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour and of 2 round trips during any continuous 3-year tour;

(7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

(8) trips by a member of the Service, and members of his or her family, for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States,