

1983—Subsec. (a). Pub. L. 98-76, §103(a)(1), substituted “Subject to the limitations set forth below, an annuity” for “An annuity” in provisions preceding cl. (i).

Pub. L. 98-76, §103(a)(3), inserted provision following cl. (vii) that for purpose of determining annuity amounts provided under sections 231b(a), 231c(a), and 231c(f) of this title, provisions with respect to beginning dates of annuities set forth in this subsection shall be deemed to govern beginning dates of monthly benefits provided under Social Security Act.

Subsec. (a)(ii). Pub. L. 98-76, §103(a)(2), amended cl. (ii) generally, substituting “in the case of an applicant otherwise entitled to an annuity under paragraph (iv) or (v) of section 231a(a)(1) of this title or under section 231a(d)(1)(i) of this title on the basis of disability, not earlier than the later of (A) the first day of the sixth month following the onset date of the disability for which such annuity is awarded or (B) the first day of the twelfth month before the month in which the application therefor was filed” for “not earlier than the first day of the twelfth month before the month in which the application therefor was filed”.

Subsec. (a)(iii). Pub. L. 98-76, §103(a)(2), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “in the case of an applicant otherwise eligible for an annuity under section 231a(a)(1) or 231a(c) of this title not earlier than the date following the last day of compensated service of the applicant; and”.

Subsec. (b). Pub. L. 98-76, §106(i), substituted “retirement age (as defined in section 216(l) of the Social Security Act)” for “the age of 65” and “age 65”.

Subsec. (c)(2). Pub. L. 98-76, §106(j), substituted “retirement age (as defined in section 216(l) of the Social Security Act)” for “age 65”.

Subsec. (c)(7)(D)(i). Pub. L. 98-76, §104(c)(1), substituted “full-time elementary or secondary school student” for “full-time student”.

Subsec. (c)(7)(D)(ii). Pub. L. 98-76, §104(c)(2), substituted “19” for “22”.

1981—Subsec. (a)(iv) to (vii). Pub. L. 97-35, §1120(a), added pars. (iv) to (vii).

Subsec. (b). Pub. L. 97-35, §1120(b), substituted “title II of the Social Security Act” for “the Social Security Act”.

Subsec. (c)(3). Pub. L. 97-35, §1120(c), inserted provision that entitlement of the divorced wife of an individual to an annuity under section 231a(c) shall end on the last day of the month preceding the month in which (A) the divorced wife or the individual dies or (B) the divorced wife remarries.

Subsec. (c)(9). Pub. L. 97-35, §1120(d), added subdiv. (9).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, §110(b)(2), Dec. 23, 2008, 122 Stat. 5112, provided that: “The amendment made by subsection (a)(2) [amending this section] shall take effect upon the date of the enactment of this Act [Dec. 23, 2008].”

##### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title X, §1003(b), Aug. 17, 2006, 120 Stat. 1053, provided that: “The amendment made by this section [amending this section] shall take effect 1 year after the date of the enactment of this Act [Aug. 17, 2006].”

##### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

##### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-76, title I, §103(b), Aug. 12, 1983, 97 Stat. 416, provided that: “The amendments made by this section [amending this section] shall become effective on the

first day of the first month beginning after the date of the enactment of this Act [Aug. 12, 1983], and shall apply only with respect to annuities awarded on the basis of applications filed on or after that day.”

Amendment by section 104(c) of Pub. L. 98-76 effective with respect to annuities accruing for months after Aug. 1983, with certain exceptions, see section 104(d) of Pub. L. 98-76, set out as a note under section 231a of this title.

Amendment by section 106(i), (j) of Pub. L. 98-76 effective Aug. 12, 1983, except such amendment inapplicable to certain annuity amounts, see section 106(k) of Pub. L. 98-76, set out as a note under section 231a of this title.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1120(a), (d) of Pub. L. 97-35 effective Jan. 1, 1975, amendment by section 1120(b) of Pub. L. 97-35 effective Oct. 1, 1981, and amendment by other provisions of section 1120 of Pub. L. 97-35 effective Oct. 1, 1981, and applicable only with respect to annuities awarded on or after Oct. 1, 1981, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

#### § 231e. Lump sum payments

##### (a) Eligible annuities; applications; reversion; determination of status of recipient

(1) Annuities under section 231a(a)(1) of this title and supplemental annuities under section 231a(b) of this title which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under subsection (b) of this section for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this subdivision to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such annuities were a lump sum payable under subsection (c)(1) of this section.

(2) Annuities under section 231a(d) of this title which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under subsection (c)(1) of this section.

(3) Annuities under section 231a(c) of this title which will have become due a spouse or divorced wife of an individual but which will not have

been paid at the time of such spouse's or divorced wife's death shall be payable to the individual from whose employment such annuities derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of subdivision (1) of this subsection as if such annuities were annuities due to an individual but unpaid at the time of such individual's death.

(4) Applications for accrued and unpaid annuities provided for in the preceding subdivisions of this subsection shall be filed prior to the expiration of two years after the death of the person to whom such annuities were originally due.

(5) If there is no person to whom all or any part of the payments described in subdivision (1), (2), or (3) can be made, such payment or part thereof shall escheat to the credit of the Railroad Retirement Account.

(6) For the purposes of this subsection and subsection (c) of this section, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216(h)(2) or (3) of the Social Security Act [42 U.S.C. 416(h)(2) or (3)], as in effect before 1957, are fulfilled.

(7) In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216(h) of the Social Security Act [42 U.S.C. 416(h)] shall be applied. In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the grandchild, brother, or sister of an employee as claimed, the Board shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such employee was domiciled at the time of his death, or if such employee was not so domiciled in any State by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking personal property as a grandchild, brother, or sister shall be deemed such.

**(b) Payments in accordance with Railroad Retirement Act of 1937 and Social Security Act**

(1) Upon the death of an individual who will have completed ten years of service prior to January 1, 1975, and will have had a current connection with the railroad industry at the time of his death, a lump-sum payment shall be made in accordance with the provisions of section 5(f)(1) of the Railroad Retirement Act of 1937 [45 U.S.C. 228e(f)(1)] as in effect on December 31, 1974, in an amount, if any, which would have been payable under such section on the basis of (A) the individual's compensation after December 31, 1936, and prior to January 1, 1975, and (B) the individual's wages (as defined in section 209 of the Social Security Act [42 U.S.C. 409]) prior to January 1, 1975. Any lump sum payable under this subdivision shall be in an amount computed as if the individual had died on January 1, 1975. No lump sum shall be payable under this subdivision if the employee died leaving a surviving divorced wife who would on proper application

therefore be entitled to receive an annuity under section 231a(d) of this title for the month in which the employee's death occurred.

(2) Upon the death of an individual who will not have completed ten years of service prior to January 1, 1975, but who (i) will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995) at the time of his death, (ii) will have had a current connection with the railroad industry at the time of his death, and (iii) will have died leaving no widow, surviving divorced wife, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under section 231a(d) of this title for the month in which such death occurred, a lump-sum death payment shall be made in accordance with the provisions of section 202(i) of the Social Security Act [42 U.S.C. 402(i)] in an amount equal to the amount which would have been payable under such section 202(i) if such individual's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act. If a lump sum would be payable to a widow or widower under this subdivision except for the fact that a survivor will have been entitled to receive an annuity for the month in which the individual will have died, but within one year after the individual's death there will not have accrued to survivors of the individual, by reason of his death, annuities which, after all deductions pursuant to section 231a(g) and 231a(h) of this title, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this subdivision to the widow or widower to whom a lump sum would have been payable under this subdivision except for the fact that a monthly benefit under section 231a(d) of this title was payable for the month in which the individual died, if such widow or widower will not have died before receiving payment of such lump sum.

**(c) Payments in the absence of further benefits**

(1) Whenever it shall appear, with respect to the death of an employee, that no benefits, or no further benefits (other than benefits payable to a widow, widower, or parent under either this subchapter or the Social Security Act [42 U.S.C. 301 et seq.] upon attaining the age of eligibility therefor at a future date) will be payable under this subchapter or under the Social Security Act, a lump sum in an amount computed under subdivision (2) of this subsection shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this subdivision—

(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

(ii) if there be no such widow or widower, to any child or children of such employee; or

(iii) if there be no such widow, widower, or child, to any grandchild or grandchildren of such employee; or

(iv) if there be no such widow, widower, child, or grandchild, to any parent or parents of such employee; or

(v) if there be no such widow, widower, child, grandchild, or parent, to any brother or sister of such employee; or

(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee:

*Provided, however,* That if the employee is survived by a widow, widower, or parent who may upon attaining the age of eligibility be entitled to benefits under this subchapter or under the Social Security Act, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum be paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this subchapter on the basis of the deceased employee's compensation and years of service or under the Social Security Act on the basis of the deceased employee's wages from (A) employment with an employer as defined in section 231(a) of this title or (B) service as an employee representative as defined in section 231(c) of this title. Any election made and filed by a widow, widower, or parent pursuant to this subdivision shall be legally effective according to its terms. After a lump sum with respect to the death of an employee is paid pursuant to an election filed with the Board under the provisions of this subsection, no further benefits shall be paid (other than to a survivor in the circumstances described in paragraph (3)) under this subchapter or the Social Security Act on the basis of such employee's compensation and service under this subchapter, except that nothing in this subchapter or the Social Security Act shall operate to deprive a widow, widower, or parent making such election of any insurance benefit under title II of the Social Security Act [42 U.S.C. 401 et seq.] to which such individual would have been entitled if the employee had not rendered service as an employee under this subchapter.

(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to (A) the sum of 4 per centum of the deceased employee's compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of such employee's compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of such employee's compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of such employee's compensation paid after December 31, 1961, and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by such employee after December 31, 1965, and before January 1, 1975, under the provisions of section 3201 of the Railroad Retirement Tax Act [26 U.S.C. 3201] (excluding, for this purpose, the amount of the employee tax attributable to that portion of the tax rate derived from section 3101(b) of the Internal Revenue Code of 1986 [26 U.S.C. 3101(b)]), plus one-half of 1 per centum of the compensation on which such

taxes were payable, deeming the compensation attributable to creditable military service after June 30, 1963, and before January 1, 1975, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act [26 U.S.C. 3211] to be employee taxes under section 3201 of such Act, minus (B) the sum of all benefits paid to such employee, and to others deriving from such employee, during his or her life, or to others by reason of his or her death, under this subchapter, the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.], or the Social Security Act [42 U.S.C. 301 et seq.] (excluding, for this purpose, payments to providers of services under section 231f(d) of this title or section 21 of the Railroad Retirement Act of 1937 [45 U.S.C. 228s-2], any supplemental annuity payments made to the employee under section 231a(b) of this title or section 3(j) of the Railroad Retirement Act of 1937 [45 U.S.C. 228c(j)], any amounts by which that portion of the annuities provided the employee under section 231b(a) of this title or his spouse or divorced wife under section 231c(a) of this title were increased by reason of the employee's wages and self-employment income derived from employment and self-employment under the Social Security Act, that portion of the annuities provided the employee under section 231b(h) of this title or his spouse under section 231c(e) of this title, and so much of the benefits paid to the employee and to others deriving from him or her under the Social Security Act during his or her lifetime as would have been payable under that Act if such employee had not rendered service as an employee as defined in section 231(b) of this title). In computing compensation for purposes of this subdivision there shall be excluded compensation in excess of \$300 for any month before July 1, 1954; compensation in excess of \$350 for any month after June 30, 1954, and before June 1, 1959; compensation in excess of \$400 for any month after May 31, 1959, and before November 1, 1963; compensation in excess of \$450 for any month after October 31, 1963, and before October 1, 1965; and compensation in excess of (i) \$450 or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1986 [26 U.S.C. 3121], whichever is greater, for any month after September 30, 1965.

(3) Notwithstanding the last sentence of paragraph (1), benefits shall be paid to a survivor who—

(A) is a divorced wife; and

(B) through administrative error received benefits otherwise precluded by the making of a lump sum payment under this section to a widow;

if that divorced wife makes an election to repay to the Board the lump sum payment. The Board may withhold up to 10 percent of each benefit amount paid after October 21, 1998, toward such reimbursement. The Board may waive such repayment to the extent the Board determines it would cause an unjust financial hardship for the beneficiary.

**(d) Payments to recipients ineligible for certain other annuities**

(1) Every individual who will have completed ten years of service at the time of his retirement or death, but does not meet the qualifications for an annuity amount determined under the provisions of section 231b(h)(1) or 231b(h)(2) of this title, shall, at the time his annuity under section 231a(a)(1) of this title begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 231a(a)(1) of this title, or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subdivision (c)(1) of this section.

(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to the sum of (A) 1.5 per centum of so much of such individual's combined earnings for any calendar year after 1950 and before 1954 as is in excess of \$3,600, plus (B) 2 per centum of so much of such individual's combined earnings for any calendar year after 1953 and before 1957 as is in excess of \$4,200, plus (C) 2.25 per centum of so much of such individual's combined earnings for any calendar year after 1956 and before 1959 as is in excess of \$4,200, plus (D) 2.5 per centum of so much of such individual's combined earnings for the calendar year 1959 as is in excess of \$4,800, plus (E) 3 per centum of so much of such individual's combined earnings for each of the calendar years 1960 and 1961 as is in excess of \$4,800, plus (F) 3.125 per centum of so much of such individual's combined earnings for the calendar year 1962 as is in excess of \$4,800, plus (G) 3.625 per centum of so much of such individual's combined earnings for any calendar year after 1962 and before 1966 as is in excess of \$5,400, plus (H) 4.2 per centum of so much of such individual's combined earnings for the calendar year 1966 as is in excess of \$6,600, plus (I) 4.4 per centum of so much of such individual's combined earnings for the calendar year 1967 as is in excess of \$6,600, plus (J) 3.8 per centum of so much of such individual's combined earnings for the calendar year 1968 as is in excess of \$7,800, plus (K) 4.2 per centum of so much of such individual's combined earnings for each of the calendar years 1969 and 1970 as is in excess of \$7,800, plus (L) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1971 as is in excess of \$7,800, plus (M) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1972 as is in excess of \$9,000, plus (N) 4.85 per centum of so much of such individual's combined earnings for the calendar year 1973 as is in excess of \$10,800, plus (O) 4.95 per centum of so much of such individual's combined earnings for the calendar year 1974 as is in excess of \$13,200. For purposes of this subsection,

the term "combined earnings" shall include "compensation" as defined in section 1(h) of the Railroad Retirement Act of 1937 [45 U.S.C. 228a(h)], "wages" as defined in section 209 of the Social Security Act [42 U.S.C. 409], and "self-employment" income as defined in section 211(b) of the Social Security Act [42 U.S.C. 411(b)].

**(e) Additional lump sum payment in certain cases**

(1) Every individual who will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995) at the time of his retirement or death, who will have received compensation in the nature of separation or severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 231b(i)(4) of this title except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 231a(a)(1) of this title begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 231a(a)(1) of this title begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 231a(a)(1) of this title, or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subdivision (c)(1) of this section.

(2) The lump sum provided under subdivision (1)<sup>1</sup> of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 231b(i)(4) of this title if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986 [26 U.S.C. 3201(b)].

(Aug. 29, 1935, ch. 812, § 6, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1334; amended Pub. L. 97-35, title XI, §1121, Aug. 13, 1981, 95 Stat. 637; Pub. L. 98-76, title IV, §408, Aug. 12, 1983, 97 Stat. 435; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-647, title VII, §7301, Nov. 10, 1988, 102 Stat. 3776; Pub. L. 105-277,

<sup>1</sup> So in original. Probably should be subdivision "(1)".

div. A, §101(f) [title VII, §709(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-391; Pub. L. 107-90, title I, §103(i)(1), (4), Dec. 21, 2001, 115 Stat. 882.)

### Editorial Notes

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Railroad Retirement Act of 1937, referred to in subsec. (c)(2), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, which was classified principally to subchapter III (§228a et seq.) of this chapter. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to this subchapter. For complete classification of these Acts to the Code, see Tables.

Sections 1, 3, 5, and 21 of the Railroad Retirement Act of 1937, referred to in subssecs. (b)(1), (c)(2), and (d)(2), which were classified to sections 228a, 228c, 228e, and 228s-2 of this title, have been omitted from the Code.

#### AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107-90, §103(i)(4), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “but who (i) will have completed ten years of service”.

Subsec. (e)(1). Pub. L. 107-90, §103(i)(1), inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

1998—Subsec. (c)(1). Pub. L. 105-277, §101(f) [title VII, §709(a)(1)], inserted “(other than to a survivor in the circumstances described in paragraph (3))” after “no further benefits shall be paid” in last sentence.

Subsec. (c)(3). Pub. L. 105-277, §101(f) [title VII, §709(a)(2)], added par. (3).

1988—Subsec. (e). Pub. L. 100-647 added subsec. (e).

1986—Subsec. (c)(2). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing.

1983—Subsec. (b)(1). Pub. L. 98-76 inserted provision that no lump sum shall be payable under this subdivision if employee died leaving a surviving divorced wife who would on proper application therefore be entitled to receive an annuity under section 231a(d) of this title for month in which employee’s death occurred.

1981—Subsec. (a)(3). Pub. L. 97-35, §1121(a), substituted “spouse or divorced wife of an individual but which will not have been paid at the time of such spouse’s or divorced wife’s death” for “spouse of an individual but which will not have been paid at the time of such spouse’s death”.

Subsec. (b)(2)(iii). Pub. L. 97-35, §1121(b), substituted “widow, surviving divorced wife,” for “widow,”.

Subsec. (c)(1). Pub. L. 97-35, §1121(c)(1), inserted provision that after a lump sum with respect to the death of an employee is paid pursuant to an election filed with the Board under the provisions of this subsection, no further benefits shall be paid under this subchapter or the Social Security Act on the basis of such employee’s compensation and service under this subchapter, except that nothing in this subchapter or the Social Security Act shall operate to deprive a widow, widower, or parent making such election of any insurance benefit under title II of the Social Security Act to which such individual would have been entitled if the employee had not rendered service as an employee under this subchapter.

Subsec. (c)(2). Pub. L. 97-35, §1121(c)(3), substituted “spouse or divorced wife” for “spouse”.

Pub. L. 97-35, §1121(c)(2), substituted “any supplemental annuity payments made to the employee under section 231a(b) of this title or section 3(j) of the Railroad Retirement Act of 1937, any amounts” for “any amounts”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(f) [title VII, §709(b)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-391, provided that: “The amendment made by this section [amending this section] shall apply with respect to any benefits paid before the date of enactment of this Act [Oct. 21, 1998] as well as to benefits payable on or after the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1121(c)(1), (2) of Pub. L. 97-35 effective Jan 1, 1975, and amendment by other provisions of section 1121 of Pub. L. 97-35, effective Oct. 1, 1981, and applicable only with respect to annuities awarded on or after Oct. 1, 1981, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

## § 231f. Railroad Retirement Board

### (a) Administration

This subchapter shall be administered by the Railroad Retirement Board established by the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] as an independent agency in the executive branch of the Government and composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and any member holding office pursuant to appointment under the Railroad Retirement Act of 1937 when this subchapter becomes effective shall hold office until the term for which he was appointed under such Railroad Retirement Act of 1937 expires. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (i) of section 231(a)(1) of this title, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and employers concerned. One member, who shall be the chairman of the Board, shall be appointed without recommendation by either employers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum for the transaction of business. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.