

“(A) which is based on the service of an individual who performed service described in subsection (a), and

“(B) which commences on or after the effective date of the regulations prescribed to carry out this section (as determined under subsection (b)(1)(A)), shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

“(2) ANNUITIES WITH COMMENCEMENT DATE PRECEDING EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—

“(A) RECOMPUTATION CASES.—An annuity or survivor annuity—

“(i) which is based on the service of an individual who performed service described in subsection (a), and

“(ii) which commences before the effective date referred to in paragraph (1)(B), shall (subject to subsection (b)(1)) be recomputed taking into account all service described in subsection (a) that was performed by such individual.

“(B) OTHER CASES.—An annuity or survivor annuity—

“(i) which is based on the service of an individual who performed service described in subsection (a),

“(ii) the requirements for entitlement which could not be met without taking into account service described in subsection (a), and

“(iii) which (if service described in subsection (a) had been taken into account, and an appropriate application been submitted) would have commenced before the effective date referred to in paragraph (1)(B), shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

“(C) RETROACTIVE EFFECT.—Any computation or recomputation of an annuity or survivor annuity pursuant to this paragraph shall—

“(i) if pursuant to subparagraph (A), be effective as of the commencement date of the annuity or survivor annuity involved; and

“(ii) if pursuant to subparagraph (B), be effective as of the commencement date that would have applied if application for the annuity or survivor annuity involved had been submitted on the earliest date possible in order for it to have been approved.

“(D) LUMP-SUM PAYMENT.—Any amounts which by virtue of subparagraph (C) are payable for any months preceding the first month (on or after the effective date referred to in paragraph (1)(B)) as of which annuity or survivor annuity payments become payable fully reflecting the computation or recomputation under subparagraph (A) or (B) (as the case may be) shall be payable in the form of a lump-sum payment.

“(E) ORDER OF PRECEDENCE.—Section 8424(d) of title 5, United States Code, shall apply in the case of any payment under subparagraph (D) payable to an individual who has died.

“(f) IMPLEMENTATION.—The Office of Personnel Management, in consultation with the Secretary, shall prescribe such regulations and take such action as may be necessary and appropriate to implement this section.”

[For definitions of “Department” and “Secretary” as used in section 321 of Pub. L. 107-228, set out above, see section 3 of Pub. L. 107-228, set out as a note under section 2651 of Title 22, Foreign Relations and Inter-course.]

§ 8412. Immediate retirement

(a) An employee or Member who is separated from the service after attaining the applicable minimum retirement age under subsection (h) and completing 30 years of service is entitled to an annuity.

(b) An employee or Member who is separated from the service after becoming 60 years of age

and completing 20 years of service is entitled to an annuity.

(c) An employee or Member who is separated from the service after becoming 62 years of age and completing 5 years of service is entitled to an annuity.

(d)(1) An employee who is separated from the service, except by removal for cause on charges of misconduct or delinquency—

(A) after completing 25 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, or customs and border protection officer, or any combination of such service totaling at least 25 years, or

(B) after becoming 50 years of age and completing 20 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, or customs and border protection officer, or any combination of such service totaling at least 20 years,

is entitled to an annuity.

(2)(A) In this paragraph—

(i) the term “affected individual” means an individual covered under this chapter who—

(I) is performing service in a covered position;

(II) while on duty, becomes ill or is injured as a direct result of the performance of such duties before the date on which the individual becomes entitled to an annuity under paragraph (1) of this subsection or subsection (e), as applicable;

(III) because of the illness or injury described in subclause (II), is permanently unable to render useful and efficient service in the employee’s covered position, as determined by the agency in which the individual was serving when such individual incurred the illness or injury; and

(IV) is appointed to a position in the civil service that—

(aa) is not a covered position; and

(bb) is within an agency that regularly appoints individuals to supervisory or administrative positions related to the activities of the former covered position of the individual;

(ii) the term “covered position” means a position as a law enforcement officer, customs and border protection officer, firefighter, air traffic controller, nuclear materials courier, member of the Capitol Police, or member of the Supreme Court Police.

(B) Unless an affected individual files an election described in subparagraph (E), creditable service by the affected individual in a position described in subparagraph (A)(i)(IV) shall be treated as creditable service in a covered position for purposes of this chapter and determining the amount to be deducted and withheld from the pay of the affected individual under section 8422.

(C) Subparagraph (B) shall only apply if the affected employee transitions to a position described in subparagraph (A)(i)(IV) without a break in service exceeding 3 days.

(D) The service of an affected individual shall no longer be eligible for treatment under sub-

paragraph (B) if such service occurs after the individual—

- (i) is transferred to a supervisory or administrative position related to the activities of the former covered position of the individual; or
- (ii) meets the age and service requirements that would subject the individual to mandatory separation under section 8425 if such individual had remained in the former covered position.

(E) In accordance with procedures established by the Director of the Office of Personnel Management, an affected individual may file an election to have any creditable service performed by the affected individual treated in accordance with this chapter without regard to subparagraph (B).

(F) Nothing in this paragraph shall be construed to apply to such affected individual any other pay-related laws or regulations applicable to a covered position.

(e) An employee who is separated from the service, except by removal for cause on charges of misconduct or delinquency—

- (1) after completing 25 years of service as an air traffic controller, or
- (2) after becoming 50 years of age and completing 20 years of service as an air traffic controller,

is entitled to an annuity.

(f) A Member who is separated from the service, except by resignation or expulsion—

- (1) after completing 25 years of service, or
- (2) after becoming 50 years of age and completing 20 years of service,

is entitled to an annuity.

(g)(1) An employee or Member who is separated from the service after attaining the applicable minimum retirement age under subsection (h) and completing 10 years of service is entitled to an annuity. This subsection shall not apply to an employee or Member who is entitled to an annuity under any other provision of this section.

(2) An employee or Member entitled to an annuity under this subsection may defer the commencement of such annuity by written election. The date to which the commencement of the annuity is deferred may not precede the 31st day after the date of filing the election, and must precede the date on which the employee or Member becomes 62 years of age.

(3) The Office shall prescribe regulations under which an election under paragraph (2) shall be made.

(h)(1) The applicable minimum retirement age under this subsection is—

- (A) for an individual whose date of birth is before January 1, 1948, 55 years of age;
- (B) for an individual whose date of birth is after December 31, 1947, and before January 1, 1953, 55 years of age plus the number of months in the age increase factor determined under paragraph (2)(A);
- (C) for an individual whose date of birth is after December 31, 1952, and before January 1, 1965, 56 years of age;
- (D) for an individual whose date of birth is after December 31, 1964, and before January 1,

1970, 56 years of age plus the number of months in the age increase factor determined under paragraph (2)(B); and

(E) for an individual whose date of birth is after December 31, 1969, 57 years of age.

(2)(A) For an individual whose date of birth occurs during the 5-year period consisting of calendar years 1948 through 1952, the age increase factor shall be equal to two-twelfths times the number of months in the period beginning with January 1948 and ending with December of the year in which the date of birth occurs.

(B) For an individual whose date of birth occurs during the 5-year period consisting of calendar years 1965 through 1969, the age increase factor shall be equal to two-twelfths times the number of months in the period beginning with January 1965 and ending with December of the year in which the date of birth occurs.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 524; amended Pub. L. 99-556, title I, §105(a), Oct. 27, 1986, 100 Stat. 3131; Pub. L. 101-428, §3(a), Oct. 15, 1990, 104 Stat. 929; Pub. L. 105-261, div. C, title XXXI, §3154(g), Oct. 17, 1998, 112 Stat. 2255; Pub. L. 106-553, §1(a)(2) [title III, §308(c)(1)], Dec. 21, 2000, 114 Stat. 2762, 2762A-87; Pub. L. 110-161, div. E, title V, §535(b)(2), Dec. 26, 2007, 121 Stat. 2076; Pub. L. 117-225, §3(b)(1), Dec. 9, 2022, 136 Stat. 2294.)

APPLICABILITY OF AMENDMENT

For provisions relating to delayed applicability of amendment by Pub. L. 117-225, see Effective Date of 2022 Amendment note set out under section 8336 of this title.

Editorial Notes

AMENDMENTS

2022—Subsec. (d). Pub. L. 117-225 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

2007—Subsec. (d)(1), (2). Pub. L. 110-161 substituted “nuclear materials courier, or customs and border protection officer,” for “or nuclear materials courier.”

2000—Subsec. (d). Pub. L. 106-553 inserted “or Supreme Court Police” after “Capitol Police” in pars. (1) and (2).

1998—Subsec. (d)(1), (2). Pub. L. 105-261 substituted “firefighter, or nuclear materials courier” for “or firefighter”.

1990—Subsec. (d)(1), (2). Pub. L. 101-428 substituted “officer, member of the Capitol Police,” for “officer”.

1986—Subsec. (g). Pub. L. 99-556 designated existing provisions as par. (1) and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-225 effective Dec. 9, 2022, and applicable to an individual who suffers an illness or injury described in certain Code provisions on or after the date that is 2 years after Dec. 9, 2022, see section 3(f) of Pub. L. 117-225, set out as a note under section 8336 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT; TRANSITION RULES

Amendment by Pub. L. 110-161 effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after Dec. 26, 2007, with transition rules and rights of election, see section 535(e)

of Pub. L. 110-161, set out as a note under section 3307 of this title.

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 1(a)(2) [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 1998 AMENDMENT

Amendment by Pub. L. 105-261 effective at the beginning of the first pay period that begins after Oct. 17, 1998, and applicable only to an individual who is employed as a nuclear materials courier, as defined by section 8331(27) or 8401(33) of this title, after Oct. 17, 1998, see section 3154(m), (n) of Pub. L. 105-261, set out as a note under section 8331 of this title.

REGULATIONS

For provisions relating to promulgation of regulations to carry out the amendments made by Pub. L. 117-225, see section 3(e) of Pub. L. 117-225, set out as a note under section 8336 of this title.

§ 8412a. Phased retirement

(a) For the purposes of this section—

(1) the term “composite retirement annuity” means the annuity computed when a phased retiree attains full retirement status;

(2) the term “full retirement status” means that a phased retiree has ceased employment and is entitled, upon application, to a composite retirement annuity;

(3) the term “phased employment” means the less-than-full-time employment of a phased retiree;

(4) the term “phased retiree” means a retirement-eligible employee who—

(A) makes an election under subsection (b); and

(B) has not entered full retirement status;

(5) the term “phased retirement annuity” means the annuity payable under this section before full retirement;

(6) the term “phased retirement percentage” means the percentage which, when added to the working percentage for a phased retiree, produces a sum of 100 percent;

(7) the term “phased retirement period” means the period beginning on the date on which an individual becomes entitled to receive a phased retirement annuity and ending on the date on which the individual dies or separates from phased employment;

(8) the term “phased retirement status” means that a phased retiree is concurrently employed in phased employment and eligible to receive a phased retirement annuity;

(9) the term “retirement-eligible employee”—

(A) means an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (a) or (b) of section 8412; and

(B) does not include—

(i) an individual who, if the individual separated from the service, would meet the requirements for retirement under subsection (d) or (e) of section 8412; but

(ii) does not include an employee described in section 8425 after the date on which the employee is required to be separated from the service by reason of such section; and

(10) the term “working percentage” means the percentage of full-time employment equal to the quotient obtained by dividing—

(A) the number of hours per pay period to be worked by a phased retiree, as scheduled in accordance with subsection (b)(2); by

(B) the number of hours per pay period to be worked by an employee serving in a comparable position on a full-time basis.

(b)(1) With the concurrence of the head of the employing agency, and under regulations promulgated by the Director, a retirement-eligible employee who has been employed on a full-time basis for not less than the 3-year period ending on the date on which the retirement-eligible employee makes an election under this subsection may elect to enter phased retirement status.

(2)(A) Subject to subparagraph (B), at the time of entering phased retirement status, a phased retiree shall be appointed to a position for which the working percentage is 50 percent.

(B) The Director may, by regulation, provide for working percentages different from the percentage specified under subparagraph (A), which shall be not less than 20 percent and not more than 80 percent.

(C) The working percentage for a phased retiree may not be changed during the phased retiree’s phased retirement period.

(D)(i) Not less than 20 percent of the hours to be worked by a phased retiree shall consist of mentoring.

(ii) The Director may, by regulation, provide for exceptions to the requirement under clause (i).

(iii) Clause (i) shall not apply to a phased retiree serving in the United States Postal Service. Nothing in this clause shall prevent the application of clause (i) or (ii) with respect to a phased retiree serving in the Postal Regulatory Commission.

(3) A phased retiree—

(A) may not be employed in more than one position at any time; and

(B) may transfer to another position in the same or a different agency, only if the transfer does not result in a change in the working percentage.

(4) A retirement-eligible employee may make not more than one election under this subsection during the retirement-eligible employee’s lifetime.

(5) A retirement-eligible employee who makes an election under this subsection may not make an election under section 8420a.

(c)(1) Except as otherwise provided under this subsection, the phased retirement annuity for a phased retiree is the product obtained by multiplying—

(A) the amount of an annuity computed under section 8415 that would have been payable to the phased retiree if, on the date on which the phased retiree enters phased retirement status, the phased retiree had separated from service and retired under section 8412 (a) or (b); by