

“(i) shall commence on the later of—

“(I) October 1, 1994;

“(II) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act [probably means Central Intelligence Agency Retirement Act, 50 U.S.C. 2001 et seq.]; or

“(III) such former wife’s or husband’s 50th birthday; and

“(ii) shall terminate on the earlier of—

“(I) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

“(II) the date on which the annuity of the participant terminates.

“(B) DISABILITY ANNUITIES.—Notwithstanding subparagraph (A)(i)(II), in the case of a former wife or husband of a disability annuitant—

“(i) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant’s creditable service for an annuity under the Central Intelligence Agency Retirement Act [50 U.S.C. 2001 et seq.] (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

“(ii) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

“(C) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

“(D) APPLICATION.—

“(i) TIME LIMIT; WAIVER.—An annuity under this subsection shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1995. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

“(ii) RETROACTIVE BENEFITS.—Upon approval of an application under clause (i), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this subsection, but in no event shall an annuity be payable under this subsection with respect to any period before October 1, 1994.

“(4) RESTORATION OF ANNUITIES.—Notwithstanding paragraph (3)(D)(i), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse’s entitlement to such annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(A)(ii).

“(5) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this paragraph, any reference in this section to a participant’s annuity under the Central Intelligence Agency Retirement and Dis-

ability System shall be deemed to refer to the transferred participant’s annuity computed in accordance with section 302(a) of the Federal Employee’s Retirement System Act of 1986 [Pub. L. 99-335, 5 U.S.C. 8331 note].

“(6) SAVINGS PROVISION.—Nothing in this subsection shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act [50 U.S.C. 2011 et seq., 2151 et seq.].

“(c) HEALTH BENEFITS.—[Amended section 3516 of this title.]

“(d) SOURCE OF PAYMENT FOR ANNUITIES.—Annuities provided under subsections (a) and (b) shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained under section 202 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2012).

“(e) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall take effect as of October 1, 1994, the amendments made by subsection (c) [amending section 3516 of this title] shall apply to individuals on and after October 1, 1994, and no benefits provided pursuant to those subsections shall be payable with respect to any period before October 1, 1994.

“(2) Section 16(d) of the Central Intelligence Agency Act of 1949 (as added by subsection (c) of this section) [50 U.S.C. 3516(d)] shall apply to individuals beginning on the date of enactment of this Act [Dec. 3, 1993].”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of this title.]

§ 2033. Election of survivor benefits for certain former spouses divorced as of November 15, 1982

(a) Former spouses as of November 15, 1982

A participant, former participant, or retired participant in the system who on November 15, 1982, had a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 2032(b) of this title.

(b) Time for making election

(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

(3) For the purposes of applying this subchapter, any such election shall be treated in the same manner as if it were a spousal agreement under section 2094(b) of this title.

(c) Base for annuity

An election under this section may provide for a survivor annuity based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for a survivor annuity for a spouse or any other

former spouse of the participant. The participant and the participant's spouse may make an election under section 2031(b)(1)(B) of this title before the time of retirement for the purpose of allowing an election to be made under this section.

(d) Reduction in participant's annuity

(1) Computation

The amount of the reduction in the participant's annuity shall be determined in accordance with section 2031(b)(2) of this title.

(2) Effective date of reduction

Such reduction shall be effective as of—

(A) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1); or

(B) November 15, 1982, in the case of an election under subsection (b)(2).

(Pub. L. 88-643, title II, §223, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3216.)

Editorial Notes

PRIOR PROVISIONS

A prior section 223 of Pub. L. 88-643, as added Pub. L. 97-269, title VI, §607, Sept. 27, 1982, 96 Stat. 1151; amended Pub. L. 99-335, title V, §501(2), June 6, 1986, 100 Stat. 622, related to election of survivor benefits for certain former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

§ 2034. Survivor annuity for certain other former spouses

(a) Survivor annuity

(1) In general

An individual who was a former spouse of a participant or retired participant on November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's or retired participant's annuity, as computed under section 2031(a) of this title; or

(B) the unreduced amount of what such annuity as so computed would be if the participant, former participant, or retired participant had not elected payment of the lump-sum credit under section 2143 of this title.

(2) Reduction in survivor annuity

A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former spouse under section 2033 of this title.

(b) Limitations

A former spouse is not entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55, except that the entitlement of the former

spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(2) the former spouse is less than 50 years of age.

(c) Commencement and termination of annuity

(1) Commencement of annuity

The entitlement of a former spouse to a survivor annuity under this section shall commence—

(A) in the case of a former spouse of a participant or retired participant who is deceased as of October 1, 1986, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former spouse reaches age 50; and

(B) in the case of any other former spouse, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former spouse was married dies;

(ii) the 60th day after October 1, 1986; or

(iii) the date on which the former spouse attains age 50.

(2) Termination of annuity

The entitlement of a former spouse to a survivor annuity under this section terminates on the last day of the month before the former spouse's death or remarriage before attaining age 55. The entitlement of a former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(d) Application

(1) Time limit; waiver

A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than April 1, 1989. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(2) Retroactive benefits

Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1986.

(e) Restoration of annuity

Notwithstanding subsection (d)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(2).

(Pub. L. 88-643, title II, §224, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat.