

(3) The Secretary should prescribe procedures for the exercise of any authority under paragraph (1)(B), including criteria for any exercise of authority and procedures for a delegation of authority.

(h) Effects of waiver

A reemployed annuitant as to whom a waiver under subsection (g) of this section is in effect shall not be considered a participant for purposes of this part or part II of this subchapter, or an employee for purposes of chapter 83 or 84 of title 5.

(Pub. L. 96-465, title I, § 824, Oct. 17, 1980, 94 Stat. 2122; Pub. L. 99-335, title IV, §§ 402(a)(2), 410, June 6, 1986, 100 Stat. 609, 613; Pub. L. 99-556, title IV, § 403, Oct. 27, 1986, 100 Stat. 3136; Pub. L. 105-277, div. C, title I, § 103, Oct. 21, 1998, 112 Stat. 2681-585; Pub. L. 109-234, title I, § 1602(a), June 15, 2006, 120 Stat. 440; Pub. L. 109-289, div. B, title II, § 20941, as added Pub. L. 110-5, § 2, Feb. 15, 2007, 121 Stat. 46; Pub. L. 110-50, § 2, July 30, 2007, 121 Stat. 261; Pub. L. 110-321, § 1, Sept. 19, 2008, 122 Stat. 3535; Pub. L. 111-32, title XI, § 1115(c)(1), June 24, 2009, 123 Stat. 1905.)

AMENDMENTS

2009—Subsec. (g)(1)(B). Pub. L. 111-32 inserted “, Pakistan,” after “Iraq” in two places.

Subsec. (g)(2). Pub. L. 111-32, § 1115(c)(1), which directed amendment of subsec. (g)(2) by substituting “2010” for “2009”, was executed by making the substitution in subpar. (A) only, to reflect the probable intent of Congress.

2008—Subsec. (g)(2)(A), (B). Pub. L. 110-321 substituted “2009” for “2008”.

2007—Subsec. (g)(1). Pub. L. 109-289, § 20941(1)(A), as added by Pub. L. 110-5, substituted “The Secretary” for “To facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Secretary” in introductory provisions.

Subsec. (g)(1)(B). Pub. L. 109-289, § 20941(1)(B), as added by Pub. L. 110-5, substituted “to facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, if” for “if”.

Subsec. (g)(1)(C). Pub. L. 110-50, § 2(1), added subpar. (C).

Subsec. (g)(2). Pub. L. 110-50, § 2(2), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Pub. L. 109-289, § 20941(2), as added by Pub. L. 110-5, substituted “such subparagraph” for “subparagraphs (A) or (B) of such paragraph”.

Subsec. (g)(3). Pub. L. 109-289, § 20941(3), as added by Pub. L. 110-5, substituted “paragraph (1)(B)” for “paragraph (1)”.

2006—Subsec. (g). Pub. L. 109-234 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The Secretary of State may waive the application of the paragraphs (a) through (d) of this section, on a case-by-case basis, for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.”

1998—Pub. L. 105-277, which directed amendment of section 824 of the Foreign Service Act, in subsec. (a)(1)(A), by inserting “or in the case of a waiver under subsection (g) of this section” after “subsection (b) of this section”, and by adding subsecs. (g) and (h), was executed to this section, which is section 824 of the Foreign Service Act of 1980, to reflect the probable intent of Congress.

1986—Subsec. (a). Pub. L. 99-335, § 410, amended subsec. (a) generally. Prior to amendment, subsec. (a) read

as follows: “Notwithstanding any other law, any member of the Service who has retired and is receiving an annuity under this part, and who is reemployed in the Government service in any part-time or full-time appointive position, shall be entitled to receive the salary of the position in which he or she is serving plus so much of the annuity payable under this part which when combined with such salary does not exceed during any calendar year the basic salary the member was entitled to receive under this chapter on the date of retirement from the Service. Any such reemployed member of the Service who receives salary during any calendar year in excess of the maximum amount which he or she may be entitled to receive under this subsection shall be entitled to such salary in lieu of benefits under this part.”

Pub. L. 99-335, § 402(a)(2), substituted “this part” for “this subchapter” in three places.

Subsec. (b). Pub. L. 99-335, § 410, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “When any such retired member of the Service is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such member the salary of the position in which he or she is serving.”

Subsec. (b)(3). Pub. L. 99-556, § 403, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The sum of—

“(A) the total annuity payable under this subchapter to an annuitant making an election under paragraph (1), and

“(B) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1), may not exceed, in any calendar year, the highest annual rate of pay which is payable during such year for full-time employment in the position in which the annuitant is employed.”

Subsec. (c). Pub. L. 99-335, § 410, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annuity payments, payable under this part.”

Pub. L. 99-335, § 402(a)(2), substituted “this part” for “this subchapter”.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-556 effective Jan. 1, 1987, and applicable to any individual in a reemployed status on or after that date, see section 408 of Pub. L. 99-556, set out as a note under section 4046 of this title.

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EXTENSION OF AUTHORITY

Pub. L. 112-74, div. I, title VII, § 7034(m)(4), Dec. 23, 2011, 125 Stat. 1216, provided that: “Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) shall be applied by substituting ‘September 30, 2012’ for ‘October 1, 2010’ in paragraph (2).”

§ 4065. Voluntary contribution account

(a) Composition; election and return

¹The voluntary contribution account shall be the sum of unrefunded amounts voluntarily contributed prior to February 15, 1981, by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 per-

¹ See Amendment of Section note below.

cent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

- (1) returned in a lump sum;
- (2) used to purchase an additional life annuity;
- (3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or
- (4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) Computation of benefits

The benefits provided by subsection (a)(2), (3), or (4) of this section shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) Lump-sum payment; time; order of precedence

A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 4055(f) of this title.

(Pub. L. 96-465, title I, § 825, Oct. 17, 1980, 94 Stat. 2122.)

AMENDMENT OF SECTION

Section 1(a) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that the first sentence of subsection (a) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to provide that interest

shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury.

CODIFICATION

In subsec. (a), “February 15, 1981” substituted for “the effective date of this Act” pursuant to section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of this title.

§ 4066. Cost-of-living adjustment of annuities

(a) Effective date

A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5. Each such increase shall be applied to each annuity payable from the Fund under this part which has a commencing date not later than the effective date of the increase.

(b) Applicability of increases under other provisions of law

Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5.

(c) Eligibility for increases

Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund under this part as of the effective date of an increase except as follows:

(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest $\frac{1}{10}$ of 1 percent) of—

(A) $\frac{1}{12}$ of the applicable percent change computed under subsection (b) of this section, multiplied by

(B) the number of months (counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase, or

(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the Fund under this part to the survivor of an annuitant, except a child entitled to an annuity under section 4046(c) of this title or section 4049(c) or (d) of this title, shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 4046(c) or (d) of this title or section 4049(c) or (d) of this title, the items \$900, \$1,080, \$2,700, and