

[title V, § 505(c)(1)], Oct. 23, 2000, 114 Stat. 1356, 1356A–53, provided that:

“(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 211(a)(2) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(2)), during the period beginning on October 1, 1997, through September 30, 2002, the Central Intelligence Agency shall contribute 8.51 percent of the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System in lieu of the agency contribution otherwise required under section 211(a)(2) of such Act.

“(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—Notwithstanding section 211(a)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)(1)) beginning on January 1, 1999, through December 31, 2000, the percentage deducted and withheld from the basic pay of an employee participating in the Central Intelligence Agency Retirement and Disability System shall be as follows:

7.25	January 1, 1999, to December 31, 1999.
7.4	January 1, 2000, to December 31, 2000.”

PART C—COMPUTATION OF ANNUITIES

§ 2031. Computation of annuities

(a) Annuity of participant

(1) Computation of annuity

The annuity of a participant is the product of—

- (A) the participant’s high-3 average pay (as defined in paragraph (4)); and
- (B) the number of years, not exceeding 35, of service credit (determined in accordance with sections 2081 and 2082 of this title) multiplied by 2 percent.

(2) Credit for unused sick leave

The total service of a participant who retires on an immediate annuity (except under section 2051 of this title) or who dies leaving a survivor or survivors entitled to an annuity shall include (without regard to the 35-year limitation prescribed in paragraph (1)) the days of unused sick leave to the credit of the participant. Days of unused sick leave may not be counted in determining average basic pay or eligibility for an annuity under this subchapter. A deposit shall not be required for days of unused sick leave credited under this paragraph.

(3) Crediting of part-time service

(A) In general

In the case of a participant whose service includes service on a part-time basis performed after April 6, 1986, the participant’s annuity shall be the sum of the amounts determined under subparagraphs (B) and (C).

(B) Computation of pre-April 7, 1986, annuity

The portion of an annuity referred to in subparagraph (A) with respect to service before April 7, 1986, shall be the amount computed under paragraph (1) using the participant’s length of service before that date (increased by the unused sick leave to the credit of the participant at the time of retirement) and the participant’s high-3 average pay.

(C) Computation of post-April 6, 1986, annuity

The portion of an annuity referred to in subparagraph (A) with respect to service after April 6, 1986, shall be the product of—

- (i) the amount computed under paragraph (1), using the participant’s length of service after that date and the participant’s high-3 average pay, as determined by using the annual rate of basic pay that would be payable for full-time service; and
- (ii) the ratio which the participant’s actual service after April 6, 1986 (as determined by prorating the participant’s total service after that date to reflect the service that was performed on a part-time basis) bears to the total service after that date that would be creditable for the participant if all the service had been performed on a full-time basis.

(D) Treatment of employment on temporary or intermittent basis

Employment on a temporary or intermittent basis shall not be considered to be service on a part-time basis for purposes of this paragraph.

(4) High-3 average pay defined

For purposes of this subsection, a participant’s high-3 average pay is the amount of the participant’s average basic pay for the highest 3 consecutive years of the participant’s service for which full contributions have been made to the fund.

(5) Computation of service

In determining the aggregate period of service upon which an annuity is to be based, any fractional part of a month shall not be counted.

(b) Spouse or former spouse survivor annuity

(1) Reduction in participant’s annuity to provide spouse or former spouse survivor annuity

(A) General rule

Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 55), the participant shall receive a reduced annuity and provide a survivor annuity for the participant’s spouse under this subsection or former spouse under section 2032(b) of this title, or a combination of such annuities, as the case may be.

(B) Joint election for waiver or reduction of spouse survivor annuity

A married participant or former participant and the participant’s spouse may jointly elect in writing at the time of retirement to waive a survivor annuity for that spouse under this section or to reduce such survivor annuity under this section by designating a portion of the annuity of the participant as the base for the survivor annuity. If the marriage is dissolved following an election for such a reduced annuity and the spouse

qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 2032(b) of this title may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) Joint election of participant and former spouse

If a participant or former participant has a former spouse, such participant and the participant's former spouse may jointly elect by spousal agreement under section 2094(b) of this title to waive, reduce, or increase a survivor annuity under section 2032(b) of this title for that former spouse. Any such election must be made (i) before the end of the 12-month period beginning on the date on which the divorce or annulment involving that former spouse becomes final, or (ii) at the time of retirement of the participant, whichever is later.

(D) Unilateral elections in absence of spouse or former spouse

The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) Amount of reduction in participant's annuity

The annuity of a participant or former participant providing a survivor annuity under this section (or section 2032(b) of this title), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 2032(a)(5) of this title.

(3) Amount of surviving spouse annuity

(A) In general

If a retired participant receiving a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse. The amount of the annuity shall be equal to 55 percent of (i) the full amount of the participant's annuity computed under subsection (a) of this section, or (ii) any lesser amount elected as the base for the survivor annuity under paragraph (1)(B).

(B) Limitation

Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the retired participant who qualifies for an annuity under section 2032(b) of this title may not exceed 55 percent of the portion (if any) of the base for survivor annuities which remains available under section 2032(b)(4)(B) of this title.

(C) Effective date and termination of annuity

An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the retired participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 55. If such survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

(c) 18-month open period after retirement to provide spouse coverage

(1) Survivor annuity elections

(A) Election when spouse coverage waived at time of retirement

A participant or former participant who retires after March 31, 1992 and who—

(i) is married at the time of retirement; and

(ii) elects at that time (in accordance with subsection (b) of this section) to waive a survivor annuity for the spouse,

may, during the 18-month period beginning on the date of the retirement of the participant, elect to have a reduction under subsection (b) of this section made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the participant's spouse.

(B) Election when reduced spouse annuity elected

A participant or former participant who retires after March 31, 1992, and—

(i) who, at the time of retirement, is married, and

(ii) who, at that time designates (in accordance with subsection (b) of this section) that a portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

(2) Deposit required

(A) Requirement

An election under paragraph (1) shall not be effective unless the amount specified in subparagraph (B) is deposited into the fund before the end of that 18-month period.

(B) Amount of deposit

The amount to be deposited with respect to an election under this subsection is the amount equal to the sum of the following:

(i) Additional cost to system

The additional cost to the system that is associated with providing a survivor annuity under subsection (b) of this section and that results from such election, taking into account—

(I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity; and

(II) the costs associated with providing for the later election.

(ii) Interest

Interest on the additional cost determined under clause (i), computed using the interest rate specified or determined under section 8334(e) of title 5 for the calendar year in which the amount to be deposited is determined.

(3) Voiding of previous elections

An election by a participant or former participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b) of this section.

(4) Reductions in annuity

An annuity that is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant or former participant whose annuity is so reduced.

(5) Rights and obligations resulting from reduced annuity election

Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations that would have resulted had the participant involved elected such annuity at the time of retirement.

(d) Annuities for surviving children

(1) Participants dying before April 1, 1992

In the case of a retired participant who died before April 1, 1992, and who is survived by a child or children—

(A) if the retired participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

(B) if the retired participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

(2) Participants dying on or after April 1, 1992

In the case of a retired participant who dies on or after April 1, 1992, and who is survived by a child or children—

(A) if the retired participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

(B) if the retired participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

(3) Amount of annuity

(A) The annual amount of an annuity for the surviving child of a participant covered by paragraph (1)(A) or (2)(A) of this subsection (or covered by paragraph (1)(A) or (2)(A) of section 2052(c) of this title) is the smallest of the following:

(i) 60 percent of the participant's high-3 average pay, as determined under subsection (a)(4) of this section, divided by the number of children.

(ii) \$900, as adjusted under section 2131 of this title.

(iii) \$2,700, as adjusted under section 2131 of this title, divided by the number of children.

(B) The amount of an annuity for the surviving child of a participant covered by paragraph (1)(B) or (2)(B) of this subsection (or covered by paragraph (1)(B) or (2)(B) of section 2052(c) of this title) is the smallest of the following:

(i) 75 percent of the participant's high-3 average pay, as determined under subsection (a)(4) of this section, divided by the number of children.

(ii) \$1,080, as adjusted under section 2131 of this title.

(iii) \$3,240, as adjusted under section 2131 of this title, divided by the number of children.

(4) Recomputation of child annuities

(A) In the case of a child annuity payable under paragraph (1), upon the death of a surviving spouse or the termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse or child had not survived the retired participant.

(B) In the case of a child annuity payable under paragraph (2), upon the death of a surviving spouse or former spouse or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the retired participant. If the annuity of a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities of all currently eligible children were then being initiated.

(5) "Former spouse" defined

For purposes of this subsection, the term "former spouse" includes any former wife or husband of the retired participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

(e) Commencement and termination of child annuities

(1) Commencement

An annuity payable to a child under subsection (d) of this section, or under section

2052(c) of this title, shall begin on the day after the date on which the participant or retired participant dies or, in the case of an individual over the age of 18 who is not a child within the meaning of section 2002(b) of this title, shall begin or resume on the first day of the month in which the individual later becomes or again becomes a student as described in section 2002(b) of this title. Such annuity may not commence until any lump-sum that has been paid is returned to the fund.

(2) Termination

Such an annuity shall terminate on the last day of the month before the month in which the recipient of the annuity dies or no longer qualifies as a child (as defined in section 2002(b) of this title).

(f) Participants not married at time of retirement

(1) Designation of persons with insurable interest

(A) Authority to make designation

Subject to the rights of former spouses under subsection (b) of this section and section 2032 of this title, at the time of retirement an unmarried participant found by the Director to be in good health may elect to receive an annuity reduced in accordance with subparagraph (B) and designate in writing an individual having an insurable interest in the participant to receive an annuity under the system after the participant's death. The amount of such an annuity shall be equal to 55 percent of the participant's reduced annuity.

(B) Reduction in participant's annuity

The annuity payable to the participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) of this section and by an additional 5 percent for each full 5 years the designated individual is younger than the participant. The total reduction under this subparagraph may not exceed 40 percent.

(C) Commencement of survivor annuity

The annuity payable to the designated individual shall begin on the day after the retired participant dies and terminate on the last day of the month before the designated individual dies.

(D) Recomputation of participant's annuity on death of designated individual

An annuity which is reduced under this paragraph shall, effective the first day of the month following the death of the designated individual, be recomputed and paid as if the annuity had not been so reduced.

(2) Election of survivor annuity upon subsequent marriage

A participant who is unmarried at the time of retirement and who later marries may irrevocably elect, in a signed writing received by the Director within one year after the marriage, to receive a reduced annuity as provided in subsection (b) of this section. Such election and reduction shall be effective on the first

day of the month beginning 9 months after the date of marriage. The election voids prospectively any election previously made under paragraph (1).

(g) Effect of divorce after retirement

(1) Recomputation of retired participant's annuity upon divorce

An annuity which is reduced under this section (or any similar prior provision of law) to provide a survivor annuity for a spouse shall, if the marriage of the retired participant to such spouse is dissolved, be recomputed and paid for each full month during which a retired participant is not married (or is remarried, if there is no election in effect under paragraph (2)) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor annuity under subsection (b) or (c) of section 2032 of this title or under section 2036 of this title.

(2) Election of survivor annuity upon subsequent remarriage

(A) In general

Upon remarriage, the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive a reduced annuity for the purpose of providing an annuity for the new spouse of the retired participant in the event such spouse survives the retired participant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 2032(b)(5) of this title or elected under subparagraph (B)).

(B) When annuity previously not (or not fully) reduced

(i) Election

If the retired participant's annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement, the retired participant may make an election under the first sentence of subparagraph (A) upon remarriage to a spouse other than the spouse at the time of retirement. For any remarriage that occurred before August 14, 1991, the retired participant may make such an election within 2 years after such date.

(ii) Deposit required

(I) The retired participant shall, within one year after the date of the remarriage (or by August 14, 1993 for any remarriage that occurred before August 14, 1991), deposit in the fund an amount determined by the Director, as nearly as may be administratively feasible, to reflect the amount by which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced, plus interest.

(II) The annual rate of interest for each year during which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced shall be 6 percent.

(III) If the retired participant does not make the deposit, the Director shall collect such amount by offset against the participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the retired participant, and the retired participant is deemed to consent to such offset.

(IV) The deposit required by this subparagraph may be made by the surviving spouse of the retired participant.

(C) Effects of election

An election under this paragraph and the reduction in the participant's annuity shall be effective on the first day of the month beginning 9 months after the date of remarriage. A survivor annuity elected under this paragraph shall be treated in all respects as a survivor annuity under subsection (b) of this section.

(h) Coordination of annuities

(1) Surviving spouse

A surviving spouse whose survivor annuity was terminated because of remarriage before attaining age 55 shall not be entitled under subsection (b)(3)(C) of this section to the restoration of that survivor annuity payable from the fund unless the surviving spouse elects to receive it instead of any other survivor annuity to which the surviving spouse may be entitled under the system or any other retirement system for Government employees by reason of the remarriage.

(2) Former spouse

A surviving former spouse of a participant or retired participant shall not become entitled under section 2032(b) or 2034 of this title to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the surviving former spouse elects to receive it instead of any other survivor annuity to which the surviving former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(3) Surviving spouse of post-retirement marriage

A surviving spouse who married a participant after the participant's retirement shall be entitled to a survivor annuity payable from the fund only upon electing that annuity instead of any other survivor annuity to which the surviving spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the retired participant.

(i) Supplemental survivor annuities

(1) Spouse of recalled annuitant

A married recalled annuitant who reverts to retired status with entitlement to a supplemental annuity under section 2111(b) of this title shall, unless the annuitant and the annuitant's spouse jointly elect in writing to the contrary at the time of reversion to retired status, have the supplemental annuity reduced by 10 percent to provide a supplemental sur-

vivor annuity for the annuitant's spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant.

(2) Regulations

The Director shall prescribe regulations to provide for the application of paragraph (1) of this subsection and of subsection (b) of section 2111 of this title in any case in which an annuitant has a former spouse who was married to the recalled annuitant at any time during the period of recall service and who qualifies for an annuity under section 2032(b) of this title.

(j) Offset of annuities by amount of social security benefit

Notwithstanding any other provision of this subchapter, an annuity (including a disability annuity) payable under this subchapter to an individual described in sections 2021(d)(1) and 2151(c)(1) of this title and any survivor annuity payable under this subchapter on the basis of the service of such individual shall be reduced in a manner consistent with section 8349 of title 5, under conditions consistent with the conditions prescribed in that section.

(k) Information from other agencies

(1) Other agencies

For the purpose of ensuring the accuracy of the information used in the determination of eligibility for and the computation of annuities payable from the fund under this subchapter, at the request of the Director—

(A) the Secretary of Defense shall provide information on retired or retainer pay paid under title 10;

(B) the Secretary of Veterans Affairs shall provide information on pensions or compensation paid under title 38;

(C) the Secretary of Health and Human Services shall provide information contained in the records of the Social Security Administration; and

(D) the Secretary of Labor shall provide information on benefits paid under subchapter I of chapter 81 of title 5.

(2) Limitation on information requested

The Director shall request only such information as the Director determines is necessary.

(3) Limitation on uses of information

The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this subsection is used only for the purposes authorized.

(l) Information on rights under system

The Director shall, on an annual basis—

(1) inform each retired participant of the participant's right of election under subsections (c), (f)(2), and (g) of this section; and

(2) to the maximum extent practicable, inform spouses and former spouses of participants, former participants, and retired participants of their rights under this chapter.

(Pub. L. 88-643, title II, §221, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat.

3204; amended Pub. L. 103-178, title II, §202(a)(4), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 221 of Pub. L. 88-643, title II, Oct. 13, 1964, 78 Stat. 1045; Pub. L. 91-185, §2, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91-626, §§2, 3, Dec. 31, 1970, 84 Stat. 1872; Pub. L. 94-522, title II, §§202-204, Oct. 17, 1976, 90 Stat. 2468, 2469; Ex. Ord. No. 12326, §§1, 3, 6, Sept. 30, 1981, 46 F.R. 48889, 48890; Pub. L. 97-269, title VI, §§603-605, 610, Sept. 27, 1982, 96 Stat. 1146, 1147, 1153; Ex. Ord. No. 12443, §§4, 7, 8, Sept. 27, 1983, 48 F.R. 44752; Pub. L. 99-335, title V, §§501(2), (3), 503, June 6, 1986, 100 Stat. 622, 623; Pub. L. 100-178, title IV, §402(b)(1), Dec. 2, 1987, 101 Stat. 1014; Pub. L. 100-453, title III, §302(d)(1), (2), Sept. 29, 1988, 102 Stat. 1907; Pub. L. 102-88, title III, §§304(a), 305(a)(1), 306, Aug. 14, 1991, 105 Stat. 431, 432; Pub. L. 102-183, title III, §§302(a), 303(a), Dec. 4, 1991, 105 Stat. 1262, 1263, related to computation of annuities for other than 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.

AMENDMENTS

1993—Subsec. (a)(4). Pub. L. 103-178, §202(a)(4)(A), struck out “(or, in the case of an annuity computed under section 2052 of this title and based on less than 3 years, over the total service)” after “years of the participant’s service”.

Subsec. (f)(1)(A). Pub. L. 103-178, §202(a)(4)(B), inserted “after the participant’s death” after “under the system” and struck out “after the participant’s death” after “participant’s reduced annuity”.

Subsec. (g)(1). Pub. L. 103-178, §202(a)(4)(C), substituted “(or is remarried, if” for “(or is remarried if”.

Subsec. (j). Pub. L. 103-178, §202(a)(4)(D), struck out “(except as provided in paragraph (2))” after “individual shall be reduced”.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103-178, set out as a note under section 2001 of this title.

§ 2032. Annuities for former spouses

(a) Former spouse share of participant’s annuity

(1) Pro rata share

Unless otherwise expressly provided by a spousal agreement or court order under section 2094(b) of this title, a former spouse of a participant, former participant, or retired participant is entitled to an annuity—

(A) if married to the participant, former participant, or retired participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that proportion of 50 percent of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this subchapter bears to the total number of days of such creditable service.

(2) Disqualification upon remarriage before age 55

A former spouse is not qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.

(3) Commencement of annuity

The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this subchapter or on the first day of the month after the divorce or annulment involved becomes final, whichever is later.

(4) Termination of annuity

The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the month in which the former spouse dies or remarries before 55 years of age; or

(B) the date on which the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(5) Treatment of participant’s annuity

(A) Reduction in participant’s annuity

The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating—

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

(ii) any reduction in the annuity of the participant to provide survivor benefits under subsection (b) of this section or under section 2031(b) of this title.

(B) Treatment when annuitant returns to service

If an annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 2111 of this title, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 2112 and 2113 of this title, the pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

(6) Disability annuitant

Notwithstanding paragraph (3), in the case of a former spouse of a disability annuitant—

(A) the annuity of that former spouse shall commence on the date on which the participant would qualify on the basis of the participant’s creditable service for an annuity under this subchapter (other than a disability annuity) or the date on which 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.

(7) Election of benefits

A former spouse of a participant, former participant, or retired participant shall not become entitled under this subsection to an annuity payable from the fund unless the former