

on which such widow's or widower's annuity under section 231a(a)(1) of this title began to accrue or the date on which such widow's or widower's annuity under section 231a(d)(1) of this title began to accrue.

Subsec. (h). Pub. L. 94-547, §2(b), revised the benefit formula by providing that the additional benefit amount for the widows and widowers in question be equal to the difference between (A) the amount of the widow's or widower's insurance annuity which would have been payable under the 1937 Act railroad retirement formula on the basis of the deceased employee's remuneration and service prior to 1975, with this amount being increased by the percentages of benefit increases occurring during the period from Jan. 1, 1975, to the date on which the widow's or widower's survivor annuity or social security benefit, whichever is awarded latest, begins, and (B) the total amount of the two survivor annuity components payable to the widow or widower under this subchapter, after reduction due to the receipt of a social security benefit, as of the time the widow's or widower's survivor annuity or social security benefit, whichever is awarded latest, begins, with a proviso to assure that, where the widow or widower had been receiving a "windfall" dual benefit as a spouse under this subchapter, the total annuity amounts, including dual benefit amounts, payable to that widow or widower will not be less than the annuity amounts, again including dual benefit amounts, which the widow or widower received as a spouse in the month preceding the employee's death.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-90, title I, §101(b), Dec. 21, 2001, 115 Stat. 879, provided that:

"(1) IN GENERAL.—The amendment made by this section [amending this section] shall take effect on the first day of the first month that begins more than 30 days after enactment [Dec. 21, 2001], and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

"(A) on or after that date; and

"(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 357).

"(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity."

Pub. L. 107-90, title I, §102(d), Dec. 21, 2001, 115 Stat. 879, provided that:

"(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 231b of this title] shall apply to annuities that begin to accrue on or after January 1, 2002.

"(2) EXCEPTION.—The amount of the annuity provided for a spouse under section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)) shall be computed under section 4(a)(3) of such Act, as in effect on December 31, 2001, if the annuity amount provided under section 3(a) of such Act (45 U.S.C. 231b(a)) for the individual on whose employment record the spouse annuity is based was computed under section 3(a)(3) of such Act, as in effect on December 31, 2001."

Amendment by section 103(e) of 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.

Amendment by section 104(b) of Pub. L. 107-90 effective Jan. 1, 2002, and applicable to annuity amounts accruing for months after Dec. 2001, see section 104(c) of Pub. L. 107-90, set out as a note under section 231b of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 101(b) of Pub. L. 98-76 effective July 1, 1984, and applicable only with respect to awards in certain specified cases, see section 101(c) of Pub. L. 98-76, set out as a note under section 231b of this title.

Amendment by section 102(b), (c) of Pub. L. 98-76 effective Aug. 12, 1983, see section 102(d) of Pub. L. 98-76, set out as a note under section 231b of this title.

Amendment by section 106(h) 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.

Pub. L. 98-76, title IV, §406(b), Aug. 12, 1983, 97 Stat. 435, provided that: "The amendments made by this section [amending this section] shall be effective October 1, 1981."

Pub. L. 98-76, title IV, §407(b), Aug. 12, 1983, 97 Stat. 435, provided that: "The amendment made by this section [amending this section] shall be effective with respect to annuities awarded on and after the date of enactment [Aug. 12, 1983]."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1119(b)(5), (c), (h)(3), (i)(3) of Pub. L. 97-35 effective Jan. 1, 1975, amendment by section 1119(b)(1) of Pub. L. 97-35 not to apply with respect to annuities awarded before Oct. 1, 1981, amendment by section 1119(d)(2), (h)(1), (4) of Pub. L. 97-35 effective Aug. 13, 1981, amendment by section 1119(i)(4) of Pub. L. 97-35 effective Jan. 1, 1982, and amendment by other provisions of section 1119 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.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-547, §2(c), Oct. 18, 1976, 90 Stat. 2525, provided that: "The amendments made by this section [amending this section] shall be effective with respect to annuities accruing for months after the month in which this Act is enacted [October, 1976]: *Provided, however*, That the amendments made by subsection (b) of this section [amending this section] shall not operate to decrease any annuity amounts awarded under section 4(h) of the Railroad Retirement Act of 1974 [subsec. (h) of this section] prior to the date on which these amendments become effective."

### § 231d. Annuity beginning and ending dates

#### (a) Annuities under section 231a of this title

Subject to the limitations set forth below, an annuity under section 231a of this title shall begin with the month in which eligibility therefor was otherwise acquired, but—

(i) not earlier than the date specified in the application therefor;

(ii) 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;

(iii) in the case of an applicant otherwise entitled to an annuity under section 231a(a)(1), 231a(c), or 231a(d) of this title where paragraph (ii) does not apply, not earlier than the latest of (A) the first day of the sixth month before the month in which the application therefor was filed, (B) the first day of the month in

which the application therefor was filed if the effect of beginning such annuity in an earlier month would result in a greater age reduction in the annuity, unless beginning the annuity in the earlier month would enable an annuity under section 231a(c) of this title which is not subject to an age reduction to be payable in such earlier month, (C) in the case of an applicant otherwise entitled to an annuity under section 231a(a)(1) or 231a(c) of this title, the date following the last day of compensated service of the applicant, or (D) in the case of an applicant otherwise entitled to an annuity under section 231a(a)(1) or 231a(c) of this title, the first day of the first month throughout which the applicant meets the age requirement for the annuity applied for;

(iv) in the case of an applicant otherwise entitled to an annuity under section 231a(c)(4) or (d)(1)(v) of this title, not earlier than the month an annuity would begin to accrue to such individual under such section if section 202(j)(1) and section 202(j)(4) of the Social Security Act [42 U.S.C. 402(j)(1), (4)] were applicable to this subchapter.<sup>1</sup>

(v) an annuity amount provided by section 231b(h)(1) or 231b(h)(2) of this title shall not be paid to an individual otherwise eligible therefor for any month before the month such individual would be entitled, upon filing an application therefor, to an old-age insurance benefit or a disability insurance benefit under title II of the Social Security Act [42 U.S.C. 401 et seq.] and an annuity amount provided by section 231b(h)(3) or section 231b(h)(4) of this title shall not be paid to an individual otherwise eligible therefor for any month before the month such individual would be entitled, upon filing an application therefore,<sup>2</sup> to an insurance benefit as a wife, husband, widow, or widower under title II of the Social Security Act;

(vi) an annuity amount provided by section 231c(e)(1) or 231c(e)(2) of this title shall not be paid to a spouse otherwise eligible therefor for any month prior to the month such spouse would be entitled, upon filing an application therefor, to an old-age or disability insurance benefit under title II of the Social Security Act [42 U.S.C. 401 et seq.]; and

(vii) an annuity amount provided by section 231c(e)(3) of this title shall not be paid to a spouse otherwise eligible therefor for any month prior to the month such spouse would be entitled, upon filing an application therefor, to a wife's or husband's insurance benefit under title II of the Social Security Act [42 U.S.C. 401 et seq.].

For the purpose of determining annuity amounts provided under sections 231b(a), 231c(a), and 231c(f) of this title, the provisions with respect to the beginning dates of annuities set forth in this subsection shall be deemed to govern the beginning dates of monthly benefits provided under the Social Security Act [42 U.S.C. 301 et seq.].

#### (b) Applications for payment

An application for any payment under this subchapter shall be made and filed in such man-

ner and form as the Board may prescribe. An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this subchapter or section 202(a), section 202(b), or section 202(c) of the Social Security Act [42 U.S.C. 402(a), (b), (c)]. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this subchapter or title II of the Social Security Act [42 U.S.C. 401 et seq.]. An individual who was entitled to an annuity under paragraph (iv) or (v) of section 231a(a)(1) of this title for the month preceding the month in which he attained retirement age (as defined in section 216(l) of the Social Security Act [42 U.S.C. 416(l)]), shall be deemed to have filed an application for an annuity under paragraph (i) of section 231a(a)(1) of this title on the date on which he attained retirement age (as defined in section 216(l) of the Social Security Act), and a widow or widower who was entitled to an annuity under section 231a(d)(1) of this title on the basis of disability for the month preceding the month in which she or he attained age 60, shall be deemed to have filed an application for an annuity under such section 231a(d)(1) of this title on the basis of age on the date on which she or he attained age 60.

#### (c) Individual's entitlement

(1) An individual's entitlement to an annuity under paragraph (i), (ii), or (iii) of section 231a(a)(1) of this title or to a supplemental annuity under section 231a(b) of this title shall end with the month preceding the month in which he dies.

(2) An individual's entitlement to an annuity under paragraph (iv) or (v) of section 231a(a)(1) of this title shall end on (A) the last day of the second month following the month in which he ceases to be disabled as provided for purposes of such paragraphs, (B) the last day of the month preceding the month in which he attains retirement age (as defined in section 216(l) of the Social Security Act [42 U.S.C. 416(l)]) or (C) the last day of the month preceding the month in which he dies, whichever first occurs.

(3) The entitlement of a spouse of an individual to an annuity under section 231a(c) of this title shall end on the last day of the month preceding the month in which (A) the spouse or the individual dies, (B) the spouse and the individual are absolutely divorced, or (C) in the case of a wife who does not satisfy the requirements of clause (ii)(A) or (ii)(B) of section 231a(c)(1) of this title (other than a wife who is receiving such annuity by reason of an election under section 231a(c)(2) of this title), such wife no longer has in her care a child described in clause (ii)(C) of section 231a(c)(1) of this title, whichever first occurs. The entitlement of the divorced wife of an individual to an annuity under section 231a(c) of this title shall end on the last day of the

<sup>1</sup> So in original. The period probably should be a semicolon.

<sup>2</sup> So in original. Probably should be "therefor,".

month preceding the month in which (A) the divorced wife or the individual dies or (B) the divorced wife remarries.

(4) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 231a(d)(1) of this title on the basis of age shall end on (A) the last day of the month preceding the month in which she or he dies or (B) the last day of the month preceding the month in which she or he remarries after the employee's death, whichever first occurs.

(5) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 231a(d)(1) of this title on the basis of disability shall end on (A) the last day of the month preceding the month in which she or he dies, (B) the last day of the month preceding the month in which she or he remarries after the employee's death, (C) the last day of the second month following the month in which she or he ceases to be disabled as provided for purposes of such paragraph, or (D) the last day of the month preceding the month in which she or he attains age 60, whichever first occurs.

(6) The entitlement of a widow of a deceased employee to an annuity under paragraph (ii) of section 231a(d)(1) of this title shall end on (A) the last day of the month preceding the month in which she dies, (B) the last day of the month preceding the month in which she remarries after the employee's death, or (C) the last day of the month preceding the month in which she no longer has in her care a child described in clause (B) of such paragraph (ii) whichever first occurs.

(7) The entitlement of a child of a deceased employee to an annuity under paragraph (iii) of section 231a(d)(1) of this title shall end on (A) the last day of the month preceding the month in which he or she dies, (B) the last day of the month preceding the month in which he or she marries, (C) the last day of the month preceding the month in which he or she attains age 18 and does not meet the qualifications set forth in clause (B) or (C) of such paragraph (iii), (D) the last day of the month preceding (i) the month during no part of which he or she is a full-time elementary or secondary school student or (ii) the month in which he or she attains age 19, and does not meet the qualifications set forth in clause (A) or (C) of such paragraph (iii), or (E) the last day of the second month following the month in which he or she ceases to be disabled for purposes of such paragraph (iii) and does not meet the qualifications set forth in clause (A) or (B) of such paragraph (iii), whichever first occurs. A child whose entitlement to an annuity under paragraph (iii) of section 231a(d)(1) of this title terminated by reason of clause (E) of this subdivision because he or she ceased to be disabled and who again becomes disabled as provided in clause (C) of such paragraph (iii), may become reentitled to an annuity on the basis of such disability upon his or her application for such reentitlement. A child whose entitlement to an annuity under paragraph (iii) of section 231a(d)(1) of this title terminated with the month preceding the month in which he or she attained age 18, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month there-

after in which he or she meets the qualifications set forth in clause (B) or (C) of such paragraph (iii), if he or she has filed an application for such reentitlement.

(8) The entitlement of a parent of a deceased employee to an annuity under paragraph (iv) of section 231a(d)(1) of this title shall end on the last day of the month preceding the month in which (A) such parent dies or (B) such parent remarries after the employee's death, whichever first occurs.

(9) No annuity shall accrue with respect to the calendar month in which an annuitant dies. In cases where an individual entitled to an annuity under this subchapter disappears, no annuity shall accrue to that individual with respect to any month until and unless such individual is shown, by evidence satisfactory to the Board, to have continued in life throughout such month, but—

(A) where an annuity would accrue for such month under section 231a(a)(1) of this title to an individual who had a current connection with the railroad industry at the time of such individual's disappearance, and under section 231a(c) of this title to such individual's spouse, had such individual been shown to be alive during such month, such individual shall be deemed, for the purposes of benefits under section 231a(d) of this title, to have died in the month in which such individual disappeared, and where an annuity would accrue for such month under section 231a(a)(1) of this title to an individual who did not have a current connection with the railroad industry at the time of such individual's disappearance, and under section 231a(c) of this title to such individual's spouse, had such individual been shown to be alive during such month, such individual shall be deemed, for purposes of benefits payable under section 231a(c) of this title, to be alive during such month unless the death of such individual has been established or the annuity of the spouse of such individual is otherwise terminated under subsection (c)(3) of this section, and

(B) if such individual is later determined to have been alive during any of such months, recovery of any benefits paid on the basis of such individual's compensation under section 231a(d) of this title for the months in which such individual was not known to be alive, minus the total of the amounts that would have been paid as a spouse's annuity during such months (treating the application for a widow's or widower's annuity as an application for spouse's annuity), shall be made in accordance with section 231l of this title.

For purposes of the payment of benefits under this subchapter, the death of an individual shall be presumed based on such individual's unexplained absence of not less than seven years, except that whenever the death of an individual is so established, such individual shall be deemed to have died in the month in which such individual disappeared.

(Aug. 29, 1935, ch. 812, §5, 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. 1332; amended Pub. L. 97-35, title XI, §1120, Aug. 13,

1981, 95 Stat. 636; Pub. L. 98-76, title I, §§103(a), 104(c), 106(i), (j), Aug. 12, 1983, 97 Stat. 415, 416, 418; Pub. L. 107-90, title I, §103(f), Dec. 21, 2001, 115 Stat. 881; Pub. L. 109-280, title X, §1003(a), Aug. 17, 2006, 120 Stat. 1053; Pub. L. 110-458, title I, §110(a)(2), Dec. 23, 2008, 122 Stat. 5112.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a) and (b), 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.

#### AMENDMENTS

2008—Subsec. (d). Pub. L. 110-458, which directed repeal of subsec. (d) of section 5 of the Railroad Retirement Act, was executed by striking out subsec. (d) of this section, which is section 5 of the Railroad Retirement Act of 1974, to reflect the probable intent of Congress. Text read as follows: “Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 231b(b) of this title to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree.”

2006—Subsec. (d). Pub. L. 109-280 added subsec. (d).

2001—Subsec. (b). Pub. L. 107-90 inserted second and third sentences and struck out former second sentence which read as follows: “An application filed with the Board for an annuity under this subchapter shall, unless the applicant specifies otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this subchapter or title II of the Social Security Act.”

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).

#### 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