

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 spouse elects to receive it instead of any survivor annuity to which the 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.

#### (8) Limitation in case of multiple former spouse annuities

No spousal agreement or court order under section 2094(b) of this title involving a participant may provide for an annuity or a combina-

tion of annuities under this subsection that exceeds the annuity of the participant.

**(b) Former spouse survivor annuity**

**(1) Pro rata share**

Subject to any election under section 2031(b)(1)(B) and (C) of this title and unless otherwise expressly provided by a spousal agreement or court order under section 2094(b) of this title, if an annuitant is survived by a former spouse, the former spouse shall be entitled—

(A) if married to the annuitant throughout the creditable service of the annuitant, to a survivor annuity equal to 55 percent of the unreduced amount of the annuitant's annuity, as computed under section 2031(a) of this title; and

(B) if not married to the annuitant throughout such creditable service, to a survivor annuity equal to that proportion of 55 percent of the unreduced amount 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 shall not be 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, termination, and restoration of annuity**

An annuity payable from the fund under this subchapter to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 55. If such a 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.

**(4) Survivor annuity amount**

**(A) Maximum amount**

The maximum survivor annuity or combination of survivor annuities under this subsection (and section 2031(b)(3) of this title) with respect to any participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 2031(a) of this title.

**(B) Limitation on other survivor annuities based on service of same participant**

Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 2031(b)(3) of this title) with respect to the participant only for that portion (if any) of the maximum available

which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

**(C) Finality of court order upon death of participant**

After the death of a participant or retired participant, a court order under section 2094(b) of this title may not adjust the amount of the annuity of a former spouse of that participant or retired participant under this section.

**(5) Effect of termination of former spouse entitlement**

**(A) Recomputation of participant's annuity**

If a former spouse of a retired participant dies or remarries before attaining age 55, the annuity of the retired participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid, effective on the first day of the month beginning after such death or remarriage, as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

**(B) Election of spouse annuity**

Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 2031(b)(3) of this title for any spouse of the participant.

**(c) Optional additional survivor annuities for other former spouse or surviving spouse**

**(1) In general**

In the case of any participant providing a survivor annuity under subsection (b) of this section for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 2094(b) of this title may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

**(2) Limitation**

Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 2031 of this title, may exceed 55 percent of the unreduced amount of the participant's annuity, as computed under section 2031(a) of this title.

**(3) Contribution for additional annuities**

**(A) Provision of additional survivor annuity**

In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the basic pay of the participant;

- (ii) by a lump-sum payment or installment payments to the fund; or
- (iii) by any combination thereof.

**(B) Actuarial equivalence to benefit**

The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

**(C) Effect of former spouse's death or disqualification**

If a former spouse predeceases the participant or remarries before attaining age 55 (or, in the case of a spouse, the spouse predeceases the participant or does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or pay allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the pay allotment terminated, as the case may be; and

(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

**(D) Recomputation upon death or remarriage of former spouse**

Under regulations prescribed by the Director, an annuity shall be recomputed (or a pay allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 55 and an increased annuity is provided for that spouse in accordance with this section.

**(4) Commencement and termination of additional survivor annuity**

An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the spouse's or the former spouse's death or remarriage before attaining age 55.

**(5) Nonapplicability of COLA provision**

Section 2131 of this title does not apply to an annuity under this subsection, unless authorized under regulations prescribed by the Director.

(Pub. L. 88-643, title II, § 222, as added Pub. L. 102-496, title VIII, § 802, Oct. 24, 1992, 106 Stat. 3212; amended Pub. L. 103-178, title II, § 202(a)(5), Dec. 3, 1993, 107 Stat. 2026.)

PRIOR PROVISIONS

A prior section 222 of Pub. L. 88-643, as added Pub. L. 97-269, title VI, § 606, Sept. 27, 1982, 96 Stat. 1148; amend-

ed Pub. L. 99-335, title V, § 501(2), (3), June 6, 1986, 100 Stat. 622; Pub. L. 102-88, title III, § 305(a)(2), Aug. 14, 1991, 105 Stat. 432, related to computation of annuities for 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)(7). Pub. L. 103-178, § 202(a)(5)(A), substituted “any survivor annuity” for “any other annuity”.

Subsec. (c)(3)(C). Pub. L. 103-178, § 202(a)(5)(B), inserted “the participant” before “or does not qualify”. Subsec. (c)(4). Pub. L. 103-178, § 202(a)(5)(C), substituted “before the spouse’s or the former spouse’s death” for “before the former spouse’s death”.

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.

SURVIVOR ANNUITY, RETIREMENT ANNUITY, AND HEALTH BENEFITS FOR CERTAIN EX-SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES; EFFECTIVE DATE

Pub. L. 103-178, title II, § 203, Dec. 3, 1993, 107 Stat. 2027, provided that:

“(a) SURVIVOR ANNUITY.—

“(1) IN GENERAL.—

“(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—

Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System and who was married to such participant for not less than 10 years during such participant’s creditable service, at least five years of which were spent by the participant during the participant’s service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2013), shall be entitled, except to the extent such person is disqualified under paragraph (2), to a survivor annuity equal to 55 percent of the greater of—

“(i) the unreduced amount of the participant’s annuity, as computed under section 221(a) of such Act [50 U.S.C. 2031(a)]; or

“(ii) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act [50 U.S.C. 2143].

“(B) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this subsection shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act [50 U.S.C. 2036].

“(2) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this subsection if—

“(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

“(B) the former wife or husband is less than 50 years of age; or

“(C) the former wife or husband meets the definition of ‘former spouse’ that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991 [section 204(b)(4) of Pub. L. 88-643 prior to enactment of Pub. L. 102-496, formerly set out as a note under section 403 of this title].

“(3) COMMENCEMENT AND TERMINATION OF ANNUITY.—

“(A) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection shall commence—

“(i) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1994, beginning on the later of—

“(I) the 60th day after such date; or

“(II) the date on which the former wife or husband reaches age 50; and

“(ii) in the case of any other former wife or husband, beginning on the latest of—

“(I) the date on which the participant or retired participant to whom the former wife or husband was married dies;

“(II) the 60th day after October 1, 1994; or

“(III) the date on which the former wife or husband attains age 50.

“(B) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection terminates on the last day of the month before the former wife’s or husband’s death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

“(4) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other 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.

“(5) APPLICATION.—

“(A) TIME LIMIT; WAIVER.—A survivor annuity under this subsection 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 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.

“(B) RETROACTIVE BENEFITS.—Upon approval of an application provided under subparagraph (A), the appropriate survivor 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 such annuity under this subsection, but in no event shall a survivor annuity be payable under this subsection with respect to any period before October 1, 1994.

“(6) RESTORATION OF ANNUITY.—Notwithstanding paragraph (5)(A), 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 after October 1, 1994, under paragraph (2)(A) or (3)(B).

“(7) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

“(A) ENTITLEMENT.—Except as provided in paragraph (2), 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.

“(B) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by subparagraph (A) shall be equal to 50 percent of the unreduced amount of the participant’s annuity computed in accordance with section 302(a) of the Federal Employees’ Retirement System Act of 1986 [Pub. L. 99-335, 5 U.S.C. 8331 note] and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

“(b) RETIREMENT ANNUITY.—

“(1) IN GENERAL.—

“(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in subsection (a)(1)(A) shall be entitled, except to the extent such former spouse is disqualified under paragraph (2), to an annuity—

“(i) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

“(ii) if not married to the participant throughout such creditable service, equal to that former wife’s or husband’s pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2032 (a)(1)(B))).

“(B) REDUCTION IN RETIREMENT ANNUITIES.—

“(i) AMOUNT OF REDUCTION.—An annuity payable under this subsection shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

“(ii) DEFINITION OF TERMS.—For purposes of clause (i):

“(I) APPORTIONMENT.—The term ‘apportionment’ means a portion of a retired participant’s annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

“(II) COURT ORDER.—The term ‘court order’ means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

“(2) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this subsection if—

“(A) the former wife or husband remarries before age 55, 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;

“(B) the former wife or husband is less than 50 years of age; or

“(C) the former wife or husband meets the definition of ‘former spouse’ that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991 [section 204(b)(4) of Pub. L. 88-643 prior to enactment of Pub. L. 102-496, formerly set out as a note under section 403 of this title].

“(3) COMMENCEMENT AND TERMINATION.—

“(A) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this subsection—

“(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 partici-

pant'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 Disability 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 403p 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 403p 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. 403p(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 401 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) of this section; or

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

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