

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) Disqualification

A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c) Period of entitlement; construction with other provisions; application approval and payment

(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this subchapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

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

(ii) the date of the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 4054(a)(7) of this title for purposes of section 4046(h) of this title or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during

which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

(d) "Benefits" defined

For the purpose of this section, the term "benefits" means—

(1) with respect to a participant or former participant subject to this part, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to part II of this subchapter, the benefits of the participant or former participant under that part.

(e) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(Pub. L. 96-465, title I, §831, as added Pub. L. 100-238, title II, §204(a), Jan. 8, 1988, 101 Stat. 1770.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (c)(4), see Effective Date note set out below.

CODIFICATION

Another section 831 of the Foreign Service Act of 1980 was enacted by Pub. L. 100-204 and is classified to section 4069b of this title.

EFFECTIVE DATE

Section effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100-238, set out as an Effective Date of 1988 Amendment note under section 4054 of this title.

§ 4069b. Survivor benefits for certain former spouses

(a) Eligibility; amount of annuity

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b) of this section, to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this subchapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) Election by former spouse

If an election has been made with respect to such former spouse under section 4159 or 4046(f) of this title, then the survivor annuity under subsection (a) of this section of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) of this section less the amount of such election.

(c) Disqualification

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

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d) Period of entitlement; application approval and payment

(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of December 22, 1987, beginning on December 22, 1987; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) December 22, 1987; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after December 22, 1987. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before December 22, 1987.

(e) Promulgation of regulations; notification of rights

The Secretary shall—

(1) as soon as possible, but not later than 60 days after December 22, 1987, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(g) Former spouses of United States Information Agency and Agency for International Development employees

Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant

to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency of International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

(Pub. L. 96-465, title I, §831, as added Pub. L. 100-204, title I, §188(a), Dec. 22, 1987, 101 Stat. 1370; amended Pub. L. 101-246, title I, §146(b), Feb. 16, 1990, 104 Stat. 37.)

CODIFICATION

Another section 831 of the Foreign Service Act of 1980 was enacted by Pub. L. 100-238 and is classified to section 4069a-1 of this title.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101-246 added subsec. (g).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§ 4069b-1. Survivor benefits for certain former spouses

(a) Eligibility; amount of annuity

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b) of this section, to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this subchapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) Election by former spouse

If an election has been made with respect to such former spouse under section 4159 or 4046(f) of this title, then the survivor annuity under subsection (a) of this section of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) of this section less the amount of such election.

(c) Disqualification

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

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.