

after Sept. 30, 2002, see section 322(c)(2) of Pub. L. 107-228, set out as a note under section 4045 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, § 505(i)] of Pub. L. 106-346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105-33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

**§ 4071f. Government contributions**

(a) Each agency employing any participant shall contribute to the Fund the amount computed in a manner similar to that used under section 8423(a) of title 5 pursuant to determinations of the normal cost percentage for the Foreign Service Pension System by the Secretary of State.

(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year beginning after September 30, 1987. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection for such year.

(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

(c)(1) Subject to paragraphs (2) and (3), for purposes of any period in any year beginning after December 31, 2013, the normal-cost percentage under this section shall be determined and applied as if section 402(b) of the Bipartisan Budget Act of 2013 had not been enacted.

(2) Any contributions under this section in excess of the amounts which (but for paragraph (1)) would otherwise have been payable shall be applied toward reducing the unfunded liability of the Foreign Service Retirement and Disability System.

(3) After the unfunded liability of the Foreign Service Retirement and Disability System has been eliminated, as determined by the Secretary of State, Government contributions under this section shall be determined and made disregarding this subsection.

(Pub. L. 96-465, title I, § 857, as added Pub. L. 99-335, title IV, § 415, June 6, 1986, 100 Stat. 618; amended Pub. L. 113-67, div. A, title IV, § 402(c), Dec. 26, 2013, 127 Stat. 1185.)

REFERENCES IN TEXT

Section 402(b) of the Bipartisan Budget Act of 2013, referred to in subsec. (c)(1), is section 402(b) of div. A of Pub. L. 113-67, which amended section 4071e of this title.

AMENDMENTS

2013—Subsec. (c). Pub. L. 113-67 added subsec. (c).

**§ 4071g. Cost-of-living adjustments**

Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5 in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section.

(Pub. L. 96-465, title I, § 858, as added Pub. L. 99-335, title IV, § 415, June 6, 1986, 100 Stat. 619.)

DELAY IN COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1994, 1995, AND 1996

Any cost-of-living increase scheduled to take effect during fiscal year 1994, 1995, or 1996 under this section delayed until first day of third calendar month after date such increase would otherwise take effect, see section 11001 of Pub. L. 103-66, set out as a note under section 8340 of Title 5, Government Organization and Employees.

**§ 4071h. General and administrative provisions**

**(a) Administration by Secretary of State; issuance of regulations**

The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapters III and VII of chapter 84 of title 5. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes.

**(b) Appeal of determinations**

Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 of title 5 or the Director of such Office, would be appealable to the Merit Systems Protection Board shall, instead, be appealable to the Foreign Service Grievance Board, except that determinations of disability for participants shall be based upon the standards in section 4048 of this title (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

**(c) Periodic valuations by Secretary of the Treasury**

At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

(Pub. L. 96-465, title I, § 859, as added Pub. L. 99-335, title IV, § 415, June 6, 1986, 100 Stat. 619.)

**§ 4071i. Transition provisions**

The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5 (the Civil Service Retirement System) to the Federal Employees' Retirement System. For

this and related purposes, references made to participation in subchapter III of chapter 83 of title 5 (the Civil Service Retirement System), the Social Security Act [42 U.S.C. 301 et seq.], and title 26 shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate.

(Pub. L. 96-465, title I, §860, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 619; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in text, 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. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

### § 4071j. Former spouses

#### (a) Entitlement to share in benefits; conditions; remarriage; payments as income to former spouse; disability annuitants; election regarding method of payment; maximum amount payable

(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this part, a former spouse of a participant or former participant is entitled, during the period described in subparagraph (B), to a share (determined under paragraph (2)) of all benefits otherwise payable to such participant under this part if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this subchapter with at least 5 of such years occurring while the participant was a member of the Foreign Service.

(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

(2) The share referred to in paragraph (1) equals—

(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this subchapter; or

(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(4)(A) For purposes of title 26, payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

(B) Any reduction in payments to a participant or former participant as a result of pay-

ments to a former spouse under this subsection shall be disregarded in calculating—

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

(ii) any reduction in the annuity of the participant to provide survivor benefits under this part.

(5) Notwithstanding subsection (a)(1) of this section, in the case of any former spouse of a disability annuitant—

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

(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this part which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this part.

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this part, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

#### (b) Entitlement to survivor benefits; determination of share; disqualification upon remarriage

(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this part to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A) of this section, such former spouse is entitled to a share, determined under subsection (b)(2) of this section, of all survivor benefits that would otherwise be payable under this part to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) of this section equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this subchapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the