

PART J—COST-OF-LIVING ADJUSTMENT OF ANNUITIES

§ 2131. Cost-of-living adjustment of annuities

(a) In general

Each annuity payable from the fund shall be adjusted as follows:

(1) Each cost-of-living annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5.

(2) A cost-of-living increase made under paragraph (1) shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5. Except as provided in subsection (b) of this section, each such increase shall be applied to each annuity payable from the fund which has a commencing date not later than the effective date of the increase.

(b) Eligibility

Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

(1) The first cost-of-living increase (if any) made under subsection (a) of this section to an annuity which is payable from the fund to a participant who retires, to the surviving spouse, former spouse, or previous spouse of a participant who dies in service, or to the surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been increased under this subsection or subsection (a) of this section, shall be equal to the product (adjusted to the nearest $\frac{1}{40}$ of one percent) of—

(A) $\frac{1}{12}$ of the applicable percent change computed under subsection (a) of this section, multiplied by

(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

(i) for which the annuity was payable from the fund before the effective date of the increase, or

(ii) in the case of a surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled to an annuity under section 2031(d) of this title) shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing the annuity of a child under section 2031(d) of this title that commences after October 31, 1969, the dollar amounts specified in section 2031(d)(3) of this title shall each be increased by the total percentage increases allowed and in force under this section on or after such day and, in the case of a deceased annuitant, the percentages specified in that section shall be increased by

the total percent allowed and in force to the annuitant under this section on or after such day.

(c) Limitation

An annuity increase provided by this section may not be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) Rounding to next lower dollar

The monthly annuity installment, after adjustment under this section, shall be rounded to the next lowest dollar, except that such installment shall, after adjustment, reflect an increase of at least \$1.

(e) Limitation on maximum amount of annuity

(1) In general

An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of—

(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in the rates of pay of the General Schedule under subchapter I of chapter 53 of title 5 during the period—

(i) beginning on the date on which the annuity commenced (or, in the case of a survivor of the retired participant, the date on which the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

(2) "Pay" defined

For purposes of paragraph (1), the term "pay" means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.

(Pub. L. 88-643, title II, §291, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3240; amended Pub. L. 103-178, title II, §202(a)(14), Dec. 3, 1993, 107 Stat. 2027.)

REFERENCES IN TEXT

GS-15, referred to in subsec. (e)(1)(A), probably means GS-15 of the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 291 of Pub. L. 88-643, title II, Oct. 13, 1964, 78 Stat. 1054; Pub. L. 90-539, Sept. 30, 1968, 82 Stat. 902; Pub. L. 91-185, §5, Dec. 30, 1969, 83 Stat. 849; Pub. L. 93-210, §1(a), Dec. 28, 1973, 87 Stat. 908; Pub. L. 94-361, title VIII, §801(b), July 14, 1976, 90 Stat. 929; Ex. Ord. No. 12326, §4, Sept. 30, 1981, 46 F.R. 48889; Ex. Ord. No. 12443, §§6, 14, Sept. 27, 1983, 48 F.R. 44752, 44754; Pub. L. 99-335, title V, §501(3), June 6, 1986, 100 Stat. 622, related to cost-of-living adjustment of annuities 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. (b)(2). Pub. L. 103-178 struck out "or section 2052(c) of this title" after "section 2031(d) of this title".

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.

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.

PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

§ 2141. Authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems

(a) Presidential authority

(1) Conformity to CSRS by Executive order

Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, the President may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which—

(A) amends subchapter III of chapter 83 of title 5 and is applicable to civil service employees generally; or

(B) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.

(2) Extension to CIARDS

Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors.

(3) Legal status

Any such order shall have the force and effect of law.

(4) Effective date

Any such order may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

(b) Effect of Executive order

Provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) provisions of law enacted before the effective date of the Executive order; and

(2) any prior provision of an Executive order issued under this section.

(Pub. L. 88-643, title II, §292, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3241.)

PRIOR PROVISIONS

A prior section 292 of Pub. L. 88-643, as added Pub. L. 94-522, title II, §213, Oct. 17, 1976, 90 Stat. 2471, 2472, related to authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems 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.

OPEN ENROLLMENT SEASON FOR PARTICIPANTS IN THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

The Director to provide an open enrollment period for employee participants in the Central Intelligence Agency Retirement and Disability System to elect the Federal Employees' Retirement System, see Ex. Ord. No. 13105, §2, Nov. 2, 1998, 63 F.R. 60201, set out as a note under section 4067 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 13236. WAIVER OF DUAL COMPENSATION PROVISIONS

Ex. Ord. No. 13236, Nov. 27, 2001, 66 F.R. 59671, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 292 of the Central Intelligence Agency Retirement Act of 1964 [Central Intelligence Agency Retirement Act], as amended (50 U.S.C. 2141), and in order to conform the Central Intelligence Agency Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

SECTION 1. The Director of Central Intelligence may waive the application of the dual compensation reduction provisions of sections 271 and 273 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2111 and 2113) for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances. Employees who receive both salary and annuity pursuant to this authority may not earn additional retirement benefits during this period of employment. This authority may be delegated as appropriate.

SEC. 2. Nothing contained in this order is intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or any other person.

GEORGE W. BUSH.

APPLICABILITY OF FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS OF 2000

The Director of Central Intelligence to issue regulations to reflect application of sections 3(a) and 3(b) of Pub. L. 106-571, amending sections 8331 and 8339 of Title 5, Government Organization and Employees, to the Central Intelligence Agency Retirement and Disability System, see Ex. Ord. No. 13297, §3(b), Apr. 23, 2003, 68 F.R. 22566, set out as a note under section 4067 of Title 22, Foreign Relations and Intercourse.

§ 2142. Thrift Savings Plan participation

(a) Eligibility for Thrift Savings Plan

Participants in the system shall be deemed to be employees for the purposes of section 8351 of title 5.

(b) Management of Thrift Savings Plan accounts by Director

Subsections (k) and (m) of section 8461 of title 5 shall apply with respect to contributions made by participants to the Thrift Savings Fund under section 8351 of such title and to earnings