

intervening amendments because of the extensive revision and restatement of the Act's provisions by Pub. L. 102-496.

#### SUBCHAPTER I—DEFINITIONS

### § 2001. Definitions relating to the system

When used in this chapter:

#### (1) Agency

The term “Agency” means the Central Intelligence Agency.

#### (2) Director

The term “Director” means the Director of the Central Intelligence Agency.

#### (3) Qualifying service

The term “qualifying service” means service determined by the Director to have been performed in carrying out duties described in section 2013 of this title.

#### (4) Fund balance

The term “fund balance” means the sum of—

(A) the investments of the fund calculated at par value; and

(B) the cash balance of the fund on the books of the Treasury.

#### (5) Unfunded liability

The term “unfunded liability” means the estimated amount by which—

(A) the present value of all benefits payable from the fund exceeds

(B) the sum of—

(i) the present value of deductions to be withheld from the future basic pay of participants subject to subchapter II of this chapter and of future Agency contributions to be made on the behalf of such participants;

(ii) the present value of Government payments to the fund under sections 2091(c) and 2091(d) of this title; and

(iii) the fund balance as of the date on which the unfunded liability is determined.

#### (6) Normal cost

The term “normal cost” means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.

#### (7) Lump-sum credit

The term “lump-sum credit” means the un-refunded amount consisting of retirement deductions made from a participant's basic pay and amounts deposited by a participant covering earlier service, including any amounts deposited under section 2082(h) of this title.

#### (8) Congressional intelligence committees

The term “congressional intelligence committees” means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

#### (9) Employee

The term “employee” includes an officer of the Agency.

(Pub. L. 88-643, title I, §101, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3197; amended Pub. L. 103-178, title II, §202(a)(1), Dec. 3, 1993, 107 Stat. 2025; Pub. L. 108-458, title I, §1071(c), Dec. 17, 2004, 118 Stat. 3691.)

#### PRIOR PROVISIONS

A prior section 101 of Pub. L. 88-643, title I, Oct. 13, 1964, 78 Stat. 1043, provided a short title for Pub. L. 88-643 as the “Central Intelligence Agency Retirement Act of 1964 for Certain Employees” 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

2004—Par. (2). Pub. L. 108-458 added par. (2) and struck out heading and text of former par. (2). Text read as follows: “The term ‘Director’ means the Director of Central Intelligence.”

1993—Par. (7). Pub. L. 103-178 substituted “basic pay and amounts deposited” for “basic pay, amounts deposited” and struck out “, and interest determined under section 2121 of this title” after “section 2082(h) of this title”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of this title.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-178, title II, §202(b), Dec. 3, 1993, 107 Stat. 2027, provided that: “The amendments made by subsection (a) [amending this section and sections 2011, 2021, 2031, 2032, 2034, 2035, 2051, 2052, 2054, 2071, 2094, 2095, 2131, and 2154 of this title] shall take effect as of February 1, 1993.”

#### EFFECTIVE DATE

Pub. L. 102-496, title VIII, §805, Oct. 24, 1992, 106 Stat. 3254, provided that: “The amendments made by sections 802 and 803 [enacting this chapter and amending sections 3514, 3518, 3519, and 3607 of this title, sections 8347 and 8423 of Title 5, Government Organization and Employees, and section 1605 of Title 10, Armed Forces] shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Oct. 24, 1992].”

#### EFFECTIVE DATE OF AMENDMENTS TO PUB. L. 88-643 PRIOR TO ENACTMENT OF PUB. L. 102-496

Pub. L. 102-183, title III, §302(d), Dec. 4, 1991, 105 Stat. 1263, provided that: “The amendments made by this section [amending sections 204(b)(3), 221(c)-(e), and 232(c)-(e) of Pub. L. 88-643] shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Dec. 4, 1991] and shall apply with respect to annuities payable to children by reason of the death of a participant or annuitant on or after that date.”

Pub. L. 102-183, title III, §303(b), Dec. 4, 1991, 105 Stat. 1264, provided that: “(1) The amendments made by subsection (a) [amending section 221(p)-(r) of Pub. L. 88-643] shall take effect on the first day of the fourth

month beginning after the date of the enactment of this Act [Dec. 4, 1991].

“(2)(A) The amendment made by subsection (a)(2) [enacting section 221(q) of Pub. L. 88-643] shall apply with respect to participants and former participants regardless of whether they retire before, on, or after the effective date specified in paragraph (1), except that paragraph (1)(A) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2)) shall apply only with respect to participants who retire on or after that effective date.

“(B) In applying the provisions of paragraph (1)(B) of section 221(q) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (as added by subsection (a)(2)) to a participant or former participant who retires before the effective date specified in paragraph (1)—

“(i) the 18-month period referred to in that paragraph shall be considered to begin on the effective date specified in paragraph (1); and

“(ii) the amount referred to in paragraph (2) of that section (as added by subsection (a)(2)) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).”

Pub. L. 102-183, title III, §306(c), Dec. 4, 1991, 105 Stat. 1265, provided that:

“(1) The amendment made by subsection (a)(1) [amending section 226(a) of Pub. L. 88-643] shall be deemed to have become effective as of September 30, 1990, and shall apply in the case of annuitants whose divorce occurs on or after that date.

“(2) The amendments made by subsections (a)(2) and (a)(3) [amending section 226(a) of Pub. L. 88-643] shall be deemed to have become effective as of September 29, 1988.”

Pub. L. 102-183, title III, §309(b), Dec. 4, 1991, 105 Stat. 1266, provided that: “Subsection (h) of section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643], as added by subsection (a), shall be deemed to have become effective as of December 2, 1987.”

Pub. L. 102-183, title III, §310(b), Dec. 4, 1991, 105 Stat. 1267, provided that: “The amendment made by subsection (a) [amending section 204(b)(4) of Pub. L. 88-643] shall apply only to a former husband or wife of a participant or former participant whose divorce from the participant or former participant becomes final after the date of the enactment of this Act [Dec. 4, 1991].”

Pub. L. 102-88, title III, §305(b), Aug. 14, 1991, 105 Stat. 432, provided that:

“(1) The amendments made by subsection (a) [amending sections 221, 222, and 232 of Pub. L. 88-643] relating to widows or widowers shall apply in the case of a surviving spouse's remarriage occurring on or after July 27, 1989, and with respect to periods beginning after such date.

“(2) The amendments made by subsection (a) relating to former spouses shall apply with respect to any former spouse whose remarriage occurs after the date of enactment of this Act [Aug. 14, 1991].”

Amendment by section 307 of Pub. L. 102-88 (amending sections 224 and 225 of Pub. L. 88-643) effective as of Oct. 1, 1990, and no benefits provided pursuant to such amendment to be payable with respect to any period before such date, see section 307(d) of Pub. L. 102-88, set out as an Effective Date of 1991 Amendment note under section 3516 of this title.

Pub. L. 101-193, title III, §304(b), Nov. 30, 1989, 103 Stat. 1703, provided that: “The amendment made by this section [amending section 224(a)(2) of Pub. L. 88-643] shall be effective as of October 1, 1986.”

Pub. L. 100-453, title III, §302(b)(2), Sept. 29, 1988, 102 Stat. 1907, provided that: “The amendments made by paragraph (1) [amending section 224 of Pub. L. 88-643] shall take effect as of October 1, 1986.”

Pub. L. 100-453, title III, §302(c)(2), Sept. 29, 1988, 102 Stat. 1907, provided that: “The amendment made by paragraph (1) [amending section 225(a) of Pub. L. 88-643] shall take effect as of December 2, 1987.”

Pub. L. 100-453, title III, §302(d)(3), Sept. 29, 1988, 102 Stat. 1907, provided that: “The amendment made by this subsection [amending section 221(n), (p) of Pub. L. 88-643] shall apply to marriages which occur on or after May 7, 1985.”

Pub. L. 100-178, title IV, §402(c)-(e), Dec. 2, 1987, 101 Stat. 1014, provided that:

“(c)(1) Except as provided in paragraph (2), the amendments made by this section [amending section 3514 of this title and sections 221(o)(2), 232(b), and 304 of Pub. L. 88-643] shall take effect on November 15, 1982, the effective date of the Central Intelligence Agency Spouses' Retirement Equity Act of 1982.

“(2) The amendment made by subsection (b)(2) [amending section 304 of Pub. L. 88-643] shall take effect on January 1, 1987, the effective date of the Federal Employees' Retirement System Act of 1986.

“(d) Nothing in this section or any amendment made by this section shall be construed to require the forfeiture by any individual of benefits received before the date of the enactment of this Act [Dec. 2, 1987].

“(e) Nothing in this section or any amendment made by this section shall be construed to require a reduction in the level of benefits received by any individual who was receiving benefits under section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643] before the date of enactment of this Act [Dec. 2, 1987].”

Amendment by section 302(a) of Pub. L. 99-569 (enacting section 224 of Pub. L. 88-643) effective Oct. 1, 1986, see section 302(d) of Pub. L. 99-569, set out as an Effective Date of 1986 Amendment note under section 3514 of this title.

Pub. L. 97-269, title VI, §613, Sept. 27, 1982, 96 Stat. 1154, provided that:

“(a) Except as provided in subsections (b) and (c) of this section, this title [enacting section 3514 of this title and sections 222 and 223 of Pub. L. 88-643 and amending sections 204, 211, 221, 234, and 263 of Pub. L. 88-643] shall take effect on November 15, 1982.

“(b) The provisions of section 222(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643], as added by this title, regarding the rights of former spouses to an annuity shall apply in the case of any individual who after the effective date of this title [Nov. 15, 1982] becomes a former spouse of an individual who separates from service with the Agency after such date.

“(c) Except to the extent provided in section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643], the provisions of section 221(b) (as amended by this title) and the provisions of subsections (b) and (c) of section 222 of such Act, as added by this title, regarding the rights of former spouses to receive survivor annuities shall apply in the case of any individual who after the effective date of this title [Nov. 15, 1982] becomes a former spouse of a participant or former participant in the Central Intelligence Agency Retirement and Disability System.”

Pub. L. 94-522, title II, §215, Oct. 17, 1976, 90 Stat. 2472, provided that:

“(a) This Act [amending Pub. L. 88-643] shall become effective October 1, 1976.

“(b) The amendments made by sections 201(a), (b), (c), and (d), 202, and 208 [amending sections 204(a), (b)(2), (3)(i), 221(b) and 232(b) of Pub. L. 88-643] shall not apply in the case of participants who died before January 8, 1971. The amendments made by section 201(e) [amending section 204 of Pub. L. 88-643] shall not apply in the case of participants who died before April 9, 1974. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

“(c) The amendment made by section 203 [enacting section 221(f)(2) of Pub. L. 88-643] shall apply to a participant who married prior to enactment [Oct. 17, 1976] but only if the election is made within one year after enactment [Oct. 17, 1976].

“(d) The amendment made by section 210 [amending section 251 of Pub. L. 88-643] is effective only with re-

spect to annuity accruing for full months beginning after January 8, 1971; but any part of a period of separation referred to in such amendment in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code or any earlier statute on which such chapter is based shall be counted whether the person returns to duty before, on, or after January 8, 1971. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the retired person.

“(e) The amendment in section 211 [amending section 252(a)(2) of Pub. L. 88-643] to credit certain service in the Public Health Service is effective as of April 8, 1960, and the amendment to credit certain service in the National Oceanic and Atmospheric Administration is effective as of September 14, 1961.

“(f) The amendment in section 212 [enacting section 264 of Pub. L. 88-643] is effective as of June 30, 1974.

“(g) The amendment to recompute a reduced annuity during periods when not married in section 202 [amending section 221(b) of Pub. L. 88-643] shall apply to annuities which commence before, on, or after the date of enactment of this Act [Oct. 17, 1976], but no increase in annuity shall be paid for any period prior to November 1, 1974.

“(h) Annuity increases under sections 204 [enacting section 221(i) of Pub. L. 88-643] and 214 [set out below] shall apply to annuities which commence before, on, or after the date of enactment of this Act [Oct. 17, 1976], but no increase in annuity shall be paid for any period prior to August 1, 1974, or the date on which the annuity commences, whichever is later.”

Pub. L. 93-210, §1(b), Dec. 28, 1973, 87 Stat. 908, provided that: “The amendments made by subsection (a) [amending section 291(b) of Pub. L. 88-643] shall apply only with respect to annuities which commence on or after July 2, 1973.”

Pub. L. 91-185, §6, Dec. 30, 1969, 83 Stat. 849, provided that:

“(a) The amendments made by section 1 [amending section 211(a) of Pub. L. 88-643, set out above] shall become effective at the beginning of the first applicable pay period beginning after December 31, 1969.

“(b) The amendments made by sections 3, 4 [amending sections 231(a) and 232(h) of Pub. L. 88-643], and 2 [amending section 221 of Pub. L. 88-643], with the exception of 2(c) [amending subsec. (c) thereof], shall become effective October 20, 1969.

“(c) The amendments made by sections 2(c) and 5 [amending sections 221(c) and 291 of Pub. L. 88-643] shall become effective November 1, 1969.

“(d) The amendments made by sections 2(a), 2(e), 3, and 4(a)(1)-(2) [amending section 221(a), adding section 221(h), and amending sections 231(a) and 232(b) of Pub. L. 88-643] shall not apply in the cases of persons retired or otherwise separated prior to October 20, 1969, and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such sections had not been enacted.”

#### SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-36, §1, June 8, 1993, 107 Stat. 104, provided that: “This Act [amending section 2053 of this title and enacting provisions set out as a note under section 403-4 of this title] may be cited as the ‘Central Intelligence Agency Voluntary Separation Pay Act.’”

#### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-496, title VIII, §801, Oct. 24, 1992, 106 Stat. 3196, provided that: “This title [enacting this chapter, amending sections 403n, 403r, 403r-1, and 403s of this title, sections 8347 and 8423 of Title 5, Government Organization and Employees, section 1605 of Title 10, Armed Forces and sections 4071b to 4071d of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 402 of this title] may be cited as the ‘CIARDS Technical Corrections Act of 1992.’”

#### SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-269, title VI, §601, Sept. 27, 1982, 96 Stat. 1145, provided that: “This title [enacting section 403n of this title and amending Pub. L. 88-643] may be cited as the ‘Central Intelligence Agency Spouses’ Retirement Equity Act of 1982.’”

#### SHORT TITLE

Pub. L. 88-643, §1(a), as added by Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196, provided that: “This Act [enacting this chapter] may be cited as the ‘Central Intelligence Agency Retirement Act.’”

#### SAVINGS PROVISION

Pub. L. 102-496, title VIII, §804, Oct. 24, 1992, 106 Stat. 3253, provided that:

“(a) PRIOR ELECTIONS.—Any election made under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643 prior to enactment of Pub. L. 102-496, formerly set out as a note under section 403 of this title] before the effective date specified in section 805 [set out as an Effective Date note above] shall not be affected by the amendment made by section 802 [enacting this chapter] and shall be deemed to have been made under the corresponding provision of that Act as restated by section 802 as the Central Intelligence Agency Retirement Act.

“(b) REFERENCES.—Any reference in any other Act, or in any Executive order, rule, or regulation, to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, or to a provision of that Act, shall be deemed to refer to that Act and to the corresponding provision of that Act, as restated by section 802 as the Central Intelligence Agency Retirement Act.”

#### FUNDING REQUIREMENTS FOR AMENDMENTS TO PUB. L. 88-643 PRIOR TO ENACTMENT OF PUB. L. 102-496

Pub. L. 100-453, title III, §302(e), Sept. 29, 1988, 102 Stat. 1907, provided that: “Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) provided pursuant to the amendments made by this section [enacting section 226 and amending sections 221, 224, and 225 of Pub. L. 88-643] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.”

For provision that any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made to sections 224 and 225 of Pub. L. 88-643 by section 307 of Pub. L. 102-88 be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts, see section 307(c) of Pub. L. 102-88, set out as a Compliance With Budget Act note under section 3516 of this title.

#### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND; ANNUITY INCREASE PAYMENT; MONTHLY RATE

Pub. L. 94-522, title II, §214, Oct. 17, 1976, 90 Stat. 2472, provided that:

“(a) An annuity payable from the Central Intelligence Agency Retirement and Disability Fund to an annuitant which is based on a separation occurring prior to October 20, 1969, is increased by \$240 per annum.

“(b) In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Central Intelligence Agency Retirement and Disability Fund to the surviving spouse of an annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by \$132 per annum.

“(c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) [section 221 of Pub. L. 88-643

prior to enactment of Pub. L. 102-496; see 50 U.S.C. 2031(a)] for purposes of computing the minimum annuity under new section 221(l) of the Act, as added by section 204 of this Act.”

**TEMPORARY RETIREMENT CONTRIBUTIONS AND PROCEDURES FOR CERTAIN PARTICIPANTS**

For temporary provisions providing modified contributions and procedures for officers and employees participating in the Central Intelligence Agency Retirement and Disability System who are also required to pay employment taxes relating to benefits under title II of the Social Security Act, 42 U.S.C. 401 et seq., until they are covered by a new Government retirement system or Jan. 1, 1986, whichever is earlier, see title II of Pub. L. 98-168, set out as a note under section 8331 of Title 5, Government Organization and Employees.

**CONTINGENT ONCE-A-YEAR ADJUSTMENT IN ANNUITIES**

For provisions which directed the President, subject to certain conditions, to provide for a single cost-of-living adjustment in the annuities paid under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643] during the period Sept. 1, 1980, to Aug. 31, 1981, and which further directed that, subject to the enactment of specified legislation providing for the adjustment of annuities paid under section 8331 et seq. of Title 5, Government Organization and Employees, the President exercise the authority vested in him under section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees [Pub. L. 88-643] to provide for cost-of-living adjustments in the annuities paid under that Act on an identical basis, see Pub. L. 96-342, title VIII, § 812(a)(3), (4), (b)(3), (4), (c), Sept. 8, 1980, 94 Stat. 1098, set out as a note under section 1401a of Title 10, Armed Forces.

**EXECUTIVE ORDER No. 11950**

Ex. Ord. No. 11950, Jan. 6, 1977, 42 F.R. 1451, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with respect to cost of living increases in annuities when there were increases in the price index.

**EXECUTIVE ORDER No. 12023**

Ex. Ord. No. 12023, Dec. 1, 1977, 42 F.R. 61443, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to allotments or assignments of moneys by annuitants.

**EXECUTIVE ORDER No. 12197**

Ex. Ord. No. 12197, Mar. 5, 1980, 45 F.R. 14833, conformed Central Intelligence Agency Retirement and Disability System to amendments to Civil Service Retirement and Disability System with regard to restoration of previously reduced annuities.

**EXECUTIVE ORDER No. 12253**

Ex. Ord. No. 12253, Nov. 25, 1980, 45 F.R. 78995, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to definition of “dependent”.

**EXECUTIVE ORDER No. 12273**

Ex. Ord. No. 12273, Jan. 16, 1981, 46 F.R. 5854, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to cost-of-living increases to annuities.

**EXECUTIVE ORDER No. 12326**

Ex. Ord. No. 12326, Sept. 30, 1981, 46 F.R. 48889, as amended by Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to notification of loss or reduction of survivor benefits, computation of annuities, cost-of-living increases, accuracy of information, and withholding of State income tax.

**EXECUTIVE ORDER No. 12443**

Ex. Ord. No. 12443, Sept. 27, 1983, 48 F.R. 44751, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to restoration of disability retirement annuities, entitlement to and computation and payment of annuities, accuracy of information, and adjustments in amounts.

**EXECUTIVE ORDER No. 12485**

Ex. Ord. No. 12485, July 13, 1984, 49 F.R. 28827, conformed Central Intelligence Agency Retirement and Disability System and Civil Service Retirement and Disability System with regard to prior service credit.

**EXECUTIVE ORDER No. 12684**

Ex. Ord. No. 12684, July 27, 1989, 54 F.R. 31643, conformed Central Intelligence Agency and Civil Service Retirement and Disability Systems with regard to considering part-time service in computing annuities and remarriage of surviving spouses.

**§ 2002. Definitions relating to participants and annuitants**

**(a) General definitions**

When used in subchapter II of this chapter:

**(1) Former participant**

The term “former participant” means a person who—

(A) while an employee of the Agency was a participant in the system; and

(B) separates from the Agency without entitlement to immediate receipt of an annuity from the fund.

**(2) Retired participant**

The term “retired participant” means a person who—

(A) while an employee of the Agency was a participant in the system; and

(B) is entitled to receive an annuity from the fund based upon such person’s service as a participant.

**(3) Surviving spouse**

**(A) In general**

The term “surviving spouse” means the surviving wife or husband of a participant or retired participant who (i) was married to the participant or retired participant for at least 9 months immediately preceding the participant’s or retired participant’s death, or (ii) who is the parent of a child born of the marriage.

**(B) Treatment when participant dies less than 9 months after marriage**

In a case in which the participant or retired participant dies within the 9-month period beginning on the date of the marriage, the requirement under subparagraph (A)(i) that a marriage have a duration of at least 9 months immediately preceding the death of the participant or retired participant shall be treated as having been met if—

(i) the death of the participant or retired participant was accidental; or

(ii) the surviving wife or husband had been previously married to the participant or retired participant (and subsequently divorced) and the aggregate time married is at least 9 months.