

**(c) Nonapplicability of FERS to certain employees**

(1) The provisions of chapter 84 of title 5 shall not apply with respect to—

(A) any individual who separates, or who has separated, from Federal Government service after having been an employee of the Agency subject to subchapter II of this chapter; and

(B) any employee of the Agency having at least 5 years of civilian service which was performed before January 1, 1987, and is creditable under subchapter II of this chapter (determined without regard to any deposit or re-deposit requirement under subchapter III of chapter 83 of title 5, or under subchapter II of this chapter, or any requirement that the individual become subject to such subchapter or to subchapter II of this chapter after performing the service involved).

(2) Paragraph (1) shall not apply with respect to an individual who has elected under regulations prescribed under section 2157 of this title to become subject to chapter 84 of title 5 to the extent provided in such regulations.

(3) An individual described in paragraph (1) shall be deemed to be an individual excluded under section 8402(b)(2) of title 5.

**(d) Election to become subject to FERS**

An employee who is designated as a participant in the Central Intelligence Agency Retirement and Disability System after December 31, 1987, pursuant to section 2013 of this title may elect to become subject to chapter 84 of title 5. Such election—

(1) shall not be effective unless it is made during the six-month period beginning on the date on which the employee is so designated;

(2) shall take effect beginning with the first pay period beginning after the date of the election; and

(3) shall be irrevocable.

**(e) Special rules**

The application of the provisions of chapter 84 of title 5 to an employee referred to in subsection (a) of this section shall be subject to the exceptions and special rules provided in this subchapter. Any provision of that chapter which is inconsistent with a special rule provided in this subchapter shall not apply to such employees.

(Pub. L. 88-643, title III, §301, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3243.)

## REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a) and (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 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.

## PRIOR PROVISIONS

A prior section 301 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 624; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-453, title V, §502, Sept. 29, 1988, 102 Stat. 1909, related to application of Federal Employees' Retirement System to Agency 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.

**§ 2152. Special rules relating to section 2013 criteria employees****(a) In general**

Except as otherwise provided in this section, in the application of chapter 84 of title 5 to an employee of the Agency who is subject to such chapter and is designated by the Director under the criteria prescribed in section 2013 of this title, such employee shall be treated for purposes of determining such employee's retirement benefits and obligations under such chapter as if the employee were a law enforcement officer (as defined in section 8401(17) of title 5).

**(b) Voluntary and mandatory retirement**

The provisions of sections 2053 and 2055 of this title shall apply to employees referred to in subsection (a) of this section, except that the retirement benefits shall be determined under chapter 84 of title 5.

**(c) Recall**

(1) Except as provided in paragraph (2), section 2111 of this title shall apply to an employee referred to in subsection (a) of this section.

(2) Contributions during recall service shall be made as provided in section 8422 of title 5.

(3) When an employee recalled under this subsection reverts to a retired status, the annuity of such employee shall be redetermined under the provisions of chapter 84 of title 5.

(Pub. L. 88-643, title III, §302, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3244.)

## PRIOR PROVISIONS

A prior section 302 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 625, related to special rules relating to employees designated under criteria of former section 203 of Pub. L. 88-643 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.

**§ 2153. Special rules for other employees for service abroad****(a) Special computation rule**

Notwithstanding any provision of chapter 84 of title 5, the annuity under subchapter II of such chapter of a retired employee of the Agency who is not designated under section 2152(a) of this title and who has served abroad as an employee of the Agency after December 31, 1986, shall be computed as provided in subsection (b) of this section.

**(b) Computation****(1) Service abroad**

The portion of the annuity relating to such service abroad shall be computed as provided in section 8415(e) of title 5.

**(2) Other service**

The portions of the annuity relating to other creditable service shall be computed as provided in section 8415 of such title that is applicable to such service under the conditions prescribed in chapter 84 of such title.

(Pub. L. 88-643, title III, §303, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3244; amended Pub. L. 112-96, title V, §5001(c)(2)(G), Feb. 22, 2012, 126 Stat. 200.)

#### PRIOR PROVISIONS

A prior section 303 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 626, related to special rules for other employees for service abroad 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

2012—Subsec. (b)(1). Pub. L. 112-96 substituted “section 8415(e)” for “section 8415(d)”.

### § 2154. Special rules for former spouses

#### (a) General rule

Except as otherwise specifically provided in this section, the provisions of chapter 84 of title 5 shall apply in the case of an employee of the Agency who is subject to chapter 84 of title 5 and who has a former spouse (as defined in section 8401(12) of title 5) or a qualified former spouse.

#### (b) Definitions

For purposes of this section:

##### (1) Employee

The term “employee” means an employee of the Agency who is subject to chapter 84 of title 5, including an employee referred to in section 2152(a) of this title.

##### (2) Qualified former spouse

The term “qualified former spouse” means a former spouse of an employee or retired employee who—

(A) in the case of a former spouse whose divorce from such employee became final on or before December 4, 1991, was married to such employee for not less than 10 years during periods of the employee’s service which are creditable under section 8411 of title 5, at least 5 years of which were spent outside the United States by both the employee and the former spouse during the employee’s service with the Agency; and

(B) in the case of a former spouse whose divorce from such employee becomes final after December 4, 1991, was married to such employee for not less than 10 years during periods of the employee’s service which are creditable under section 8411 of title 5, at least 5 years of which were spent by the employee outside the United States during the employee’s service with the Agency or otherwise in a position the duties of which qualified the employee for designation by the Director under the criteria prescribed in section 2013 of this title.

##### (3) Pro rata share

The term “pro rata share” means the percentage that is equal to (A) the number of days of the marriage of the qualified former spouse to the employee during the employee’s periods of creditable service under chapter 84 of title 5, divided by (B) the total number of days of the employee’s creditable service.

##### (4) Spousal agreement

The term “spousal agreement” means an agreement between an employee, former em-

ployee, or retired employee and such employee’s spouse or qualified former spouse that—

- (A) is in writing, is signed by the parties, and is notarized;
- (B) has not been modified by court order; and
- (C) has been authenticated by the Director.

#### (5) Court order

The term “court order” means any court decree of divorce, annulment or legal separation, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

#### (c) Entitlement of qualified former spouse to retirement benefits

##### (1) Entitlement

###### (A) In general

Unless otherwise expressly provided by a spousal agreement or court order governing disposition of benefits payable under subchapter II or V of chapter 84 of title 5, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of all benefits otherwise payable to such employee under subchapter II or V of chapter 84 of title 5.

###### (B) Amount of share

The share referred to in subparagraph (A) equals—

- (i) 50 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee’s service which is creditable under chapter 84 of title 5;<sup>1</sup> or
- (ii) a pro rata share of 50 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

##### (2) Annuity supplement

The benefits payable to an employee under subchapter II of chapter 84 of title 5 shall include, for purposes of this subsection, any annuity supplement payable to such employee under sections 8421 and 8421a of such title.

##### (3) Disqualification upon remarriage before age 55

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

##### (4) Commencement and termination

###### (A) Commencement

The benefits of a qualified former spouse under this subsection commence on the later of—

- (i) the day on which the employee upon whose service the benefits are based becomes entitled to the benefits; or
- (ii) the first day of the second month beginning after the date on which the Director receives written notice of the court

<sup>1</sup> So in original. Probably should be title “5”.