

participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

- (1) returned in a lump sum;
- (2) used to purchase an additional life annuity;
- (3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or
- (4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) Computation of benefits

The benefits provided by subsection (a)(2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) Lump-sum payment; time; order of precedence

A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 4055(f) of this title.

(Pub. L. 96-465, title I, § 825, Oct. 17, 1980, 94 Stat. 2122.)

AMENDMENT OF SECTION

Section 1(a) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that the first sentence of subsection (a) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and vol-

untary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury.

CODIFICATION

In subsec. (a), “February 15, 1981” substituted for “the effective date of this Act” pursuant to section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of this title.

§ 4066. Cost-of-living adjustment of annuities

(a) Effective date

A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5. Each such increase shall be applied to each annuity payable from the Fund under this part which has a commencing date not later than the effective date of the increase.

(b) Applicability of increases under other provisions of law

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

(c) Eligibility for increases

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

(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest $\frac{1}{10}$ of 1 percent) of—

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

(B) the number of 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 or former spouse 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 under this part to the survivor of an annuitant, except a child entitled to an annuity under section 4046(c) of this title or section 4049(c) or (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 or recomputing an annuity to a child under section 4046(c)

or (d) of this title or section 4049(c) or (d) of this title, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 4046(c) of this title shall be increased by the total percentage increases by which corresponding amounts are being increased under section 8340 of title 5 on the date the annuity of the child becomes effective.

(d) Exclusion of additional annuity purchased after retirement by voluntary contribution

No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) Rounding off of amount; minimum increases

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

(f) Rate of increase for surviving spouses of annuitants electing reduced annuity

Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

(g) Maximum annuity

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

(A) the maximum pay rate payable for class FS-1 under section 3963 of this title, 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 3963 of this title during the period—

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

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

(2) For the purposes of paragraph (1) of this subsection, "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. 96-465, title I, § 826, Oct. 17, 1980, 94 Stat. 2123; Ex. Ord. No. 12289, § 1, Feb. 14, 1981, 46 F.R. 12693; Ex. Ord. No. 12446, §§ 2(a), 6(a), Oct. 17, 1983, 48 F.R. 48443, 48446; Pub. L. 99-335, title IV, § 402(a)(3), June 6, 1986, 100 Stat. 609; Pub. L. 100-238, title II, § 219, Jan. 8, 1988, 101 Stat. 1775.)

AMENDMENTS

1988—Subsec. (c)(1). Pub. L. 100-238 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The first increase (if any) made under this section to an annuity which is payable from the Fund under this part to a participant or to the surviving spouse of a de-

ceased participant who dies in service shall be equal to the product (adjusted to the nearest $\frac{1}{40}$ of 1 percent) of—

"(a) $\frac{1}{2}$ of the applicable percent change determined under subsection (b) of this section, multiplied by

"(b) the number of full months for which the annuity was payable from the Fund under this part before the effective date of the increase (counting any portion of a month as a full month).

In the administration of this paragraph, the number of days of unused sick leave to the credit of a participant or deceased participant on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service."

1986—Subsecs. (a), (c). Pub. L. 99-335 inserted "under this part" after "payable from the Fund" wherever appearing.

1983—Subsec. (e). Ex. Ord. No. 12446, § 2(a), substituted "rounded to the next lowest" for "fixed at the nearest".

Subsec. (g). Ex. Ord. No. 12446, § 6(a), added subsec. (g).

1981—Subsec. (c)(1). Ex. Ord. No. 12289 amended first sentence of par. (1) generally. Prior to amendment, first sentence read as follows: "An annuity (except a deferred annuity) payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse or former spouse of a deceased participant who dies in service or who dies after being separated with benefits under section 4009(b)(2) of this title, which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase."

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 2(a) Ex. Ord. No. 12446 effective with respect to any adjustment or redetermination of any annuity made on or after Oct. 17, 1983, see section 2(b) of Ex. Ord. No. 12446, set out under section 4067 of this title.

Amendment by section 6 of Ex. Ord. No. 12446 applicable to any adjustment occurring on or after Apr. 1, 1983 under this section to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after Oct. 17, 1983, but shall not cause any annuity to be reduced below the rate that is payable on Oct. 17, 1983, see section 6(b) of Ex. Ord. No. 12446, set out under section 4067 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Ex. Ord. No. 12289 effective Feb. 15, 1981, see section 3 of Ex. Ord. No. 12289, set out under section 4067 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.

§ 4067. Compatibility between retirement systems**(a) Civil Service and Foreign Service Retirement Systems**

In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

(b) Regulations to implement prescribed by Executive order

The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System. Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

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

(c) Federal Employees' Retirement and Foreign Service Pension Systems

The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Federal Employees' Retirement System provided in chapter 84 of title 5 and the Foreign Service Pension System provided in part II of this subchapter.

(Pub. L. 96-465, title I, § 827, Oct. 17, 1980, 94 Stat. 2124; Pub. L. 99-335, title IV, § 411, June 6, 1986, 100 Stat. 614.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-335 added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

REFERENCE TO VETERANS' ADMINISTRATION DEEMED
REFERENCE TO DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 102-54, § 13(h)(2), June 13, 1991, 105 Stat. 275, provided that: "Any reference to the Veterans' Administration in any regulation prescribed or Executive

order issued pursuant to section 827(a) of the Foreign Service Act of 1980 (22 U.S.C. 4067(a)) shall be deemed to be a reference to the Department of Veterans Affairs."

CONSTRUCTION OF SECTION WITH CIVIL SERVICE
RETIREMENT SPOUSE EQUITY ACT OF 1984

This section not applicable with respect to either the amendments made by section 2 of Pub. L. 98-615 or the provisions of section 4 of Pub. L. 98-615 relating to equitable treatment under the Civil Service Retirement System for former spouses, except that, notwithstanding section 4(h) of Pub. L. 98-615, this section applicable with respect to sections 8339(j) and 8341(e) and (h) of Title 5, Government Organization and Employees, and section 4 (except subsec. (b)) of Pub. L. 98-615 to the extent that those sections apply to a qualified former wife or husband, see section 4069-1 of this title and section 4(h) of Pub. L. 98-615, set out as an Effective Date of 1984 Amendment note under section 8341 of Title 5.

RECOMMENDATIONS BY SECRETARY OF STATE TO
PRESIDENT

For authority for the Secretary of State to make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under this section to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System, see section 3 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

EX. ORD. NO. 12289. CONFORMING THE FOREIGN SERVICE
AND CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEMS

Ex. Ord. No. 12289, Feb. 14, 1981, 46 F.R. 12693, as amended by Pub. L. 102-54, § 13(h)(2), June 13, 1991, 105 Stat. 275, provided:

By the authority vested in me as President of the United States of America by Section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067), and in order to conform further the Foreign Service Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

SECTION 1. (a) Section 826(c) of the Foreign Service Act of 1980 (22 U.S.C. 4066(c)) is deemed to be amended by striking out the first sentence of paragraph (1) thereof, and inserting in lieu thereof the following sentence:

"(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse of a deceased participant who dies in service shall be equal to the product (adjusted to the nearest $\frac{1}{10}$ of 1 percent) of—

"(a) $\frac{1}{6}$ of the applicable percent change determined under Subsection (b) of this Section, multiplied by

"(b) the number of full months for which the annuity was payable from the Fund before the effective date of the increase (counting any portion of a month as a full month)."

SEC. 2. Section 808(a) of the Foreign Service Act of 1980 (22 U.S.C. 4048(a)) is deemed to be amended by adding at the end thereof the following:

"However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in Section 8332(c)(1) or (2) of title 5 of the United States Code) or Department of Veterans Affairs pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under this chapter excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of title 5 of the United States Code, or the Department of Veterans Affairs pension or compensation in lieu of such retired pay or retainer pay, is