

married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 4046(i) of this title as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this subchapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

(g) Limitation on surviving spouse's annuity

Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 4054(b) of this title, the annuity of the spouse under this section shall be subject to the limitation of section 4046(b)(3)(B) of this title.

(h) Commencement, termination, and resumption of annuities

Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 4046 of this title, as appropriate.

(Pub. L. 96-465, title I, § 809, Oct. 17, 1980, 94 Stat. 2111; Pub. L. 99-335, title IV, § 402(a)(2), (c), June 6, 1986, 100 Stat. 609; Pub. L. 100-238, title II, § § 214(b), 215(b), Jan. 8, 1988, 101 Stat. 1774.)

AMENDMENTS

1988—Subsecs. (c), (d). Pub. L. 100-238, § 214(b), inserted “or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant,” after “spouse”.

Subsec. (e). Pub. L. 100-238, § 215(b), substituted “60” for “65”.

1986—Subsec. (a). Pub. L. 99-335, § 402(c), substituted “part” for “chapter”.

Subsec. (b). Pub. L. 99-335, § 402(a)(2), substituted “part” for “subchapter”.

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.

§ 4050. Discontinued service retirement

Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 4055 of this title, or to leave his or her contributions in the Fund and receive an annuity, computed under section 4046 of this title, commencing at age 60.

(Pub. L. 96-465, title I, § 810, Oct. 17, 1980, 94 Stat. 2112.)

§ 4051. Voluntary retirement

Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 4046 of this title. The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. Any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, if the participant had been covered under the Civil Service Retirement System rather than subject to this subchapter while a member of the Service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5, if all contributions transferred to the Fund under section 4045(c)(1) of this title, as well as all contributions withheld from the participant's pay or contributed by the employer, and deposited into the Fund during the period he or she was subject to this subchapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service.

(Pub. L. 96-465, title I, § 811, Oct. 17, 1980, 94 Stat. 2112; Pub. L. 100-238, title II, § 216, Jan. 8, 1988, 101 Stat. 1774.)

AMENDMENTS

1988—Pub. L. 100-238 inserted last two sentences relating to withholding consent to retirement and to certain participants who voluntarily separate from the Service before completing 5 years in the System.

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.

§ 4052. Mandatory retirement

(a)(1) Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 4046 of this title.

(2) Notwithstanding paragraph (1)—

(A) an individual described in section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998 who is otherwise eligible for immediate retirement under this subchapter; or

(B) a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, as applicable, had the employee remained in civil service,

shall be separated from the Service on the last day of the month in which such individual under

subparagraph (A) or such Foreign Service criminal investigator/inspector under subparagraph (B) attains 57 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completes a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

(Pub. L. 96-465, title I, § 812, Oct. 17, 1980, 94 Stat. 2113; Pub. L. 101-513, title V, § 587(b), Nov. 5, 1990, 104 Stat. 2056; Pub. L. 102-499, § 4(c), Oct. 24, 1992, 106 Stat. 3265; Pub. L. 105-382, § 3, Nov. 13, 1998, 112 Stat. 3408.)

REFERENCES IN TEXT

Section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998, referred to in subsec. (a)(2)(A), is section 4(a)(2) of Pub. L. 105-382, which is set out as a note under section 4044 of this title.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-382 amended first sentence generally. Prior to amendment, first sentence read as follows: “Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 57 years of age or completes 20 years of service if then over that age.”

1992—Subsec. (a)(2). Pub. L. 102-499 substituted “57” for “55”.

1990—Subsec. (a). Pub. L. 101-513 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105-382, as amended, set out as a note under section 4044 of this title.

§ 4053. Reassignment and retirement of former Presidential appointees

(a) Reassignment or retirement of participants not eligible for retirement

A participant, who completes an assignment under section 3942(b) of this title in a position to which the participant was appointed by the

President, and is not otherwise eligible for retirement—

(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 4046 or 4071d of this title, as appropriate.

(b) Retirement of participants eligible for retirement

A participant who completes an assignment under section 3942(b) of this title in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized leave, shall be retired from the Service and receive retirement benefits in accordance with section 4046 of this title or section 4071d of this title, as appropriate.

(c) Retirement of reemployed participants

A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.

(Pub. L. 96-465, title I, § 813, Oct. 17, 1980, 94 Stat. 2113; Pub. L. 102-138, title I, § 149, Oct. 28, 1991, 105 Stat. 670; Pub. L. 103-236, title I, § 174, Apr. 30, 1994, 108 Stat. 413.)

AMENDMENTS

1994—Pub. L. 103-236 added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which read as follows:

“(a) Except as provided under subsection (b) of this section, a participant, who completes an assignment under section 3942(b) of this title in a position to which he or she was appointed by the President, shall be offered reassignment within 90 days after the termination of such assignment and any period of authorized leave.

“(b) Subsection (a) of this section shall not apply with respect to a participant, if the Secretary of State determines that reassignment of the participant is not in the interest of the United States and the Foreign Service.

“(c) A participant who is not reassigned under subsection (a) of this section shall be retired from the Service and receive retirement benefits in accordance with section 4046 or 4071d of this title, as appropriate.”

1991—Pub. L. 102-138 inserted “Reassignment and” in section catchline and amended text generally. Prior to amendment, text read as follows: “If a participant completes an assignment under section 3942(b) of this title in a position to which he or she was appointed by the President and has not been reassigned within 3 months after the termination of such assignment (plus any period of authorized leave), the participant shall be retired from the Service and receive retirement benefits in accordance with section 4046 of this title.”

§ 4054. Former spouses

(a) Living Service members

(1) Unless otherwise expressly provided by any spousal agreement or court order under section 4060(b)(1) of this title, a former spouse of a participant or former participant is entitled to an annuity if such former spouse was married to