

“(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act [42 U.S.C. 409] and all self-employment income (within the meaning of section 211(b) of such Act [42 U.S.C. 411(b)]) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act [42 U.S.C. 415(e)(1)]) for each such year.

“(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act [this subchapter] to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

“(d) For purposes of this section, the term ‘determination month’ means—

“(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act [42 U.S.C. 402] (or would be entitled to such benefits upon filing application therefor); or

“(2) the first day of the month following the month in which this Order is issued [Oct. 1983] in the case of any individual so entitled to such benefits for such month.

“(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act [this subchapter] for calendar months beginning after the date of this Order [Oct. 17, 1983].

“(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section.”

Section 1(b) and (c) of Ex. Ord. No. 12446 provided that subsection (d) 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 voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to exclude from the computation of creditable civilian service under subsec. (a) of this section any period of civilian service for which retirement deductions or contributions have not been made under section 4045(d) of this title unless—

(1) the participant makes a contribution for such period as provided in such section 4045(d) of this title; or

(2) no contribution is required for such service as provided under section 4045(f) of this title as deemed to be amended by this Order, or under any other statute.

#### AMENDMENTS

1990—Subsec. (i)(2). Pub. L. 101-246 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “A former spouse shall not be considered as married to a participant—

“(A) for periods assumed to be creditable service under section 4048(a) of this title or section 4049(e) of this title, or

“(B) for any extra period of creditable service provided under section 4057 of this title for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period.”

1986—Subsecs. (a), (b), (f), (h), (i)(1), (j)(1). Pub. L. 99-335 substituted “part” for “subchapter” wherever appearing.

1983—Subsec. (a). Ex. Ord. No. 12446, §4(b), designated existing provisions as par. (1) and added pars. (2) to (4). Subsec. (j). Ex. Ord. No. 12446, §4(c), added subsec. (j).

#### 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 4 of Ex. Ord. No. 12446 effective Oct. 17, 1983, see section 4(e) of Ex. Ord. No. 12446, set out under section 4067 of this title.

### § 4057. Extra credit for service at unhealthful posts

The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5 for such service. Such extra credit may not be used to determine the eligibility of a person to qualify as a former spouse under this part, or to compute the pro rata share under section 4044(10) of this title. No extra credit for service at unhealthful posts may be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after February 16, 1990.

(Pub. L. 96-465, title I, §817, Oct. 17, 1980, 94 Stat. 2120; Pub. L. 101-246, title I, §145(b), Feb. 16, 1990, 104 Stat. 37.)

#### AMENDMENTS

1990—Pub. L. 101-246 inserted provisions at end that extra credit not be used to determine eligibility to qualify as former spouse under this part or to compute the pro rata share under section 4044(10) of this title and that no extra credit for service at unhealthful posts be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after Feb. 16, 1990.

### § 4058. Estimate of appropriations needed

The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding \$5,000 per year for the incidental expenses necessary in ad-

ministering the provisions of this part, including actuarial advice.

(Pub. L. 96-465, title I, § 818, Oct. 17, 1980, 94 Stat. 2120; Pub. L. 99-335, title IV, § 402(a)(2), June 6, 1986, 100 Stat. 609.)

#### AMENDMENTS

1986—Pub. L. 99-335 substituted “part” for “subchapter”.

#### 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.

### § 4059. Investment of Fund

The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

(Pub. L. 96-465, title I, § 819, Oct. 17, 1980, 94 Stat. 2120.)

### § 4060. Assignment and attachment of moneys

#### (a) Annuities and severance pay benefits

(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3727 of title 31 or any other law, a member of the Service who is entitled to receive benefits under section 4009(b)(1) of this title may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

#### (b) Participants or annuitants having former spouses

(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 4054(a) of this title in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 4054(b) or (c) of this title, and the amount of any such annuity; and

(iii) any right of the former spouse to any payment of a lump-sum credit under section 4055(a) or (b) of this title;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has not been an annuity reduction (or a salary reduction or payment under section 4054(c)(3) of this title); or

(ii) is otherwise inconsistent with the requirements of this part.

(2) Except with respect to obligations between participants and former spouses, payments under this part which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this part for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 4044(b)(6) of this title, or any other provision of this part, shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this part.

#### (c) Applicability of other provisions of law or remedies

None of the moneys mentioned in this part shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

(Pub. L. 96-465, title I, § 820, Oct. 17, 1980, 94 Stat. 2120; Pub. L. 99-335, title IV, § 402(a)(2), June 6, 1986, 100 Stat. 609.)

#### CODIFICATION

In subsec. (a)(2), “section 3727 of title 31” substituted for “section 3477 of the Revised Statutes of the United States (31 U.S.C. 203)” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### AMENDMENTS

1986—Subsecs. (b)(1)(B)(ii), (2), (3), (5), (c). Pub. L. 99-335 substituted “this part” for “this subchapter” wherever appearing.

#### 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.

### § 4061. Payments for future benefits

#### (a) Statutes deemed to authorize appropriations to Fund to finance unfunded liability

Any statute which authorizes—