

which the Secretary determines that the circumstances so warrant.

(c) Disqualification

(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) Prohibition on coverage by more than one plan

No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) "Health benefits plan" defined

For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5.

(Pub. L. 96-465, title I, §833, as added Pub. L. 100-238, title II, §204(a), Jan. 8, 1988, 101 Stat. 1772.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (b)(1), see Effective Date note set out below.

EFFECTIVE DATE

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

PART II—FOREIGN SERVICE PENSION SYSTEM

§ 4071. Establishment; application of Federal Employees' Retirement System to Foreign Service Pension System participants

(a) There is hereby established a Foreign Service Pension System.

(b) Except as otherwise specifically provided in this part or any other provision of law, the provisions of chapter 84 of title 5 shall apply to all participants in the Foreign Service Pension System and such participants shall be treated in all respects similar to persons whose participation in the Federal Employees' Retirement System provided in that chapter is required.

(Pub. L. 96-465, title I, §851, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 615.)

EFFECTIVE DATE

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

§ 4071a. Definitions

As used in this part, unless otherwise specified—

(1) the term "court order" has the same meaning given in section 4044(4) of this title;

(2) the term "Fund" means the Foreign Service Retirement and Disability Fund maintained by the Secretary of the Treasury pursuant to section 4042 of this title;

(3) the term "lump-sum credit" means the unrefunded amount consisting of—

(A) retirement deductions made from the basic pay of a participant under section 4071e of this title (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);

(B) amounts deposited by a participant under section 4071c of this title to obtain credit under this System for prior civilian or military service; and

(C) interest on the deductions and deposits which, for any calendar year, shall be 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 (compounded annually); but does not include interest—

(i) if the service covered thereby aggregates 1 year or less; or

(ii) for a fractional part of a month in the total service;

(4) the term "normal cost" means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

(5) the term "participant" means a person who participates in the Foreign Service Pension System;

(6) the term "pro rata share" in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this subchapter is of (B) the total number of years of such service, disregarding extra credit under section 4057 of this title;

(7) the term "revised annuity participant" means any individual who—

(A) on December 31, 2012—

(i) is not a participant;

(ii) is not performing service which is creditable service under section 4071c of this title; and

(iii) has less than 5 years creditable service under section 4071c of this title; and

(B) after December 31, 2012, and before January 1, 2014, becomes a participant performing service which is creditable service under section 4071c of this title;

(8) the term "further revised annuity participant" means any individual who—

(A) on December 31, 2013—

(i) is not a participant;

(ii) is not performing service which is creditable service under section 4071c of this title; and

(iii) has less than 5 years creditable service under section 4071c of this title; and

(B) after December 31, 2013, becomes a participant performing service which is creditable service under section 4071c of this title;

(9) the term “supplemental liability” means the estimated excess of—

(A) the actuarial present value of all future benefits payable from the Fund under this part based on the service of participants or former participants, over

(B) the sum of—

(i) the actuarial present value of (I) deductions to be withheld from the future basic pay of participants pursuant to section 4071e of this title and (II) contributions for past civilian and military service;

(ii) the actuarial present value of future contributions to be made pursuant to section 4071f of this title;

(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

(I) to the System, or

(II) to the contributions made under the Federal Employees’ Retirement Contribution Temporary Adjustment Act of 1983 (5 U.S.C. 8331 note); and

(iv) any other appropriate amount, as determined by the Secretary of State in accordance with generally accepted actuarial practices and principles;

(10) the term “System” means the Foreign Service Pension System; and

(11) the term “special agent” has the same meaning given in section 4044(15) of this title.

(Pub. L. 96-465, title I, §852, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 615; amended Pub. L. 100-238, title II, §241, Jan. 8, 1988, 101 Stat. 1776; Pub. L. 105-382, §2(a)(2), Nov. 13, 1998, 112 Stat. 3406; Pub. L. 112-96, title V, §5002(a), Feb. 22, 2012, 126 Stat. 200; Pub. L. 113-67, div. A, title IV, §402(a), Dec. 26, 2013, 127 Stat. 1185.)

REFERENCES IN TEXT

The Federal Employees’ Retirement Contribution Temporary Adjustment Act of 1983, referred to in pars. (3)(A) and (7)(B)(iii)(II), is title II of Pub. L. 98-168, Nov. 29, 1983, 97 Stat. 1106, as amended, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

AMENDMENTS

2013—Par. (7)(B). Pub. L. 113-67, §402(a)(2), inserted “and before January 1, 2014,” after “after December 31, 2012.”

Pars. (8) to (11). Pub. L. 113-67, §402(a)(1), added par. (8) and redesignated former pars. (8) to (10) as (9) to (11), respectively.

2012—Pars. (7) to (10). Pub. L. 112-96 added par. (7) and redesignated former pars. (7) to (9) as (8) to (10), respectively.

1998—Par. (9). Pub. L. 105-382 added par. (9).

1988—Pars. (3) to (8). Pub. L. 100-238 added par. (3) and redesignated former pars. (3) to (7) as (4) to (8), respectively.

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.

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.

§ 4071b. Participants

(a) Covered members

Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26, who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 4043 of this title shall instead be participants in the Foreign Service Pension System.

(b) Exclusion of participants in Foreign Service Retirement and Disability System

Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act [42 U.S.C. 401 et seq.].

(c) Exclusion of individuals with certain creditable civilian service

Individuals who become members of the Service after having completed at least 5 years of civilian service creditable under part I of this subchapter, subchapter III of chapter 83 of title 5 (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) (determined without regard to any deposit or redeposit requirement under any such part, subchapter, or title, any requirement that the individual become subject to such part, subchapter, or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual’s desire to become subject to such part, subchapter, or title) are not participants in the System, except to the extent provided for under title III of the Federal Employees’ Retirement System Act of 1986 pursuant to an election under such title to become subject to this part (under regulations issued by the Secretary of State pursuant to section 4071i of this title).

(d) Exclusion of temporary or intermittent employees

The Secretary may exclude from the operation of this part any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career appointment or career candidate appointment under section 3946 of this title.

(Pub. L. 96-465, title I, §853, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 616; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-178, title II, §204(b)(1), Dec. 3, 1993, 107 Stat. 2033.)