

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this part, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

**(b) Entitlement to survivor benefits; determination of share; disqualification upon remarriage**

(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this part to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this part to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this subchapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

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

**(c) Diminution of entitlement of former spouse prohibited**

A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5 or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

**(d) Transfer of participant from Foreign Service Retirement and Disability System; determination of benefit share**

If a member becomes a participant under this part after qualifying for benefits under part I and, at the time of transfer, has a former spouse entitled to benefits under part I which are determined under section 4054 or 4055 of this title (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 4054 or 4055 of this title and the service of the member as a participant under this part is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply.

**(e) Death of participant entitled to deferred annuity; spousal agreement; payment of survivor annuity**

If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, to a former spouse, such survivor annuity shall be paid under the terms of this part as if the survivor annuity had been ordered by a court.

(Pub. L. 96-465, title I, §861, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 619; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-556, title IV, §407, Oct. 27, 1986, 100 Stat. 3139.)

**Editorial Notes**

AMENDMENTS

1986—Subsec. (a)(4)(A). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (b)(3). Pub. L. 99-556 added par. (3).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-556 effective Jan. 1, 1987, see section 408 of Pub. L. 99-556, set out as a note under section 4046 of this title.

**§ 4071k. Spousal agreements**

A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this chapter and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this part to a spouse or former spouse.

(Pub. L. 96-465, title I, §862, as added Pub. L. 99-335, title IV, §415, June 6, 1986, 100 Stat. 621.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

**SUBCHAPTER IX—TRAVEL, LEAVE, AND OTHER BENEFITS**

**§ 4081. Travel and related expenses**

The Secretary may pay the travel and related expenses of members of the Service and their

families, including costs or expenses incurred for—

- (1) proceeding to and returning from assigned posts of duty;
- (2) authorized or required home leave;
- (3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;
- (4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;
- (5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

- (6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour and of 2 round trips during any continuous 3-year tour;

- (7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

- (8) trips by a member of the Service, and members of his or her family, for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the

member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

- (9) roundtrip travel to or from an employee's post of assignment for purposes of family visitation in emergency situations involving personal hardship, except that payment for travel by family members to an employee's post of assignment may be authorized under this paragraph only where the family of the member is prevented by official order from residing at such post.<sup>1</sup>

- (10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status or, if death occurs in the United States, transport of the remains to the designated home in the United States or to a place not more distant;

- (11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

- (12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Service post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days; and

(C) in connection with separation of the member from the Service, except that costs

<sup>1</sup> So in original. The period probably should be a semicolon.

or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days;

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, but transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the member and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of chapter 33 of title 5 (notwithstanding section 3375(a) of such title, if an agreement similar to that required by section 3375(b) of such title is executed by the member of the Service); and

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent.

(Pub. L. 96-465, title I, § 901, Oct. 17, 1980, 94 Stat. 2124; Pub. L. 101-246, title I, § 148, Feb. 16, 1990, 104 Stat. 38; Pub. L. 102-138, title I, §§ 145, 146, Oct. 28, 1991, 105 Stat. 668, 669; Pub. L. 107-228, div. A, title III, §§ 315(a), 328, Sept. 30, 2002, 116 Stat. 1379, 1387; Pub. L. 109-234, title I, § 1602(d)(1), June 15, 2006, 120 Stat. 442; Pub. L. 110-321, § 2(1), Sept. 19, 2008, 122 Stat. 3535.)

## Editorial Notes

### AMENDMENTS

2008—Par. (6)(B). Pub. L. 110-321 inserted “or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands” after “United States”.

2006—Par. (6). Pub. L. 109-234, which directed amendment of section 901(6) of the Foreign Service Act by striking out “unbroken by home leave” wherever appearing, was executed by striking out those words after “2-year tour” and “3-year tour” in concluding provisions of par. (6) of this section, which is section 901 of the Foreign Service Act of 1980, to reflect the probable intent of Congress.

2002—Par. (8). Pub. L. 107-228, § 315(a), substituted “Service, and members of his or her family,” for “Service”.

Par. (15). Pub. L. 107-228, § 328, in concluding provisions, substituted “residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent” for “port of entry in the contiguous 48 States which is nearest to that post”.

1991—Par. (10). Pub. L. 102-138, § 146, inserted before semicolon “or, if death occurs in the United States, transport of the remains to the designated home in the United States or to a place not more distant”.

Par. (12)(B). Pub. L. 102-138, § 145(1), inserted before semicolon “, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days”.

Par. (12)(C). Pub. L. 102-138, § 145(2), inserted before semicolon “, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days”.

1990—Par. (9). Pub. L. 101-246 amended par. (9) generally. Prior to amendment, par. (9) read as follows: “round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;”.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-228, div. A, title III, § 315(c), Sept. 30, 2002, 116 Stat. 1379, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date on which guidance for implementation of such amendment is issued by the Secretary.” [Guidance in the form of a State Department cable was issued Nov. 5, 2002.]

[For definition of “Secretary” as used in section 315(c) of Pub. L. 107-228, set out above, see section 3 of Pub. L. 107-228, set out as a note under section 2651 of this title.]

### PROMULGATION OF GUIDANCE

Pub. L. 107-228, div. A, title III, § 315(b), Sept. 30, 2002, 116 Stat. 1379, provided that: “The Secretary shall promulgate guidance for the implementation of the amendment made by subsection (a) [amending this section] to ensure its implementation in a manner which does not substantially increase the total amount of travel expenses paid or reimbursed by the Department for travel under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).”

[For definitions of “Secretary” and “Department” as used in section 315(b) of Pub. L. 107-228, set out above, see section 3 of Pub. L. 107-228, set out as a note under section 2651 of this title.]

## § 4082. Loan of household effects

The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences.