

of this title, then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) Disqualification

A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d) Period of entitlement; application approval and payment

(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of December 22, 1987, beginning on December 22, 1987; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) December 22, 1987; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after December 22, 1987. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before December 22, 1987.

(e) Promulgation of regulations; notification of rights

The Secretary shall—

(1) as soon as possible, but not later than 60 days after December 22, 1987, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity

or the entitlement to an annuity of a participant or former participant under this subchapter.

(g) Former spouses of United States Information Agency and Agency for International Development employees

Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency of International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

(Pub. L. 96-465, title I, §831, as added Pub. L. 100-204, title I, §188(a), Dec. 22, 1987, 101 Stat. 1370; amended Pub. L. 101-246, title I, §146(b), Feb. 16, 1990, 104 Stat. 37.)

Editorial Notes

CODIFICATION

Another section 831 of the Foreign Service Act of 1980 was enacted by Pub. L. 100-238 and is classified to section 4069a-1 of this title.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101-246 added subsec. (g).

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§ 4069b-1. Survivor benefits for certain former spouses

(a) Eligibility; amount of annuity

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this subchapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) Election by former spouse

If an election has been made with respect to such former spouse under section 4159 or 4046(f) of this title, then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) Disqualification

A former spouse shall not be entitled to a survivor annuity under this section if—

- (1) the former spouse remarries before age 55; or
- (2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d) Period of entitlement; application approval and payment

(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

- (i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and
- (ii) in the case of any other former spouse, beginning on the later of—
 - (I) the date that the participant or former participant to whom the former spouse was married dies; or
 - (II) the effective date of this section; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(e) Promulgation of regulations; notification of rights

The Secretary shall—

- (1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and
- (2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(Pub. L. 96-465, title I, § 832, as added Pub. L. 100-238, title II, § 204(a), Jan. 8, 1988, 101 Stat. 1771.)

Editorial Notes

REFERENCES IN TEXT

For the effective date of this section, referred to in subsecs. (d)(1)(A)(i), (ii)(II), (2) and (e)(1), see Effective Date note set out below.

CODIFICATION

Another section 832 of the Foreign Service Act of 1980 was enacted by Pub. L. 100-204 and is classified to section 4069c of this title.

Statutory Notes and Related Subsidiaries

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.

§ 4069c. Health benefits for certain former spouses**(a) Eligibility**

Except as provided in subsection (c)(1), any individual—

- (1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;
- (2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and
- (3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b) Prerequisites for enrollment; notification of rights

(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on December 22, 1987, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

- (A) files an election for such enrollment; and
- (B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5 an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

- (A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and
- (B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in 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).