

**Editorial Notes****PRIOR PROVISIONS**

A prior section 302 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 625, related to special rules relating to employees designated under criteria of former section 203 of Pub. L. 88-643 and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

**§ 2153. Special rules for other employees for service abroad****(a) Special computation rule**

Notwithstanding any provision of chapter 84 of title 5, the annuity under subchapter II of such chapter of a retired employee of the Agency who is not designated under section 2152(a) of this title and who has served abroad as an employee of the Agency after December 31, 1986, shall be computed as provided in subsection (b).

**(b) Computation****(1) Service abroad**

The portion of the annuity relating to such service abroad shall be computed as provided in section 8415(e) of title 5.

**(2) Other service**

The portions of the annuity relating to other creditable service shall be computed as provided in section 8415 of such title that is applicable to such service under the conditions prescribed in chapter 84 of such title.

(Pub. L. 88-643, title III, §303, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3244; amended Pub. L. 112-96, title V, §5001(c)(2)(G), Feb. 22, 2012, 126 Stat. 200.)

**Editorial Notes****PRIOR PROVISIONS**

A prior section 303 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 626, related to special rules for other employees for service abroad and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

**AMENDMENTS**

2012—Subsec. (b)(1). Pub. L. 112-96 substituted “section 8415(e)” for “section 8415(d)”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

**§ 2154. Special rules for former spouses****(a) General rule**

Except as otherwise specifically provided in this section, the provisions of chapter 84 of title 5 shall apply in the case of an employee of the

Agency who is subject to chapter 84 of title 5 and who has a former spouse (as defined in section 8401(12) of title 5) or a qualified former spouse.

**(b) Definitions**

For purposes of this section:

**(1) Employee**

The term “employee” means an employee of the Agency who is subject to chapter 84 of title 5, including an employee referred to in section 2152(a) of this title.

**(2) Qualified former spouse**

The term “qualified former spouse” means a former spouse of an employee or retired employee who—

(A) in the case of a former spouse whose divorce from such employee became final on or before December 4, 1991, was married to such employee for not less than 10 years during periods of the employee’s service which are creditable under section 8411 of title 5, at least 5 years of which were spent outside the United States by both the employee and the former spouse during the employee’s service with the Agency; and

(B) in the case of a former spouse whose divorce from such employee becomes final after December 4, 1991, was married to such employee for not less than 10 years during periods of the employee’s service which are creditable under section 8411 of title 5, at least 5 years of which were spent by the employee outside the United States during the employee’s service with the Agency or otherwise in a position the duties of which qualified the employee for designation by the Director under the criteria prescribed in section 2013 of this title.

**(3) Pro rata share**

The term “pro rata share” means the percentage that is equal to (A) the number of days of the marriage of the qualified former spouse to the employee during the employee’s periods of creditable service under chapter 84 of title 5, divided by (B) the total number of days of the employee’s creditable service.

**(4) Spousal agreement**

The term “spousal agreement” means an agreement between an employee, former employee, or retired employee and such employee’s spouse or qualified former spouse that—

(A) is in writing, is signed by the parties, and is notarized;

(B) has not been modified by court order; and

(C) has been authenticated by the Director.

**(5) Court order**

The term “court order” means any court decree of divorce, annulment or legal separation, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

**(c) Entitlement of qualified former spouse to retirement benefits****(1) Entitlement****(A) In general**

Unless otherwise expressly provided by a spousal agreement or court order governing disposition of benefits payable under subchapter II or V of chapter 84 of title 5, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of all benefits otherwise payable to such employee under subchapter II or V of chapter 84 of title 5.

**(B) Amount of share**

The share referred to in subparagraph (A) equals—

- (i) 50 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 5;<sup>1</sup> or
- (ii) a pro rata share of 50 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

**(2) Annuity supplement**

The benefits payable to an employee under subchapter II of chapter 84 of title 5 shall include, for purposes of this subsection, any annuity supplement payable to such employee under sections 8421 and 8421a of such title.

**(3) Disqualification upon remarriage before age 55**

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

**(4) Commencement and termination****(A) Commencement**

The benefits of a qualified former spouse under this subsection commence on the later of—

- (i) the day on which the employee upon whose service the benefits are based becomes entitled to the benefits; or
- (ii) the first day of the second month beginning after the date on which the Director receives written notice of the court order or spousal agreement, together with such additional information or documentation as the Director may prescribe.

**(B) Termination**

The benefits of the qualified former spouse and the right thereto terminate on—

- (i) the last day of the month before the qualified former spouse remarries before 55 years of age or dies; or
- (ii) the date on which the retired employee's benefits terminate (except in the case of benefits subject to paragraph (5)(B)).

**(5) Payments to retired employees****(A) Calculation of survivor annuity**

Any reduction in payments to a retired employee as a result of payments to a quali-

fied former spouse under this subsection shall be disregarded in calculating—

- (i) the survivor annuity for any spouse, former spouse (qualified or otherwise), or other survivor under chapter 84 of title 5, and
- (ii) any reduction in the annuity of the retired employee to provide survivor benefits under subsection (d) of this section or under sections<sup>2</sup> 8442 or 8445 of title 5.

**(B) Reduction in basic pay upon recall to service**

If a retired employee whose annuity is reduced under paragraph (1) is recalled to service under section 2152(c) of this title, the basic pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

**(6) Special rules for disability annuitants**

Notwithstanding paragraphs (1) and (4), in the case of any qualified former spouse of a disability annuitant—

(A) the annuity of such former spouse shall commence on the date on which the employee would qualify, on the basis of the employee's creditable service, for benefits under subchapter II of chapter 84 of title 5 or on the date on which the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the qualified former spouse shall be calculated on the basis of the benefits for which the employee would otherwise qualify under subchapter II of chapter 84 of such title.

**(7) Pro rata share in case of employees transferred to FERS**

Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, the share of such employee's qualified former spouse shall equal the sum of—

(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5 or under subchapter II of this chapter (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

(B) if applicable, 50 percent of the employee's benefits under chapter 84 of title 5 or section 2152(a) of this title (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective

<sup>1</sup> So in original. Probably should be title "5".

<sup>2</sup> So in original. Probably should be "section".

date of the election to transfer bears to the employee's total creditable service after such effective date.

**(8) Treatment of pro rata share under title 26**

For purposes of title 26, payments to a qualified former spouse under this subsection shall be treated as income to the qualified former spouse and not to the employee.

**(d) Qualified former spouse survivor benefits**

**(1) Entitlement**

**(A) In general**

Subject to an election under section 8416(a) of title 5, and unless otherwise expressly provided by any spousal agreement or court order governing survivor benefits payable under this subsection to a qualified former spouse, such former spouse is entitled to a share, determined under subparagraph (B), of all survivor benefits that would otherwise be payable under subchapter IV of chapter 84 of title 5 to an eligible surviving spouse of the employee.

**(B) Amount of share**

The share referred to in subparagraph (A) equals—

- (i) 100 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 5; or
- (ii) a pro rata share of 100 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

**(2) Survivor benefits**

(A) The survivor benefits payable under this subsection to a qualified former spouse shall include the amount payable under section 8442(b)(1)(A) of title 5 and any supplementary annuity under section 8442(f) of such title that would be payable if such former spouse were a widow or widower entitled to an annuity under such section.

(B) Any calculation under section 8442(f) of title 5 of the supplementary annuity payable to a widow or widower of an employee referred to in section 2152(a) of this title shall be based on an "assumed CIARDS annuity" rather than an "assumed CSRS annuity" as stated in section 8442(f) of such title. For the purpose of this subparagraph, the term "assumed CIARDS annuity" means the amount of the survivor annuity to which the widow or widower would be entitled under subchapter II of this chapter based on the service of the deceased annuitant determined under section 8442(f)(5) of such title.

**(3) Disqualification upon remarriage before age 55**

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

**(4) Restoration**

If the survivor annuity payable under this subsection to a surviving qualified former

spouse is terminated because of remarriage before becoming age 55, the annuity shall be restored at the same rate commencing on the date such remarriage is dissolved by death, divorce, or annulment, if—

(A) such former spouse elects to receive this survivor annuity instead of any other survivor benefit to which such former spouse may be entitled under subchapter IV of chapter 84 of title 5, or under another retirement system for Government employees by reason of the remarriage; and

(B) any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund.

**(5) Modification of court order or spousal agreement**

A modification in a court order or spousal agreement to adjust a qualified former spouse's share of the survivor benefits shall not be effective if issued after the retirement or death of the employee, former employee, or annuitant, whichever occurs first.

**(6) Effect of termination of qualified former spouse's entitlement**

After a qualified former spouse of a retired employee remarries before becoming age 55 or dies, the reduction in the retired employee's annuity for the purpose of providing a survivor annuity for such former spouse shall be terminated. The annuitant may elect, in a signed writing received by the Director within 2 years after the qualified former spouse's remarriage or death, to continue the reduction in order to provide or increase the survivor annuity for such annuitant's spouse. The annuitant making such election shall pay a deposit in accordance with the provisions of section 8418 of title 5.

**(7) Pro rata share in case of employees transferred to FERS**

Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, the share of such employee's qualified former spouse to survivor benefits shall equal the sum of—

(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5 or under subchapter II of this chapter (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

(B) if applicable—

(i) 50 percent of the employee's annuity under chapter 84 of title 5 or section 2152(a) of this title (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 2157 of this title), plus

(ii) the survivor benefits referred to in subsection (d)(2)(A),

multiplied by the proportion that the number of days of marriage during the period of

the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

**(e) Qualified former spouse Thrift Savings Plan benefit**

**(1) Entitlement**

**(A) In general**

Unless otherwise expressly provided by a spousal agreement or court order governing disposition of the balance of an account in the Thrift Savings Fund under subchapter III of chapter 84 of title 5, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of the balance in the employee's account in the Thrift Savings Fund on the date the divorce of the qualified former spouse and employee becomes final.

**(B) Amount of share**

The share referred to in subparagraph (A) equals 50 percent of the employee's account balance in the Thrift Savings Fund that accrued during the period of marriage. For purposes of this subsection, the employee's account balance shall not include the amount of any outstanding loan.

**(2) Payment of benefit**

**(A) Time of payment**

The entitlement of a qualified former spouse under paragraph (1) shall be effective on the date the divorce of the qualified former spouse and employee becomes final. The qualified former spouse's benefit shall be payable after the date on which the Director receives the divorce decree or any applicable court order or spousal agreement, together with such additional information or documentation as the Director may require.

**(B) Method of payment**

The qualified former spouse's benefit under this subsection shall be paid in a lump sum.

**(C) Limitation**

A spousal agreement or court order may not provide for payment to a qualified former spouse under this subsection of an amount that exceeds the employee's account balance in the Thrift Savings Fund.

**(D) Death of qualified former spouse**

If the qualified former spouse dies before payment of the benefit provided under this subsection, such payment shall be made to the estate of the qualified former spouse.

**(E) Bar to recovery**

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

**(3) Closed account**

No payment under this subsection may be made by the Director if the date on which the divorce becomes final is after the date on which the total amount of the employee's account balance has been withdrawn or trans-

ferred, or the date on which an annuity contract has been purchased, in accordance with section 8433 of title 5.

**(f) Preservation of rights of qualified former spouses**

An employee may not make an election or modification of election under section 8417 or 8418 of title 5, or other section relating to the employee's annuity under subchapter II of chapter 84 of title 5, that would diminish the entitlement of a qualified former spouse to any benefit granted to such former spouse by this section or by court order or spousal agreement.

**(g) Payment of share of lump-sum credit**

Whenever an employee or former employee becomes entitled to receive the lump-sum credit under section 8424(a) of title 5, a share (determined under subsection (c)(1)(B) of this section) of that lump-sum credit shall be paid to any qualified former spouse of such employee, unless otherwise expressly provided by any spousal agreement or court order governing disposition of the lump-sum credit involved.

**(h) Payment to qualified former spouses under court order or spousal agreement**

In the case of any employee or retired employee who has a qualified former spouse who is covered by a court order or who is a party to a spousal agreement—

(1) any right of the qualified former spouse to any retirement benefits under subsection (c) and to any survivor benefits under subsection (d), and the amount of any such benefits;

(2) any right of the qualified former spouse to any Thrift Savings Plan benefit under subsection (e), and the amount of any such benefit; and

(3) any right of the qualified former spouse to any payment of a lump-sum credit under subsection (g), and the amount of any such payment;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this section.

**(i) Applicability of CIARDS former spouse benefits**

(1) Except as provided in paragraph (2), in the case of an employee who has elected to become subject to chapter 84 of title 5, the provisions of sections 2034 and 2035 of this title shall apply to such employee's former spouse (as defined in section 2002(a)(4) of this title) who would otherwise be eligible for benefits under sections 2034 and 2035 of this title but for the employee having elected to become subject to such chapter.

(2) For the purposes of computing such former spouse's benefits under sections 2034 and 2035 of this title—

(A) the retirement benefits shall be equal to the amount determined under subsection (c)(7)(A); and

(B) the survivor benefits shall be equal to 55 percent of the full amount of the employee's annuity computed in accordance with section

302(a) of the Federal Employees' Retirement System Act of 1986 or regulations prescribed under section 2157 of this title.

(3) Benefits provided pursuant to this subsection shall be payable from the Central Intelligence Agency Retirement and Disability Fund.

(Pub. L. 88-643, title III, §304, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3244; amended Pub. L. 103-178, title II, §202(a)(15), Dec. 3, 1993, 107 Stat. 2027.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 302(a) of the Federal Employees' Retirement System Act of 1986, referred to in subsecs. (c)(7)(A), (B), (d)(7)(A), (B)(i), and (i)(2)(B), is section 302(a) of Pub. L. 99-335, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

##### PRIOR PROVISIONS

A prior section 304 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 626; amended Pub. L. 100-178, title IV, §402(b)(2), Dec. 2, 1987, 101 Stat. 1014; Pub. L. 102-183, title III, §309(a), Dec. 4, 1991, 105 Stat. 1266, related to special rules for former spouses and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

##### AMENDMENTS

1993—Subsec. (i)(1). Pub. L. 103-178 substituted “section 2002(a)(4)” for “section 2002(a)(3)”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-178 effective Feb. 1, 1993, see section 202(b) of Pub. L. 103-178, set out as a note under section 2001 of this title.

##### EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

#### § 2155. Administrative provisions

##### (a) Finality of decisions of Director

Section 2011(c) of this title shall apply in the administration of chapter 84 of title 5 with respect to employees of the Agency.

##### (b) Exception

Notwithstanding subsection (a), section 8461(e) of title 5 shall apply with respect to employees of the Agency who are not participants in the Central Intelligence Agency Retirement and Disability System and are not designated under section 2152(a) of this title.

(Pub. L. 88-643, title III, §305, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3251.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 305 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 627, related to administrative provisions and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

#### § 2156. Regulations

##### (a) Requirement

The Director shall prescribe in regulations appropriate procedures to carry out this subchapter. Such regulations shall be prescribed in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board.

##### (b) Congressional review

The Director shall submit regulations prescribed under subsection (a) to the congressional intelligence committees before they take effect.

(Pub. L. 88-643, title III, §306, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3251.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 306 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 628, related to regulations and was set out as a note under section 403 of this title prior to the general amendment of Pub. L. 88-643 by section 802 of Pub. L. 102-496.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective on first day of fourth month beginning after Oct. 24, 1992, see section 805 of Pub. L. 102-496, set out as a note under section 2001 of this title.

#### § 2157. Transition regulations

##### (a) Regulations

The Director shall prescribe regulations providing for the transition from the Central Intelligence Agency Retirement and Disability System to the Federal Employees' Retirement System provided in chapter 84 of title 5 in a manner consistent with sections 301 through 304 of the Federal Employees' Retirement System Act of 1986.

##### (b) Congressional review

The Director shall submit regulations prescribed under subsection (a) to the congressional intelligence committees before they take effect.

(Pub. L. 88-643, title III, §307, as added Pub. L. 102-496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3251.)

#### Editorial Notes

##### REFERENCES IN TEXT

Sections 301 through 304 of the Federal Employees' Retirement System Act of 1986, referred to in subsec. (a), are sections 301 to 304 of Pub. L. 99-335, which amended section 3121 of Title 26, Internal Revenue Code, and section 410 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note under section 8331 of Title 5, Government Organization and Employees.

##### PRIOR PROVISIONS

A prior section 307 of Pub. L. 88-643, as added Pub. L. 99-335, title V, §506, June 6, 1986, 100 Stat. 628, related