

Office of Personnel Management

§ 831.622

§§ 831.611 through 831.622 when he or she retires under that new annuity right.

[50 FR 20070, May 13, 1985, as amended at 58 FR 52881, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

§ 831.617 [Reserved]

§ 831.618 Waiver of spousal consent requirement.

(a) The spousal consent requirement will be waived upon a showing that the spouse's whereabouts cannot be determined. A request for waiver on this basis must be accompanied by—

(1) A judicial determination that the spouse's whereabouts cannot be determined; or

(2) (i) Affidavits by the employee or Member and two other persons, at least one of whom is not related to the employee or Member, attesting to the inability to locate the current spouse and stating the efforts made to locate the spouse; and

(ii) Documentary corroboration such as tax returns filed separately or newspaper stories about the spouse's disappearance.

(b) The spousal consent requirement will be waived based on exceptional circumstances if the employee or Member presents a judicial determination finding that—

(1) The case before the court involves a Federal employee who is in the process of retiring from Federal employment and the spouse of that employee;

(2) The nonemployee spouse has been given notice and an opportunity to be heard concerning this order;

(3) The court has considered sections 8339(j)(1) of title 5, United States Code, and this section as they relate to waiver of the spousal consent requirement for a married Federal employee to elect an annuity without a reduction to provide a survivor benefit to a spouse at retirement; and

(4) The court finds that exceptional circumstances exist justifying waiver of the nonemployee spouse's consent.

[50 FR 20070, May 13, 1985, as amended at 51 FR 31932, Sept. 8, 1986; 55 FR 9100, Mar. 12, 1990. Redesignated at 58 FR 52882, Oct. 13, 1993]

§ 831.619 Marital status at time of retirement.

An employee or Member is unmarried at the time of retirement for all purposes under this subpart only if the employee or Member was unmarried on the date that the annuity begins to accrue.

[50 FR 20070, May 13, 1985. Redesignated at 58 FR 52882, Oct. 13, 1993]

CHANGES OF SURVIVOR ELECTIONS

§ 831.621 Changes of election before final adjudication.

An employee or Member may name a new survivor or change his election of type of annuity if, not later than 30 days after the date of the first regular monthly payment, the named survivor dies or the employee or Member files with OPM a new written election. All required evidence of spousal consent or justification for waiver of spousal consent, if applicable, must accompany any new written election under this section.

[50 FR 20070, May 13, 1985. Redesignated at 58 FR 52882, Oct. 13, 1993]

§ 831.622 Changes of election after final adjudication.

(a) Except as provided in section 8339 (j) or (k) of title 5, United States Code, or §§ 831.682, 831.684, 831.685, or paragraph (b) of this section, an employee or Member may not revoke or change the election or name another survivor later than 30 days after the date of the first regular monthly payment.

(b)(1) Except as provided in § 831.613 and paragraphs (b)(2) and (b)(3) of this section, a retiree who was married at the time of retirement and has elected a self-only annuity, or a partially reduced annuity to provide a current spouse annuity, or a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity, or an insurable interest annuity may elect, no later than 18 months after the time of retirement, an annuity reduction or an increased annuity reduction to provide a current spouse annuity.

(2) A current spouse annuity based on an election under paragraph (b)(1) of this section cannot be paid if it will, when combined with any former spouse

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annuity or annuities that are required by court order, exceed the maximum survivor annuity permitted under § 831.641.

(3) To make an election under paragraph (b)(1) of this section, the retiree must pay, in full, a deposit determined under § 831.662, plus interest, at the rate provided under § 831.105(g), no later than 18 months after the time of retirement.

(4) If a retiree makes an election under paragraph (b)(1) of this section and is prevented from paying the deposit within the 18-month time limit because OPM did not send him or her a notice of the amount of the deposit at least 30 days before the time limit expires, the time limit for making the deposit will be extended to 30 days after OPM sends the notice of the amount of the deposit.

(5) An election under paragraph (b)(1) of this section, cancels any spousal consent under § 831.611 to the extent of the election.

(6) An election under paragraph (b)(1) of this section is void unless it is filed with OPM before the retiree dies.

(7) If a retiree who had elected a fully reduced annuity or a partially reduced annuity to provide a former spouse annuity or former spouse annuities makes an election under paragraph (b)(1) of this section which would cause the combined current spouse annuity and former spouse annuity (or annuities) to exceed the maximum allowed under § 831.641, the former spouse annuity (or annuities) must be reduced to not exceed the maximum allowable under § 831.641.

[51 FR 31932, Sept. 8, 1986, as amended at 58 FR 52881, Oct. 13, 1993. Redesignated at 58 FR 52882, Oct. 13, 1993]

POST-RETIREMENT ELECTIONS

§ 831.631 Post-retirement election of fully reduced annuity or partially reduced annuity to provide a current spouse annuity.

(a) Except as provided in paragraph (c) of this section, in cases of retirees who retired before May 7, 1985, and married after retirement but before February 27, 1986:

(1) A retiree who was unmarried at the time of retirement may elect, with-

in 1 year after a post-retirement marriage, a fully reduced annuity or a partially reduced annuity to provide a current spouse annuity.

(2) A retiree who was married and elected a fully reduced annuity or a partially reduced annuity at the time of retirement may elect, within 1 year after a postretirement marriage, to provide a current spouse annuity. If a retiree elects a fully reduced annuity or a partially reduced annuity under this paragraph, the election must equal the election made at the time of retirement.

(3) The reduction under paragraphs (a)(1) or (a)(2) of this section commences on the first day of the month beginning 1 year after the date of the post-retirement marriage.

(b) Except as provided in paragraph (c) of this section, in cases involving retirees who retired on or after May 7, 1985, or married on or after February 27, 1986—

(1) A retiree who was unmarried at the time of retirement may elect, within 2 years after a post-retirement marriage, a fully reduced annuity or a partially reduced annuity to provide a current spouse annuity.

(2) A retiree who was married at the time of retirement may elect, within 2 years after a post-retirement marriage—

(i) A fully reduced annuity or a partially reduced annuity to provide a current spouse annuity if—

(A) The retiree was awarded a fully reduced annuity under § 831.611 at the time of retirement; or

(B) The election at the time of retirement was made with a waiver of spousal consent in accordance with § 831.618; or

(C) The marriage at the time of retirement was to a person other than the spouse who would receive a current spouse annuity based on the post-retirement election; or

(ii) A partially reduced annuity to provide a current spouse annuity no greater than the current spouse annuity elected for the current spouse at retirement if—

(A) The retiree elected a partially reduced annuity under § 831.614 at the time of retirement;