

PL 97-269

The Central Intelligence Agency Spouses' Retirement Equity Act of 1982 (PL 97-269) provided retirement and survivor annuities for divorced spouses of Central Intelligence Agency Retirement and Disability System (CIARDS) participants. The Act corrected a long-standing inequity under then existing law which ignored the contribution of those spouses to the Agency's mission and left them without compensation for their service. The 1982 Act vested annuities in spouses divorced after November 15, 1982, provided the marriage had continued through at least ten years of Agency service. The date was set to avoid retroactive interference with existing retirement and survivor payments and to avoid conflict with existing divorce decrees. Unfortunately, the Act provided no relief for spouses divorced on November 14, 1982 and earlier, or for divorced spouses of CIARDS participants who retired before the effective date of the Act. We may call these spouses the November 14 Group.

In introducing the CIA Spouses' Retirement Equity Act, Senator Daniel Inouye regretted the abandonment of the November 14 Group and suggested that at some future date Congress might wish to consider providing benefits to this group. Taking Senator Inouye's suggestion, we propose now to provide retirement annuities for the November 14 Group.

We propose that the Director of Central Intelligence be authorized to include in the FY 1984 CIARDS budget funds to provide retirement annuities for the November 14 Group.

The DCI should be guided by the following:

Annuities authorized for the November 14 Group should in no way affect existing or future annuities of CIARDS participants or existing or future survivor annuities provided by those participants. The relief sought here is simply vested annuities for the November 14 Group, with no affect on the CIARDS participant's rights, but using the participant as a base for establishing eligibility and for computing annuities.

November 14 Group eligibility should be established in the same manner as for the "former spouse" in the 1982 Act (see Section 222), i.e., the marriage must have continued for at least ten years during the participant's CIA service, five of those years abroad, the spouse shall not have remarried before age 60, the annuity to be computed as a pro rata share of the participant's annuity, etc. All members of the November 14 Group who meet these conditions become eligible for an immediate annuity on the effective date of this act.

---

As with other federal government retirement programs, the annuity for the November 14 Group should be based on the average of the high three year's salary for the participant. However, to compensate the November 14 Group for years of lost benefits and the effects of inflation, their annuities should be based on the participant's grade at retirement but using the salary levels for the three years immediately preceding the effective date of this act. For participants not yet retired, the high three should be computed as though the participant retired on the effective date of this act and at his grade at that time.

**FORMER SPOUSE LEGISLATION**

1982 97-269

DID YOU KNOW?

"Retirement Annuity" is a monthly benefit paid to the former spouse from the employee's retirement annuity. This benefit is paid over the lifetime of the employee, not the lifetime of the former spouse, and does not commence until the employee retires.

"Survivor Annuity" is a monthly benefit paid to the former spouse upon the death of the retiree.

In order for a former spouse to be eligible to receive either or both of these benefits, certain statutory and regulatory requirements must be met.

LEGISLATION SYNOPSIS

THE ORGANIZATION SPOUSES' RETIREMENT EQUITY  
ACT OF 1982 (PUBLIC LAW 97-269)

This law became effective 15 November 1982 and applies generally to divorce cases that occur after this date. The law provides qualified former spouses of Organization employees or retirees with an automatic entitlement to a share of the employee's retirement benefits and survivor benefits. Qualified former spouses are entitled to automatic benefits regardless of whether the employee or retiree is covered under the Organization Retirement System or the Civil Service Retirement System (CSRS).

To qualify for retirement and survivor benefits, a former wife or husband must meet the definition of "former spouse" as set forth in this law. The former wife or husband must have been married to an employee for not less than 10 years during periods of federal service by the employee which are creditable towards retirement, at least five of which were spent outside the United States by both the employee and the former spouse.

Unless otherwise expressly provided by court order or spousal agreement, a qualified former spouse is entitled to a monthly retirement annuity equal to a pro rata share of 50 percent of the retiree's monthly annuity. The qualified former spouse is also entitled to a survivor annuity equal to a pro rata share of 55 percent of the retiree's basic annuity. (Under the Federal Employees' Retirement System (FERS), the maximum survivor annuity is 50 percent of the retiree's annuity.)

The qualified former spouse's pro rata share is a percentage equal to the number of days of marriage during periods of the employee's creditable service divided by the employee's total number of days of service creditable towards retirement.

The entitlement to former spouse benefits varies according to the following situations:

- A. Retirement and divorce both occur after 15 November 1982 - A qualified former spouse is entitled to both a retirement annuity and a survivor annuity.
- B. Retirement on or before 15 November 1982 and divorced after 15 November 1982 - A qualified former spouse is entitled to a survivor annuity only. The former spouse may be awarded a portion of the retiree's annuity (apportionment) by court order. BUT see information provided in the section on P.L. 100-453.

REMARRIAGE RESTRICTION: Entitlements to both retirement and survivor benefits are permanently lost if the qualified former spouse remarries prior to age 60 and before the annuitant's death. If the qualified former spouse remarries before age 60 but after the commencement of the survivor benefit, the survivor annuity is terminated. However, the benefit may be restored if the remarriage is dissolved by death or divorce.

Please be aware that, if pending legislation is passed, the age 60 remarriage restriction will be reduced to age 55. Thus, any qualified former spouse who remarries on or after age 55 after the date of enactment of the proposed legislation would retain entitlement to both benefits.

NOTE: Former spouses who do not meet the 10 years of marriage and 5 years overseas requirement may be eligible to receive retirement and survivor benefits if and to the extent that these benefits are expressly awarded to the former spouse by court order. If such former spouses are former spouses of employees or retirees covered under the Organization Retirement System, they are eligible for court-ordered apportionments and

court-ordered or elected survivor benefits generally in accordance with the rules that apply to the award of CSRS and FERS benefits to former spouses. BUT the dates after which these benefits can be awarded by court order are different.

LEGISLATION ENACTED FOR FISCAL YEAR 1987  
(PUBLIC LAW 99-569)

This law became effective on 1 October 1986 and provides survivor benefits to qualified former spouses divorced on or before 15 November 1982. In order to qualify for this benefit, the former spouse must meet the definition of "former spouse" set forth in P.L. 97-269.

The qualified former spouse is entitled to receive the maximum survivor benefit. This benefit is not pro rated based upon the length of marriage during the employee's creditable service compared to the employee's total creditable service as are the survivor annuities provided to qualified former spouses divorced after 15 November 1982. This benefit is financed by special appropriation. Therefore, it does not reduce or modify the the retiree's annuity. This benefit is payable from the date of the employee's or retiree's death or the date the former spouse reaches age 50, whichever occurs later.

The qualified former spouse is ineligible for or loses the survivor annuity if the former spouse remarries before age 55. Please be aware that there is pending legislation which, if enacted, will restore the entitlement of such a former spouse to receive this survivor benefit if the former spouse's remarriage is dissolved by death, divorce or annulment.

In order to be eligible to receive this benefit, the qualified former spouse had to have applied by 1 April 1989. Currently, the law does not authorize waivers of the requirement to have applied by this date. (Under the pending legislation, qualified former spouses whose entitlement to this benefit would be restored do not have to meet this application deadline.)

LEGISLATION ENACTED FOR FISCAL YEAR 1988  
(PUBLIC LAW 100-178)

This law became effective on 2 December 1987 and provides a retirement benefit to qualified former spouses divorced on or

before 15 November 1982. In order to qualify for this benefit, the former spouse must meet the definition of "former spouse" set forth in P.L. 97-269.

The monthly retirement benefit is equal to a pro rata share of 50 percent of the retiree's full basic annuity. This benefit is pro rated based upon the length of marriage during periods of the retiree's creditable service compared to the retiree's total creditable service. This benefit is funded by special appropriation and thus does not reduce or modify the retiree's annuity.

The retirement annuity commences on the date the employee retires or the date the former spouse becomes age 50, whichever is later. The annuity terminates on the earlier of:

1. the last day of the month before the former spouse dies;
2. the last day of the month before the former spouse remarries before age 55;
3. the date of death of the retiree; or
4. the day the former spouse receives a Federal government survivor annuity based on marriage to someone other than the employee.

The application deadline to apply for this benefit was 2 June 1990. However, this legislation provides that, in cases where the circumstances so warrant, the application deadline may be waived.

LEGISLATION ENACTED FOR FISCAL YEAR 1989  
(PUBLIC LAW 100-453)

This law became effective on 29 September 1988 and provides a retirement benefit to qualified former spouses divorced after 15 November 1982 from an annuitant who retired prior to 15 November 1982. This benefit is also funded by special appropriation and does not reduce or modify the retiree's annuity. The qualified former spouse is entitled to an annuity equal to a pro rata share up to 50 percent of the retiree's full basic annuity.

This benefit is payable retroactively to 2 December 1987, on the first of the month of the final date of divorce, or on the date of the former spouse's 50th birthday, whichever occurs



later. The annuity terminates upon the occurrence of the first of the events listed for the termination of P.L. 100-178 benefits.

The application deadline to apply for this benefit was also 2 June 1990. However, this legislation allows a waiver to be granted in any case in which the circumstances so warrant. The deadline will be waived in most cases in which the divorce occurs after 2 June 1990.

**REMINDER:** This category of qualified former spouse is entitled to survivor benefits under P.L. 97-269. The retiree's annuity will remain reduced, or be reduced, to provide for this survivor benefit, unless the former spouse waives her right to such benefit.

#### COURT-ORDERED PORTION OF RETIREMENT ANNUITY (APPORTIONMENT)

Under the various federal government retirement systems, the Government will honor qualifying court orders in connection with a decree of divorce, annulment, or legal separation that awards a portion of a retiree's monthly annuity. Former spouses of Organization employees or retirees do not have an automatic entitlement to a portion of the employee's retirement benefits if they do not meet the 10 years of marriage and 5 years overseas requirement. However, they are eligible for a share of the retirement benefits to the extent that the benefits are expressly awarded to the former spouse by court order based on state law. A court-ordered apportionment will be honored prospectively regardless of the date of divorce.

#### CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT (PUBLIC LAW 98-615)

This law became effective on 7 May 1985 and applies only to employees and retirees who are covered under the Civil Service Retirement System (CSRS) and who are divorced after that date. This law allows survivor benefits to be provided to former spouses by court order or by election. In order to be eligible for a survivor benefit, the former spouse must have been married for at least 9 months to an employee or retiree who had at least 18 months of creditable service. The court order which awards survivor benefits (and/or a portion of the employee's retirement

benefits) to a former spouse must expressly state the name of the retirement system or that the benefits are to be paid from CSRS. An election to provide a former spouse survivor annuity may only be made by the employee at the time of retirement or, if divorced after retirement, within two years of the date of divorce.

The maximum survivor benefit payable to a former spouse is 55 percent of the retiree's annuity. (Under FERS, the maximum survivor annuity is 50 percent). Court orders that do not specify the percentage of the survivor benefit payable to the former spouse will be interpreted as awarding the maximum survivor annuity.

Qualified court orders awarding former spouse survivor benefits take precedence over a survivor annuity election made for a current spouse. Such court orders cannot be modified by any subsequent election. They are also not honored if issued after retirement unless the divorce occurs after retirement. Finally, court orders awarding former spouse survivor benefits are not honored if issued after the death of the retiree.

The Organization administers CSRS and FERS benefits payable on the basis of the service of Organization employees who retire after 1 January 1987. Please be aware that all employees who retired prior to 1 January 1987 and who did not have 5 years of overseas service prior to retirement must contact the Office of Personnel Management (OPM) regarding former spouse benefits. Please call OPM on: 202-606-0501.

REMINDER: If the employee or retiree is covered under CSRS and the ex-spouse was married to the employee for ten years during periods of the employee's creditable service and overseas for five years during these years of service, then such ex-spouse would be a qualified former spouse eligible to receive benefits in accordance with the Organization's former spouse provisions. SEE section on P.L. 97-269.

#### FORMER SPOUSE HEALTH INSURANCE PROVISIONS

Certain former spouses of Federal employees, former employees, and annuitants may qualify for enrollment in a health benefits plan under the Federal Employees Health Benefits Program (FEHBP) if the former spouse meets the following criteria:

1. was previously enrolled in a FEHBP plan as a family member at any time during the 18 months preceding the divorce;
2. has not remarried before age 55;
3. currently receives, or has a future entitlement to receive, a share of the retiree's annuity and/or a survivor annuity; and
4. applies for enrollment within 60 days after the divorce.

A spouse's coverage under the employee/retiree's health insurance plan under FEHBP will terminate 31 days after the date of divorce. Former spouses of certain employees/retirees are only eligible to enroll under the Organization Health Benefits Plan.

The former spouse must pay the total cost of coverage. The government does not subsidize any portion of the premium. Monthly premiums are due one month in advance on a quarterly basis. Failure to apply for health benefits within 60 days of the divorce voids the former spouse's right to enroll in FEHBP.

Based on another law, in divorces occurring after 1 January 1990, a former spouse who is not entitled to receive a share of the retirement annuity and/or a survivor annuity, either by statutory provision or court order, is eligible to elect health insurance coverage under FEHBP's Temporary Continuation of Coverage program (TCC). The TCC program provides health insurance coverage to ex-spouses only for a period of 36 months after the date of divorce.

By law, the former spouse must apply for health insurance coverage within 60 days from the date of divorce. The former spouse must pay the total cost of coverage plus an administrative charge equal to two percent of the total cost. The government does not subsidize any portion of the premium. Failure to apply for health benefits within 60 days of the divorce voids the former spouse's right to enroll in TCC.

TO OBTAIN  
ADDITIONAL INFORMATION

TELEPHONE NUMBERS FOR FORMER SPOUSE ISSUES:

1-800-338-0923 - OUTSIDE VIRGINIA

1-800-223-4080 - INSIDE VIRGINIA

THE TELEPHONES WILL BE ANSWERED BY "TERRI" OR "DANA".

FOR GENERAL SOCIAL SECURITY INQUIRIES, PLEASE CALL THE  
SOCIAL SECURITY ADMINISTRATION AT:

1-800-2345-SSA (1-800-234-5772)