

Department of State

§ 19.10-2

(b) No spousal agreement or court order may provide for a pension or any combination of pensions to former spouses of any one principal which exceeds the net annuity of the principal as defined in §19.6-2(b).

(c) A pension to a former spouse not fixed by a spousal agreement or court order shall equal the former spouse's pro rata share of 50 percent of the annuity to which the principal is entitled on the date the divorce becomes final, or, if not then entitled to an annuity, 50 percent of the annuity to which the principal first becomes entitled following that date. A pension to a former spouse of a disability annuitant shall be calculated on the basis of an annuity for which the participant would qualify if not disabled. A pension to a former spouse will be increased by the same percentage of each cost-of-living adjustment received by the principal.

(d) The Department will initiate payment of a pension to a former spouse after complying with the notification and other procedures described in §19.6.

(e) If a pension can not be paid because a former spouse is missing, the principal may file an affidavit with PER/ER/RET that he/she does not know the whereabouts of the former spouse. In such an event, the principal and the Department will follow the procedures in §19.11-4 in an effort to locate the former spouse. The annuity of the principal will be reduced by the amount of the pension to the former spouse even though the latter is not being paid. If the former spouse has not been located during the 12-month period following the date the principal files an affidavit under this section, the annuity of the principal will be recomputed effective from its commencing date (or on the date following the last month a pension payment was made to the former spouse) and paid without reduction of the amount of pension to the former spouse. If the former spouse subsequently is located, pension payments to him/her will be initiated at that time at the rate that would have been payable had they been paid continuously from the original effective date. The Department shall not be liable to make any pension payments to the former spouse for the missing period if the procedures under this sec-

tion were faithfully complied with nor will the Department be responsible for recovering any payments made to the principal for the benefit of the former spouse.

§ 19.9-4 Effect on annuitant.

Any pension payable to a former spouse under this section or pursuant to any spousal agreement or court order shall be deducted from the annuity of the principal. (See §19.6-4 concerning retroactive adjustments.) If the annuity of such a principal in any month is discontinued or reduced so that the net amount payable is less than the pension to the former spouse or spouses of the principal because of recall, reappointment or reinstatement in the Foreign Service or reemployment in the Government service, the principal's salary, rather than annuity, shall be reduced by the amount of the pension payment(s). Such salary reductions shall be deposited in the Treasury to the credit of the Fund. If a pension to a former spouse is discontinued for any reason except a suspension pending a determination of entitlement, the annuity of the principal shall be recomputed effective as of the date of discontinuance of the pension, and paid as if the pension to the former spouse had never been deducted.

§ 19.10 Types of annuities to members.

§ 19.10-1 Full annuity.

If a participant retires and does not provide a survivor annuity to a spouse, former spouse or designated beneficiary, the participant receives a "full" annuity. A full annuity means an annuity computed without any survivorship reduction. Example: Average salary \$20,000 and maximum of 35 years of service.

Average basic annual salary for high 3 consecutive years of service	\$20,000
Multiplied by 2 pct02
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	\$400.00
Multiplied by 35 years of creditable service35
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Full annuity	\$14,000

§ 19.10-2 Reduced annuity with regular survivor annuity to spouse or former spouse.

(a) At commencement of annuity, a participant or former participant may

provide a regular survivor annuity for any eligible former spouse and, within the limits of paragraph (b) of this section, a regular survivor annuity to any spouse to whom he/she is then married as described in §§ 19.11-2 and 19.11-3, respectively. A regular survivor annuity for a spouse or former spouse equals 55 percent of the portion of the retiree's annuity (up to the full amount) designated as the base for the survivor annuity. To provide the survivor annuity, the participant must accept a reduction in his/her full annuity equal to 2½ percent of the first \$3,600 of the designated base, plus 10 percent of the balance of the base. If a regular survivor annuity is being provided for both a spouse and a former spouse, the bases for each are added and the calculation made as in the following example:

Participant's full annuity as computed in § 19.10-1: \$14,000.

Maximum regular survivor annuity is 55 percent of full annuity: \$7,700.

Case I (Participant has a spouse and former spouse at retirement) If the pro rata share for a former spouse is 75 percent, the base for this benefit will be 75 percent of \$14,000: \$10,500.

The base for the maximum regular survivor annuity for a spouse would then be 25 percent of \$14,000, or \$3,500.

Combined base: \$14,000.

Participant's full annuity reduced as follows:

2½ percent of first \$3,600 of the base: \$90.

Plus 10 percent of the amount over \$3,600 (\$14,000-3,600) \$10,400: \$1,040.

Total reduction in participant's full annuity: \$1,130.

Participant's reduced annuity: \$12,870.

Survivor annuity for former spouse: 55 percent of \$10,500 or \$5,775.

Survivor annuity for spouse: 55 percent of \$3,500 or \$1,925.

Case II (Participant married at retirement with no former spouse. All calculations made without reference to cost-of-living increases described in § 19.11-5d.)

Joint election of base for regular survivor annuity of 90 percent of the maximum, or 90 percent of \$14,000: \$12,600.

Participant's full annuity reduced as follows:

2½ percent of first \$3,600 of the base: \$90.

Plus 10 percent of the amount over \$3,600 (\$12,600-3,600) \$9,000: \$900.

Total reduction in participant's full annuity: \$990.

Participant's reduced annuity: \$13,010.

In this example, if divorce occurs subsequent to retirement and a court orders a 75 percent share for the former spouse, the base

for the survivor annuity for the former spouse would be 75 percent of \$14,000: \$10,500.

The participant's full annuity would then be reduced by \$780 in accordance with the above formula for this survivor benefit, and the reduced annuity would be \$14,000-780: \$13,220.

If the former spouse qualifies for a pension as described in § 19.9 based on a pro rata share of 75 percent, the pension would equal 50 percent of the participant's reduced annuity times 75 percent ($50\% \times \$13,220 \times 75\%$): 4,957.50.

The participant's reduced annuity would then be further reduced by this pension (\$13,220-\$4,957.50) to provide an annuity to the former participant of \$8,262.50.

If this annuitant later remarried, the maximum base for the regular survivor annuity for the new spouse would be the amount designated at retirement, \$12,600, less the amount committed to the former spouse, \$10,500: \$12,600-10,500 or \$2,100.

The survivor annuity for this spouse: 55 percent of \$2,100 or \$1,555.

The election of this benefit for the new spouse would be made individually by the annuitant since a marriage after retirement does not give a spouse a right to participate in the election.

If the election is made to provide a regular survivor annuity to the new spouse, all of the above calculations would be recomputed effective the first day of the month beginning one year after the date of the remarriage, as follows:

Base for survivor annuity for former spouse: 75% of \$14,000 or \$10,500.

Survivor annuity for former spouse: 55% of \$10,500 or \$5,775.

Base for survivor annuity for spouse: 15% of \$14,000 or \$2,100.

Survivor annuity for spouse: 55% of \$2,100 or \$1,555.

The combined base for the survivor benefits is \$10,500 plus \$2,100 or \$12,600. The annuity reduction on this combined base as computed above is \$990.

The participant's annuity after reduction for survivor benefit would be \$14,000-\$990 or \$13,010.

The pension for the former spouse would be $50\% \times \$13,010 \times 75\%$ or \$4,878.75.

The participant's annuity would be further reduced by this amount: \$13,010-\$4,878.75 to provide an annuity after this recalculation of \$8,131.25.

(b) The maximum regular survivor annuity or combination of regular survivor annuities that may be provided under this section is limited to 55% of the principal's full annuity computed at retirement. If an annuitant is recalled to active duty in the Foreign Service, he/she may provide additional

regular survivor annuities under §19.10-6. The maximum regular survivor annuity or combination of regular survivor annuities that an annuitant who was married at retirement may elect or provide, pursuant to a court order or otherwise, after retirement in the event of his/her divorce or remarriage, is limited to the amount provided at the time of initial retirement or reversion to retired status following recall service.

§ 19.10-3 Marriage after retirement.

If an annuitant who was unmarried at the time of retirement, marries, he/she may within one year after such marriage irrevocably elect to receive a reduced annuity and to provide, subject to any obligation to provide a survivor annuity for a former spouse, a survivor annuity for the new spouse. If such an election is made, the principal's annuity shall be reduced in accordance with §19.10-2 effective on the first day of the first month which begins at least one year after the date of the marriage. The reduction is computed on the commencing rate of the principal's annuity.

§ 19.10-4 Death or divorce of a spouse and remarriage after retirement.

(a) If the marriage of an annuitant who received a reduced annuity at retirement under §19.10-2 to provide a survivor annuity for a spouse is dissolved by divorce or by death of the spouse, the retiree's annuity shall be recomputed, if necessary, as of the first of the month following the death or divorce. If the marriage was dissolved by death, the annuity shall be recomputed and paid at its full amount. If the marriage is dissolved by divorce, procedures in §19.11-2(b) shall be followed.

(b) In the event an annuitant affected by this paragraph remarries, the annuitant may elect within one year of remarriage to provide a survivor annuity for the new spouse equal in amount to the survivor benefit formerly in effect for the previous spouse less any amount committed for a former spouse. The annuity of a retiree making such an election shall be reduced effective on the first day of the first month which begins at least one year after the remarriage to the amount that would

have been payable had there been no recomputation under paragraph (a) of this section.

§ 19.10-5 Reduced annuity with additional survivor annuity to spouse or former spouse.

(a) *General.* This section provides an opportunity for a participant or former participant who has provided a regular survivor annuity to a former spouse to provide a survivor annuity to a second spouse or to another former spouse. The additional survivor annuity provided under this section generally is more costly than the regular survivor annuity because the participant is required to pay its full cost by deduction from salary or annuity, or otherwise, as specified in paragraph (e) of this section. The participant must also be in normal health for his/her age and pass a physical examination prescribed by the Secretary of State (M/MED) to be eligible to provide an additional survivor annuity under this section.

(b) *Limitation on amount.* Neither the total amount of additional survivor annuity or annuities under this section provided by any participant or former participant nor any combination of regular or additional survivor annuities for any one surviving spouse or former spouse of a principal may exceed 55 percent of the principal's full annuity counting any supplemental annuity or recomputation of annuity because of recall service. An additional survivor annuity provided by any principal shall be further limited to the amount that can be provided by a monthly payment which is not greater than the principal's net annuity described in §19.6-2(b). The amount of any additional survivor annuity provided by a spousal agreement effective prior to the principal's retirement, shall be reduced as necessary by PER/ER/RET after the principal's retirement to comply with this limitation. Any amount paid by a participant for the portion of additional survivor annuity cancelled pursuant to this paragraph shall be treated as an additional lump sum payment under paragraph (e) of this section and used to increase the amount of the additional annuity. A participant who separates from the