

CHAPTER 2

ELECTION AND ELECTION CHANGES

100201. Election

a. Any member who would have been eligible for retired pay under Title 10, U.S.C., Chapter 67, on 30 Sep 1978, but who is under age 60, or who receives by 30 June 1979, a notification of completion of the years of service required for eligibility of such retired pay had until 30 Sep 1979, to make an RCSBP election. Public Law 96-107 extended the period to elect to participate in the RCSBP. Any member who meets the service requirement, but not the age, before 30 Sep 1978, had through 31 Mar 1980, to elect RCSBP, to decline RCSBP or to revoke a previous RCSBP election. A member who declines RCSBP or revokes a previous RCSBP election retains eligibility to participate in the SBP at age 60.

b. Any member who is notified of his or her completion of the years of service required for retired pay eligibility under Title 10, U.S.C., Chapter 67, may elect to participate in the Plan before the end of a 90-day period that begins on the date of such notification. A member who does not participate before the end of the 90-day period remains eligible to participate in the SBP at age 60.

c. Any Reserve member in receipt of retired pay on 13 Aug 1981, was eligible to participate in the SBP or to increase RCSBP coverage during the open enrollment period 1 Oct 1981 through 30 Sep 1982.

d. Any Reserve member who was entitled to retired pay under Title 10, U.S.C., Chapter 67, but not yet age 60 on 13 Aug 1981, was eligible for the open enrollment period 1 Oct 1982 through 30 Sep 1983.

e. Any Reserve member who has a former spouse and dependent child when becoming eligible to participate in the Plan, 1 Mar 1986, or later, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage 8 Sep 1982 through 28 Feb 1986, former spouse coverage is under the insurable interest category and the election does not include children.

f. Any Reserve member participating in the Plan with spouse or spouse and child coverage may change that election 24 Sep 1983 through 23 Sep 1984, or within 1 year of the date of divorce, dissolution or annulment, whichever is later, to provide an annuity to a former spouse (elections

1 Mar 1986, or later, may be for former spouse or former spouse and child).

g. Any Reserve member described in subparagraph e or f above, who, incident to a proceeding of divorce, dissolution, or annulment, enters into a voluntary written agreement to elect former spouse coverage and such agreement has been incorporated in, or ratified, or approved by a court order and who fails or refuses to make such election, may provide former spouse coverage if the former spouse requests, in writing, that the Secretary concerned deem a former spouse election. The Secretary concerned must receive the former spouse's request before 1 Oct 1985, or within 1 year of the date of the court order involved, whichever is later.

h. Any member who became a participant 19 Oct 1984--8 Nov 1985, could withdraw from the Plan 8 Nov 1985-7 Nov 1986, except those participating with former spouse coverage on the basis of a deemed election.

i. Any member who made a former spouse election before 8 Nov 1985, could change that election 8 Nov 1985-7 Nov 1986, to provide coverage for former spouse and child provided the child was the result of the member-former spouse marriage.

j. Any member who elected former spouse coverage before 8 Nov 1985, could with the concurrence of the former spouse, change that election from former spouse (insurable interest category) to former spouse (spouse category). Such election had to be made 8 Nov 1985-7 Nov 1986.

k. Any member who was a participant before 8 Nov 1985, and who did not elect former spouse coverage could elect former spouse coverage 8 Nov 1985-7 Nov 1986.

l. Any member who before 8 Nov 1985, elected former spouse coverage could change the election to former spouse and child coverage not later than 1 Mar 1987. Any member who elected former spouse coverage 8 Nov 1985-28 Feb 1986, could change the election to former spouse and child coverage not later than 13 Nov 1987.

*m. Effective 1 Apr 1992 members who are providing spouse or former spouse coverage at the maximum level may elect Supplemental SBP coverage. A member who anticipates becoming an RCSBP participant with maximum coverage for spouse or former spouse and who wants

Supplemental SBP coverage must elect RC-SSBP before the day on which the member first becomes a participant in the Plan. If upon becoming a participant in the Plan the member is not providing an annuity for spouse or former spouse at the maximum level, any RC-SSBP election shall be void. Certain eligible members were given an opportunity from 1 Apr 1992 through 31 Mar 1993 to elect RCSBP, RC-SSBP coverage, or to change RCSBP coverage.

100202. Election Data

The modified version of DD Forms 1883, Survivor Benefit Plan Election Certificate and 1882, Survivor Benefit Plan Election Change (when available), are recommended for use by the member. However, any election in writing which contains the information necessary to establish or decline coverage, signed by the member, is acceptable; however, spousal concurrence of certain elections is required beginning 1 Mar 1986. A former spouse election by the member will be accompanied by a written statement setting forth whether the election is made pursuant to a voluntary, written agreement previously entered into by the member as a part of, or incident to, a proceeding of divorce, dissolution, or annulment, and if so, whether such agreement has been incorporated in, or ratified or approved by a court order. On a deemed former spouse election, the Secretary concerned receives a written request, in a manner prescribed by the Secretary, and a copy of the court order, regular on its face, which incorporates, ratifies, or approves the voluntary, written agreement of such person or a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law. The election should show:

a. **Identification.** Member's name, social security number, date of birth, and date of retirement.

b. **Base Amount.** A member who participates in the Plan elects a base amount of maximum or reduced coverage. Effective 1 July 1986, a member who receives a 20-year notification of eligibility and who elects to participate in RCSBP must elect to cover:

(1) One hundred percent of retired pay;

or

(2) A percentage of retired pay which is less than 100 percent, but which is greater than or equal to \$300 when computed against the amount of retired pay which would be payable as of the effective date of the election; or

(3) A given dollar amount which is greater than or equal to \$300, but less than 100 percent of retired pay.

If a member's full retired pay, computed as of the effective date of the election, is less than \$300, such member must elect to cover 100 percent of retired pay. If the member elects to cover a dollar amount which is greater than 100 percent of the member's retired pay as computed on the effective date of the election, the election will be considered to be for 100 percent of retired pay. Any dollar election will be converted to a percentage of retired pay as of the effective date of the election. Members making such elections should be advised that their election will be converted to a percentage of retired pay as would be payable if such member were 60 years of age on the date the RCSBP election becomes effective and will be based on that same percentage of retired pay regardless of the changes in the retired pay that may occur as a result of pay rate increases, additional points accumulated, or promotion or longevity step increases.

c. **Annuity Option.** In addition to Option A, Survivor Benefit Plan (SBP), the Reservist has two survivor annuity options, Options B and C.

(1) Option A. The member defers a survivor annuity election or declines coverage until age 60. There is no coverage for the years between becoming eligible for retirement and reaching age 60. If the member dies before age 60, no survivor annuity is payable. At age 60, the member may elect to participate in SBP as any other member becoming entitled to retired pay.

(2) Option B. The member elects to provide a deferred survivor annuity that begins on the 60th anniversary of the member's birth, or on the day after the member's death, whichever is later.

(3) Option C. The member elects to provide an immediate survivor annuity beginning on the day after the member's death, whether before or after age 60.

d. **Coverage.** A member may elect coverage for

(1) Spouse and/or children;

(2) Former spouse or former spouse and children; or

(3) Natural person with an insurable interest (at maximum level or coverage only).

e. **Beneficiary.** Show the name, birthdate, and social security number for each beneficiary named. If coverage includes spouse, the member must furnish the date of marriage. When the bene-

ficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin.

***f. Signature.** The member must sign and date the election. Two disinterested persons must witness a document signed by an "X."

NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

g. Spousal Concurrence. Effective 1 Mar 1986, a married member who elects RCSBP coverage for less than maximum coverage for the spouse, when the member becomes eligible to participate, must obtain the concurrence of the spouse in writing. If former spouse coverage is elected or deemed, the spouse's concurrence is not required; however, the spouse is notified of the former spouse coverage. See paragraph 90203e, if spousal concurrence is required. If the member chooses to defer the SBP decision to age 60; that is, elect Option A, spousal concurrence is not required.

***h. SSBP Percentage of Annuity Coverage.** A member who elects spouse or former spouse coverage at the maximum level may provide an additional percentage of the base amount in increments of 5, 10, 15, or 20 percent. A member may not make an SSBP election if the spouse or former spouse is entitled to annuity computed under the social security offset method, (Title 10, U. S. C., section 1451(e)). However, the member may elect SSBP, if such member waives the right to have annuity computed under the social security offset method.

100203. Irrevocable Elections and Discontinued Participation

Elections filed during the 90-day period are irrevocable unless revoked before the expiration of the 90-day period, except under the following circumstances:

- a. The election was revoked before 31 Mar 1980.
- b. The member discontinues participation as a totally disabled member under paragraph 90208.
- c. The mentally incapacitated member is later determined to be mentally competent and revokes or changes the RCSBP election within 180

days after such determination of judgment.

d. The member who elected to participate between 19 Oct 1984 and 8 Nov 1985, elected to withdraw from RCSBP before 8 Nov 1986, under Section 711 of Public Law 99-145.

e. The member elected less than maximum coverage without spousal concurrence and it is later determined by the Secretary concerned that spousal concurrence was appropriate.

f. The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States.

g. The SBP election maybe changed to and from former spouse coverage shown in paragraph 90207 or 100205.

h. Changed retirement eligibility. See paragraph 100205.

100204. Election Coverage

a. Spouse and/or children

⁽¹⁾ A member may elect coverage at the maximum level or at a reduced amount with spousal concurrence, if required, for:

- (a) An eligible spouse only.
- (b) An eligible spouse and dependent children.
- (c) Dependent children only.

A member with spouse coverage at the maximum level may also elect SSBP coverage.

⁽²⁾ A member with an eligible spouse and dependent child when becoming eligible to receive retired pay who:

(a) Declines coverage is prohibited from electing into the Plan except under paragraphs 90209 and 100205.

(b) Refuses coverage for an eligible spouse and elects child coverage only is prohibited from electing spouse coverage at a later date except during open season. See paragraphs 90209 and 100205.

*** b. Former Spouse or Former Spouse and Child.** A former spouse election prevents an annuity to the member's spouse and child (other than a child beneficiary under a former spouse and child election). The spouse is notified of the member's election for the former spouse. A former spouse or former spouse and child election may be made:

- (1) When the member becomes eligible

to participate. A member who has a former spouse and dependent child when becoming eligible to participate 1 Mar 1986, or later may elect former spouse or former spouse and child coverage provided the child is the result of the member-former spouse marriage. The coverage is provided under the spouse category, A former spouse election effective before 1 Mar 1986, provides coverage under the insurable interest category and the election could not include child coverage. If member elects former spouse coverage at the maximum level under the spouse category, the member may also elect SSBP.

(2) After member becomes eligible to participate but before a member meets age and service requirements. A member who elected spouse or spouse and child coverage may, before 24 Sep 1984 or within 1 year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. The former spouse is not eligible if he or she was the former spouse that the member had when the member became eligible to participate in the Plan. If the former spouse coverage was in effect before 1 Mar 1986, the annuity was provided under the insurable interest category and child coverage in conjunction with former spouse coverage was unavailable. A member who elected former spouse coverage before 8 Nov 1985, may provide annuity for a former spouse and child if such election is made before 1 Mar 1987, and a member who elected former spouse coverage 8 Nov 1985 to 28 Feb 1986, may provide an annuity for a former spouse and child if such election is made not later than 13 Nov 1987.

Note: An annuity for the former spouse must first be provided under the spouse category before child coverage may be added. A member who elects former spouse coverage at the maximum level under the spouse category may elect SSBP for the former spouse.

(3) When a member meets age and service requirements. The former spouse election is considered under the SBP and SSBP program.

(4) By the Secretary concerned upon the receipt of a request from the former spouse that an election be deemed for the former spouse. The provisions shown in paragraph 90205 for deemed former spouse election under SBP and SSBP apply to RCSBP.

c. Natural Person With Insurable Interest

An election for a natural person with insurable interest may be made only when there is no eligible spouse or dependent children. There are two exceptions: a person who is unmarried but who has a dependent child may provide coverage for that child under the insurable interest provision; and former spouse elections 8 Sep 1982-28 Feb 1986. A member elects gross retired pay as the base amount under an election for a natural person with an insurable interest.

***100205. Changes in Election and Coverage**

a. Later-Acquired Spouse and/or Child

This election must be received within 1 year of the event.

(1) If, at the end of the 90day period for member to elect, or on 31 Mar 1980, whichever applies, the member has no eligible beneficiary and declines to participate, the member may later elect for that class of beneficiary, If member has no dependents when the 20-year notification is received but acquires a spouse after age 59 but before age 60, any RCSBP election the member makes should be set aside and SBP and SSBP participation should be extended to the member upon entitlement to retired pay at age 60.

(2) A member has RCSBP spouse coverage. The spouse is lost through death or divorce. The member marries after age 59 but before age 60. It is considered RCSBP coverage and RCSBP cost is computed using age 60 for the member which is the same as SBP cost. Any RC-SSBP cost would be computed using the RC-SSBP tables, 10-4-2 and 10-4-3.

(3) A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may upon remarriage: resume coverage; increase the level of coverage up to and including full retired pay; or elect not to have spouse coverage resumed. A member who is participating with maximum spouse coverage but who is not a participant in the SSBP may elect SSBP upon remarriage. The SSBP election is irrevocable and shall be made within one year after the remarriage.

(a) Member may not add child coverage by virtue of this marriage alone if child coverage was previously bypassed.

(b) The level of RCSBP coverage may not be reduced nor may child coverage be eliminated. The RC-SSBP level of coverage may be increased upon remarriage.

(c) If member elects not to resume coverage, or to provide coverage at less than maximum, the spouse is notified.

(4) A member has former spouse or former spouse and child coverage. The member may later elect RCSBP and SSBP coverage for the newly acquired spouse and/or child. The cost for RCSBP coverage upon a remarriage after member reaches age 59 is the same as SBP cost.

(5) A member has insurable interest coverage. The member may later elect coverage for the newly acquired spouse and/or child.

b. Change From Spouse or Spouse and Child

(1) A member may terminate such election and provide an annuity for a former spouse or former spouse and child provided the child is the result of the member-former spouse marriage. See paragraphs 90207b and 100205. A member who elects to provide former spouse coverage at the maximum level may include Supplemental SBP coverage.

(2) The former spouse may request that the Secretary concerned deem an election for the former spouse.

c. Change to Former Spouse Election and Coverage

(1) Any Reserve member who has a former spouse and dependent child when becoming eligible to participate in the Plan, 1 Mar 1986, or later, may elect former spouse or former spouse and child coverage, provided the child is the result of the member-former spouse marriage. If the member elected former spouse coverage during the period 8 Sep 1982 through 28 Feb 1986, former spouse coverage is under the insurable interest category and the election does not include children. A member who elects former spouse coverage at the maximum level may elect Supplemental SBP coverage.

(2) Any Reserve member participating in the Plan with spouse or spouse and child coverage may change that election during the period 24 Sep 1983 through 23 Sep 1984, or within 1 year of the date of divorce, dissolution, or annulment, whichever is later, to provide an annuity to a former spouse (elections of 1 Mar 1986, or later may be for the former spouse or former spouse and child).

(3) Any Reserve member described in subparagraph (1) or (2), who incident to a proceeding of divorce, dissolution, or annulment, enters into a voluntary, written agreement to elect former spouse coverage and such agreement has

been incorporate in, or ratified, or approved by a court order and who fails or refuses to make such election may provide former spouse coverage, if the former spouse requests, in writing, that the Secretary concerned deem a former spouse election. The Secretary concerned must receive the former spouse's request before 1 Oct 1985 or within 1 year of the date of the court order involved, whichever is later. Deemed elections for RC-SSBP coverage shall operate under the same rules for SBP except that no RC-SSBP elections may be required by court order. Deemed RC-SSBP elections may only be made in instances when there is a voluntary written agreement to elect made by the member and such agreement is properly incorporated in a court order or filed with the court of appropriate jurisdiction. An election may not be deemed for RC-SSBP before 1 Apr 1992.

(4) Any member who before 8 Nov 1985, made a former spouse election could change that election 8 Nov 1985-7 Nov 1986 to provide coverage for former spouse and child, provided the child was the result of the member-former spouse marriage.

(5) Any member who elected former spouse coverage before 8 Nov 1985, could, with the concurrence of the former spouse, change that election from former spouse (insurable interest category) to former spouse (spouse category). Such election shall be made 8 Nov 1985-7 Nov 1986.

(6) Any member who before 8 Nov 1985, elected former spouse coverage may change the election to former spouse and child coverage not later than 1 Mar 1987. Any member who elected former spouse coverage 8 Nov 1985-28 Feb 1986, may change the election to former spouse and child coverage not later than 13 Nov 1987.

d. Changed Retirement Eligibility. If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under Title 10, U.S.C., Chapter 67, the RCSBP and RC-SSBP elections remain effective until the member actually retires. A member may then make a new election including a Supplemental SBP annuity election as any other retiring member.

e. Open Enrollment Periods

(1) Public Law 97-35, 13 Aug 1981, allowed Reserve members entitled to retired pay to enroll in SBP, to increase a reduced level of coverage, or to add spouse coverage to child coverage 1 Oct 1981-30 Sep 1982. See paragraph 90209 for restrictions.

(2) Public Law 97-252, 8 Sep 1982, authorized an open enrollment period for Reservists who on 13 Aug 1981 would have been entitled to retired pay under Title 10, U.S.C., Chapter 67, but for the fact that they had not reached age 60 on 13 Aug 1981. Open enrollment extended from 1 Oct 1982-30 Sep 1983.

(a) Members could enroll in RCSBP, increase a reduced level of coverage, or add spouse coverage to child coverage. Election information can be accepted in writing rather than on the approved form.

(b) There is no authority for eligible Reserve members to change the annuity option from immediate to deferred.

(c) Elections made by eligible Reservists are effective when received by the Secretary concerned, but not earlier than 1 Oct 1982.

(d) A Reserve member could elect former spouse coverage during the open season. The member could elect for a former spouse that member had when becoming eligible to participate in the Plan, 1 Oct 1982-30 Sep 1983.

(e) A member with suspended spouse coverage under RCSBP may increase the level of coverage.

(3) See paragraph 90205 for open enrollment periods under Public Laws 98-94, 98-525, 99-145, and 99-661 involving elections for

a former spouse. Members who elected RCSBP coverage from 19 Oct 1984 through 8 Nov 1985 could elect to withdraw during the period 8 Nov 1985 through 7 Nov 1986, with a refund of any cost plus interest.

(4) Certain members maybe eligible to withdraw from the Plan during the period 3 Mar 1988 through 2 Mar 1989. Under Public Law 100-180, a member with spouse or spouse and child coverage who remarried before 1 Mar 1986 may, with the spouse's concurrence, withdraw from the Plan. There is no refund of cost.

(5) Public Laws 101-189 and 101-510 provide an open season from 1 Apr 1992 through 31 Mar 1993. A member who is not currently participating in RCSBP may elect RCSBP. A member who makes an open season election for RCSBP coverage for a spouse or former spouse at the maximum level may elect RC-SSBP. A member may add spouse coverage or increase the base amount of coverage during open season. A member who is already providing spouse or former spouse coverage at the maximum level may add Supplemental SBP coverage during open season.

f. **The SBP Open-Season.** The open-season restrictions in part nine, chapter 2, paragraph 90209 apply to RCSBP open-season elections unless otherwise specified above.