Sec.
1152. Persons heretofore having a compensable status.
1153. Aggravation.
1154. Consideration to be accorded time, place, and circumstances of service.
1155. Authority for schedule for rating disabilities.
1157. Combination of certain ratings.
1158. Disappearance.
1159. Protection of service connection.
1160. Special consideration for certain cases of loss of paired organs or extremities.
1161. Payment of disability compensation in disability severance cases.
1162. Clothing allowance.
1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.

AMENDMENTS

2001—Pub. L. 107–103, title II, § 201(c)(2)(B), Dec. 27, 2001, 115 Stat. 988, substituted ''Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam'' for ''Presumptions of service connection for diseases associated with exposure to certain herbicide agents'' in item 1116.

1998—Pub. L. 105–368, title X, § 1005(a), Nov. 11, 1998, 112 Stat. 3364, renumbered item 1103 ''Cost-of-living adjustments'' as 1104.

Pub. L. 105–277, div. C, title XVI, § 1602(a)(2), Oct. 21, 1998, 112 Stat. 2681–744, added item 1118.

Pub. L. 105–178, title VIII, § 8202(a)(2), as added by Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865, added item 1103 ''Special provisions relating to claims based upon effects of tobacco products''.

1997—Pub. L. 105–33, title VIII, § 8031(a)(2), Aug. 5, 1997, 111 Stat. 668, added item 1103 ''Cost-of-living adjustments''.

1994—Pub. L. 103–446, title I, § 106(a)(2), Nov. 2, 1994, 108 Stat. 4651, added item 1117.

1992—Pub. L. 102–568, title IV, § 401(d)(2), Oct. 29, 1992, 106 Stat. 4336, substituted ''Trial work periods and vocational rehabilitation for certain veterans with total disability ratings'' for ''Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings'' in item 1163.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 301 to 363 as 1101 to 1163, respectively.

Pub. L. 102–4, § 2(a)(2), Feb. 6, 1991, 105 Stat. 13, added item 316.

1986—Pub. L. 99–576, title I, § 109(a)(2), Oct. 28, 1986, 100 Stat. 3253, amended item 360 generally, substituting ''loss of paired organs or extremities'' for ''blindness or bilateral kidney involvement or bilateral deafness''.

1984—Pub. L. 98–543, title I, § 111(a)(2), Oct. 24, 1984, 98 Stat. 2739, added item 363.

1982—Pub. L. 97–295, § 4(9), Oct. 12, 1982, 96 Stat. 1305, added item 361.

1976—Pub. L. 94–433, title IV, §§ 401(1), 404(5), Sept. 30, 1976, 90 Stat. 1377, 1378, substituted ''surviving spouses'' for ''widows'' in item 302 and struck out item 356 ''Minimum rating for arrested tuberculosis''.

1974—Pub. L. 93–295, title II, § 206(c), May 31, 1974, 88 Stat. 183, struck out item 343 ''Conditions under which wartime rates payable''.

1972—Pub. L. 92–328, title I, §§ 103(b), 108(d), June 30, 1972, 86 Stat. 394, 396, struck out item 336 ''Conditions under which wartime rates payable'' and added item 362.

1970—Pub. L. 91–376, § 3(c), Aug. 12, 1970, 84 Stat. 789, inserted reference to disabilities in item 312.

1966—Pub. L. 89–358, § 7(b), Mar. 3, 1966, 80 Stat. 27, added item 337.

1965—Pub. L. 89–311, § 3(c), Oct. 31, 1965, 79 Stat. 1155, inserted reference to bilateral deafness in item 360.

1962—Pub. L. 87–610, § 2, Aug. 28, 1962, 76 Stat. 406, added item 360.

1960—Pub. L. 86–501, § 2, June 10, 1960, 74 Stat. 195, added item 359.

SUBCHAPTER I—GENERAL

§ 1101. Definitions

For the purposes of this chapter—

(1) The term ''veteran'' includes a person who died in the active military, naval, or air service.

(2) The term ''period of war'' includes, in the case of any veteran—

(A) any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and

(B) any period of continuous service performed by such veteran after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

(3) The term ''chronic disease'' includes—

Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calculi of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension
Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen's disease
Hodgkin's disease
Leukemia
Lupus erythematosus, systemic
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget's disease)
Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud's disease
Sarcoidosis
Scleroderma
Sclerosis, amyotrophic lateral
Sclerosis, multiple
Syringomyelia
Thromboangiitis obliterans (Buerger's disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Secretary may add to this list.

(4) The term ''tropical disease'' includes—

Amebiasis
Blackwater fever
Cholera
Dracontiasis
Dysentery

Filiariasis
Hansen's disease
Leishmaniasis, including kala-azar
Loiasis
Malaria
Onchocerciasis
Oroya fever
Pinta
Plague
Schistosomiasis
Yaws
Yellow fever

and such other tropical diseases as the Secretary may add to this list.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1118, § 301; Pub. L. 94–433, title IV, §§ 401(2), (3), 404(1), Sept. 30, 1976, 90 Stat. 1377, 1378; Pub. L. 98–160, title VII, § 702(2), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 100–322, title III, § 313, May 20, 1988, 102 Stat. 535; renumbered § 1101 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 301 of this title as this section.

Pars. (3), (4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Par. (3). Pub. L. 100–322 inserted ''Lupus erythematosus, systemic'' after ''Leukemia''.

1983—Par. (3). Pub. L. 98–160 substituted a period for the semicolon at end of paragraph following ''may add to this list''.

1976—Par. (2)(A), (B). Pub. L. 94–433, § 404(1), substituted ''such veteran'' for ''him'' in subpars. (A) and (B).

Par. (3). Pub. L. 94–433, § 401(2), substituted ''Hansen's disease'' for ''Leprosy''.

Par. (4). Pub. L. 94–433, § 401(3), inserted ''Hansen's disease'' after ''Filiariasis'' and struck out ''Leprosy'' before ''Loiasis''.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 406 of Pub. L. 94–433 provided that: ''The provisions of this Act [see Tables for classification] shall become effective on October 1, 1976.''

EFFECTIVE DATE OF FUTURE INCREASES

Pub. L. 98–223, title I, § 108, Mar. 2, 1984, 98 Stat. 40, provided that: ''It is the sense of the Congress that any increase provided by law to take effect after fiscal year 1984 in the rates of disability compensation and dependency and indemnity compensation payable under chapters 11 and 13, respectively, of title 38, United States Code, shall take effect on December 1 of the fiscal year involved and that the budgets for any such fiscal year include amounts to achieve such purpose.''

[Section 108 of Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.]

VETERANS' DISABILITY BENEFITS COMMISSION

Pub. L. 108–136, div. A, title XV, Nov. 24, 2003, 117 Stat. 1676, as amended by Pub. L. 109–163, div. A, title V, § 590, Jan. 6, 2006, 119 Stat. 3279, provided that:

''SEC. 1501. ESTABLISHMENT OF COMMISSION.

''(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Disability Benefits Commission (hereinafter in this title referred to as the 'commission').

''(b) MEMBERSHIP.—(1) The commission shall be composed of 13 members, appointed as follows:

''(A) Two members appointed by the Speaker of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(B) Two members appointed by the minority leader of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(C) Two members appointed by the majority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(D) Two members appointed by the minority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(E) Five members appointed by the President, at least three of whom shall be veterans who were awarded a decoration specified in paragraph (2).

''(2) A decoration specified in this paragraph is any of the following:

''(A) The Medal of Honor.

''(B) The Distinguished Service Cross, the Navy Cross, or the Air Force Cross.

''(C) The Silver Star.

''(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(4) The appointment of members of the commission under this subsection shall be made not later than 60 days after the date of the enactment of this Act [Nov. 24, 2003].

''(c) PERIOD OF APPOINTMENT.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers.

''(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which a majority of the members of the commission have been appointed.

''(e) MEETINGS.—The commission shall meet at the call of the chairman.

''(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

''(g) CHAIRMAN.—The President shall designate a member of the commission to be chairman of the commission.

''SEC. 1502. DUTIES OF THE COMMISSION.

''(a) STUDY.—The commission shall carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

''(b) SCOPE OF STUDY.—In carrying out the study, the commission shall examine and make recommendations concerning the following:

''(1) The appropriateness of such benefits under the laws in effect on the date of the enactment of this Act [Nov. 24, 2003].

''(2) The appropriateness of the level of such benefits.

''(3) The appropriate standard or standards for determining whether a disability or death of a veteran should be compensated.

''(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section shall be a comprehensive evaluation and assessment of the benefits provided under the laws of the United States to compensate veterans and their survivors for disability or death attributable to military service, together with any related issues that the commission determines are relevant to the purposes of the study. The study shall include an evaluation and assessment of the following:

''(1) The laws and regulations which determine eligibility for disability and death benefits, and other assistance for veterans and their survivors.

''(2) The rates of such compensation, including the appropriateness of a schedule for rating disabilities based on average impairment of earning capacity.

''(3) Comparable disability benefits provided to individuals by the Federal Government, State governments, and the private sector.

''(d) CONSULTATION WITH INSTITUTE OF MEDICINE.—In carrying out the study under this section, the commission shall consult with the Institute of Medicine of the National Academy of Sciences with respect to the medical aspects of contemporary disability compensation policies.

''SEC. 1503. REPORT.

''Not later than October 1, 2007, the commission shall submit to the President and Congress a report on the study. The report shall include the following:

''(1) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in section 1502(c).

''(2) The recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

''(3) Other information and recommendations with respect to such benefits as the commission considers appropriate.

''SEC. 1504. POWERS OF THE COMMISSION.

''(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

''(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 1502(c), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

''(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

''SEC. 1505. PERSONNEL MATTERS.

''(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

''(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

''(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the commission to assist it in carrying out its duties.

''(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''SEC. 1506. TERMINATION OF COMMISSION.

''The commission shall terminate 60 days after the date on which the commission submits its report under section 1503.

''SEC. 1507. FUNDING.

''(a) IN GENERAL.—The Secretary of Veterans Affairs shall, upon the request of the chairman of the commission, make available to the commission such amounts as the commission may require to carry out its duties under this title.

''(b) AVAILABILITY.—Any sums made available to the commission under subsection (a) shall remain available, without fiscal year limitation, until the termination of the commission.''

TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEED-BASED BENEFITS

Pub. L. 103–446, title V, § 506, Nov. 2, 1994, 108 Stat. 4664, provided that: ''Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.''

COST-OF-LIVING INCREASES IN COMPENSATION RATES

Pub. L. 103–446, title I, § 111(b), Nov. 2, 1994, 108 Stat. 4654, provided that: ''The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.''

Pub. L. 103–66, title XII, § 12008, Aug. 10, 1993, 107 Stat. 415, provided that:

''(a) POLICY.—The fiscal year 1994 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title, except as provided in subsection (b) of this section, will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

''(b) LIMITATION ON FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.—(1) During fiscal year 1994, the amount of any increase in any of the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code, will not exceed 50 percent of the new law increase, rounded down (if not an even dollar amount) to the next lower dollar.

''(2) For purposes of paragraph (1), the new law increase is the amount by which the rate of dependency and indemnity compensation provided for recipients under section 1311(a)(1) of such title is increased for fiscal year 1994.''

Pub. L. 101–508, title VIII, § 8005, Nov. 5, 1990, 104 Stat. 1388–343, provided that:

''(a) POLICY REGARDING FISCAL YEAR 1991.—The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 5.4 percent increase, with all increased monthly rates rounded down to the next lower dollar. The effective date for such adjustments will not be earlier than January 1, 1991.

''(b) INCREASE PAYABLE AS OF JANUARY 1992.—The amount of compensation or dependency and indemnity compensation payable to any individual for the month of January 1992 who is entitled to such benefits as of January 1, 1992, shall be increased for such month by the amount equal to the amount of the monthly increase provided for that individual's benefit level as of January 1, 1991, pursuant to the adjustments described in subsection (a).''

BENEFITS AND SERVICES FOR FORMER PRISONERS OF WAR; IMPLEMENTATION OF PROGRAMS; RECORDS FOR DISPOSITION OF CLAIMS; DEFINITION

Pub. L. 97–37, § 6, Aug. 14, 1981, 95 Stat. 937, provided that:

''(a) Not later than ninety days after the date of the enactment of this Act [Aug. 14, 1981] and at appropriate times thereafter, the Administrator shall, to the maximum extent feasible and in order to carry out the requirements of the veterans outreach services program under subchapter IV of [former] chapter 3 of title 38, United States Code, seek out former prisoners of war and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits and services to which former prisoners of war are entitled under such title by virtue of the amendments made by this Act [see Tables for classification].

''(b)(1) The Administrator shall, for not less than the three-year period beginning ninety days after the date of the enactment of this Act [Aug. 14, 1981], maintain a centralized record showing all claims for benefits under chapter 11 of such title that are submitted by former prisoners of war and the disposition of such claims.

''(2) Not later than ninety days after the end of the three-year period described in paragraph (1), the Administrator shall, after consulting with and receiving the views of the Advisory Committee on Former Prisoners of War required to be established pursuant to section 221 [see 541] of such title, submit a report on the results of the disposition of claims described in such paragraph, together with any comments or recommendations that the Administrator may have, to the appropriate committees of Congress. The Administrator may also submit to such committees interim reports on such results.

''(c) For the purposes of this section, the term ''former prisoner of war'' has the meaning given such term in paragraph (32) of section 101 of title 38, United States Code (as added by section 3(a) of this Act).''

STUDY ON DISABILITY COMPENSATION AND HEALTH-CARE NEEDS OF FORMER PRISONERS OF WAR; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 95–479, title III, § 305, Oct. 18, 1978, 92 Stat. 1565, directed Administrator of Veterans' Affairs, in consultation with Secretary of Defense, to carry out a comprehensive study of disability compensation awarded to, and health care needs of veterans who are former prisoners of war and to submit a report on results of such study to Congress and President not later than Feb. 1, 1980.

AMPUTEES, CARDIOVASCULAR DISORDERS; STUDY

Section 403 of Pub. L. 94–433 directed Administrator to conduct a scientific study to determine if there is causal relationship between amputation of an extremity and subsequent development of cardiovascular disorders and to report to Speaker and President of Senate not later than June 30, 1977.

STUDY OF CLAIMS FOR DEPENDENCY AND INDEMNITY COMPENSATION

Pub. L. 93–295, title II, § 207, May 31, 1974, 88 Stat. 183, directed Administrator of Veterans' Affairs to make a detailed study of claims for dependency and indemnity compensation relating to veterans, as defined in section 101(2) of this title, who at time of death within six months prior to May 31, 1974, were receiving disability compensation from Veterans' Administration based upon a rating total and permanent in nature, and submit a report together with such comments and recommendations as Administrator deemed appropriate to Speaker of the House and President of the Senate not more than thirty days after Jan. 14, 1975.

§ 1102. Special provisions relating to surviving spouses

(a) No compensation shall be paid to the surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(b) Subsection (a) shall not be applicable to any surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Secretary in effect on December 31, 1957.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1119, § 302; Pub. L. 86–491, June 8, 1960, 74 Stat. 161; Pub. L. 90–77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94–433, title IV, § 404(2)–(4), Sept. 30, 1976, 90 Stat. 1378; renumbered § 1102 and amended Pub. L. 102–83, §§ 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 302 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1976—Pub. L. 94–433, § 404(4), substituted ''surviving spouses'' for ''widows'' in section catchline.

Subsec. (a). Pub. L. 94–433, § 404(2), substituted ''surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran'' for ''widow of a veteran under this chapter unless she was married to him''.

Subsec. (b). Pub. L. 94–433, § 404(3), substituted ''surviving spouse'' for ''widow'' in two places.

1967—Subsec. (a)(2), (3). Pub. L. 90–77 qualified widow of a veteran for receipt of compensation by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

1960—Subsec. (a)(1). Pub. L. 86–491 substituted ''fifteen years'' for ''ten years''.