

shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration [now Department of Veterans Affairs] compensation."

[Pub. L. 102-4, §10(e), Feb. 6, 1991, 105 Stat. 20, as amended by Pub. L. 102-86, title V, §503(b)(2), Aug. 14, 1991, 105 Stat. 425, provided that:

["(1) Except as provided in paragraph (2), the amendments made by this section [amending sections 2 and 3 of Pub. L. 98-542, set out above, and sections 5 and 6 of Pub. L. 98-542, set out above] shall take effect at the end of the two-month period beginning on the date of the enactment of the Veterans' Benefits Programs Improvement Act of 1991 [Aug. 14, 1991].

["(2)(A) If the Secretary of Veterans Affairs determines before the end of such period that the Environmental Hazards Advisory Committee established under section 6 of Public Law 98-542 (38 U.S.C. 354 note) [set out above] has completed its responsibilities under that section and the directives of the Secretary pursuant to the Nehmer case court order, the amendments made by this section shall take effect as of the date of such determination.

["(B) For purposes of this paragraph, the term 'Nehmer case court order' means the court order dated May 2, 1989, in the case of Nehmer v. Department of Veterans Affairs, in the United States district court for the northern district of California (civil action docket number C-86-6160 TEH).

["(3) If the Secretary makes a determination under paragraph (2), the Secretary shall promptly publish in the Federal Register a notice that such determination has been made and that such amendments have thereby taken effect as of the date of such determination."]

IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE TO IONIZING RADIATION BEFORE JANUARY 1, 1970

Section 10 of Pub. L. 98-542, as added by Pub. L. 102-578, §3, Oct. 30, 1992, 106 Stat. 4774, provided that:

"(a) IN GENERAL.—(1) In order to determine whether activities (other than the tests or occupation activities referred to in section 5(a)(1)(B) [probably means section 5(a)(1), set out above]) resulted in the exposure of veterans to ionizing radiation during the service of such veterans that occurred before January 1, 1970, and whether adverse health effects have been observed or may have resulted from such exposure in a significant number of such veterans, the Advisory Committee established under section 6 [set out above] shall—

"(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service;

"(B) identify any activity during which significant numbers of veterans received exposure; and

"(C) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service.

"(2) Upon the request of the Advisory Committee, the Secretary of Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph.

"(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(C) not later than August 1, 1993.

"(b) INVESTIGATION PLAN AND REPORT.—(1) Upon receipt of the report referred to in subparagraph (C) of subsection (a)(1), the Secretary of Veterans Affairs shall—

"(A) identify which of the activities referred to in that subparagraph, if any, that the Secretary intends

to investigate more fully for the purpose of making the determination referred to in that subsection; and

"(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

"(2) Not later than December 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

"(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification;

"(B) a copy of the report of the Advisory Committee referred to in subsection (a)(1)(C); and

"(C) the plan referred to in paragraph (1)(B)."

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

Section 9 of Pub. L. 98-542 provided for payment of interim monthly disability benefits to veterans who had served in Vietnam during Vietnam era and who had diseases chloracne and porphyria cutanea tarda which manifested themselves within one year after date of veteran's most recent departure from Vietnam, but with no such interim benefits to be paid after Sept. 30, 1986.

RADIATION EXPOSURE STUDY AND GUIDE

Pub. L. 98-160, title VI, Nov. 21, 1983, 97 Stat. 1006, as amended by Pub. L. 98-542, §8(b), Oct. 24, 1984, 98 Stat. 2732, provided for the conduct of an epidemiological study of long-term adverse health effects of exposure to ionizing radiation from detonation of nuclear devices in connection with tests of such devices or in connection with occupation of Hiroshima and Nagasaki, Japan, between Sept. 11, 1945, and July 1, 1946, and provided for reports to Congress on studies made together with recommendations as to necessary legislation.

§ 1155. Authority for schedule for rating disabilities

The Secretary shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, 80 percent, 90 percent, and total, 100 percent. The Secretary shall from time to time readjust this schedule of ratings in accordance with experience. However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, §355; Pub. L. 98-223, title I, §101(c), Mar. 2, 1984, 98 Stat. 38; renumbered §1155 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-86, title I, §103(a), Aug. 14, 1991, 105 Stat. 414.)

AMENDMENTS

1991—Pub. L. 102-86 amended this section as in effect before the redesignations made by Pub. L. 102-83, §5, by inserting at end "However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred."

Pub. L. 102-83, §5(a), renumbered section 355 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

1984—Pub. L. 98-223 substituted "percent" for "per centum" wherever appearing.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 103(b) of Pub. L. 102-86 provided that: "The amendment made by subsection (a) [amending this section] shall apply with regard to changes in rating schedules that take effect after the date of the enactment of this Act [Aug. 14, 1991]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

[§ 1156. Vacant]

CODIFICATION

Prior to renumbering of sections 301 to 363 of this chapter as sections 1101 to 1163 by Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406, section 356 of this chapter, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, which provided for a minimum rating for veterans with arrested tuberculosis, was repealed by Pub. L. 90-493, §4, Aug. 19, 1968, 82 Stat. 809, but repeal not applicable in case of veteran who on Aug. 19, 1968, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest.

§ 1157. Combination of certain ratings

The Secretary shall provide for the combination of ratings and pay compensation at the rates prescribed in subchapter II of this chapter to those veterans who served during a period of war and during any other time, who have suffered disability in line of duty in each period of service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, §357; renumbered §1157 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 357 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

§ 1158. Disappearance

Where a veteran receiving compensation under this chapter disappears, the Secretary may pay the compensation otherwise payable to the veteran to such veteran's spouse, children, and parents. Payments made to such spouse, child, or parent under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, §358; Pub. L. 86-212, Sept. 1, 1959, 73 Stat. 436; Pub. L. 94-433, title IV, §404(21), Sept. 30, 1976, 90 Stat. 1379; renumbered §1158 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 358 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1976—Pub. L. 94-433 struck out "in his discretion," after "Administrator" and substituted "such veteran's spouse" for "his wife" and "such spouse" for "a wife".

1959—Pub. L. 86-212 substituted "a veteran" for "an incompetent veteran".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as a note under section 1101 of this title.

§ 1159. Protection of service connection

Service connection for any disability or death granted under this title which has been in force for ten or more years shall not be severed on or after January 1, 1962, except upon a showing that the original grant of service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The mentioned period shall be computed from the date determined by the Secretary as the date on which the status commenced for rating purposes.

(Added Pub. L. 86-501, §1, June 10, 1960, 74 Stat. 195, §359; amended Pub. L. 87-825, §6, Oct. 15, 1962, 76 Stat. 950; renumbered §1159 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 359 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1962—Pub. L. 87-825 provided for computation of the period from the date the administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as a note under section 110 of this title.

§ 1160. Special consideration for certain cases of loss of paired organs or extremities

(a) Where a veteran has suffered—

(1) impairment of vision in one eye as a result of service-connected disability and impairment of vision in the other eye as a result of non-service-connected disability not the result of the veteran's own willful misconduct and—

(A) the impairment of vision in each eye is rated at a visual acuity of 20/200 or less; or

(B) the peripheral field of vision for each eye is 20 degrees or less;

(2) the loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

(3) deafness compensable to a degree of 10 percent or more in one ear as a result of service-connected disability and deafness in the other ear as the result of non-service-connected disability not the result of the veteran's own willful misconduct;

(4) the loss or loss of use of one hand or one foot as a result of service-connected disability and the loss or loss of use of the other hand or