respect to pay grade'' for ''Certifications with respect to basic pay'' in item 421.

UNIFORMED SERVICES, PROMOTION OF MEMBERS IN MISSING STATUS; EFFECTIVE DATE

Provisions of section 552(a) of Title 37, Pay and Allowances of the Uniformed Services, for full effectiveness for all purposes of promotion of a member while in a missing status notwithstanding a determination of death before the making of the promotion effective as of Nov. 24, 1971, for the purposes of this chapter, see section 2 of Pub. L. 93–26, Apr. 27, 1973, 87 Stat. 26, set out as an Effective Date of 1973 Amendment note under section 552 of Title 37.

SUBCHAPTER I—GENERAL

§ 1301. Definitions

As used in this chapter—

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

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1126, § 401; Pub. L. 91–24, § 4(a), June 11, 1969, 83 Stat. 33; Pub. L. 91–96, § 5, Oct. 27, 1969, 83 Stat. 145; renumbered § 1301, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 401 of this title as this section.

1969—Pub. L. 91–96 struck out par. (1) which defined ''basic pay''.

Par. (1). Pub. L. 91–24 substituted ''sections 201, 202, 203, 204, 205, or 207 of title 37'' for ''sections 232(a), 232(e), or 308 of Title 37''.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

COST-OF-LIVING INCREASES IN COMPENSATION RATES

For limitation on increases in dependency and indemnity compensation payable under this chapter, see section 8005 of Pub. L. 101–508, set out as a note under section 1101 of this title.

§ 1302. Determination of pay grade

(a) With respect to a veteran who died in the active military, naval, or air service, such veteran's pay grade shall be determined as of the date of such veteran's death or as of the date of a promotion after death while in a missing status.

(b) With respect to a veteran who did not die in the active military, naval, or air service, such veteran's pay grade shall be determined as of—

(1) the time of such veteran's last discharge or release from active duty under conditions other than dishonorable; or

(2) the time of such veteran's discharge or release from any period of active duty for training or inactive duty training, if such veteran's death results from service-connected disability incurred during such period and if such veteran was not thereafter discharged or released under conditions other than dishonorable from active duty.

(c) The pay grade of any veteran described in section 106(b) of this title shall be that to which such veteran would have been assigned upon final acceptance or entry upon active duty.

(d) If a veteran has satisfactorily served on active duty for a period of six months or more in a pay grade higher than that specified in subsection (a) or (b) and any subsequent discharge or release from active duty was under conditions other than dishonorable, the higher pay grade shall be used if it will result in greater monthly payments to such veteran's surviving spouse under this chapter. The determination as to whether an individual has served satisfactorily for the required period in a higher pay grade shall be made by the Secretary of the department in which such higher pay grade was held.

(e) The pay grade of any person not otherwise described in this section, but who had a compensable status on the date of such person's death under laws administered by the Secretary, shall be determined by the head of the department under which such person performed the services by which such person obtained such status (taking into consideration such person's duties and responsibilities) and certified to the Secretary. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1126, § 402; Pub. L. 86–492, June 8, 1960, 74 Stat. 161; Pub. L. 89–622, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 91–96, § 1, Oct. 27, 1969, 83 Stat. 144; Pub. L. 92–169, § 2, Nov. 24, 1971, 85 Stat. 489; Pub. L. 94–433, title IV, § 405(1)–(3), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 102–54, § 14(b)(2), June 13, 1991, 105 Stat. 283; renumbered § 1302 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 402 of this title as this section.

Subsec. (d). Pub. L. 102–54 substituted ''department'' for ''Department''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before period at end of first sentence.

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

1976—Subsec. (a). Pub. L. 94–433, § 405(1), substituted ''such veteran's'' for ''his'' in two places.

Subsec. (b). Pub. L. 94–433, § 405(1), substituted ''such veteran's'' for ''his'' in introductory clause and items (1) and (2) and ''such veteran'' for ''he'' in item (2).

Subsec. (c). Pub. L. 94–433, § 405(2), substituted ''such veteran'' for ''he''.

Subsec. (d). Pub. L. 94–433, § 405(2), substituted ''such veteran's surviving spouse'' for ''his widow''.

Subsec. (e). Pub. L. 94–433, § 405(3), substituted ''such person's'' for ''his'' in two places and ''such person'' for ''he''.

1971—Subsec. (a). Pub. L. 92–169 provided, with regard to determination of veteran's pay grade at date of his death, that in the case of a promotion after death while the veteran is in a missing status, the pay grade determination date is the date of such promotion.

1969—Pub. L. 91–96 substituted ''Determination of pay grade'' for ''Computation of basic pay'' in section catchline.

Subsec. (a). Pub. L. 91–96 substituted provisions determining the pay grade of a veteran who died in the active service for provisions determining the basic pay of a veteran who died in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (b). Pub. L. 91–96 substituted provisions determining the pay grade of a veteran who did not die in

the active service for provisions determining the basic pay of a veteran who did not die in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (c). Pub. L. 91–96 redesignated former subsec. (c)(1) as (c) and substituted ''pay grade'' for ''basic pay'' and ''assigned'' for ''entitled''. Former subsec. (c)(2) redesignated (e).

Subsec. (d). Pub. L. 91–96 substituted provisions determining the applicability of a higher pay grade of a veteran who had served six months or more in a pay grade higher than that specified in subsec. (a) or (b) for provisions determining the basic pay of a veteran who had served six months or more in a rank higher than that specified in the former provisions of subsec. (a) or (b).

Subsec. (e). Pub. L. 91–96 redesignated former subsec. (c)(2) as (e), substituted ''pay grade'' for ''basic pay'', and struck out ''and years of service'' after ''responsibilities''.

1966—Subsec. (d). Pub. L. 89–622 substituted ''any subsequent discharge or release from active duty was under conditions other than dishonorable'' for ''was so serving in such rank within one hundred and twenty days before death in the active military, naval, or air service or before last discharge or release from active duty under conditions other than dishonorable''.

1960—Subsec. (d). Pub. L. 86–492 added subsec. (d).

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.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3 of Pub. L. 92–169 provided that: ''For the purposes of chapter 13 of title 38, United States Code, this Act [amending this section and section 552 of Title 37, Pay and Allowances of the Uniformed Services] becomes effective upon the date of enactment [Nov. 24, 1971]. For all other purposes this Act becomes effective as of February 28, 1961.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 8 of Pub. L. 91–96 provided that: ''This Act [amending this section and sections 322 [now 1122], 401 [now 1301], 403, 411 [now 1311], and 421 [now 1321] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment [Oct. 27, 1969].''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–622 provided that: ''The amendment made by this Act [amending this section] shall take effect on the first day of the second calendar month after the date of enactment of this Act [Oct. 4, 1966].''

§ 1303. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2013 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b) For purposes of this section, the term ''social security increase'' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(Added Pub. L. 105–33, title VIII, § 8031(b)(1), Aug. 5, 1997, 111 Stat. 668; amended Pub. L. 107–103, title II, § 205, Dec. 27, 2001, 115 Stat. 990; Pub. L. 108–183, title VII, § 706, Dec. 16, 2003, 117 Stat. 2672.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''2013'' for ''2011''.

2001—Subsec. (a). Pub. L. 107–103 substituted ''2011'' for ''2002''.

§ 1304. Special provisions relating to surviving spouses

No dependency and indemnity compensation shall be paid to the surviving spouse of a veteran dying after December 31, 1956, 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.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 404; Pub. L. 90–77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94–433, title IV, § 405(4), (5), Sept. 30, 1976, 90 Stat. 1379; renumbered § 1304, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 404 of this title as this section.

1976—Pub. L. 94–433, § 405(4), (5), substituted ''surviving spouse'', ''such surviving spouse'', and ''such veteran'' for ''widow'', ''she'', and ''him'', respectively, in introductory clause and ''surviving spouses'' for ''widows'' in section catchline.

1967—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.

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.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

§ 1310. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable