1969—Pub. L. 91–96, § 6, Oct. 27, 1969, 83 Stat. 145, substituted ''Determination of pay grade'' for ''Computation of basic pay'' in item 402 and ''Certifications with 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