

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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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.

§ 1103. Special provisions relating to claims based upon effects of tobacco products

(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, air, or space service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.

(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, air, or space service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.

(Added Pub. L. 105-178, title VIII, §8202(a)(1), as added Pub. L. 105-206, title IX, §9014(a), July 22, 1998, 112 Stat. 865; amended Pub. L. 116-283, div. A, title IX, §926(a)(6), Jan. 1, 2021, 134 Stat. 3830.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1103 was renumbered section 1104 of this title.

AMENDMENTS

2021—Pub. L. 116-283 substituted “air, or space service” for “or air service” in subsecs. (a) and (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, see section 9016 of Pub. L. 105-206, set out as an Effective Date of 1998 Amendment note under section 101 of Title 23, Highways.

Pub. L. 105-178, title VIII, §8202(b), as amended by Pub. L. 105-206, title IX, §9014(a), July 22, 1998, 112 Stat. 865, provided that: “Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act [June 9, 1998].”

§ 1104. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2013 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments 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 and limitations (other than increased rates or limitations 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(a)(1), Aug. 5, 1997, 111 Stat. 668, §1103; renumbered §1104,