

more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears.

(21) For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed \$3,500 shall be awarded in addition to any other compensation payable under this schedule.

(22) For permanent loss or loss of use of any other important external or internal organ of the body as determined by the Secretary, proper and equitable compensation not to exceed 312 weeks' compensation for each organ so determined shall be paid in addition to any other compensation payable under this schedule.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 536; Pub. L. 90-83, §1(50), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, §§ 4, 5, Sept. 7, 1974, 88 Stat. 1144, 1145.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 755(a), (b). Sept. 7, 1916, ch. 458, §5, 39 Stat. 743. Oct. 14, 1949, ch. 691, §104 "Sec. 5(a), (b)", 63 Stat. 855. Sept. 13, 1960, Pub. L. 86-767, §201, 74 Stat. 907.

The words "loss, or" are omitted throughout this section as included in "loss of use of".

In subsection (a)(B), the words "under sections 751-754 of this title" are omitted as surplusage.

In subsection (b)(1), the words "(including paragraphs (16) and (20) thereof)" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Table with 3 columns: Section of title 5, Source (U.S.Code), Source (Statutes at Large). Row 1: 8107(a), (b). 5 App.: 755(a), (b). July 4, 1966, Pub. L. 89-488, §2(a), (b), 80 Stat. 252.

In subsection (a), the words "If there is" are substituted for "In any case of". The words "loss, or" are omitted as included in "loss of use of" and to conform to the remainder of the section. The words "the employee is entitled to basic compensation for the disability" are substituted for "basic compensation for such disability shall be payable to the disabled employee". The words "by the schedule in subsection (c) of this section" are substituted for "in the following schedule" to reflect the codification of the schedule in subsection (c). The words "The schedule referred to in the first sentence is as follows:" are omitted as unnecessary in view of the codification of that schedule in subsection (c).

In subsection (b), the words "an employee is entitled to compensation" are substituted for "compensation shall be paid" for consistency with subsection (a). In subsections (b) (1) and (2), the words "section 8105 of this title" and "section 8106 of this title" are substituted for "section 3" and "subsection (a) of section 4", respectively, to reflect the codification of title 5.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-416, §4, substituted "involving the loss, or loss of use" for "involving the loss of use".

Subsec. (c)(22). Pub. L. 93-416, §5, added par. (22).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§8108. Reduction of compensation for subsequent injury to same member

The period of compensation payable under the schedule in section 8107(c) of this title is reduced by the period of compensation paid or payable under the schedule for an earlier injury if—

(1) compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

(2) the Secretary of Labor finds that compensation payable for the later disability in whole or in part would duplicate the compensation payable for the preexisting disability.

In such a case, compensation for disability continuing after the scheduled period starts on expiration of that period as reduced under this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 538; Pub. L. 90-83, §1(51), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 755(c). Oct. 14, 1949, ch. 691, §104 "Sec. 5(c)", 63 Stat. 857.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Table with 3 columns: Section of title 5, Source (U.S.Code), Source (Statutes at Large). Row 1: 8108 5 App.: 755(c). July 4, 1966, Pub. L. 89-488, §2(c), 80 Stat. 252.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§8109. Beneficiaries of awards unpaid at death; order of precedence

(a) If an individual—

(1) has sustained disability compensable under section 8107(a) of this title;

(2) has filed a valid claim in his lifetime; and

(3) dies from a cause other than the injury before the end of the period specified by the schedule;

the compensation specified by the schedule that is unpaid at his death, whether or not accrued or due at his death, shall be paid—

(A) under an award made before or after the death;

(B) for the period specified by the schedule;

(C) to and for the benefit of the persons then in being within the classes and proportions and on the conditions specified by this section; and

(D) in the following order of precedence:

(i) If there is no child, to the widow or widower.

(ii) If there are both a widow or widower and a child or children, one-half to the widow or widower and one-half to the child or children.

(iii) If there is no widow or widower, to the child or children.

(iv) If there is no survivor in the above classes, to the parent or parents wholly or partly dependent for support on the decedent, or to other wholly dependent relatives listed by section 8133(a)(5) of this title, or to both in proportions provided by regulation.

(v) If there is no survivor in the above classes and no burial allowance is payable under section 8134 of this title, an amount not exceeding that which would be expendable under section 8134 of this title if applicable shall be paid to reimburse a person equitably entitled thereto to the extent and in the proportion that he has paid the burial expenses, but a compensated insurer or other person obligated by law or contract to pay the burial expenses or a State or political subdivision or entity is deemed not equitably entitled.

(b) Payments under subsection (a) of this section, except for an amount payable for a period preceding the death of the individual, are at the basic rate of compensation for permanent disability specified by section 8107(a) of this title even if at the time of death the individual was entitled to the augmented rate specified by section 8110 of this title.

(c) A surviving beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), does not have a vested right to payment and must be alive to receive payment.

(d) A beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), ceases to be entitled to payment on the happening of an event which would terminate his right to compensation for death under section 8133 of this title. When that entitlement ceases, compensation remaining unpaid under subsection (a) of this section is payable to the surviving beneficiary in accordance with subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 538; Pub. L. 90-83, §1(52), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES
1966 ACT

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| | 5 U.S.C. 755(d). | Oct. 14, 1949, ch. 691, §104 "Sec. 5(d)", 63 Stat. 857. |

The references in former section 755(d) to definitions in former section 760(B), (H) are omitted as unnecessary

as the definitions are included in section 8101 for the entire subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

| <i>Section of title 5</i> | <i>Source (U.S.Code)</i> | <i>Source (Statutes at Large)</i> |
|---------------------------|--------------------------|--|
| 8109(a)(1) ... | 5 App.: 755(d)(1). | July 4, 1966, Pub. L. 89-488, §2(d), 80 Stat. 252. |

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§ 8110. Augmented compensation for dependents

(a) For the purpose of this section, "dependent" means—

(1) a wife, if—

(A) she is a member of the same household as the employee;

(B) she is receiving regular contributions from the employee for her support; or

(C) the employee has been ordered by a court to contribute to her support;

(2) a husband, if—

(A) he is a member of the same household as the employee; or

(B) he is receiving regular contributions from the employee for his support; or

(C) the employee has been ordered by a court to contribute to his support;

(3) an unmarried child, while living with the employee or receiving regular contributions from the employee toward his support, and who is—

(A) under 18 years of age; or

(B) over 18 years of age and incapable of self-support because of physical or mental disability; and

(4) a parent, while wholly dependent on and supported by the employee.

Notwithstanding paragraph (3) of this subsection, compensation payable for a child that would otherwise end because the child has reached 18 years of age shall continue if he is a student as defined by section 8101 of this title at the time he reaches 18 years of age for so long as he continues to be such a student or until he marries.

(b) A disabled employee with one or more dependents is entitled to have his basic compensation for disability augmented—

(1) at the rate of 8½ percent of his monthly pay if that compensation is payable under section 8105 or 8107(a) of this title; and

(2) at the rate of 8½ percent of the difference between his monthly pay and his monthly wage-earning capacity if that compensation is payable under section 8106(a) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 539; Pub. L. 90-83, §1(53), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, §6, Sept. 7, 1974, 88 Stat. 1145.)