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CUMULATIVE POCKET SUPPLEMENT
TO THE . . . CODE
OF FEDERAL
REGULATIONS

Title 25—Indians

AS OF
JANUARY 1
1959

For changes on and after
January 1, 1959, see the daily issues of the Federal Register

accepted the terms and provisions hereof and specifically the constructive service as aforesaid.

§ 73.49 *Expenses of elections.* All expenses of elections including compensation to the members of the election board and any clerical assistants designated by the Superintendent under § 73.32, stationery supplies, printing and postage shall be borne by the Osage Tribe.

§ 73.51 *Nominating conventions and petitions.* Conventions shall be held in Osage County, Oklahoma, on or before the first Monday in April of the year in which a quadrennial election is held, and there shall be written reports of such

conventions, duly certified by the secretary or presiding officer, showing total number of qualified voters in attendance, together with the names of candidates nominated for the various offices: *Provided,* That at least 25 qualified voters shall have been in attendance at any such convention; also, names of any independent candidates nominated by petition of not less than 25 qualified voters, each signature to be witnessed by two persons, shall be filed with the supervisor not later than 5:00 p. m. on the first Monday in April of the year in which a quadrennial election is held in order that such names may be placed on the official ballot.

SUBCHAPTER I—CREDIT ACTIVITIES

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Part 91—General Credit to Indians

Sec. 91.20 *Loans to Klamath Indians.* [Add.]
 § 91.20 *Loans to Klamath Indians.* Loans may be made to withdrawing members of the Klamath Tribe who are of not less than one-quarter degree of Indian blood; to alleviate financial vicis-

situdes raised by the Termination Act of August 13, 1954 (25 U. S. C. 546), as amended. A loan made under this section shall constitute an indebtedness to be repaid without interest from funds representing the borrower's share of the tribal assets.
 (Sec. 10, 48 Stat. 986; 25 U. S. C. 470) [23 P. R. 10133, Dec. 24, 1959]

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

Part 104—Individual Indian Money Accounts [Revised]

Sec. 104.1 Definitions.
 104.2 Osage Agency.
 104.3 Individual accounts.
 104.4 Minors.
 104.5 Adults under legal disability.
 104.6 Voluntary deposits.
 104.7 Payments by other Federal agencies.
 104.8 Purchase orders.
 104.9 Restrictions.

Sec. 104.10 Funds of deceased Indians other than the Five Civilized Tribes.
 104.11 Funds of deceased Indians of the Five Civilized Tribes.
 104.12 Appeals.
 AUTHORITY: §§ 104.1 to 104.12 issued under R. S. 161, R. S. 441, as amended, R. S. 468, R. S. 465; 5 U. S. C. 22, 485, 25 U. S. C. 2, 9.
 SOURCE: §§ 104.1 to 104.12 appear at 23 P. R. 7942, Oct. 15, 1958.
 Prior Amendments
 1958: 23 P. R. 942, Feb. 13.

§ 104.1 *Definitions.* As used in this part:

(a) The term "individual Indian money accounts" means those accounts under the control of the Secretary of the Interior or his authorized representative belonging to individuals.

(b) The term "minor" means an individual who has not reached his majority as defined by the laws of the State of his domicile.

§ 104.2 *Osage Agency.* The provisions of this part do not apply to funds the deposit or expenditure of which is subject to the provisions of Part 108 of this subchapter.

§ 104.3 *Individual accounts.* Except as otherwise provided in this part, adults shall have the right to withdraw funds from their accounts. Upon their application, or an application made in their behalf by the Secretary or his authorized representative, their funds shall be disbursed to them. All such disbursements will be made at such convenient times and places as the Secretary or his authorized representatives may designate.

§ 104.4 *Minors.* Funds of a minor may be disbursed in such amounts deemed necessary in the best interests of the minor for the minor's support, health, education, or welfare to parents, legal guardians, fiduciaries, or to persons having the control and custody of the minor under plans approved by the Secretary or his authorized representative, or to the minor directly, upon such conditions as the Secretary or his authorized representative may prescribe. The Secretary or his authorized representative will require modification of an approved plan whenever deemed in the best interest of the minor.

§ 104.5 *Adults under legal disability.* The funds of an adult who is non compos mentis or under other legal disability may be disbursed for his benefit for such purposes deemed to be for his best interest and welfare, or the funds may be disbursed to a legal guardian or curator under such conditions as the Secretary or his authorized representative may prescribe.

§ 104.6 *Voluntary deposits.* As a general rule, voluntary deposits shall not be accepted. Indians who require banking service shall be encouraged to utilize

commercial facilities. If in any case it is determined that an exception to this prohibition should be made to avoid a substantial hardship, the facts in the case shall be considered by the Secretary or his authorized representative and an exception will be allowed or denied.

§ 104.7 *Payments by other Federal agencies.* Moneys received from the Veterans' Administration or other Government agency pursuant to the act of February 25, 1933 (47 Stat. 907; 25 U. S. C. 14), may be accepted and administered for the benefit of adult Indians under legal disability or minors for whom no legal guardian or fiduciary has been appointed.

§ 104.8 *Purchase orders.* Purchase orders may be issued only in emergencies upon the request of any account holder. The Secretary or his authorized representative may act in emergencies on behalf of an account holder who is unable to make a request because of illness or incapacity or, to meet expenses of last illness or funeral.

§ 104.9 *Restrictions.* Funds of individuals may be applied by the Secretary or his authorized representative against delinquent claims of indebtedness to the United States or any of its agencies or to the tribe of which the individual is a member, unless such payments are prohibited by acts of Congress, and against money judgments rendered by courts of Indian offenses or under any tribal law and order code. Funds derived from the sale of capital assets which by agreement approved prior to such sale by the Secretary or his authorized representative are to be expended for specific purposes, and funds obligated under contractual arrangements approved in advance by the Secretary or his authorized representative or subject to deductions specifically authorized or directed by acts of Congress, shall be disbursed only in accordance with the agreements (including any subsequently approved modifications thereof) or acts of Congress. The funds of an adult whom the Secretary or his authorized representative finds to be in need of assistance in managing his affairs, even though such adult is not non compos mentis or under other legal disability, may be disbursed to the adult, within his best interest, under approved plans. Such finding and the basis for

Such finding shall be recorded and filed with the records of the account.

Cross Reference: For rules governing the payment of judgments from individual Indian money accounts, see § 11.20 of this chapter.

§ 104.10 *Funds of deceased Indians other than the Five Civilized Tribes.* Funds of a deceased Indian other than those of the Five Civilized Tribes may be disbursed (a) for the payment of obligations previously authorized, including authorized expenses of last illness; (b) for authorized funeral expenses; (c) for support of dependent members of the family of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs; (d) for necessary expenses to conserve the estate pending the completion of probate proceedings; and (e) for probate fees and claims allowed pursuant to Part 16 of this chapter.

§ 104.11 *Funds of deceased Indians of the Five Civilized Tribes.* Funds of a

deceased Indian of the Five Civilized Tribes may be disbursed to pay ad valorem and personal property taxes, Federal and State estate and income taxes, obligations approved by the Secretary or his authorized representative prior to death of decedent, expenses of last sickness and burial and claims found to be just and reasonable which are not barred by the statute of limitations, costs of determining heirs to restricted property by the State courts, and claims allowed pursuant to Part 16 of this chapter.

§ 104.12 *Appeals.* Appeal from an action taken by a Superintendent or other officer in charge of an Indian agency or reservation may be taken within 30 days of notification of the action to the Area Director in charge of an area office of the Bureau of Indian Affairs. An appeal from an action of an Area Director may be taken within 30 days to the Commissioner of Indian Affairs. An appeal from an action of the Commissioner may be taken within 30 days to the Secretary of the Interior.

money and property that is held in trust for him or that is held subject to a restriction against alienation imposed by the United States, issuing, in the case of land, such title document as may be appropriate; provided, that the Secretary may make such provisions as he deems necessary to insure payment of money loaned to any such Indian by the Federal Government or by an Indian tribe, and provided further, that the interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order removing restrictions become effective shall be preserved as provided in section 2 (d) of the act of August 11, 1955. The effect of such order also shall be to terminate the Indian's eligibility for all special services provided for him by the Department of the Interior because of his status as an Indian, except in cases (a) where it is determined by the Secretary, or his authorized representative, that the termination of eligibility because of such order will result in substantial hardship for the Indian, and (b) where the Secretary, or his authorized representative, is directed by law to provide such special services for the Indian, and if he inherits or there is devised to him interests in trust or restricted property, subsequent to the effective date of the order, the property will be acquired without restrictions. Any existing exemption from taxation that constitutes a vested property right shall continue in force and effect until it terminates by virtue of its own limitations.

if any, his family has been dependent on the income from trust or restricted property.

(c) The assets, including land and improvements, farm equipment, livestock, etc., he, or his family has; the property, real or personal, he has acquired through his own efforts.

(d) The manner in which he has used assets and funds coming into his possession, whether through earnings, inheritance or otherwise.

(e) The state of his health and physical capacities, insofar as they affect his ability to manage his own affairs.

(f) The value of his property in relation to his demonstrated degree of ability to manage his own affairs.

§ 121.54 *Notice of intent to issue order.* Prior to the issuance of an order removing restrictions the Indian will be notified in writing that:

(a) Section 2 (b) of the act of August 11, 1955 (69 Stat. 666), directs the Secretary of the Interior to issue an order removing restrictions to any Indian of the Five Civilized Tribes who, in the judgment of the Secretary, has sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such person and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof.

(b) He has been determined tentatively to be in the category defined by the statute; and an order removing restrictions will be issued 60 days after the date of the notice, unless he or someone acting in his behalf, presents persuasive reasons for not issuing the order. Such reasons should be in writing and received in the office issuing the notice before the end of the 60-day period.

§ 121.55 *Issuance of order.* (a) If no objection is filed, as permitted by § 121.54 (b), the order shall be issued at the end of the 60-day period, and the Indian and the Board of County Commissioners for the county in which the Indian resides shall be so notified. The order shall become effective six months after the date of such notice, unless set aside by order of a county court. The timely initiation of proceedings before a

SUBCHAPTERS K—O—LANDS; SURFACE ESTATES AND RESOURCES

SUBCHAPTER K—PATENTS, ALLOTMENTS AND SALES

Part 121—Issuance of Patents in Fee, Certificates of Competency, Sale of Certain Indian Lands, and Reinvestment of Proceeds

SOURCE: §§ 121.51 to 121.57 appear at 29 F.R. 6494, Aug. 22, 1958.

NOTE: Former § 121.52 was redesignated § 121.61.

§ 121.51 *Removal of restrictions.* Upon a determination by the Secretary of the Interior that an adult Indian of the Five Civilized Tribes owning trust or restricted property possesses sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such person and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof, the Secretary or his authorized representative shall issue, without application therefor by the Indian affected, an order removing restrictions.

§ 121.52 *Effect of order.* When an order becomes effective, the Secretary shall cause to be turned over to the Indian full ownership and control of any

REMOVAL OF RESTRICTIONS, FIVE CIVILIZED TRIBES [ADDED]

- Sec. 121.51 Removal of restrictions.
- 121.52 Effect of order.
- 121.53 Factors to be considered.
- 121.54 Notice of intent to issue order.
- 121.55 Issuance of order.
- 121.56 Appeals from decision to issue order.
- 121.57 Judicial review.

MORTGAGES AND DEEDS OF TRUST TO SECURE LOANS TO INDIANS

- 121.61 Approval of mortgages and deeds of trust. [Redesignated; revised]

REMOVAL OF RESTRICTIONS, FIVE CIVILIZED TRIBES [ADDED]

AUTHORITY: §§ 121.51 to 121.57 issued under R. S. 161; 5 U. S. C. 23. Interpret or apply sec. 2, 40 Stat. 600, 69 Stat. 688; 25 U. S. C. 355.