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TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

REPLICATION OF REGULATIONS

Chapter I of Title 25 is republished to read as set forth below. Since its original codification, there have been numerous amendments and additions to the chapter. To facilitate the use of this material, the various amendments and additions are brought together in their entirety and the chapter has been arranged on a functional rather than alphabetical basis.

The numbers of the parts in this chapter have been adjusted to conform with its revised arrangement. The effective date of these numbers shall be the date of this republication. Existing delegations of authority, forms, and other legal or administrative documents which refer to former part numbers of Chapter I are continued in effect and shall be construed to refer to the new part numbers until modified or revoked. A listing of the respective new and former part numbers is set forth below.

It is the intent of the Department in preparing this republication to make no substantive changes in the regulations and this republication is approved accordingly.

FRED A. SEATON,
Secretary of the Interior.

December 6, 1957.

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(g) Insurance premiums and license fees on real property.

(h) Not to exceed $1,000 for the preservation and upkeep of restricted property, including the services of a caretaker when necessary.

(i) Debts incurred during the lifetime of the Indian but not authorized by the superintendent, if found by the Commissioner to be just and payable.

The superintendent shall disburse no funds to an executor or administrator for the payment of the foregoing classes of claims unless the executor or administrator has no other funds in his hands available for the payment of such claims.

§ 108.28 Sale of improvements. The superintendent may approve the sale of improvements on restricted Indian lands when such improvements are appraised at not more than $500 and when the owner has submitted a written request that the sale be made and a statement that the improvements can no longer be used by him. The proceeds of all such sales shall be deposited to the credit of the Indian as surplus funds. Improvements consisting of buildings, located on property within the Osage villages of Pawhuska, Hominy, and Grayhorse may, upon approval of the superintendent, be disposed of to other Osage Indians. The superintendent may disburse the surplus funds of the purchaser to consummate the transaction. Sale of such improvements to non-Osage Indians must be approved by the Commissioner.

§ 108.30 Sale of personal property. The superintendent may approve the sale of restricted personal property other than livestock. The superintendent may also approve the sale of livestock when authorized so to do by special general instructions from the Commissioner. The proceeds from the sale of personal property other than livestock shall be deposited to the credit of the Indian as surplus funds unless the surplus funds from which said property was purchased have been reimbursed from allowance funds, in which case the proceeds from such sale shall be disbursed as allowance funds. If the reimbursable only has been made, such portion of the proceeds of sale as may be necessary to complete the reimbursable agreement shall be deposited to the credit of the Indian as surplus funds and the balance thereof shall be disbursed as allowance funds. The proceeds from the sale of livestock shall be deposited in conformity with general or specific instructions from the Commissioner.

§ 108.31 Removal of restrictions from personal property. The superintendent may relinquish title to personal property (other than livestock) held by the United States in trust for the Indian when to do so will enable the Indian to use the property as part payment in the purchase of other personal property and when the remainder of the purchase price is to be made from other than surplus funds of the Indian.

§ 108.32 Funds of Indians of other tribes. The funds of restricted non-Osage Indians, both adults and minors, residing within the jurisdiction of the Osage Agency, derived from sources within the Osage Nation and collected through the Osage Agency, may be disbursed by the superintendent, subject to the condition that all payments to third persons, including taxes and insurance premiums, shall be made upon the written authorization of the individual whose funds are involved and upon the written authorization of the parent or guardian, if a minor. The funds of restricted non-Osage Indians who do not reside within the jurisdiction of the Osage Agency shall be disbursed by the superintendent of the jurisdiction within which the Indian resides, to be disbursed under regulations of the receiving agency.

§ 108.33 Signature of illiterates. An Indian who cannot write shall be required to endorse checks payable to his order and sign receipts or other documents by making an imprint of the right thumb (or the left, if he has lost his right) after his name. This imprint shall be clear and distinct, showing the central whirl and striations and witnessed by two reputable persons whose addresses shall be given opposite or following their names. An Indian may sign by marking "X" before two witnesses where he is unable to attach his thumb mark for physical reasons.

§ 108.34 Financial status of Indians. The financial status of an Indian shall be regarded as confidential and shall not be disclosed except to the owner of the account or his authorized agent, unless authorized in advance by the Commissioner.

§ 108.35 Appeals. Any decision by the superintendent may be appealed to the area director, any decision by the area director may be appealed to the Commissioner, and any decision by the Commissioner may be appealed to the Secretary.

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nitely provide for the conservation of a portion of such share, but in no case, except as hereinafter provided in this part, shall a program provide for the expenditure of more than $1,850 for each adult or more than $500 for each minor contributing to the program, and the program shall recognize that future use and expenditures for such program, after the first year shall depend upon the proper use of the funds initially authorized to be expended: Provided, That the program of an adult may, with the approval of the Commissioner of Indian Affairs, provide for the expenditure in the first year after its approval of more than $1,850 when required for its most effective development. Expenditures of a minor's fund under this subpart shall not exceed a total sum of $500 and the remaining $1,850 of each minor's share shall be held intact until his majority, as required in section 2 of the act of July 27, 1939 (53 Stat. 1128).

§ 109.4 Authority to withhold funds. The superintendent may stop disbursement of funds in the execution of an approved program upon evidence that the Indian is not complying with the program or that the continuation of the program or expenditures thereunder will not result in benefit to the Indian, and he may require either further justification for carrying out the program therefore approved or the submission of a new program.

§ 109.5 Approval of programs. The superintendent, subject to the limitations described in this subpart, shall approve or disapprove all programs submitted by Indians for the use and disbursement of pro rata shares of the Shoshone Judgment Fund. The Shoshone business council may act, or designate a committee of Indians to act, in an advisory capacity in the preparation and consideration of programs. Programs shall be prepared upon an approved form, which shall be filled out in duplicate, one copy to be filed at the Wind River Indian Agency and the other retained in the possession of the Indian.

§ 109.6 Right of appeal. Indians shall have the right of appeal, through the superintendent, to the Area Director, Billings Area Office, Bureau of Indian Affairs (referred to in this part as the Area Director) (a) from an action of the superintendent in withholding funds under § 109.4 and (b) from an action of the superintendent in disapproving a program under § 109.5. Appeals must be filed within 60 days of the superintendent who shall promptly forward the appeal, together with a statement of the facts in the case and of his reasons for the action taken by him, to the Area Director. An appeal will lie within a like period from the action of the Area Director to the Commissioner of Indian Affairs.

§ 109.7 Individual land purchases. Because a program under this part includes an individual land purchase, the superintendent shall determine that such purchase will not conflict with the tribal land program of land purchase, consolidations and use authorized by the act of July 27, 1939 (53 Stat. 1128). No purchase, change or realigning restricted funds shall be made within the ceded or opened portion of the Wind River Reservation.

§ 109.8 Issuance of purchase orders. In the discretion of the superintendent, expenditures from share accounts, other than for the purchase of real property, may be made either by purchase order or by cash disbursement to the individual for the execution of an approved program.

§ 109.9 Purchase of real property. Except as otherwise provided in § 109.16, payment for the purchase of real property shall be made by the superintendent, and such payment shall be made only after the title has been found satisfactory by the Area Director.

§ 109.10 Trust status of property. Title to all real property to be acquired with restricted funds, when such property is situated within the diminished portion of the Wind River Reservation, shall be held in trust for the individual. Title to personal property acquired pursuant to a purchase order shall be held in trust. Livestock purchased and the offspring thereof shall be marked or otherwise identified by the individual owner. The provisions of this section are subject to the provisions of § 109.18.

§ 109.11 Allowances for support. The superintendent may, upon proper showing, approve expenditures for the maintenance and support of the aged, infirm, disabled, or incapacitated, whether adults or minors, and expenditures from that part of an adult's pro rata share which exceeds $1,450 for the support of an individual who has proved to be incapacitated or unproductive as defined in § 109.3. The manner of disbursement and the amount of funds to be used for such purposes shall be determined by the superintendent, subject to the expenditure limitations of § 109.5.

§ 109.12 Medical treatment. The superintendent may approve the expenditure from that part of an adult's pro rata share which exceeds $1,450 to cover medical, dental, surgical, or hospital treatment, including nursing services. No part of a minor's pro rata share shall be expended for such purposes.

§ 109.13 Education. The superintendent may authorize the expenditure of funds from any minors account for clothing because of school needs, and in addition, for any minor who is in the ninth grade or higher for his tuition and other necessary expense in a government, private, public, or mission school.

§ 109.14 Transfer of funds. When an Indian who is entitled to a pro rata share of the Shoshone judgment fund is a resident within the jurisdiction of another Indian agency, the superintendent may transfer to the superintendent of such other agency, to the credit of such Indian, the share of the Shoshone judgment fund to which such Indian is entitled. All funds so transferred shall be expended in accordance with this part.

§ 109.15 Repayment of loans. Before approving a program, the superintendent shall make certain that provision has been made to ensure the repayment of any amounts due on any loan, evidenced by a written agreement, from the United States or from the Shoshone Tribe.

§ 109.16 Funds not available for payment of debts of Indians. Except those to the United States and the Shoshone Tribe, incurred by Indians prior to July 27, 1939, shall not be paid from any funds made available from the Shoshone Judgment Fund. Debts of Indians will not be paid from the funds to be disbursed under this subpart unless previously authorized by the superintendent, except in emergency cases involving medical treatment in the payment of last illness or funeral expenses, as authorized in this subpart, and any other exceptional cases where specific authority is granted by the Commissioner of Indian Affairs.

§ 109.17 Disposition of funds in event of death. Prior to the determination of heirs, the superintendent may disburse whatever amount he deems necessary and proper for the support of the widow of the decedent and for each minor child of the decedent. Before making the disbursement, the superintendent shall be reasonably satisfied that actual need for assistance exists and that the value of the estate is sufficient to justify such payments considering all proper claims. A complete record of all disbursements shall be reported to the superintendent by the examiner of inheritance and by the latter considered and included in his report of probate proceedings. After payment of all proper claims against the funds, including reimbursable or other debts due the United States and the Shoshone Tribe and excluding any claims arising out of debts incurred prior to July 27, 1939, the balance shall be transferred to the individual accounts of the heirs of the decedent in accordance with the approved heirship findings. Expenditures from inherited funds shall be made for purposes authorized in this part.

§ 109.18 Fee patent Indians. For the purposes of this part, a "fee patent Indian" shall be an adult Indian who has received a patent in fee to his allotment. Fee patent Indians shall be required to submit a program, the approval of which shall be in conformity with §§ 109.1 through 109.6. Fee patent Indians shall not be entitled to make purchases through purchase orders, but shall have funds disbursed to them direct by the superintendent for allotment purchases. Funds of minor children of fee patent Indians may be included in an approved family program, but their expenditure shall be subject to the same provisions as the expenditure of minor children of Indians other than fee patent Indians. Fee patent Indians shall...
be required to conform to the provisions of § 109.9 only when the purchase of real property involves property situated within the diminished portion of the Wind River Reservation. Payments by fee patent Indians for real property outside the diminished portion of the Wind River Reservation may be made by them with funds disbursed to them by the superintendent. When otherwise provided in this section, fee patent Indians shall conform to all the provisions of this part.

§ 109.19 Non-resident Indians. The provisions of § 109.18 pertaining to fee patent Indians shall also apply to Indians other than fee patent Indians who habitually reside away from the Wind River Reservation and have, to all intents and purposes, severed their affiliation with the tribe, and who shall furnish to the superintendent in writing a statement that they intend to continue to reside away from the reservation and evidence, satisfactory to the superintendent, of their competency and ability to support themselves and manage their own affairs.

§ 109.20 Definition of “adult” and “minor.” The term “adult” shall include all members of the tribe 18 years of age or over, and the term “minor” shall include all members of the tribe less than 18 years of age.

PART XI—SERVICE CHARGES AGAINST INDIANS. [RESERVED]

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Subchapter K—Patents, Allotments and Sales

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CROSS REFERENCES: For further regulations pertaining to the sale of irrigable lands, see Parts 129, 138 and § 211.4 of this chapter. For regulations pertaining to the sale of lands by the Secretary, see Parts 104, 101, 107, 105, and 102 of this chapter. For regulations pertaining to the determination of heirs and approval of wills, see Parts 15 and §§ 11.22–11.320 of this chapter.

PATENTS IN FEE

§ 121.1 Application for patent in fee. Any Indian 21 years of age or over may apply for a patent in fee for land, the title to which is held in trust for said Indian by the United States. The application shall be made on a form approved by the Commissioner of Indian Affairs and shall be completed and filed with the Superintendent or other officer in charge of the Indian agency or other local federal administrative jurisdiction.

§ 121.2 Issuance of patents in fee. (a) The Secretary of the Interior may, in his discretion, and pursuant to the acts of February 8, 1887, as amended (24 Stat. 383, as amended; 25 U. S. C. 166), issue a patent in fee 129 Stat. 855, as amended; 25 U. C. 372); and May 14, 1948 (52 Stat. 239; 25 U. S. C. 463), and pursuant to other authorizing acts, issue patents in fee to Indians applying therefor in accordance with § 121.1. A patent in fee will not be issued pursuant to this paragraph unless it is found that the applicant is competent and capable of managing his or her own affairs. Prior to the issuance of a patent in fee pursuant to this paragraph the land shall be appraised at its fair market value. If an application is denied, the applicant shall be so notified in writing.

(b) The Secretary will, pursuant to the act of March 1, 1907 (34 Stat. 1016, 1034), issue a patent in fee to mixed-blood Indian owning land within the White Earth Reservation in the State of Minnesota upon application being made by such Indian, and without regard to the applicant’s competency and ability to manage his or her own affairs.

(c) Whenever the Secretary determines that land, or any interest therein, held in trust for an Indian by the United States has been acquired through inheritance or devise by (1) a non-Indian or (2) an alien Indian or an Indian who has become an alien subsequent to the time of such acquisition by inheritance or devise, the Secretary may issue a patent in fee for the land or interest therein to such non-Indian or alien Indian, without regard to such person’s competency and ability to manage his or her own affairs, and regardless of whether such person has applied for a patent in fee.

CERTIFICATES OF COMPETENCY

§ 121.3 Applications for certificates of competency. Applications on Form 8—105, modified for certificates of competency authorized by section 1 of the act of June 25, 1910 (38 Stat. 855, 48 Stat. 647; 25 U. S. C. 372), shall be filed with the Indian superintendent having jurisdiction over the land from which the allottee or heirs seek to have all restrictions removed. When the land is not located within the territorial limits of an Indian reservation the allottee or heirs may petition the most convenient superintendent or other officer in charge of an Indian agency or Indian office, or such other public officer of the United States as may be designated by the Secretary of the Interior, who shall take such action as if the lands were within the territorial limits of an Indian reservation.

§ 121.4 Superintendent’s report on certificates of competency. Reports on application for certificates of competency should be on Form 8—110f and should be accompanied by the recommendation of the tribal council. The issuance of a certificate of competency is discretionary with the Secretary of the Interior. Such a certificate will not be issued unless it can be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands. The provisions of the act of March 2, 1910, apply only to Indians or their heirs to whom a patent in fee containing restrictions on alienation has been issued.

§ 121.5 Certificates of competency to certain Osage adults. Applications for certificates of competency by adult members of the Osage Tribe of one-half or