

in the case of any personnel action respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action.

(2) The provisions of section 8336(j) of title 5 shall not apply to any individual who has accepted a waiver with respect to a personnel action pursuant to paragraph (1) of this subsection or to section 2011(f)¹ of this title.

(d) Placement of non-Indian employees in other Federal positions; assistance of Office of Personnel Management; cooperation of other Federal agencies

The Office of Personnel Management shall provide all appropriate assistance to the Bureau of Indian Affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible in such placement efforts.

(e) Definitions

For purposes of this section—

(1) The term “tribal organization” means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 1602(c) of title 43); or

(B) in connection with any personnel action referred to in subsection (c)(1) of this section, any legally established organization of Indians which is controlled, sanctioned, or chartered by a governing body referred to in subparagraph (A) of this paragraph and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(2) The term “Indian preference laws” means section 472 of this title or any other provision of law granting a preference to Indians in promotions and other personnel actions.

(3) The term “Bureau of Indian Affairs” means (A) the Bureau of Indian Affairs and (B) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

(Pub. L. 96-135, § 2, Dec. 5, 1979, 93 Stat. 1057; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100-581, title II, § 205, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101-509, title V, § 529 [title I, § 112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 105-362, title VIII, § 801(e), title XIII, § 1302(d), Nov. 10, 1998, 112 Stat. 3288, 3294.)

REFERENCES IN TEXT

Section 2011(f) of this title, referred to in subsec. (c)(2), was in the original a reference to section 1131 of the Education Amendments of 1978, Pub. L. 95-561. Section 1131 of Pub. L. 95-561 was omitted in the general amendment of chapter 22 (§ 2001 et seq.) of this title by Pub. L. 103-382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103-382 enacted a new section 1131 of Pub. L. 95-561, relating to policy for Indian control of Indian education, which is classified to section 2011 of this

¹ See References in Text note below.

title. Provisions relating to waivers of education personnel actions are now contained in section 2012(f) of this title.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-362, § 801(e)(3), struck out par. (1) designation and struck out par. (2) which read as follows: “The Secretaries of the Interior and Health and Human Services, and the Director of the Office of Personnel Management shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.”

Pub. L. 105-362, § 801(e)(1), (2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “The Secretaries of the Interior and Health and Human Services shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify such Indians for positions which are subject to preference under the Indian preference laws. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.”

Subsec. (e). Pub. L. 105-362, § 1302(d), which directed the amendment of subsec. (e) by striking out par. (1) designation after “(e)” and striking out par. (2), could not be executed because par. (1) designation did not immediately follow “(e)” subsequent to amendment by Pub. L. 105-362, § 801(e)(2). See above.

Pub. L. 105-362, § 801(e)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105-362, § 801(e)(2), redesignated subsec. (f) as (e).

1990—Subsec. (b)(2). Pub. L. 101-509 substituted “a Deputy Secretary” for “an Under Secretary” before “or Assistant Secretary”.

1988—Subsec. (c)(1). Pub. L. 100-581 substituted “an applicant or employee” for “an employee”.

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (b)(2) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of the Interior, see section 529 [title I, § 112(e)(1), (2)(B)] of Pub. L. 101-509, set out as a note under section 3404 of Title 20, Education.

§ 473. Application generally

The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16 [25 U.S.C. 469, 470, 471, 472, 476] shall apply to the Territory of Alaska: *Provided*, That sections 4, 7, 16, 17, and 18 of this Act [25 U.S.C. 464, 467, 476, 477, 478] shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomie, Cherokee,

Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act [25 U.S.C. 464] shall not apply to the Indians of the Klamath Reservation in Oregon.

(June 18, 1934, ch. 576, §13, 48 Stat. 986; Pub. L. 101-301, §3(b), May 24, 1990, 104 Stat. 207.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101-301 substituted “sections 4,” for “sections 2, 4,” in proviso.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 473a. Application to Alaska

Sections 461, 465, 467, 468, 475, 477, and 479 of this title shall after May 1, 1936, apply to the Territory of Alaska: *Provided*, That groups of Indians in Alaska not recognized prior to May 1, 1936, as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 470, 476, and 477 of this title.

(May 1, 1936, ch. 254, §1, 49 Stat. 1250.)

CODIFICATION

Section was formerly classified to section 362 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

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§ 474. Continuation of allowances

The Secretary of the Interior is directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 894), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime

of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment on June 18, 1934, would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

(June 18, 1934, ch. 576, §14, 48 Stat. 987.)

REFERENCES IN TEXT

Section 17 of the Act of March 2, 1889, referred to in text, probably means section 17 of act Mar. 2, 1889, ch. 405, 25 Stat. 894, which contains a proviso that each head of family or single person over the age of eighteen years of the Sioux Nation of Indians, “who shall have or may hereafter take his or her allotment of land in severalty, shall be provided with two milch cows, one pair of oxen, with yoke and chain, or two mares and one set of harness in lieu of said oxen, yoke and chain, as the Secretary of the Interior may deem advisable, and they shall also receive one plow, one wagon, one harrow, one hoe, one axe, and one pitchfork, all suitable to the work they may have to do, and also fifty dollars in cash; to be expended under the direction of the Secretary of the Interior in aiding such Indians to erect a house and other buildings suitable for residence or the improvement of his allotment; no sales, barter or bargains shall be made by any person other than said Indians with each other, of any of the personal property hereinbefore provided for, and any violation of this provision shall be deemed a misdemeanor and punished by fine not exceeding one hundred dollars, or imprisonment not exceeding one year or both in the discretion of the court.”

Act of June 10, 1896, referred to in text, is act June 10, 1896, ch. 398, 29 Stat. 334, which contains a provision directing the Secretary of the Interior to ascertain the number of Sioux and Ponca Indians in South Dakota and Nebraska who would not be benefited by the fulfillment of the proviso quoted above from the act of March 2, 1889, and who desire to have the articles of personal property, therein mentioned converted into money, and in lieu of such articles of personal property, or any part thereof he may think proper, to convert or commute the same, or so much thereof as he may think proper, into money, and to pay the amount thereof to such Indians.

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Section 19 of the Act of May 29, 1908, referred to in text, probably means section 19 of act May 29, 1908, ch. 216, 35 Stat. 451, which authorizes the Secretary of the Interior to cause allotments to be made under the provisions of act Mar. 2, 1889, ch. 405, 25 Stat. 888, to any living children of the Sioux tribe of Indians belonging on any of the Great Sioux reservations affected thereby and who had not prior to May 29, 1908, been allotted, so long as the tribe to which such Indian children belong is possessed of any unallotted tribal or reservation lands. The section further provides that where, for any reason, an Indian did not receive the quantity of land to which he was entitled under the provisions of said act March 2, 1889, the Secretary of the Interior shall cause to be allotted to him sufficient additional lands on the reservation to which he belongs to make, together with the quantity of land theretofore allotted to him, the acreage to which he is entitled under said act March 2, 1889; and in case of the death of any such Indian, the additional lands to which he is of right entitled may be allotted to his heirs: *Provided*, the tribe to which he belonged is possessed of any unallotted tribal or reservation lands.

APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31,