

§ 225. Applicability of penal provisions in certain cases

(a) In connection with any survey conducted by the Secretary or other authorized officer or employee of the Department of Commerce or bureau or agency thereof pursuant to subchapter IV of chapter 5 of this title, the provisions of sections 221, 222, 223 and 224 of this title shall apply—

(1) with respect to the answering of questions and furnishing of information, only to such inquiries as are within the scope of the schedules and questionnaires and of the type and character heretofore used in connection with the taking of complete censuses under subchapters I and II of chapter 5 of this title, or in connection with any censuses hereafter taken pursuant to such subchapters;

(2) only after publication of a determination with reasons therefor certified by the Secretary, or by some other authorized officer or employee of the Department of Commerce or bureau or agency thereof with the approval of the Secretary, that the information called for is needed to aid or permit the efficient performance of essential governmental functions or services, or has significant application to the needs of the public, business, or industry and is not publicly available from nongovernmental or other governmental sources;

(3) in the case of any new survey, only after public notice, given by the Secretary or other authorized officer or employee of the Department of Commerce or bureau or agency thereof at least thirty days in advance of requesting a return, that such survey is under consideration.

(b) The provisions for imprisonment provided by section 222 of this title shall not apply in connection with any survey conducted pursuant to subchapter II of chapter 3 of this title, or to subchapter IV of chapter 5 of this title.

(c) The provisions of sections 221, 222, 223, and 224 of this title shall not apply to any censuses or surveys of governments provided for by subchapters III and IV of chapter 5 of this title, nor to other surveys provided for by subchapter IV of such chapter which are taken more frequently than annually.

(d) Where the doctrine, teaching, or discipline of any religious denomination or church prohibits the disclosure of information relative to membership, a refusal, in such circumstances, to furnish such information shall not be an offense under this chapter.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1024; Pub. L. 94-521, § 15(a), Oct. 17, 1976, 90 Stat. 2465.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., §§ 111, 122 (Mar. 2, 1902, ch. 139, § 7, 32 Stat. 52; June 7, 1906, ch. 3048, 34 Stat. 218; June 18, 1929, ch. 28, § 3, 46 Stat. 26; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1232; June 25, 1947, ch. 124, 61 Stat. 163; June 19, 1948, ch. 502, § 1, 62 Stat. 478; Sept. 7, 1950, ch. 910, § 4, 64 Stat. 785).

Section consolidates parts of sections 111 and 122 of title 13, U.S.C., 1952 ed., with changes in phraseology necessary to effect consolidation and to preserve the intent, scope and meaning of the parts of such sections

so consolidated. For remainder of such sections 111 and 122, see Distribution Table.

Subsections (a) and (b) of this revised section are from section 122 of title 13, U.S.C., 1952 ed., and in subsection (a) references to the Secretary (of Commerce) and to "other authorized officer or employee of the Department of Commerce or bureau or agency thereof" were substituted for references to the Director of the Census to conform with 1950 Reorganization Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title.

Subsection (c) is partly new (but preserves existing law), and partly from section 122 of title 13, U.S.C., 1952 ed. Section 252 of title 13, U.S.C., 1952 ed., which related to the censuses of governments provided by section 251 thereof (see subchapter III of chapter 5 of this title), made certain sections in chapter 4 of that title relating to censuses of population, agriculture, etc., applicable to such censuses of governments. However, it did not list sections 209 and 210 of such title among the sections made so applicable, probably because they would hardly be relevant and capable of application to such censuses. Subsection (c) makes it clear that sections 221-224 of this revised title, into which were carried the provisions of such sections 209 and 210, and which speak in general terms, are not applicable to the censuses and surveys of governments.

Subsection (d) is from section 111 of title 13, U.S.C., 1952 ed. Words in this subsection, "a refusal, in such circumstances, to furnish such information shall not be an offense under this chapter", read "such information shall not be required". It was felt that such exception in such section 111 was actually more in the nature of an exception to the penal provisions, and it has been so treated in this revised title. The collection of statistics on religion are provided for in section 102 of this title.

Editorial Notes

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-521, § 15(a)(1), inserted "and questionnaires" after "schedules".

Subsec. (b). Pub. L. 94-521, § 15(a)(2), struck out reference to imprisonment provisions provided by sections 221 and 224 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-521 effective Oct. 17, 1976, see section 17 of Pub. L. 94-521, set out as a note under section 1 of this title.

SUBCHAPTER III—PROCEDURE

§ 241. Evidence

When any request for information, made by the Secretary or other authorized officer or employee of the Department of Commerce or bureau or agency thereof, is made by registered or certified mail or telegram, the return receipt therefor or other written receipt thereof shall be prima facie evidence of an official request in any prosecution under such section.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1025; Pub. L. 85-207, § 19, Aug. 28, 1957, 71 Stat. 484; Pub. L. 94-521, § 15(b), Oct. 17, 1976, 90 Stat. 2465.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., §§ 74, 84 (Aug. 7, 1916, ch. 274, § 4, 39 Stat. 437; Apr. 2, 1924, ch. 80, § 4, 43 Stat. 32; June 18, 1929, ch. 28, § 21, 46 Stat. 26; June 14, 1938, ch. 358, 52 Stat. 678; July 25, 1947, ch. 331, 61 Stat. 457).

Section consolidates part of section 74 of title 13, U.S.C., 1952 ed., which section related to the collection of cotton statistics, with part of section 84 of such