

AMENDED RULES

(Dated October 2, 1902)

FOR

CONVEYANCE OF INHERITED INDIAN LANDS,

To be observed in lieu of the rules heretofore approved in the conveyance of inherited land allotted to members of any tribe of Indians, for which trust or other patents have been issued with restriction upon alienation, under the provisions of the act of Congress approved February 8, 1887 (24 Stats., 388), or other act of Congress, or any treaty stipulation, as authorized by section 7 of the act of May 27, 1902 (32 Stats., 245, 275), viz:

That the adult heirs of any deceased Indian to whom a trust or other patent containing restrictions upon alienation has been or shall be issued for lands allotted to him may sell and convey the lands inherited from such decedent, but in case of minor heirs their interests shall be sold only by a guardian duly appointed by the proper court upon the order of such court, made upon petition filed by the guardian, but all such conveyances shall be subject to the approval of the Secretary of the Interior, and when so approved shall convey a full title to the purchaser, the same as if a final patent without restriction upon the alienation had been issued to the allottee. All allotted land so alienated by the heirs of an Indian allottee and all lands so patented to a white allottee shall thereupon be subject to taxation under the laws of the State or Territory where the same is situate: *Provided*, That the sale herein provided for shall not apply to the homestead during the life of the father, mother, or the minority of any child or children.

I. (1) Owners of such inherited lands desiring to sell the same may petition the Indian agent, or other officer having charge, within whose territorial jurisdiction the land is located, praying that the land therein described may be sold under said act in accordance with the regulations. The petition shall be signed by all the lawful heirs, and, in case of minors by their legal representatives, and shall set forth every material fact necessary to show full title under the laws applicable.

(2) When the land is not located within such jurisdiction the owners may petition the most convenient Indian agent, or other officer in charge of an Indian agency or Indian tribe, who shall take like action thereon as if the same were within the territorial limits of such agency or tribe.

(3) When such Indian agent, or other officer in charge, shall be satisfied that the facts alleged in the petition are sufficient, he shall cause a memorandum record of the same to be made in a book to be kept for that purpose and shall file the petition in his office. A

copy of such petition shall be immediately forwarded to the Commissioner of Indian Affairs by such agent or other officer in charge, who shall indorse thereon the date the same was received by him and the date the land described therein will be listed for sale. He shall, on each Monday morning, post in a conspicuous place in his office in such large letters and figures as will be clearly legible, for a period of ninety days, a list of the lands described in the petitions received by him during the week preceding each such Monday, showing in separate columns the names of the owners, the descriptions of the lands, the dates when listed and the date when bids will be opened, and such list shall be accessible to the public at all times in business hours of the office. On each Monday the Indian agent or other officer in charge will forward to the Commissioner of Indian Affairs a complete list of all lands posted in his office for sale.

(4) When any tract of land has been so listed, the Indian agent, or other officer in charge, when competent from his general personal knowledge of the value of the land, shall visit, view, and appraise the same at its true value, according to his best judgment. If such agent or officer is not so competent, he shall require the appraisement to be made in like manner by the most competent officer or employee under his charge. A certificate of said appraisement, signed by the person making it, shall be sealed and not opened until the sealed bids are opened. The appraisement shall not be made public, but no bid less than the appraised value shall be considered. If the appraisement is made by other than the agent or officer in charge, such agent or officer shall add his certification of the qualifications and integrity of the appraiser, and that he believes the appraisement to be the true value of the land.

(5) Bids will be received by such agent, or other officer in charge, at his office for any land so listed at any time before the day on which the bids are opened. No bidder will be permitted to include more than one allotment in any bid. If a prospective purchaser desires to bid on more than one allotment, he must submit a separate bid for each allotment which he desires to purchase, and if he wishes to purchase less than an entire allotment, he may submit a bid for one or more legal subdivisions of such allotment.

(6) All such bids shall be inclosed in a sealed envelope which must be marked by the bidder "Bid for inherited land," and the legal description of the land must also be written thereon by him. Each bid must be accompanied by a duly certified check on some solvent bank payable to the Commissioner of Indian Affairs for the use of the grantors, for 25 per cent of the amount offered, as a guaranty for the faithful performance, by the bidder, of his proposition. If the bid shall be accepted, and the successful bidder

shall, within a reasonable time, after due notice, fail to comply with the terms of his bid, such check shall be forfeited to the use of the owner of the land.

(7) The right to reject any or all bids is reserved, and bids will only be accepted by such agent, or other officer, subject to the approval of the owner of the land.

(8) Purchasers shall pay all costs of conveyancing, and, in addition thereto, the following sum, to wit: If the purchase price is \$1,000, or less, seventy-five cents; if it is more than \$1,000 and less than \$2,000, one dollar; and where the purchase price is more than \$2,000, one dollar and twenty-five cents; to be used by the Commissioner of Indian Affairs for giving due public notice, as hereinafter provided, that the lands will be sold.

(9) Bidders and other interested persons may be present when bids are opened. When opened, the bids shall be so recorded in a book to be kept for that purpose as to show name of bidder, description of land, amount offered, and action taken thereon.

(10) Listed land not disposed of at the appointed time may, if the owner so desires, be relisted under the same rules as governed its original listing.

(11) The Commissioner of Indian Affairs shall cause an advertisement to be published in some local paper of general circulation in the section of the country in which lands authorized to be listed are located, and such other newspapers as he may deem advisable, by which the public will be informed that inherited Indian lands within the limits of the agency, offered for sale under the act of May 27, 1902, will be publicly listed at the agency, where sealed proposals for any tract on the list will be received during the ninety days following the date when the same was listed, in accordance with regulations which may be had on application, in person or by letter, to the agent or officer in charge.

II. The deed or other instrument of conveyance must be executed in the presence of two subscribing witnesses and acknowledged before the Indian agent or superintendent of an Indian training school in charge of the Indian agency or Indian tribe if the grantors reside within the limits of an Indian agency; but the purchaser may, if he so desires, at his own expense, have an additional acknowledgment taken before some officer authorized by the laws of the State or Territory to take acknowledgments, but such acknowledgment must not be of a date prior to the date of the Indian agent's acknowledgment.

In case the grantors do not reside within the limits of an Indian agency, the deed of conveyance may be acknowledged before a notary public, a justice of the peace, or other person duly authorized to take acknowledgment of deeds, whose official character

must be certified by the clerk of a court of record under the seal of such court.

III. Such deed or instrument of conveyance, when submitted for the Secretary's approval, must be accompanied by the original petition, the appraisement, all bids and checks relating to the lands covered by such deed, and a full report by the agent or other officer in charge of all proceedings previous to the execution of the deed; also—

(1) By a certificate signed by two members of a business committee, if there be such, or by at least two recognized chiefs, or by two or more reliable members of the tribe, setting forth that the allottee to whom the land was originally allotted is dead, giving as nearly as possible the date of death. Such certificate shall also show the names and ages of the heirs, adults and minors, of such deceased allottee, but the Department reserves the right to require, if in its judgment it shall be considered necessary, such further and additional evidence relative to heirship as may be deemed proper. If the persons who certify to the death of the allottee are, from their own knowledge, unable to certify as to who are the heirs (with their names and ages) of such deceased allottee, an additional certificate made by persons of one of the three classes herein specified, showing who are the heirs and giving their names and ages (adults and minors), must be furnished.

(2) By a certificate from the Indian agent, superintendent of school, or other officer having charge of the Indian tribe, that the contents, purport, and effect of the deed of conveyance were explained to and fully understood by the grantors; that the consideration specified in the deed is a fair price for the land; that the same has been secured to be paid to the grantors in lawful money of the United States; and that the conveyance is in every respect free from fraud or deception; and that said allottee did not reside upon his homestead or allotment, nor cultivate the land sold during his lifetime and immediately preceding his death. If the allottee did reside upon such land, then it must be shown of whom the family of the deceased allottee consisted, their ages, and relation to said deceased allottee, in order to determine whether it is a case in which a sale is authorized under the said act of May 27, 1902.

(3) The consideration money must in no case be paid to the grantors; but a certificate from the cashier, or other officer, of some reputable bank, or, in case there is no bank convenient, from a United States Indian agent, showing that the stipulated price named in the deed for the land has been deposited in such bank, or with such agent, as the case may be, to be paid to the grantors or their order, upon the presentation of the deed duly approved

by the Secretary of the Interior, or by the President, must accompany such deed.

(4) When the deed is acknowledged before an officer other than an Indian agent or superintendent, it must be accompanied (in lieu of the certificate of the Indian agent in other cases required) by a certificate of the officer taking the acknowledgment as to the facts required to be certified by the Indian agent; or, if such facts shall not be known to such officer, they must be verified by the affidavits of at least two credible disinterested persons who are cognizant of these facts, whose veracity must be certified by such officer.

(5) Where these rules specify two or more officers or other persons to perform certain duties, preference must, in all cases, be given to such officers or persons in the order named.

(6) The affidavits of the grantors and the grantees must accompany such deed, showing that there is no contract, agreement, nor understanding (written or verbal) whereby the consideration money or price paid for the land, or any portion thereof, is to be refunded to the purchaser after the approval of the deed; nor any live stock, implements, other article or thing, are to be exchanged or taken in lieu of said consideration money or purchase price, or any portion thereof, for such land. Each deed must be accompanied by an affidavit of the grantee, stating that he is not a party to any association or combination of persons to acquire lands under said law at less than their fair value or to prevent open and fair competition in the purchase and sale of lands; that he is not directly or indirectly connected with or interested in any device, scheme, or plan to prevent or interfere with fair competition in the purchase of such lands or to secure them at less than their fair market value, and that the contract under which the deed presented for approval was executed was not procured through or by means of any such plan or scheme; that such contract was not secured through false representations to the grantor, or suppression of facts as to the value of the land or as to any other feature of the transaction, and that neither the grantor nor anyone acting for him or in his place has been given or promised any money or other thing by the grantee, or by anyone with his advice, consent, or knowledge, except the consideration named in the deed, to induce him to agree to such sale of his land.

(7) The testimony and all papers pertaining to the conveyance must be properly authenticated under seal, and in all other respects the conveyance must conform to these rules.

IV. When the land conveyed, or any part thereof, is less than a legal subdivision, or does not conform to the public survey, a diagram prepared by a competent surveyor, or an authenticated

copy of the official plat of survey indicating all the land intended to be conveyed, and all former sales by the grantors, or allottees, must be furnished for the use of the Indian Office.

V. No deed of conveyance for an undivided interest in any tract of land will receive approval. All the heirs of a deceased allottee must unite in one deed conveying their entire interest in the land. If the land of a deceased allottee has been partitioned among his or her heirs, any such heir may sell the portion set off to him in and by such partition. Where there have been court proceedings, a certified copy thereof must accompany the deed.

VI. If in the case of any deceased allottee there shall have been or shall hereafter be probate or other court proceedings establishing who are the heirs of such deceased allottee, a certified copy of the final order, judgment, or decree of the court showing and determining such heirship must be furnished; but where such court proceedings have not been had a compliance with the requirements of the provisions of paragraph 1 of section III of the rules as amended will be deemed sufficient to establish the heirship. In the case of sales by guardians, the deed must be accompanied by certified copies of the orders of the proper court appointing the guardian and authorizing him to make the sale.

In all cases the probate judge, or officer having probate jurisdiction, is respectfully requested and urged, in taking the bond of guardian, to require such guardian to give a trust and guarantee company, wherever practicable, as surety.

VII. A form of deed of conveyance has been prepared and printed for gratuitous distribution by the Indian agent, superintendent, or other officer in charge of the Indian tribe, which must be used or conformed to in all cases of transfer of inherited Indian lands.

No proceeding or action under these regulations shall affect in any respect the right of the Secretary of the Interior to exercise the discretion given him by law relative to approval of deeds for these lands.

A. C. TONNER,

Acting Commissioner Indian Affairs.

Approved October 4, 1902.

THOS. RYAN,

Acting Secretary.

