

TITLE 42.—THE PUBLIC HEALTH

Chapter 1.—THE PUBLIC HEALTH SERVICE.

Section 5. Appointment to higher grade of officers of Public Health Service detailed with Isthmian Canal Commission.—

It is doubtful whether this section should be in the Code as it does not seem to constitute general and permanent legislation. It has been suggested, however, that in order to give full force and effect to this section which is § 4 of Act Mar. 4, 1915, c. 107, 38 Stat. 1101, it is necessary to refer to the provisions of section 5 of said Act which reads as follows:

“SEC. 5. That the numbers in such grades provided for in sections 2 and 4 [this section] of this Act, except where vacancies occurring in any grade by the provisions of this Act can be filled by such officers in a lower grade as are entitled to the benefits of this Act, shall be temporarily increased during the time such offices may be held: *Provided*, That the officer who may be advanced and appointed major general in the Medical Department, United States Army, shall thereupon become the head of such department, and the operation of so much of section 26 of the Act of February 2, 1901, as limits the term of office of the head of the Medical Department, United States Army, shall be suspended during the incumbency of the head of the department who may be appointed under this Act: *Provided*, That whenever the head of the Medical Department appointed under the provisions of this Act shall become separated from the active list of the Army, by retirement or otherwise, the extra office or grade to which he shall have been so advanced or appointed shall cease and determine, and thereafter the rank of the head of the Medical Department, United States Army, shall be that of a brigadier general: *Provided further*, That nothing in this Act shall operate to interfere with or retard the promotion to which any officer would be entitled under existing law: *And provided further*, That the officers advanced to higher grades under this Act shall be junior to the officers who now rank them under existing law when these officers have reached the same grade.”

9. Suppression of Spanish influenza and other communicable diseases.—

It has been suggested that this section be omitted from the Code as of a temporary character. It is the second and final section of “A joint resolution to aid in combating Spanish influenza and other communicable diseases” section 1 of which providing an appropriation to be available for such purpose for the period of nine months, was omitted as temporary. The section under discussion is considered to be so intimately bound up, both as to its purpose and specific language, with section 1 that it also should be omitted.

10. Surgeon General; appointment.—

“July 1, 1902, c. 1370, § 1, 32 Stat. 712,” should be cited at the end of this section as authority for substituting “Surgeon General” for “Supervising Surgeon General.”

★ 15a. Details; two hospital attendants for duty in laboratory.—The Surgeon-General of the Public Health Service is authorized to cause the detail of two hospital attendants from the port of New York for duty in the laboratory of the Bureau, and who shall each receive the pay equivalent to the compensation of a first-class hospital attendant.

This section constitutes a part of § 1 of the Legislative, etc., Appropriation Act of Mar. 2, 1895, c. 177, 28 Stat. 780.

Act July 1, 1902, c. 1370, § 1, 32 Stat. 712, entitled “An Act to increase the efficiency and change the name of the United States Marine-Hospital Service,” substituted “Public Health and Marine-Hospital Service” for “United States Marine-Hospital Service,” and “Surgeon General” for “Supervising Surgeon General.”

Act Aug. 14, 1912, c. 288, § 1, 57 Stat. 309, entitled “An Act to change the name of the Public Health and Marine-Hospital Service to the Public Health Service, to increase the pay of officers of said service, and for other purposes,” substituted “Public Health Service” for “Public Health and Marine-Hospital Service.”

The changes are incorporated in the text.

16. Same; for work with Bureau of Mines.—

The statutory provision constituting § 16 of this title was repealed in the State, etc., Departments Appropriation Acts of Apr. 29, 1926, c. 105, Title III, 44 Stat. 368, Feb. 24, 1927, c. 180, Title III, 44 Stat. 1210, and Feb. 15, 1928, c. 57, Title III, 45 Stat. 103.

28. Divisions under Assistant Surgeons General; assistants; pay and allowances; rank.—

It has been suggested that in view of the fact that the pay and allowances of commissioned medical officers of the Public Health Service, when acting as Assistant Surgeons General (with rank relative to that of colonel in the Army) are now entirely covered by the provisions of Title 37, PAY AND ALLOWANCES, the following sentence in this section should be omitted: “Their pay and allowances shall be the same as are provided by regulations of the Public Health Service for officers in charge of said divisions.”

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61. Travel expenses for travel on Government-owned vessels.—

The statutory provision constituting § 61 of this title was repeated in the Treasury and Post Office Departments Appropriation Act of Mar. 2, 1926, c. 43, § 1, 44 Stat. 147.

62. Longevity pay; credit for service in other branches.—

The relevant portion of the Act May 18, 1920, c. 100, sec. 11, 41 Stat. 803, cited to the text, reads as follows:

“Longevity pay for officers in the Army, Navy, Marine Corps, Coast Guard, Public Health Service, and Coast and Geodetic Survey shall be based on the total of all service in any or all of said services.”

It has been suggested that this language should be substituted for that of § 62, it being a later expression of the opinion of Congress. It may be considered, however, that both of these provisions, while not repealed, are, in effect, superseded by Title 37, PAY AND ALLOWANCES which brings to pass the same results, by virtue of §§ 1 and 4 thereof.

63. Computation of length of service of officers of Public Health Service.—

The statutory provision constituting § 63 of this title was repeated in the Navy Department Appropriation Act of May 21, 1926, c. 355, 44 Stat. 604.

66. Retired pay of officers and warrant officers retired on or before June 30, 1922.—The retired pay of the officers and warrant officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, who were retired on or before June 30, 1922, shall not be less than that provided for the officers and warrant officers of these services of equal rank and length of service retired subsequent to that date: *Provided*, That nothing in this section shall operate to reduce the pay of any officer or warrant officer now on the retired list.

This section constitutes § 1 of Act May 8, 1920, c. 274, 44 Stat. 417, entitled “An Act to equalize the pay of retired officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.”

Section 2 of said Act reads as follows: “That all Acts or parts of Acts inconsistent with this Act [this section] are hereby repealed.”

Chapter 2.—SANITATION AND QUARANTINE.

★ Section 91. Extending time for entry of vessels subject to quarantine.—

“or according to the regulations hereinafter established” in last two lines of this section should read “or according to the regulations established by sections 88 and 90 of this title.”

★ 92a. National quarantine system; powers of State and municipal authorities; duties of officers of Public Health Service.—Wherever, at any port of the United States, any State or municipal quarantine system may exist, the officers or agents of such system shall, upon the application of the respective State or municipal authorities, be authorized and empowered to act as officers or agents of the national quarantine system, and shall be clothed with all the powers of United States officers for quarantine purposes, but shall receive no pay or emoluments from the United States. At all other ports where, in the opinion of the Secretary of the Treasury, it shall be deemed

necessary to establish quarantine, the medical officers or other agents of the Public Health Service shall perform such duties in the enforcement of the quarantine rules and regulations as may be assigned them by the Surgeon General of that service under this Act: *Provided*, That there shall be no interference in any manner with any quarantine laws or regulations as they existed on April 29, 1878, or may thereafter be adopted under State laws.

This section constitutes § 5 of Act Apr. 29, 1878, c. 60, 20 Stat. 38, entitled "An Act to prevent the introduction of contagious or infectious diseases into the United States."

Act July 1, 1902, c. 1370, § 1, 32 Stat. 712, entitled "An Act to increase the efficiency and change the name of the United States Marine-Hospital Service," substituted "Public Health and Marine-Hospital Service" for "United States Marine-Hospital Service," and "Surgeon General" for "Supervising Surgeon General."

Act Aug. 14, 1912, c. 288, § 1, 37 Stat. 300, entitled "An Act to change the name of the Public Health and Marine-Hospital Service to the Public Health Service, to increase the pay of officers of said service, and for other purposes," substituted "Public Health Service" for "Public Health and Marine-Hospital Service."

The changes are incorporated in the text.

The words "this Act" before the word "Provided" refer to the Act of Apr. 29, 1878, cited above, and cannot be translated since that Act, with the exception of section 1, incorporated in § 80 of this title, and § 5, set out above, are impliedly repeated or superseded. Provisions somewhat similar to those superseded may be found in sections 81, 82, 02, and 03 of this title.

★ 97. State health laws observed by United States officers.—

"revenue" in line 6 of this section should read "Coast Guard" by authority of § 1 of Title 14.

★ 106. Trespass on quarantine reservations; vessels entering United States in violation of laws.—

"acting under proper authority" at end of this section should read "acting under section 02a of this title."

109. Report of expenditures to prevent epidemics.—[Repealed.]

The statutory provision constituting § 100 of this title was repealed in the Treasury and Post Office Departments Appropriation Acts of Mar. 2, 1928, c. 43, Title I, § 1, 44 Stat. 148, Jan. 26, 1927, c. 58, Title I, § 1, 44 Stat. 1038, and Mar. 5, 1928, c. 120, § 1, 45 Stat. 174.

This section is repealed in part by Act May 29, 1928, c. 001, § 1, 45 Stat. 080, 088, entitled "An Act to discontinue certain reports now required by law to be made to Congress," which provides, "That the following reports and statements now required by law to be made to Congress are hereby discontinued, and all Acts or parts of Acts herein cited as requiring the submission of such statements and reports are hereby repealed to the extent of such requirement: * * * 21. Detailed report of expenditures under the appropriation 'Preventing the spread of epidemic diseases.' (Statutes at Large, volume 40, part 1, page 121; Statutes at Large, vol-

ume 41, part 1, page 885; title 42, section 100, United States Code.)"

Chapter 5.—MATERNITY AND INFANCY WELFARE AND HYGIENE.

Chapter 5 without force and effect after June 30, 1929.—Act Nov. 23, 1921, c. 185, 42 Stat. 224, constituting chapter 5 of Title 42, has been limited as to time by Act Jan. 22, 1927, c. 53, § 2, 44 Stat. 1024, providing that it "shall, after June 30, 1920, be of no force and effect."

For title of Act see note to § 103.

★ Section 162. Appropriation for.—

"In this chapter" should be added at the end of this section inasmuch as § 1 of Act Nov. 23, 1921, constituting the section, read "as hereinafter provided" and said Act constitutes the entire chapter except section 175 which merely extends its provisions to Hawaii.

163. Same; amount; apportionment to States; additional apportionment.—For the purpose of carrying out the provisions of this chapter, there is authorized to be appropriated annually until June 30, 1929, out of any money * * *

The statutory provision constituting § 103 of this title was amended by § 1 of Act Jan. 22, 1927, c. 53, 44 Stat. 1024, entitled "An Act to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the Act entitled 'An Act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes,' approved November 23, 1921, and for other purposes."

The effect of the amendment was to extend the period for annual appropriation two years; in other words, from June 30, 1927, shown in the Code section, to June 30, 1929. So much of the section is set out above as is necessary to show the amendment. Matter in italics new.

★ 164. Acceptance of provisions by States.—

"herein provided in the administration of the provisions of this chapter" in lines 7 and 8 of this section should read "as provided in this chapter, in the administration of the provisions thereof"

★ 167. Apportionment of appropriation to States.—

After the words "provided for" in line 4 of this section should be added "in this chapter" as a translation of the word "herein" contained in the original section.

★ 171. Reports by States; withholding certifications to States.—

After the word "moneys" in line 10 of this section, should be added the words "by this chapter" as a translation of the word "herein" contained in the original section.

★ 173. Children's Bureau to perform duties of chapter; report to Congress.—

"herein" in line 0 of this section should be omitted and "thereby" added after the word "authorized."