

the purposes of this section, the Commission is authorized to make investigations, require reports by agencies, issue reports, including an annual report to the Congress, promulgate rules, appoint such advisory committees as may be deemed necessary, recommend legislation, subpoena witnesses or records, and pay witness fees as established for the United States courts. (June 11, 1946, ch. 324, § 11, 60 Stat. 244; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to this title.

The Classification Act of 1949, referred to in the text, is classified to chapter 21 of this title.

Sections 667 and 669 of this title, referred to in the text, were repealed by act Oct. 28, 1949, ch. 782, title XII, § 1202, 63 Stat. 972.

AMENDMENTS

1949—Act Oct. 28, 1949, amended section, substituting "Classification Act of 1949" for "Classification Act of 1923".

EFFECTIVE DATE

Section as effective three months after June 11, 1946, except provision for appointment of examiners, see section 1011 of this title.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Civil Service Commission were transferred to the Chairman of the Civil Service Commission by 1949 Reorg. Plan No. 5, eff. Aug. 20, 1949, 14 F. R. 5227, 63 Stat. 1067. See note set out under section 632 of this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF AGRICULTURE

Functions vested by this chapter in hearing examiners employed by the Department of Agriculture were not included in the transfer of functions of officers, agencies, and employees of the Department of Agriculture made by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F. R. 3219, 67 Stat. 633, set out as a note under section 511 of this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF COMMERCE

Functions vested by this chapter in hearing examiners employed by the Department of Commerce were not included in the functions of officers, agencies, and employees of that Department which were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 591 of this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE INTERIOR

Functions vested by this chapter in hearing examiners employed by the Department of the Interior were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 481 of this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF JUSTICE

Functions vested by this chapter in hearing examiners employed by the Department of Justice were not included in the transfer of functions of officers, agencies and employees of the Department of Justice to the Attorney General, made by 1950 Reorg. Plan No. 2, § 1, eff. May 24, 1950, 15 F. R. 3173, 64 Stat. 1261, set out in note under section 291 of this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF LABOR

Functions vested by this chapter in hearing examiners employed by the Department of Labor were not included in the transfer of functions of officers, agencies, and employees of the Department of Labor to the Secretary of Labor, made by 1950 Reorg. Plan No. 6, § 1, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 611 of this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE TREASURY

Functions vested by this chapter in hearing examiners employed by the Department of the Treasury were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan No. 26, § 1, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of this title.

HEARING EXAMINERS APPOINTED FOR INDIAN PROBATE WORK

Hearing examiners appointed for Indian probate work need not be appointed pursuant to this chapter, see section 372-1 of Title 25, Indians.

CROSS REFERENCES

Communications Act, joint boards as having jurisdiction and powers conferred upon examiner by this section, see section 410 (a) of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

§ 1011. Impairment of rights; effect on other laws; separability; subsequent legislation; effective date.

Nothing in this chapter shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. If any provision of this chapter or the application thereof is held invalid, the remainder of this chapter or other applications of such provision shall not be affected. Every agency is granted all authority necessary to comply with the requirements of this chapter through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of this chapter except to the extent that such legislation shall do so expressly. This chapter shall take effect three months after its approval except that sections 1006 and 1007 of this title shall take effect six months after such approval, the requirement of the selection of examiners pursuant to section 1010 of this title shall not become effective until one year after such approval, and no procedural requirement shall be mandatory as to any agency proceeding initiated prior to the effective date of such requirement. (June 11, 1946, ch. 324, § 12, 60 Stat. 244.)

Chapter 19A.—REVIEW OF ORDERS OF FEDERAL AGENCIES

Sec.

- 1031. Definitions.
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§ 1031. Definitions.

As used in this chapter—

(a) "Court of appeals" means a court of appeals of the United States.

(b) "Clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed.

(c) "Petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed.

(d) When the order sought to be reviewed was entered by the Federal Communications Commission, "agency" means the Commission; when such order was entered by the Secretary of Agriculture, "agency" means the Secretary; when such order was entered by the United States Maritime Commission, or the Federal Maritime Board, or the Maritime Administration, "agency" means that Commission or Board, or Administration, as the case may require; when such order was entered by the Atomic Energy Commission, "agency" means that Commission. (Dec. 29, 1950, ch. 1189, § 1, 64 Stat. 1129; Aug. 30, 1954, ch. 1073, § 2 (a) 68 Stat. 961.)

AMENDMENTS

1954—Subsec. (d) amended by act Aug. 30, 1954, to include the Atomic Energy Commission.

EFFECTIVE DATE

Section 14 of act Dec. 29, 1950, provided that: "This Act [this chapter] shall take effect on the thirtieth day after the date of its approval [Dec. 29, 1950]. However, actions to enjoin, set aside, or suspend orders of the Federal Communications Commission or the Secretary of Agriculture, or the United States Maritime Commission, the Federal Maritime Board, and the Maritime Administration which are pending when this Act [this chapter] becomes effective, shall not be affected thereby, but shall proceed to final disposition under the existing law."

REPEALS

Section 13 of act Dec. 29, 1950, provided that: "All laws or parts of laws inconsistent with the provisions of this Act [this chapter] are repealed."

§ 1032. Jurisdiction of courts of appeals.

The court of appeals shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of, all final orders (a) of the Federal Communications Commission made reviewable in accordance with the provisions of section 402 (a) of Title 47, and (b) of the Secretary of Agriculture made under the Packers and Stockyards Act, 1921, as amended, and under the Perishable Agricultural Commodities Act, 1930, as amended, except orders issued under sections 210 (e), 217a, and 499g (a) of Title 7, and (c) such final orders of the United States Maritime Commission or the Federal Maritime Board or the Maritime Administration entered under authority of the Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, as are now subject to judicial review pursuant to the provisions of section 830 of Title 46, and (d) of the Atomic Energy Commission made reviewable by section 2239 of Title 42.

Such jurisdiction shall be invoked by the filing of a petition as provided in section 1034 of this title. (Dec. 29, 1950, ch. 1189, § 2, 64 Stat. 1129; Aug. 30, 1954, ch. 1073, § 2 (b), 68 Stat. 961.)

REFERENCES IN TEXT

The Packers and Stockyards Act, 1921, as amended, referred to in the text, is classified to chapter 9 of Title 7, Agriculture.

The Perishable Agricultural Commodities Act, 1930, as amended, referred to in the text, is classified to chapter 20A of Title 7, Agriculture.

The Shipping Act, 1916, as amended, referred to in the text, is classified to chapter 23 of Title 46, Shipping.

The Intercoastal Shipping Act, 1933, as amended, referred to in the text, is classified to chapter 23A of Title 46, Shipping.

AMENDMENTS

1954—Act Aug. 30, 1954, amended section by adding clause (d).

§ 1033. Venue.

The venue of any proceeding under this chapter shall be in the judicial circuit wherein is the residence of the party or any of the parties filing the petition for review, or wherein such party or any of such parties has its principal office, or in the United States Court of Appeals for the District of Columbia. (Dec. 29, 1950, ch. 1189, § 3, 64 Stat. 1130.)

§ 1034. Review of orders; time; notice; contents of petition; service.

Any party aggrieved by a final order reviewable under this chapter may, within sixty days after entry of such order, file in the court of appeals, wherein the venue as prescribed by section 1033 of this title lies, a petition to review such order. Upon the entry of such an order, notice thereof shall be given promptly by the agency by service or publication in accordance with the rules of such agency. The action in court shall be brought against the United States. The petition shall contain a concise statement of (a) the nature of the proceedings as to which review is sought, (b) the facts upon which venue is based, (c) the grounds on which relief is sought, and (d) the relief prayed. The petitioner shall attach to the petition, as exhibits, copies of the order, report, or decision of the agency. The clerk shall serve a true copy of the petition upon the agency and upon the Attorney General of the United States by mailing by registered mail, with request for return receipt, a true copy to the agency and a true copy to the Attorney General. (Dec. 29, 1950, ch. 1189, § 4, 64 Stat. 1130.)

§ 1035. Prehearing conference.

The court of appeals may hold a prehearing conference or direct a judge of such court to hold a prehearing conference. (Dec. 29, 1950, ch. 1189, § 5, 64 Stat. 1130.)

§ 1036. Record on review.

Unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk of the court of appeals in which the proceeding is pending the record on review, as provided in section 2112 of Title 28. (Dec. 29, 1950, ch. 1189, § 6, 64 Stat. 1130; Aug. 28, 1958, Pub. L. 85-791, § 31 (a), 72 Stat. 951.)

AMENDMENTS

1958—Pub. L. 85-791 amended section, substituting "Unless" for "Within the time prescribed by, and in accordance with the requirements of, rules promulgated by the court of appeals in which the proceeding is pending, unless", and substituting "of the court of appeals in which the proceeding is pending the record on review, as

provided in section 2112 of Title 28" for "the record on review, duly certified, consisting of the pleadings, evidence, and proceedings before the agency, or such portions thereof as such rules shall require to be included in such record, or such portions thereof as the petitioner and the agency, with the approval of the court of appeals, shall agree upon in writing".

§ 1037. Petitions to review.

(a) Heard on record before respondent.

Petitions to review orders reviewable under this chapter, unless determined on a motion to dismiss the petition, shall be heard in the court of appeals upon the record of the pleadings, evidence adduced, and proceedings before the agency where the agency has in fact held a hearing whether or not required to do so by law.

(b) Procedure where no hearing held.

Where the agency has held no hearing prior to the taking of the action of which review is sought by the petition, the court of appeals shall determine whether a hearing is required by law. After such determination, the court shall (1) where a hearing is required by law, remand the proceedings to the agency for the purpose of holding a hearing; (2) where a hearing is not required by law, pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; and (3) where a hearing is not required by law, and a genuine issue of material fact is presented, transfer the proceedings to a United States district court for the district where the petitioner or any petitioner resides or has its principal office for hearing and determination as if such proceedings were originally initiated in the district court. The procedure in such cases in the United States district courts shall be governed by the Federal Rules of Civil Procedure.

(c) Additional evidence.

If a party to a proceeding to review shall apply to the court of appeals, in which the proceeding is pending, for leave to adduce additional evidence and shall show to the satisfaction of such court (1) that such additional evidence is material, and (2) that there were reasonable grounds for failure to adduce such evidence before the agency, such court may order such additional evidence and any counterevidence the opposite party desires to offer to be taken by the agency. The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken and may modify or set aside its order and shall file in the court such additional evidence, such modified findings or new findings, and such modified order or the order setting aside the original order. (Dec. 29, 1950, ch. 1189, § 7, 64 Stat. 1130; Aug. 28, 1958, Pub. L. 85-791, § 31 (b), 72 Stat. 951.)

AMENDMENTS

1958—Subsec. (c) amended by Pub. L. 85-791 which substituted "in the court" for "a certified transcript of" in the second sentence.

§ 1038. Representation in proceeding; intervention.

The Attorney General shall be responsible for and have charge and control of the interests of the Government in all court proceedings authorized by this chapter. The agency, and any party or parties in

interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right, and be represented by counsel in any proceeding to review such order. Communities, associations, corporations, firms, and individuals, whose interests are affected by the agency's order, may intervene in any proceeding to review such order. The Attorney General shall not dispose of or discontinue said proceeding to review over the objection of such party or intervenors aforesaid, but said intervenor or intervenors may prosecute, defend, or continue said proceeding unaffected by the action or nonaction of the Attorney General therein. (Dec. 29, 1950, ch. 1189, § 8, 64 Stat. 1131.)

§ 1039. Jurisdiction of proceeding.

(a) Exclusive.

Upon the filing and service of a petition to review, the court of appeals shall have jurisdiction of the proceeding. The court of appeals in which the record on review is filed, on such filing, shall have jurisdiction to vacate stay orders or interlocutory injunctions theretofore granted by any court, and shall have exclusive jurisdiction to make and enter, upon the petition, evidence, and proceedings set forth in the record on review, a judgment determining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

(b) Stay or suspension of orders; interlocutory injunctions.

The filing of the petition to review shall not of itself stay or suspend the operation of the order of the agency, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. Where the petitioner makes application for an interlocutory injunction suspending or restraining the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this chapter, at least five days' notice of the hearing thereon shall be given to the agency and to the Attorney General of the United States. In cases where irreparable damage would otherwise ensue to the petitioner, the court of appeals may, on hearing, after not less than five days' notice to the agency and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the agency for not more than sixty days from the date of such order pending the hearing on the application for such interlocutory injunction, in which case such order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that such irreparable damage would result to petitioner and specifying the nature of such damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, upon a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application.

The hearing upon such an application for an interlocutory injunction shall be given preference and

expedited and shall be heard at the earliest practicable date after the expiration of the notice of hearing on the application provided for above.

Upon the final hearing of any proceeding to review any order under this chapter, the same requirements as to precedence and expedition shall apply. (Dec. 29, 1950, ch. 1189, § 9, 64 Stat. 1131.)

§ 1040. Review in Supreme Court on certiorari or certification.

An order granting or denying an interlocutory injunction under section 1039 (b) of this title shall be subject to review by the Supreme Court of the United States upon writ of certiorari as provided in section 1254 (1) of Title 28: *Provided*, That application therefor be duly made within forty-five days after the entry of such order. The final judgment of the court of appeals in a proceeding to review under this chapter shall be subject to review by the Supreme Court of the United States upon a writ of certiorari in accordance with the provisions of section 1254 (1) of Title 28: *Provided further*, That application therefor be duly made within ninety days after the entry of such judgment. Either the United States or the agency or an aggrieved party may file such petition for a writ of certiorari. The provisions of section 1254 (3) of Title 28, regarding certification, and of section 2101 (e) of Title 28, regarding stays, shall also apply to proceedings under this chapter. (Dec. 29, 1950, ch. 1189, § 10, 64 Stat. 1132.)

§ 1041. Rules.

The several courts of appeals shall adopt and promulgate rules governing the practice and procedure, including prehearing conference procedure, in proceedings to rehear orders under this chapter: *Provided, however*, That such rules shall be approved by the Judicial Conference of the United States. (Dec. 29, 1950, ch. 1189, § 11, 64 Stat. 1132.)

§ 1042. Enforcement of orders by district courts.

The several United States district courts are vested with jurisdiction specifically to enforce, and to enjoin and restrain any person from violating any order heretofore or hereafter issued under section 193 of Title 7. (Dec. 29, 1950, ch. 1189, § 12, 64 Stat. 1132.)

Chapter 20.—COMPENSATION AND BENEFITS OF STUDENT-EMPLOYEES OF HOSPITALS

Sec.

- 1051. Payment of stipends; deductions.
- 1052. Student-employees exempt from Classification Act of 1949.
- 1053. Compensation for personal injury.
- 1054. Retirement benefits.
- 1055. Temporary detail to other institutions; travel expenses.
- 1056. Student nurses in training under sections 1451—1462 of Appendix to Title 50.
- 1057. Limitation on authority of Administrator of Veterans' Affairs.
- 1058. Appropriations.

§ 1051. Payment of stipends; deductions.

The heads of the departments, agencies, and instrumentalities of the Federal Government and the Commissioners of the District of Columbia shall prescribe stipends to be paid to persons included in section 1052 of this title who are at their respective

hospitals, clinics, or laboratories; but no such stipend shall be in excess of the applicable maximum prescribed by the Civil Service Commission. Such persons may be provided living quarters; subsistence, and laundering while at the hospitals, clinics, or laboratories and, when so furnished, the reasonable value thereof, as prescribed by the head of the department, agency, or instrumentality concerned, or by the Commissioners of the District of Columbia, as the case may be, shall be deducted from their stipends; but such deductions may not be less than the lowest deduction applicable to regular employees at the same hospital, clinic, or laboratory for similar accommodations. (Aug. 4, 1947, ch. 452, § 3, 61 Stat. 727.)

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Civil Service Commission were transferred to the Chairman of the Civil Service Commission by 1949 Reorg. Plan No. 5, eff. Aug. 20, 1949, 14 F. R. 5227, 63 Stat. 1067. See note set out under section 632 of this title.

§ 1052. Student-employees exempt from Classification Act of 1949.

The Classification Act of 1949, as amended, shall not apply to student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, and student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the Federal Government, or by the District of Columbia, and any other student-employees, assigned or attached to any such hospital, clinic, or laboratory primarily for training purposes, who may be designated by the head of such department, agency, or instrumentality, or by the Commissioners of the District of Columbia, as the case may be, with the approval of the Civil Service Commission. (Aug. 4, 1947, ch. 452, § 2, 61 Stat. 727; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

REFERENCES IN TEXT

The Classification Act of 1949, referred to in the text, is classified to chapter 21 of this title.

AMENDMENTS

1949—Act Oct. 28, 1949, amended section, substituting "Classification Act of 1949" for "Classification Act of 1923".

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Civil Service Commission were transferred to the Chairman of the Civil Service Commission by 1949 Reorg. Plan No. 5, eff. Aug. 20, 1949, 14 F. R. 5227, 63 Stat. 1067. See note set out under section 632 of this title.

§ 1053. Compensation for personal injury.

Any person included in section 1052 of this title who suffers disability or death as a result of personal injury arising out of and in the course of training, or sustained in the performance of duties in connection therewith, shall be treated, for the purposes of sections 751—756, 757—781, 783—791 and 793 of this title, as though he were an employee, as defined in said sections, who had sustained such injury in the performance of duty. (Aug. 4, 1947, ch. 452, § 4, 61 Stat. 727.)

§ 1054. Retirement benefits.

Persons included under section 1052 of this title shall not be subject to the provisions of the Civil