

(2)(A) In any case in which no judge of the court meets the qualifications under paragraph (1), the youngest judge in regular active service who is 65 years of age or over and who has served as a judge of the court for 1 year or more shall act as the chief judge.

(B) In any case under subparagraph (A) in which there is no judge of the court in regular active service who has served as a judge of the court for 1 year or more, the judge of the court in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

(3)(A) Except as provided under subparagraph (C), the chief judge serving under paragraph (1) shall serve for a term of 7 years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge.

(B) Except as provided under subparagraph (C), a judge of the court acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge meets the qualifications under paragraph (1).

(C) No judge of the court may serve or act as chief judge of the court after attaining the age of 70 years unless no other judge is qualified to serve as chief judge under paragraph (1) or is qualified to act as chief judge under paragraph (2).

(b) The chief judge shall have precedence and preside at any session of the court which such judge attends. Other judges of the court shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) If the chief judge desires to be relieved of the duties as chief judge while retaining active status as a judge of the court, the chief judge may so certify to the Chief Justice of the United States, and thereafter the chief judge of the court shall be such other judge of the court who is qualified to serve or act as chief judge under subsection (a).

(d) If a chief judge is temporarily unable to perform the duties as such, such duties shall be performed by the judge of the court in active service, able and qualified to act, who is next in precedence.

(Added Pub. L. 104-317, title V, §501(a), Oct. 19, 1996, 110 Stat. 3855.)

CONTINUANCE OF POSITION OF CHIEF JUDGE

Pub. L. 104-317, title V, §501(c), Oct. 19, 1996, 110 Stat. 3856, provided that:

“(1) Notwithstanding the provisions of section 258(a) of title 28, United States Code (as added by subsection (a) of this section), the chief judge of the United States Court of International Trade who is in office on the day before the date of enactment of this Act [Oct. 19, 1996] shall continue to be such chief judge on or after such date until any one of the following events occurs:

“(A) The chief judge is relieved of his duties under section 258(c) of title 28, United States Code.

“(B) The regular active status of the chief judge is terminated.

“(C) The chief judge attains the age of 70 years.

“(D) The chief judge has served for a term of 7 years as chief judge.

“(2) When the chief judge vacates the position of chief judge under paragraph (1), the position of chief judge of the Court of International Trade shall be filled

in accordance with section 258(a) of title 28, United States Code.”

CHAPTER 13—ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec.	
291.	Circuit judges.
292.	District judges.
293.	Judges of the Court of International Trade.
294.	Assignment of retired justices or judges to active duty. ¹
295.	Conditions upon designation and assignment.
296.	Powers upon designation and assignment.
297.	Assignment of judges to courts of the freely associated compact states.

AMENDMENTS

1988—Pub. L. 100-702, title X, §1022(2), Nov. 19, 1988, 102 Stat. 4673, added item 297.

1982—Pub. L. 97-164, title I, §110(c), Apr. 2, 1982, 96 Stat. 29, substituted “the Court of International Trade” for “other courts” in item 293.

1958—Pub. L. 85-755, §8, Aug. 25, 1958, 72 Stat. 850, substituted “Judges of other courts” for “Circuit or district judges to Court of Customs and Patent Appeals” in item 293.

§ 291. Circuit judges

(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.

(b) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district court in any district within the circuit.

(June 25, 1948, ch. 646, 62 Stat. 900; July 28, 1953, ch. 253, §2, 67 Stat. 226; Sept. 3, 1954, ch. 1263, §39(b), 68 Stat. 1240; July 9, 1956, ch. 517, §1(a), 70 Stat. 497; Pub. L. 85-755, §2, Aug. 25, 1958, 72 Stat. 848; Pub. L. 95-598, title II, §202, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 97-164, title I, §108, Apr. 2, 1982, 96 Stat. 28; Pub. L. 102-572, title I, §104, Oct. 29, 1992, 106 Stat. 4507.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§17, 22 (Mar. 3, 1911, ch. 231, §§13, 18, 36 Stat. 1089; Oct. 3, 1913, ch. 18, 38 Stat. 203; Sept. 14, 1922, ch. 306, §§3, 5, 42 Stat. 839; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, §4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §1, 56 Stat. 1094).

Section consolidates all provisions of sections 17 and 22 of title 28, U.S.C., 1940 ed., relating to designation and assignment of circuit judges.

The revised section omits a reference to the Chief Justice contained in said section 22, since in exercising the powers under subsection (b), he acts as a circuit justice.

Paragraph (d) of said section 17, making the section applicable to the United States Court of Appeals for the District of Columbia, is omitted since such court is included in this revision because the District of Columbia is made a separate circuit. (See section 41 of this title.)

Provisions of said sections 17 and 22 authorizing the senior Associate Justice to act in the absence of the Chief Justice of the United States were omitted as surplusage in view of specific authority to so act in section 3 of this title.

¹Section catchline amended by Pub. L. 85-755 without corresponding amendment of analysis.

The words in said section 17 “for such time as the business of such district court may require,” were omitted as inconsistent with the language of said section 22 of title 28, U.S.C., 1940 ed., which employed the words “the public interest requires” and “from time to time and until he shall otherwise direct.” The revised section and sections 294 and 296 of this title make clear the power to make designation and assignment without any limitation of time, to revoke such designation and assignment and to make, from time to time, new designations and assignments.

The term “chief judge” of the circuit was substituted for “senior circuit judge.” (See reviser’s note under section 136 of this title.)

References in said sections 17 and 22 to retired judges were omitted as covered by section 294 of this title.

Other provisions of said section 17 of title 28, U.S.C., 1940 ed., are incorporated in sections 292, 295 and 296 of this title.

Other provisions of said section 22 of title 28, U.S.C., 1940 ed., are incorporated in section 296 of this title.

Changes were made in phraseology and arrangement.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Chief Justice of the United States may designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit where the need arises.”

1982—Subsecs. (b), (c). Pub. L. 97-164 redesignated subsec. (c) as (b). Former subsec. (b), which authorized the Chief Justice of the United States to designate and temporarily assign any circuit judge to serve as a judge of the Court of Claims or the Court of Customs and Patent Appeals upon presentation to him of a certificate of necessity by the chief judge of the court in which the need arose, was struck out.

1978—Subsec. (c). Pub. L. 95-598 directed the amendment of subsec. (c) by inserting “or bankruptcy” after “to hold a district”, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958—Subsec. (a). Pub. L. 85-755 struck out provision for assignment of any judge of the Court of Claims to serve as circuit judge in any circuit. See section 293(a) of this title.

Subsec. (b). Pub. L. 85-755 redesignated subsec. (c) as (b) and incorporated in it provision for assignment of circuit judges to Court of Customs and Patent Appeals formerly contained in section 293 of this title. Former subsec. (b), which provided for assignment of judges of the Court of Customs and Patent Appeals to serve as judges of the Court of Appeals or the District Court for the District of Columbia, was struck out. See section 293(a) of this title.

Subsecs. (c), (d). Pub. L. 85-755 redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

1956—Subsec. (a). Act July 9, 1956, inserted “or any judge of the Court of Claims to serve as a circuit judge in any circuit”.

1954—Subsec. (c). Act Sept. 3, 1954, struck out “United States” from name of Court of Claims.

1953—Subsecs. (c), (d). Act July 28, 1953, added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Pub. L. 85-755, § 7, Aug. 25, 1958, 72 Stat. 850, provided that: “Nothing contained in this Act [amending this

section and sections 211 and 292 to 295 of this title] shall be construed in any way to limit or alter the jurisdiction heretofore conferred upon the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit] by any provision of law.”

§ 292. District judges

(a) The chief judge of a circuit may designate and assign one or more district judges within the circuit to sit upon the court of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.

(c) The chief judge of the United States Court of Appeals for the District of Columbia Circuit may, upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia pursuant to section 11-908(c) of the District of Columbia Code, designate and assign temporarily any district judge of the circuit to serve as a judge of such Superior Court, if such assignment (1) is approved by the Attorney General of the United States following a determination by him to the effect that such assignment is necessary to meet the ends of justice, and (2) is approved by the chief judge of the United States District Court for the District of Columbia.

(d) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(e) The Chief Justice of the United States may designate and assign temporarily any district judge to serve as a judge of the Court of International Trade upon presentation to him of a certificate of necessity by the chief judge of the court.

(June 25, 1948, ch. 646, 62 Stat. 901; July 28, 1953, ch. 253, § 3, 67 Stat. 226; Sept. 3, 1954, ch. 1263, § 39(c), 68 Stat. 1240; July 9, 1956, ch. 517, § 1(b), 70 Stat. 497; July 14, 1956, ch. 589, § 2, 70 Stat. 532; Pub. L. 85-755, § 3, Aug. 25, 1958, 72 Stat. 848; Pub. L. 91-358, title I, § 172(e), July 29, 1970, 84 Stat. 591; Pub. L. 95-598, title II, §§ 203, 204, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-417, title V, § 501(7), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97-164, title I, § 109, Apr. 2, 1982, 96 Stat. 28.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 17, 21 and 216 (Mar. 3, 1911, ch. 231, §§ 13, 17, 120, 36 Stat. 1089, 1132; Sept. 14, 1922, ch. 306, § 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, § 1, 56 Stat. 1094).

Section consolidates and simplifies all provisions of sections 17, 21 and 216 of title 28, U.S.C., 1940 ed., relating to designation and assignment of district judges.

Term “chief judge” was substituted for “senior circuit judge.” (See Reviser’s Note under section 136 of this title.)

Sections 17 and 21 of title 28, U.S.C., 1940 ed., were inconsistent insofar as the words “or in his absence, the