

(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
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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.