

late division of the court consisting of three judges, of whom two shall constitute a quorum. The chief judge of the district court shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time to time pursuant to section 1614(a) of this chapter: *Provided*, That no more than one of them may be a judge of a court established by local law. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure. Appeals pending in the district court on the effective date of this Act¹ shall be heard and determined by a single judge.

(c) United States Court of Appeals for Third Circuit; jurisdiction; appeals; rules

The United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the district court on appeal from the courts established by local law. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

(d) Appeals to appellate court; effect on District Court

Upon the establishment of the appellate court provided for in section 1611(a) of this title all appeals from the decisions of the courts of the Virgin Islands established by local law not previously taken must be taken to that appellate court. The establishment of the appellate court shall not result in the loss of jurisdiction of the district court over any appeal then pending in it. The rulings of the district court on such appeals may be reviewed in the United States Court of Appeals for the Third Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.

(July 22, 1954, ch. 558, §23A, as added Pub. L. 98-454, title VII, §705, Oct. 5, 1984, 98 Stat. 1739.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning act July 22, 1954, ch. 558, 68 Stat. 497, as amended, known as the Revised Organic Act of the Virgin Islands, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of this title and Tables.

The effective date of this Act, referred to in subsec. (b), probably means the effective date of title VII of Pub. L. 98-454, which is 90 days after Oct. 5, 1984, and which enacted this section.

EFFECTIVE DATE

Section effective on ninetieth day following Oct. 5, 1984, see section 1005 of Pub. L. 98-454, set out as an Ef-

fective Date of 1984 Amendment note under section 1424 of this title.

§ 1614. Judges of District Court

(a) Appointment; tenure; removal; chief judge; compensation

The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of ten years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The judge of the district court who is senior in continuous service and who otherwise qualifies under section 136(a) of title 28 shall be the chief judge of the court. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of a court of record of the Virgin Islands established by local law, or a circuit or district judge of the Third Judicial Circuit, or a recalled senior judge of the District Court of the Virgin Islands, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States.

(b) Criminal offenses; procedure; definitions; indictment and information

Where appropriate, the provisions of part II of title 18 and of title 28 and, notwithstanding the provisions of rule 7(a) and of rule 54(a) of the Federal Rules of Criminal Procedure relating to the requirement of indictment and to the prosecution of criminal offenses in the Virgin Islands by information, respectively, the rules of practice heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28 shall apply to the district court and appeals therefrom: *Provided*, That the terms "Attorney for the government" and "United States attorney" as used in the Federal Rules of Criminal Procedure, shall, when applicable to causes arising under the income tax laws applicable to the Virgin Islands, mean the Attorney General of the Virgin Islands or such other person or persons as may be authorized by the laws of the Virgin Islands to act therein: *Provided further*, That in the district court all criminal prosecutions under the laws of the United States, under local law under section 1612(c) of this title, and under the income tax laws applicable to the Virgin Islands may be had by indictment by grand jury or by information: *Provided further*, That an offense which has been investigated by or presented to a grand jury may be prosecuted by information only by leave of court or with the consent of the defendant. All criminal prosecutions arising under local law which are tried in the district court pursu-

¹ See References in Text note below.

ant to section 1612(b) of this title shall continue to be had by information, except such as may be required by the local law to be prosecuted by indictment by grand jury.

(c) United States marshal

The Attorney General shall appoint a United States marshal for the Virgin Islands, to whose office the provisions of chapter 37 of title 28 shall apply.

(July 22, 1954, ch. 558, §24, 68 Stat. 506; Pub. L. 85-851, §7, Aug. 28, 1958, 72 Stat. 1095; Pub. L. 91-272, §3(b), June 2, 1970, 84 Stat. 296; Pub. L. 98-454, title VII, §706(a), (b), Oct. 5, 1984, 98 Stat. 1740.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

CODIFICATION

In subsec. (c), "chapter 37 of title 28" substituted for "chapter 33 of title 28" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, section 4(c) of which revised part II of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-454, §706(a), substituted provisions extending the term of a judge of the district court from eight to ten years, further substituted "of a court of the Virgin Islands established by local law," for "a judge of the municipal court of the Virgin Islands," in third sentence, and inserted provisions regarding the designation of the chief judge.

Subsec. (b). Pub. L. 98-454, §706(b), substituted provisions relating to criminal procedure in the district courts for former provisions which related to the chief judge of the district court and which are now set out in subsec. (a).

1970—Subsec. (a). Pub. L. 91-272 designated existing provisions as subsec. (a), increased from one to two the number of district judges, added judges of the municipal court of the Virgin Islands to the list of judges from which may be drawn temporary judges for the district court, and transferred to subsec. (c) provisions covering the appointment of a United States marshal for the Virgin Islands.

Subsec. (b). Pub. L. 91-272 added subsec. (b).

Subsec. (c). Pub. L. 91-272 added subsec. (c), the substance of which was formerly contained in subsec. (a).

1958—Pub. L. 85-851 substituted "the Attorney General shall appoint a United States marshal" for "the Attorney General shall, as heretofore, appoint a marshal and one deputy marshal".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-454 effective on ninetieth day following Oct. 5, 1984, see section 1005 of Pub. L. 98-454, set out as a note under section 1424 of this title.

CHIEF JUDGE; DISTRICT COURT; DETERMINATION AND QUALIFICATIONS

Pub. L. 98-454, title VII, §706(c), Oct. 5, 1984, 98 Stat. 1741, provided that: "The provisions of subsection (a) of this section [amending this section] regarding the determination and qualifications of the chief judge of the District Court of the Virgin Islands shall not apply to a person serving as chief judge of said court on the effective date of this Act [see Effective Date of 1984 Amendment note set out under section 1424 of this title]."

EXTENSION OF TERM OF DISTRICT JUDGES

Extension of term of district court judges to ten years applicable to judges holding office on Oct. 5, 1984,

see section 1004 of Pub. L. 98-454, set out as a note under section 1424b of this title.

PRESENT INCUMBENT

Enactment of this chapter as not affecting term of office of judge of the District Court of the Virgin Islands in office on the date of its enactment, see Effective Date note set out under section 1541 of this title.

RESIGNATION AND RETIREMENT OF JUDGES

Resignation and retirement of judges in the Territories and possessions, see section 373 of Title 28, Judiciary and Judicial Procedure.

§ 1615. Judicial divisions

The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and adjacent islands and cays.

(July 22, 1954, ch. 558, §25, 68 Stat. 507; Pub. L. 95-598, title III, §336(b), Nov. 6, 1978, 92 Stat. 2680; Pub. L. 98-454, title VII, §707, title X, §1001, Oct. 5, 1984, 98 Stat. 1741, 1745; Pub. L. 101-219, title II, §203, Dec. 12, 1989, 103 Stat. 1874.)

AMENDMENTS

1989—Pub. L. 101-219 struck out provision that court for the Division of Saint Croix be held in Christiansted and for the Division of Saint Thomas and Saint John at Charlotte Amalie.

1984—Pub. L. 98-454 amended section generally, inserting provisions setting forth places for the holding of court of each judicial division and striking out provisions relating to the applicability of procedural rules and prosecutions by information and indictment, which are now covered under section 1614 of this title, and repealed section 336 of Pub. L. 95-598 which had amended this section.

1978—Pub. L. 95-598 substituted "section 2075 of title 28 in cases under title 11" for "section 53 of title 11 in bankruptcy cases".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-454 effective on ninetieth day following Oct. 5, 1984, see section 1005 of Pub. L. 98-454, set out as a note under section 1424 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-598, title IV, §402(e), Nov. 6, 1978, 92 Stat. 2682, which provided a prospective effective date for the amendment of this section by section 336(b) of Pub. L. 95-598, was repealed by Pub. L. 98-454, title X, §1001, Oct. 5, 1984, 98 Stat. 1745.

§ 1616. Trial by jury

All criminal cases originating in the district court shall be tried by jury upon demand by the defendant or by the Government. If no jury is demanded the case shall be tried by the judge of the district court without a jury, except that the judge may, on his own motion, order a jury for the trial of any criminal action. The legislature may provide for trial in misdemeanor cases by a jury of six qualified persons.

(July 22, 1954, ch. 558, §26, 68 Stat. 507; Pub. L. 85-851, §8, Aug. 28, 1958, 72 Stat. 1095.)

AMENDMENTS

1958—Pub. L. 85-851 substituted requirement of jury trial upon demand by defendant or Government for pro-