

11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

§ 7287. Administration

Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.

(Added Pub. L. 107-103, title VI, § 605(a), Dec. 27, 2001, 115 Stat. 1000.)

§ 7288. Annual report

(a) IN GENERAL.—The chief judge of the Court shall submit to the appropriate committees of Congress each year a report summarizing the workload of the Court for the fiscal year ending during the preceding year.

(b) ELEMENTS.—Each report under subsection (a) shall include, with respect to the fiscal year covered by such report, the following information:

- (1) The number of appeals filed with the Court.
- (2) The number of petitions filed with the Court.
- (3) The number of applications filed with the Court under section 2412 of title 28.
- (4) The total number of dispositions by each of the following:
 - (A) The Court as a whole.
 - (B) The Clerk of the Court.
 - (C) A single judge of the Court.
 - (D) A multi-judge panel of the Court.
 - (E) The full Court.
- (5) The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial.
- (6) The median time from filing an appeal to disposition by each of the following:
 - (A) The Court as a whole.
 - (B) The Clerk of the Court.
 - (C) A single judge of the Court.
 - (D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court).
- (7) The median time from filing a petition to disposition by the Court.
- (8) The median time from filing an application under section 2412 of title 28 to disposition by the Court.
- (9) The median time from the completion of briefing requirements by the parties to disposition by the Court.
- (10) The number of oral arguments before the Court.
- (11) The number of cases appealed to the United States Court of Appeals for the Federal Circuit.
- (12) The number and status of appeals and petitions pending with the Court and of applications described in paragraph (3) as of the end of such fiscal year.

(13) The number of cases pending with the Court more than 18 months as of the end of such fiscal year.

(14) A summary of any service performed for the Court by a recalled retired judge of the Court.

(15) An assessment of the workload of each judge of the Court, including consideration of the following:

- (A) The time required of each judge for disposition of each type of case.
- (B) The number of cases reviewed by the Court.
- (C) The average workload of other Federal judges.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

- (1) the Committee on Veterans' Affairs of the Senate; and
- (2) the Committee on Veterans' Affairs of the House of Representatives.

(Added Pub. L. 110-389, title VI, § 604(a), Oct. 10, 2008, 122 Stat. 4178.)

SUBCHAPTER IV—DECISIONS AND REVIEW

§ 7291. Date when Court decision becomes final

(a) A decision of the United States Court of Appeals for Veterans Claims shall become final upon the expiration of the time allowed for filing, under section 7292 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

- (1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the Court of Appeals for Veterans Claims is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;
- (2) upon the denial of a petition for certiorari, if the decision of the Court of Appeals for Veterans Claims is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or
- (3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Appeals for Veterans Claims be affirmed or the appeal dismissed.

(b)(1) If the Supreme Court directs that the decision of the Court of Appeals for Veterans Claims be modified or reversed, the decision of the Court of Appeals for Veterans Claims rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Secretary or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Appeals for Veterans Claims shall become final when so corrected.

(2) If the decision of the Court of Appeals for Veterans Claims is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(B) the petition for certiorari has been denied, or

(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Appeals for Veterans Claims rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the Court of Appeals for Veterans Claims was rendered, unless within such 30 days either the Secretary or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Appeals for Veterans Claims shall become final when so corrected.

(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Appeals for Veterans Claims for a rehearing, and if—

(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(2) the petition for certiorari has been denied, or

(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Appeals for Veterans Claims rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Appeals for Veterans Claims had been rendered.

(d) As used in this section, the term "mandate", in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4119, §4091; renumbered §7291 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105-368, title V, §512(a)(1), (2)(B), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105-368, §512(a)(2)(B), substituted "Court decision" for "United States Court of Veterans Appeals decision" in section catchline.

Subsecs. (a) to (c). Pub. L. 105-368, §512(a)(1), substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals" wherever appearing.

1991—Pub. L. 102-40, §402(b)(1), renumbered section 4091 of this title as this section.

Subsec. (a). Pub. L. 102-40, §402(d)(1), substituted "7292" for "4092" in introductory provisions.

Subsec. (b). Pub. L. 102-83 substituted "Secretary" for "Administrator" in pars. (1) and (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

§ 7292. Review by United States Court of Appeals for the Federal Circuit

(a) After a decision of the United States Court of Appeals for Veterans Claims is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of a decision of the Court on a rule of law or of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 1155 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the Court of Appeals for Veterans Claims within the time and in the manner prescribed for appeal to United States courts of appeals from United States district courts.

(b)(1) When a judge or panel of the Court of Appeals for Veterans Claims, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the appellant and the Secretary with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Appeals for Veterans Claims. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Appeals for Veterans Claims, unless a stay is ordered by a judge of the Court of Appeals for Veterans Claims or by the Court of Appeals for the Federal Circuit.

(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the Court of Appeals for Veterans Claims.

(c) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Appeals for Veterans Claims that the Court of Appeals for the Federal Circuit finds to be—