

**§ 656. Subpoenas**

Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4662; amended Pub. L. 105-315, §8, Oct. 30, 1998, 112 Stat. 2996.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to this title.

AMENDMENTS

1998—Pub. L. 105-315 amended section generally, substituting provisions relating to subpoenas for provisions relating to certification of arbitrators.

**§ 657. Arbitration award and judgment**

(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall be filed promptly after the arbitration hearing is concluded with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

(b) SEALING OF ARBITRATION AWARD.—The district court shall provide, by local rule adopted under section 2071(a), that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case until the district court has entered final judgment in the action or the action has otherwise terminated.

(c) TRIAL DE NOVO OF ARBITRATION AWARDS.—

(1) TIME FOR FILING DEMAND.—Within 30 days after the filing of an arbitration award with a district court under subsection (a), any party may file a written demand for a trial de novo in the district court.

(2) ACTION RESTORED TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration.

(3) EXCLUSION OF EVIDENCE OF ARBITRATION.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

- (A) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence; or
- (B) the parties have otherwise stipulated.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4662; amended Pub. L. 105-315, §9, Oct. 30, 1998, 112 Stat. 2997.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsection (3)(A), are set out in the Appendix to this title.

AMENDMENTS

1998—Pub. L. 105-315 amended section generally, substituting provisions relating to arbitration award and judgment for provisions relating to compensation of arbitrators.

**§ 658. Compensation of arbitrators and neutrals**

(a) COMPENSATION.—The district court shall, subject to regulations approved by the Judicial Conference of the United States, establish the amount of compensation, if any, that each arbitrator or neutral shall receive for services rendered in each case under this chapter.

(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators and other neutrals for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4662; amended Pub. L. 105-315, §10, Oct. 30, 1998, 112 Stat. 2997.)

AMENDMENTS

1998—Pub. L. 105-315 amended section generally, substituting provisions relating to compensation of arbitrators and neutrals for provisions relating to district courts that may authorize arbitration.

**CHAPTER 45—SUPREME COURT**

Sec.

- 671. Clerk.
- 672. Marshal.
- 673. Reporter.
- 674. Librarian.
- 675. Law clerks and secretaries.
- 676. Printing and binding.
- 677. Counselor to the Chief Justice.

AMENDMENTS

2008—Pub. L. 110-402, §1(b)(3)(B), Oct. 13, 2008, 122 Stat. 4254, added item 677 and struck out former item 677 “Administrative Assistant to the Chief Justice”.

1972—Pub. L. 92-238, §2, Mar. 1, 1972, 86 Stat. 46, added item 677.

**§ 671. Clerk**

(a) The Supreme Court may appoint and fix the compensation of a clerk and one or more deputy clerks. The clerk shall be subject to removal by the Court. Deputy clerks shall be subject to removal by the clerk with the approval of the Court or the Chief Justice of the United States.

[ (b) Repealed. Pub. L. 92-310, title II, §206(c), June 6, 1972, 86 Stat. 203.]

(c) The clerk may appoint and fix the compensation of necessary assistants and messengers with the approval of the Chief Justice of the United States.

(d) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him. He shall make annual returns thereof to the Court under regulations prescribed by it.

(June 25, 1948, ch. 646, 62 Stat. 918; Pub. L. 88-279, §1, Mar. 10, 1964, 78 Stat. 158; Pub. L. 92-310, title II, §206(c), June 6, 1972, 86 Stat. 203.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§325, 326, 327, 541 and 542 (Feb. 22, 1875, ch. 95, §§2, 3, 18 Stat. 333; Mar. 3,

1883, ch. 143, 22 Stat. 631; Mar. 15, 1898, ch. 68, § 8, 30 Stat. 317; Mar. 3, 1911, ch. 231, §§ 219, 220, 221, 291, 36 Stat. 1152, 1153, 1167; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

This section consolidates sections 541 and 542 of title 28, U.S.C., 1940 ed., with parts of sections 325, 326 and 327 of such title.

The provisions in said section 325 relating to appointment of a marshal and reporter are incorporated in sections 672 and 673 of this title.

The provisions in section 327 of title 28, U.S.C., 1940 ed., relating to duties and liabilities of the clerk's deputies are incorporated in section 954 of this title.

The provision of section 326 of title 28, U.S.C., 1940 ed., that a duly certified copy of the clerk's bond should be competent evidence in any court, is incorporated in section 1737 of this title.

The provision that the clerk shall be subject to removal by the Court is new. Section 327 of title 28, U.S.C., 1940 ed., contained a similar provision as to deputies, but fixed no term of office for the clerk and made no provision for his removal. The Supreme Court held, in 1839, that a district judge had power to remove his clerk at pleasure in absence of any law fixing the clerk's tenure. *In re Hennen*, 38 U.S. 230, 13 Pet. 230, 10 L.Ed. 138. (See, also *Myers v. U.S.*, 1926, 47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160.)

The provision in section 326 of title 28, U.S.C., 1940 ed., that the clerk's bond be not less than \$5,000 and not more than \$20,000 was omitted. The Supreme Court should have wide discretion in such administrative matters. (See Hearings before Appropriations Committee, House of Representatives, 78th Cong., 2d sess., on Judiciary Appropriation Bill for 1945, page 102.)

A provision of section 326 of title 28, U.S.C., 1940 ed., that a renewed or augmented bond should be required upon the Attorney General's motion and after thirty days' notice was omitted. The manner of requiring such bond is left to the Court's discretion by the revised section.

A further provision of section 326 of title 28, U.S.C., 1940 ed., that the failure to furnish such renewed or augmented bond should vacate the clerk's office was omitted as unnecessary, since the clerk is removable by the Court under this section.

The references in section 541 of title 28, U.S.C., 1940 ed., to return "under oath" to be made "on the 1st day of January of each year, or thirty days thereafter" and "on a form prescribed by the Attorney General", were omitted as fully covered by the revised language "annual returns" under "regulations prescribed by the Court". Verification seems unnecessary especially as clerks of the courts of appeals are not required to submit similar returns under oath (see section 711 of this title). "Court" was substituted for "Attorney General", since the latter's powers and functions in court administrative matters have been transferred to the Director of the Administration Office of the United States Courts. (See sections 604 and 607 of this title.) The Director, however, exercises no authority in Supreme Court matters.

Section 542 of title 28, U.S.C., 1940 ed., provided that the clerk "shall not retain", out of fees received, more than \$6,000 annually above clerk hire and expenses; that the surplus should be paid into the Treasury. Such indirect and unusual provision is simplified in this section by providing that his salary shall be fixed by the Court. Such salary limitation is omitted as inconsistent with larger salaries paid other clerks of courts.

The provisions that the Court shall fix the compensation of deputy clerks, and that the clerk shall fix the compensation of assistants and messengers with the approval of the Chief Justice, are new. Current appropriation Acts providing that the compensation of officers and employees of the Supreme Court, other than clerk and reporter shall be fixed by the court, unnecessarily burden the court with administrative details. Provision for allowance and approval of payments of compensation and office expenses by the clerk upon allowance and approval by the Chief Justice, instead of by the Court, was inserted with the approval of the Judicial

Conference Committee on Revision of the Judicial Code as not inconsistent with section 542 of title 28, U.S.C., 1940 ed.

References in sections 541 and 542 of title 28, U.S.C., 1940 ed., to certification of expenses by the justices and for audit and allowances by the General Accounting Office, were omitted as unnecessary in view of this section.

Changes were made in phraseology.

#### AMENDMENTS

1972—Subsec. (b). Pub. L. 92-310 repealed subsec. (b) which related to bond of Clerk of Supreme Court.

1964—Subsec. (c). Pub. L. 88-279 struck out provision for disbursement by clerk of compensation of clerk, his deputies, assistants, and messengers and the necessary expenses of office from the fees collected by clerk, upon allowance and approval by Chief Justice of the United States.

Subsec. (d). Pub. L. 88-279 substituted "moneys collected by him" for "emoluments of his office over and above his lawful disbursements".

#### EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-279, § 4, Mar. 10, 1964, 78 Stat. 158, provided that: "The amendments proposed in this Act [amending this section and section 672 of this title] shall become effective only when funds have been appropriated and are available to pay the salaries and other expenses of the clerk's office."

#### APPROPRIATIONS

Pub. L. 88-279, § 3, Mar. 10, 1964, 78 Stat. 158, provided that: "There are hereby authorized to be appropriated annually such sums as are necessary to carry out the provisions of this Act [amending this section and section 672 of this title]."

#### § 672. Marshal

(a) The Supreme Court may appoint a marshal, who shall be subject to removal by the Court, and may fix his compensation.

(b) The marshal may, with the approval of the Chief Justice of the United States, appoint and fix the compensation of necessary assistants and other employees to attend the Court, and necessary custodial employees.

(c) The marshal shall:

(1) Attend the Court at its sessions;

(2) Serve and execute all process and orders issued by the Court or a member thereof;

(3) Take charge of all property of the United States used by the Court or its members;

(4) Disburse funds appropriated for work upon the Supreme Court building and grounds under the jurisdiction of the Architect of the Capitol upon certified vouchers submitted by the Architect;

(5) Disburse funds appropriated for the purchase of books, pamphlets, periodicals and other publications, and for their repair, binding, and rebinding, upon vouchers certified by the librarian of the Court;

(6) Pay the salaries of the Chief Justice, associate justices, and all officers and employees of the Court and disburse other funds appropriated for disbursement, under the direction of the Chief Justice;

(7) Pay the expenses of printing briefs and travel expenses of attorneys in behalf of persons whose motions to appear in forma pauperis in the Supreme Court have been approved and when counsel have been appointed by the Supreme Court, upon vouchers certified by the clerk of the Court;