Patent Appeals to serve as judges of the Court of Appeals or the District Court of Appeals or the District Court for the District of Columbia, and assignment of judges of the Court of Claims to district courts, respectively.

Subsec. (b). Pub. L. 85–755 designated existing second par. as subsec. (b).

Subsecs. (c), (d). Pub. L. 85–755 added subsecs. (c) and (d).

1956—Act July 14, 1956, authorized the Chief Justice of the United States to designate and assign temporarily a judge of the Customs Court to perform judicial duties in a district court in any circuit.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of this title.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85–755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85–755, set out as a note under section 291 of this title.

LIMITATION OR ALTERATION OF JURISDICTION

Amendment by act July 14, 1956, not to be construed as limiting or altering the jurisdiction heretofore conferred upon the Customs Court [now United States Court of International Trade], see section 4 of act July 14, 1956, set out as a note under section 251 of this title.

§ 294. Assignment of retired Justices or judges to active duty

(a) Any retired Chief Justice of the United States or Associate Justice of the Supreme Court may be designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit, including those of a circuit justice, as he is willing to undertake.

(b) Any judge of the United States who has retired from regular active service under section 371(b) or 372(a) of this title shall be known and designated as a senior judge and may continue to perform such judicial duties as he is willing and able to undertake, when designated and assigned as provided in subsections (c) and (d).

(c) Any retired circuit or district judge may be designated and assigned by the chief judge or judicial council of his circuit to perform such judicial duties within the circuit as he is willing and able to undertake. Any other retired judge of the United States may be designated and assigned by the chief judge of his court to perform such judicial duties in such court as he is willing and able to undertake.

(d) The Chief Justice of the United States shall maintain a roster of retired judges of the United States who are willing and able to undertake special judicial duties from time to time outside their own circuit, in the case of a retired circuit or district judge, or in a court other than their own, in the case of other retired judges, which roster shall be known as the roster of senior judges. Any such retired judge of the United States may be designated and assigned by the Chief Justice to perform such judicial duties as he is willing and able to undertake in a court outside his own circuit, in the case of a retired circuit or district judge, or in a court other than his own, in the case of any other retired judge of the United States. Such designation and assignment to a court of appeals or district court shall be made upon the presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises and to any other court of the United States upon the presentation of a certificate of necessity by the chief judge of such court. No such designation or assignment shall be made to the Supreme Court.

(e) No retired justice or judge shall perform judicial duties except when designated and assigned.

(June 25, 1948, ch. 646, 62 Stat. 901; July 9, 1956, ch. 517, § 1(c), 70 Stat. 497; Pub. L. 85–219, Aug. 29, 1957, 71 Stat. 495; Pub. L. 85–755, § 5, Aug. 25, 1958, 72 Stat. 849; Pub. L. 95–598, title II, § 206, Nov. 6, 1978, 92 Stat. 2660.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 375, 375a, and 375f (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; Mar. 1, 1937, ch. 21, 50 Stat. 24; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, § 5, as added May 11, 1944, ch. 192, §§ 1–3, 58 Stat. 218, 219).

Section consolidates those parts of sections 375, 375a, and 375f of title 28, U.S.C., 1940 ed., relating to designation and assignment of retired justices and judges. Other provisions of said sections 375 and 375a, appear in sections 136, 371, and 756 of this title.

The term ''chief judge'' was substituted for ''presiding judge or senior judge.'' (See Reviser's Note under section 136 of this title.)

Changes were made in phraseology.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95–598 directed the amendment of subsec. (c) by substituting ''district or bankruptcy judge'' for ''or district'' and the amendment of subsec. (d) by substituting '', district judge or bankruptcy judge'' for ''or district judge'', which amendments 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 reenacted subsec. (a) without change.

Subsecs. (b) to (d). Pub. L. 85–755 revised and rearranged subject matter to apply ''senior judge'' to all judges who retire from regular active service under sections 371(b) and 372(a) of this title, while retaining their commissions, rather than merely to those who ask to be placed on the Chief Justice's roster, to lodge solely in the chief judge and judicial council of the circuit concerned the intracircuit assignment power, and in the Chief Justice the power to assign retired judges beyond their circuits or special courts.

Subsec. (e). Pub. L. 85–755 reenacted subsec. (e) without change.

1957—Subsec. (d). Pub. L. 85–219 added subsec. (d).

1956—Subsec. (b). Act July 9, 1956, inserted provisions relating to assignment of retired judges of the Court of Claims.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85–755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Ap-

peals for the Federal Circuit], see section 7 of Pub. L. 85–755, set out as a note under section 291 of this title.

§ 295. Conditions upon designation and assignment

No designation and assignment of a circuit or district judge in active service shall be made without the consent of the chief judge or judicial council of the circuit from which the judge is to be designated and assigned. No designation and assignment of a judge of any other court of the United States in active service shall be made without the consent of the chief judge of such court.

All designations and assignments of justices and judges shall be filed with the clerks and entered on the minutes of the courts from and to which made.

The Chief Justice of the United States, a circuit justice or a chief judge of a circuit may make new designation and assignments in accordance with the provisions of this chapter and may revoke those previously made by him.

(June 25, 1948, ch. 646, 62 Stat. 901; Sept. 3, 1954, ch. 1263, § 39(d), 68 Stat. 1240; July 14, 1956, ch. 589, § 3(b), 70 Stat. 532; Pub. L. 85–755, § 6, Aug. 25, 1958, 72 Stat. 850; Pub. L. 95–598, title II, § 207, Nov. 6, 1978, 92 Stat. 2660.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 17, 20 (Mar. 3, 1911, ch. 231, §§ 13, 16, 36 Stat. 1089; Sept. 14, 1922, ch. 306, § 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §§ 1, 4, 56 Stat. 1094, 1095).

This section consolidates and simplifies provisions of sections 17 and 20 of title 28, U.S.C., 1940 ed., relating to conditions upon designation and assignment as well as those applicable to filing, revoking and making new designations.

Other provisions of section 17 of title 28, U.S.C., 1940 ed., are incorporated in section 291, 292, and 296 of this title.

The reference in said section 20 to senior Associate Judge was omitted. (See Reviser's Note under section 291 of this title.)

The terms "chief judge" and "chief judge of a circuit" were substituted for "senior circuit judge". (See Reviser's Note under section 136 of this title.)

The alternative provision for approval by the judicial council of the circuit was inserted to conform with section 332 of this title.

Changes were made in phraseology.

AMENDMENTS

1978—Pub. L. 95–598 directed the amendment of section by substituting "district, or bankruptcy" for "or 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—Pub. L. 85–755 substituted "of any other court of the United States" for "of the Customs Court" in first par.

1956—Act July 14, 1956, provided that no designation and assignment of a judge of the Customs Court in active service shall be made without the consent of the chief judge of the court.

1954—Act Sept. 3, 1954, made it clear that the section applies only to the assignment of circuit and district judges in active service.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85–755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85–755, set out as a note under section 291 of this title.

LIMITATION OR ALTERATION OF JURISDICTION

Amendment by act July 14, 1956, not to be construed as limiting or altering the jurisdiction heretofore conferred upon the Customs Court [now United States Court of International Trade], see section 4 of act July 14, 1956, set out as a note under section 251 of this title.

§ 296. Powers upon designation and assignment

A justice or judge shall discharge, during the period of his designation and assignment, all judicial duties for which he is designated and assigned. He may be required to perform any duty which might be required of a judge of the court or district or circuit to which he is designated and assigned.

Such justice or judge shall have all the powers of a judge of the court, circuit or district to which he is designated and assigned, except the power to appoint any person to a statutory position or to designate permanently a depository of funds or a newspaper for publication of legal notices. However, a district judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, having performed in the preceding calendar year an amount of work equal to or greater than the amount of work an average judge in active service on that court would perform in 6 months, and having elected to exercise such powers, shall have the powers of a judge of that court to participate in appointment of court officers and magistrate judges, rulemaking, governance, and administrative matters.

A justice or judge who has sat by designation and assignment in another district or circuit may, notwithstanding his absence from such district or circuit or the expiration of the period of his designation and assignment, decide or join in the decision and final disposition of all matters submitted to him during such period and in the consideration and disposition of applications for rehearing or further proceedings in such matters.

(June 25, 1948, ch. 646, 62 Stat. 901; Pub. L. 110–177, title V, § 503, Jan. 7, 2008, 121 Stat. 2542.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 17, 18, 22, 23, 301 (Mar. 3, 1911, ch. 231, §§ 13, 14, 18, 19, 188, 36 Stat. 1089, 1143; Oct. 3, 1913, ch. 18, 38 Stat. 203; Feb. 25, 1919, ch. 29, §§ 2, 5, 40 Stat. 1156, 1157; Sept. 14, 1922, ch. 306, §§ 3, 4, 5, 42 Stat. 839; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; 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, 2, 5, 6, 56 Stat. 1094, 1095).

Section simplifies provisions of sections 17, 18, paragraphs (b) and (c) of section 22, and sections 23 and 301 of title 28, U.S.C., 1940 ed., relating to powers and duties of designated judges.

Other provisions of said sections 17 and 22 of title 28, U.S.C., 1940 ed., are incorporated in sections 291, 292, and 295 of this title.

Other provisions of said section 301 of title 28, U.S.C., 1940 ed., are incorporated in sections 211–213, 215, and 293 of this title.

Section is made applicable to retired justices of the Supreme Court by inclusion of reference to "justice,"