

**§ 654. Arbitration**

(a) REFERRAL OF ACTIONS TO ARBITRATION.—Notwithstanding any provision of law to the contrary and except as provided in subsections (a), (b), and (c) of section 652 and subsection (d) of this section, a district court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it when the parties consent, except that referral to arbitration may not be made where—

- (1) the action is based on an alleged violation of a right secured by the Constitution of the United States;
- (2) jurisdiction is based in whole or in part on section 1343 of this title; or
- (3) the relief sought consists of money damages in an amount greater than \$150,000.

(b) SAFEGUARDS IN CONSENT CASES.—Until such time as rules are adopted under chapter 131 of this title relating to procedures described in this subsection, the district court shall, by local rule adopted under section 2071(a), establish procedures to ensure that any civil action in which arbitration by consent is allowed under subsection (a)—

- (1) consent to arbitration is freely and knowingly obtained; and
- (2) no party or attorney is prejudiced for refusing to participate in arbitration.

(c) PRESUMPTIONS.—For purposes of subsection (a)(3), a district court may presume damages are not in excess of \$150,000 unless counsel certifies that damages exceed such amount.

(d) EXISTING PROGRAMS.—Nothing in this chapter is deemed to affect any program in which arbitration is conducted pursuant to section<sup>1</sup> title IX of the Judicial Improvements and Access to Justice Act (Public Law 100-702), as amended by section 1 of Public Law 105-53.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4660; amended Pub. L. 105-315, §6, Oct. 30, 1998, 112 Stat. 2995.)

REFERENCES IN TEXT

Title IX of the Judicial Improvements and Access to Justice Act (Public Law 100-702), as amended by section 1 of Public Law 105-53, referred to in subsec. (d), is title IX of Pub. L. 100-702, Nov. 19, 1988, 102 Stat. 4659, which enacted this chapter and provisions set out as notes under sections 651 and 652 of this title. Section 1 of Pub. L. 105-53, Oct. 6, 1997, 111 Stat. 1173, amended section 905 of title IX of Pub. L. 100-702, which is set out as a note under section 651 of this title.

AMENDMENTS

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

**§ 655. Arbitrators**

(a) POWERS OF ARBITRATORS.—An arbitrator to whom an action is referred under section 654 shall have the power, within the judicial district of the district court which referred the action to arbitration—

- (1) to conduct arbitration hearings;

<sup>1</sup> So in original. The word “section” probably should not appear.

- (2) to administer oaths and affirmations; and
- (3) to make awards.

(b) STANDARDS FOR CERTIFICATION.—Each district court that authorizes arbitration shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

- (1) shall take the oath or affirmation described in section 453; and
- (2) shall be subject to the disqualification rules under section 455.

(c) IMMUNITY.—All individuals serving as arbitrators in an alternative dispute resolution program under this chapter are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4661; amended Pub. L. 105-315, §7, Oct. 30, 1998, 112 Stat. 2996.)

AMENDMENTS

1998—Pub. L. 105-315 amended section generally, substituting provisions relating to arbitrators for provisions relating to trial de novo.

**§ 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 subsec. (c)(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.

Sec.

#### 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.