

(June 25, 1948, ch. 646, 62 Stat. 869.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 338 (Mar. 3, 1911, ch. 231, § 230, 36 Stat. 1156; Sept. 6, 1916, ch. 448, § 1, 39 Stat. 726).

Minor changes in phraseology were made.

§ 3. Vacancy in office of Chief Justice; disability

Whenever the Chief Justice is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon the associate justice next in precedence who is able to act, until such disability is removed or another Chief Justice is appointed and duly qualified.

(June 25, 1948, ch. 646, 62 Stat. 869.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 323 (Mar. 3, 1911, ch. 231, § 217, 36 Stat. 1152).

The sentence, “This provision shall apply to every Associate Justice who succeeds to the office of Chief Justice”, was omitted as covered by last portion of revised section.

Minor changes were made in phraseology.

For seniority of commissions, see section 4 of this title.

§ 4. Precedence of associate justices

Associate justices shall have precedence according to the seniority of their commissions. Justices whose commissions bear the same date shall have precedence according to seniority in age.

(June 25, 1948, ch. 646, 62 Stat. 869.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 322 (Mar. 3, 1911, ch. 231, § 216, 36 Stat. 1152).

Minor changes in phraseology were made.

§ 5. Salaries of justices

The Chief Justice and each associate justice shall each receive a salary at annual rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361), as adjusted by section 461 of this title.

(June 25, 1948, ch. 646, 62 Stat. 870; Mar. 2, 1955, ch. 9, § 1(a), 69 Stat. 9; Pub. L. 88–426, title IV, § 403(a), Aug. 14, 1964, 78 Stat. 434; Pub. L. 94–82, title II, § 205(b)(1), Aug. 9, 1975, 89 Stat. 422.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 324 (Mar. 3, 1911, ch. 231, § 218, 36 Stat. 1152; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

The provision “to be paid monthly” was omitted since the time of payment of salaries is a matter of administrative convenience. (See 20 Comp. Gen. 834.)

Minor changes in phraseology were made.

REFERENCES IN TEXT

Section 225 of the Federal Salary Act of 1967, referred to in text, is section 225 of Pub. L. 90–206, Dec. 16, 1967, 81 Stat. 642, as amended, which is classified to chapter 11 (§ 351 et seq.) of Title 2, The Congress.

AMENDMENTS

1975—Pub. L. 94–82 substituted provisions setting the annual salary of the Chief Justice and each associate justice at rates determined under section 225 of the

Federal Salary Act of 1967, as adjusted by section 461 of this title, for provisions granting the Chief Justice and each associate justice a salary of \$40,000 and \$39,500 a year, respectively.

1964—Pub. L. 88–426 increased salary of Chief Justice from \$35,500 to \$40,000 and that of Associate Justices from \$35,000 to \$39,500.

1955—Act Mar. 2, 1955, increased salary of Chief Justice from \$25,500 to \$35,500 and salaries of Associate Justices from \$25,000 to \$35,000 a year.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Mar. 2, 1955, effective Mar. 1, 1955, see section 5 of act Mar. 2, 1955, set out as a note under section 31 of Title 2, The Congress.

SALARY INCREASES

2003—Salaries of Chief Justice and Associate Justices increased to \$198,600 and \$190,100 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 2003, by Ex. Ord. No. 13282, Dec. 31, 2002, 68 F.R. 1133, as amended by Ex. Ord. No. 13291, § 3, Mar. 21, 2003, 68 F.R. 14525, set out as a note under section 5332 of Title 5, Government Organization and Employees.

2002—Salaries of Chief Justice and Associate Justices increased to \$192,600 and \$184,400 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 2002, by Ex. Ord. No. 13249, Dec. 28, 2001, 67 F.R. 639, formerly set out as a note under section 5332 of Title 5.

2001—Salaries of Chief Justice and Associate Justices increased to \$186,300 and \$178,300 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 2001, by Ex. Ord. No. 13182, Dec. 23, 2000, 65 F.R. 82879, 66 F.R. 10057, formerly set out as a note under section 5332 of Title 5.

2000—Salaries of Chief Justice and Associate Justices increased to \$181,400 and \$173,600 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 2000, by Ex. Ord. No. 13144, Dec. 21, 1999, 64 F.R. 72237, formerly set out as a note under section 5332 of Title 5.

1999—Salaries of Chief Justice and Associate Justices continued at \$175,400 and \$167,900 per annum, respectively, by Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, formerly set out as a note under section 5332 of Title 5.

1998—Salaries of Chief Justice and Associate Justices increased to \$175,400 and \$167,900 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1998, by Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, formerly set out as a note under section 5332 of Title 5.

1997—Salaries of Chief Justice and Associate Justices continued at \$171,500 and \$164,100 per annum, respectively, by Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, formerly set out as a note under section 5332 of Title 5.

1996—Salaries of Chief Justice and Associate Justices continued at \$171,500 and \$164,100 per annum, respectively, by Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, formerly set out as a note under section 5332 of Title 5.

1995—Salaries of Chief Justice and Associate Justices continued at \$171,500 and \$164,100 per annum, respectively, by Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, formerly set out as a note under section 5332 of Title 5.

1993—Salaries of Chief Justice and Associate Justices increased to \$171,500 and \$164,100 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1993, by Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, formerly set out as a note under section 5332 of Title 5.

1992—Salaries of Chief Justice and Associate Justices increased to \$166,200 and \$159,000 per annum, respec-

tively, effective on first day of first pay period beginning on or after Jan. 1, 1992, by Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, formerly set out as a note under section 5332 of Title 5.

1991—Salaries of Chief Justice and Associate Justices increased to \$160,600 and \$153,600 per annum, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1991, by Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, formerly set out as a note under section 5332 of Title 5.

1990—Salaries of Chief Justice and Associate Justices continued respectively at \$115,000 and \$110,000 per annum, and increased to \$124,000 and \$118,600, respectively, effective on first day of first pay period beginning on or after Jan. 31, 1990, by Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, formerly set out as a note under section 5332 of Title 5.

1989—Salaries of Chief Justice and Associate Justices increased in the amount of 25 percent of their respective rates (as last in effect before the increase), effective Jan. 1, 1991, see Pub. L. 101-194, title VII, § 703(a)(3), Nov. 30, 1989, 103 Stat. 1768, set out as a note under section 5318 of Title 5.

Salaries of Chief Justice and Associate Justices continued respectively at \$115,000 and \$110,000 per annum by Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, formerly set out as a note under section 5332 of Title 5.

1988—Salaries of Chief Justice and Associate Justices continued respectively at \$115,000 and \$110,000 per annum by Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, formerly set out as a note under section 5332 of Title 5.

1987—Salaries of Chief Justice and Associate Justices increased respectively to \$115,000 and \$110,000 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Salaries of Chief Justice and Associate Justices increased to \$111,700 and \$107,200, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1987, by Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

1985—Salaries of Chief Justice and Associate Justices increased to \$108,400 and \$104,100, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1985, by Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, formerly set out as a note under section 5332 of Title 5.

1984—Salaries of Chief Justice and Associate Justices increased to \$104,700 and \$100,600, respectively, effective on first day of first pay period beginning on or after Jan. 1, 1984, by Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, formerly set out as a note under section 5332 of Title 5.

1982—Salaries of Chief Justice and Associate Justices increased to \$100,700 and \$96,700, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1982, by Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12387 further provided that pursuant to section 140 of Pub. L. 97-92, funds are not available to pay a salary at a rate which exceeds the rate in effect on Dec. 15, 1981, which was \$96,800 for the Chief Justice and \$93,000 for the Associate Justices.

Maximum rates payable after Dec. 17, 1982, increased from \$96,800 and \$93,000 to \$100,700 and \$96,700, respectively, see Pub. L. 97-377, title I, § 129(b)-(d), Dec. 21, 1982, 96 Stat. 1941, set out as a note under section 5318 of Title 5.

Limitations on use of funds for fiscal year ending Sept. 30, 1983, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(e) of Pub. L. 97-276, as amended, set out as a note under section 5318 of Title 5.

1981—Salaries of Chief Justice and Associate Justices increased to \$96,800 and \$93,000, respectively, effective

on first day of first pay period beginning on or after Oct. 1, 1981, by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5.

Limitations on use of funds for fiscal year ending Sept. 30, 1982, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see sections 101(g) and 141 of Pub. L. 97-92, set out as a note under section 5318 of Title 5.

1980—Salaries of Chief Justice and Associate Justices increased to \$92,400 and \$88,700, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1980, by Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12248 further provided that pursuant to Pub. L. 96-369 funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1980, which was \$79,125 for the Chief Justice and \$75,960 for the Associate Justices.

Limitations on use of funds for fiscal year ending Sept. 30, 1981, appropriated by any Act to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above level V of the Executive Schedule, see section 101(c) of Pub. L. 96-536, as amended, set out as a note under section 5318 of Title 5.

1979—Salaries of Chief Justice and Associate Justices increased to \$84,700 and \$81,300, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1979, by Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12165 further provided that pursuant to Pub. L. 96-86 funds appropriated for fiscal year 1980 may not be used to pay a salary at a rate which exceeds an increase of 5.5 percent over the applicable rate payable for such position or office in effect on Sept. 30, 1978, which was \$79,125 for the Chief Justice and \$75,960 for the Associate Justices.

Applicability to funds appropriated by any Act for fiscal year ending Sept. 30, 1980, of limitation of section 304 of Pub. L. 95-391 on use of funds to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above Level V of the Executive Schedule, see section 101 of Pub. L. 96-86, set out as a note under section 5318 of Title 5.

1978—Salaries of Chief Justice and Associate Justices increased to \$79,100 and \$76,000, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1978, by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, formerly set out as a note under section 5332 of Title 5. Ex. Ord. No. 12087, further provided that pursuant to the Legislative Branch Appropriation Act, 1979 [Pub. L. 95-391, title III § 304, Sept. 30, 1978, 92 Stat. 788, set out as a note under section 5318 of Title 5], funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1978, which was \$75,000 for the Chief Justice and \$72,000 for the Associate Justices.

1977—Salaries of Chief Justice and Associate Justices increased respectively to \$75,000 and \$72,000 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1976—Salaries of Chief Justice and Associate Justices increased to \$68,800 and \$66,000, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1976, by Ex. Order No. 11941, Oct. 1, 1976, 41 F.R. 43889, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees. Ex. Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was \$65,600 for the Chief Justice and \$63,000 for the Associate Justices.

1975—Salaries of Chief Justice and Associate Justices increased to \$65,600 and \$63,000, respectively, effective on first day of first pay period beginning on or after Oct. 1, 1975, by Ex. Order No. 11883, Oct. 6, 1975, 40 F.R.

47091, formerly set out as a note under section 5332 of Title 5.

1969—Salaries of Chief Justice and Associate Justices increased respectively from \$40,000 and \$39,500 to \$62,500 and \$60,000 per annum, commencing Feb. 14, 1969, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1946—Salary of Chief Justice increased from \$20,500 to \$25,500 a year, and salaries of associate justices increased from \$20,000 to \$25,000 a year, by act July 31, 1946, ch. 704, §1, 60 Stat. 716.

1926—Salary of Chief Justice increased from \$15,000 to \$20,500 a year, and salaries of associate justices increased from \$14,500 to \$20,000 a year, by act Dec. 13, 1926, ch. 6, §1, 44 Stat. 919.

1911—Salary of Chief Justice set at \$15,000 a year and salaries of associate justices set at \$14,500 a year by Judicial Code of 1911, act Mar. 3, 1911, ch. 231, §1, 36 Stat. 1152.

§ 6. Records of former court of appeals

The records and proceedings of the court of appeals, appointed previous to the adoption of the Constitution, shall be kept until deposited with the National Archives of the United States in the office of the clerk of the Supreme Court, who shall furnish copies thereof to any person requiring and paying for them, in the manner provided by law for giving copies of the records and proceedings of the Supreme Court. Such copies shall have the same faith and credit as proceedings of the Supreme Court.

(June 25, 1948, ch. 646, 62 Stat. 870; Oct. 25, 1951, ch. 562, § 4(7), 65 Stat. 640.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 329 (Mar. 3, 1911, ch. 231, § 222, 36 Stat. 1153).

In a letter dated August 8, 1944, the clerk of the Supreme Court advised that many of the early records mentioned in this section were destroyed by fire. Others are on file in the Clerk's office.

Minor changes in phraseology were made.

AMENDMENTS

1951—Act Oct. 25, 1951, inserted “until deposited with the National Archives of the United States” in first sentence.

CHAPTER 3—COURTS OF APPEALS

Sec.

41. Number and composition of circuits.
42. Allotment of Supreme Court justices to circuits.
43. Creation and composition of courts.
44. Appointment, tenure, residence and salary of circuit judges.
45. Chief judges; precedence of judges.
46. Assignment of judges; panels; hearings; quorum.
47. Disqualification of trial judge to hear appeal.
48. Terms of court.
49. Assignment of judges to division to appoint independent counsels.

AMENDMENTS

1983—Pub. L. 97-409, § 2(b)(2), Jan. 3, 1983, 96 Stat. 2039, substituted “independent counsels” for “special prosecutors” in item 49.

1978—Pub. L. 95-521, title VI, § 602(b), Oct. 26, 1978, 92 Stat. 1874, added item 49.

Pub. L. 95-486, § 5(c), Oct. 20, 1978, 92 Stat. 1633, substituted “panels” for “divisions” in item 46.

§ 41. Number and composition of circuits

The thirteen judicial circuits of the United States are constituted as follows:

Circuits	Composition
District of Columbia	District of Columbia.
First	Maine, Massachusetts, New Hampshire, Puerto Rico, Rhode Island.
Second	Connecticut, New York, Vermont.
Third	Delaware, New Jersey, Pennsylvania, Virgin Islands.
Fourth	Maryland, North Carolina, South Carolina, Virginia, West Virginia.
Fifth	District of the Canal Zone, Louisiana, Mississippi, Texas.
Sixth	Kentucky, Michigan, Ohio, Tennessee.
Seventh	Illinois, Indiana, Wisconsin.
Eighth	Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.
Ninth	Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, Hawaii.
Tenth	Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming.
Eleventh	Alabama, Florida, Georgia.
Federal	All Federal judicial districts.

(June 25, 1948, ch. 646, 62 Stat. 870; Oct. 31, 1951, ch. 655, § 34, 65 Stat. 723; Pub. L. 96-452, § 2, Oct. 14, 1980, 94 Stat. 1994; Pub. L. 97-164, title I, § 101, Apr. 2, 1982, 96 Stat. 25.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C. 1940 ed., § 211, and section 864 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 12, 1900, ch. 191, § 35, 31 Stat. 85; Mar. 3, 1911, ch. 231, § 116, 36 Stat. 1131; Jan. 28, 1915, ch. 22, § 1, 2, 38 Stat. 803; Mar. 2, 1917, ch. 145, § 42, 39 Stat. 966; Feb. 13, 1925, ch. 229, §§ 1, 13, 43 Stat. 936, 942; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Feb. 28, 1929, ch. 363, § 1, 45 Stat. 1346; May 17, 1932, ch. 190, 47 Stat. 158).

Form of section was simplified.

The District of Columbia was added as a separate circuit. This is in accord with the decision of the Supreme Court of the United States which held the Court of Appeals for the District of Columbia to be a circuit court of appeals within the Transfer Act of Sept. 14, 1922, ch. 305, 42 Stat. 837, incorporated in the Judicial Code as § 238(a), but repealed by act Feb. 13, 1925, ch. 229, § 13, 43 Stat. 942. (See *Swift and Co. v. U.S.*, 1928, 48 S.Ct. 311, 276 U.S. 311, 72 L.Ed. 587.)

In recognizing the District of Columbia as a separate circuit, the Supreme Court recently used this language: “* * * the eleven circuits forming the single federal judiciary * * *”. *Comm’r. v. Bedford’s Estate*, 65 S.Ct. 1157, at page 1160, 325 U.S. 283, 89 L.Ed. 611.

See section 17 of title 28, U.S.C., 1940 ed., providing, “For the purposes of sections 17-23 of this title, the District of Columbia shall be deemed to be a judicial circuit * * *”, and act Dec. 23, 1944, ch. 724, 58 Stat. 925, which amended section 215 of title 28, U.S.C., 1940 ed., incorporated in section 42 of this title. Such amendment provided that for the purposes of said section 215 “the District of Columbia shall be deemed to be a judicial circuit.”

Many other acts of Congress have recognized the District of Columbia as a separate circuit. (See the following acts; Aug. 24, 1937, ch. 754, 50 Stat. 751; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, 53 Stat. 1204; Aug. 7, 1939, ch. 501, 53 Stat. 1223; Dec. 29, 1942, ch. 835,