

(June 25, 1948, ch. 646, 62 Stat. 960; Sept. 13, 1982, Pub. L. 97-258, § 2(g)(4)(C), 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 851 (R.S. § 995; May 29, 1920, ch. 214, § 1, 41 Stat. 654).
Changes were made in phraseology.

AMENDMENTS

1982—Catchline, Pub. L. 97-258 substituted "Deposit of moneys in pending or adjudicated cases" for "Deposit".

FEDERAL RULES OF CIVIL PROCEDURE

Bringing funds into court, see rule C, Appendix to this title.
Claims against proceeds in registry, see rule E.
Deposit in court, see rule 67.
Funds in court registry, see rule E.

CROSS REFERENCES

Bribe moneys, deposit in registry of court, see section 3612 of Title 18, Crimes and Criminal Procedure.
Condemnation proceedings, deposit in registry of court, see section 258a of Title 40, Public Buildings, Property, and Works.
Court officers depositing registry moneys, see section 646 of Title 18, Crimes and Criminal Procedure.
Depositaries of public moneys and financial agents of Government, see section 90 of Title 12, Banks and Banking.
Limitation of liability, deposit of value of interest in court, see section 185 of Title 46, Shipping.
Powers upon designation and assignment, exception as to permanent designation of depository of funds, see section 296 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 572a, 2042, 2043 of this title.

§ 2042. Withdrawal

No money deposited under section 2041 of this title shall be withdrawn except by order of court.

In every case in which the right to withdraw money deposited in court under section 2041 has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.

(June 25, 1948, ch. 646, 62 Stat. 960; Sept. 13, 1982, Pub. L. 97-258, § 2(g)(4)(D), 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 852 (R.S. § 996; Feb. 19, 1897, ch. 265, § 3, 29 Stat. 578; Mar. 3, 1911, ch. 224, 36 Stat. 1083).

Words "and the money deposited as aforesaid shall constitute and be a permanent appropriation for payments in obedience to such orders" were omitted, in view of section 725p(b)(14), of title 31, U.S.C., 1940 ed., which repealed permanent appropriations of unclaimed money accounts and substituted authorization for annual appropriations effective July 1, 1935.

Changes were made in phraseology.
In U. S. Law Week, Nov. 7, 1939, Rep. Walter Chandler (Author of Chandler Act, Bankruptcy) observed as to the Judicial Code:

"Among the major subjects needing study and revision are—Numerous procedural changes which have been brought about through adoption of the Federal Rules of Civil Procedure should be codified." * * *

AMENDMENTS

1982—Pub. L. 97-258 inserted references to section 2041 in two places.

FEDERAL RULES OF CIVIL PROCEDURE

Deposit in court, see rule 67, Appendix to this title.

CROSS REFERENCES

Unclaimed moneys, see section 347 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 3612.

§ 2043. Deposit of other moneys

Except for public moneys deposited under section 2041 of this title, each clerk of the United States courts shall deposit public moneys that the clerk collects into a checking account in the Treasury, subject to disbursement by the clerk. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

(Added Pub. L. 97-258, § 2(g)(4)(E), Sept. 13, 1982, 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28:2043	31:725v(b)(related to clerks).	June 26, 1934, ch. 756, § 23(b)(related to clerks), 48 Stat. 1236; restated Dec. 21, 1944, ch. 631, § 1, 58 Stat. 845.

The words "Except for public moneys deposited under section 2041 of this title . . . public moneys" are substituted for "All fees and other collections other than moneys referred to in subsection (a) of this section" for consistency and because 31:725v(a) is superseded by 28:2041 and is not part of the revised title contained in section 1 of the bill. The word "Treasury" is substituted for "Treasurer of the United States" because of section 1 of Reorganization Plan No. 28 of 1950 (eff. July 31, 1950, 64 Stat. 1280), restated as section 321 of the revised title contained in section 1 of the bill. The text of 31:725v(b)(last sentence) is omitted as obsolete.

CHAPTER 131—RULES OF COURTS

- Sec. 2071. Rule-making power generally.
- 2072. Rules of civil procedure. [2073, 2074. Repealed.]
- 2075. Bankruptcy rules.
- 2076. Rules of evidence.
- 2077. Publication of rules; advisory committees.

AMENDMENTS

1982—Pub. L. 97-164, title II, § 208(b), Apr. 2, 1962, 96 Stat. 55, added item 2077.

1975—Pub. L. 93-595, § 2(a)(2), Jan. 2, 1975, 88 Stat. 1949, added item 2076.

1966—Pub. L. 89-773, § 3, Nov. 6, 1966, 80 Stat. 1323, eliminated words "for district courts" from item 2072, and eliminated items 2073 and 2074.

1964—Pub. L. 88-623, § 2, Oct. 3, 1964, 78 Stat. 1001, added item 2075.

1954—Act July 27, 1954, ch. 583, § 2, 68 Stat. 567, amended analysis by adding item 2074.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal procedure rules are set out in Title 18, Appendix, Crimes and Criminal Procedure.

§ 2071. Rule-making power generally

The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court.

(June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, § 102, 63 Stat. 104.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§ 219, 263, 296, 307, 723, 731, and 761, and section 1111 of title 28, U.S.C., 1940 ed., Internal Revenue Code (R.S. §§ 913, 918; Mar. 3, 1887, ch. 359, § 4, 24 Stat. 506; Mar. 3, 1911, ch. 231, §§ 122, 157, 194, 291, 297, 38 Stat. 1132, 1139, 1145, 1167, 1168; Mar. 3, 1911, ch. 231, § 187(a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101; Feb. 13, 1925, ch. 229, § 13, 43 Stat. 941; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; Feb. 10, 1939, ch. 2, § 1111, 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, § 504(a), (c), 56 Stat. 957).

Sections 219, 263, 296, 307, 723, and 731 of title 28, U.S.C., 1940 ed., gave specified courts, other than the Supreme Court, power to make rules. Section 761 of such title related to rules established in the district courts and Court of Claims. Section 1111 of title 28, U.S.C., 1940 ed., related to Tax Court. This section consolidates all such provisions. For other provisions of such sections, see Distribution Table.

Recognition by Congress of the broad rule-making power of the courts will make it possible for the courts to prescribe complete and uniform modes of procedure, and alleviate, at least in part, the necessity of searching in two places, namely in the Acts of Congress and in the rules of the courts, for procedural requisites.

Former Attorney General Cummings recently said: "Legislative bodies have neither the time to inquire objectively into the details of judicial procedure nor the opportunity to determine the necessity for amendment or change. Frequently such legislation has been enacted for the purpose of meeting particular problems or supposed difficulties, but the results have usually been confusing or otherwise unsatisfactory. Comprehensive action has been lacking for the obvious reason that the professional nature of the task would leave the legislature little time for matters of substance and statesmanship. It often happened that an admitted need for change, even in limited areas, could not be secured."—The New Criminal Rules—Another Triumph of the Democratic Process. American Bar Association Journal, May 1945.

Provisions of sections 263 and 296 of title 28, U.S.C., 1940 ed., authorizing the Court of Claims and Customs Court to punish for contempt, were omitted as covered by H. R. 1600, § 401, 80th Congress, for revision of the Criminal Code.

Provisions of section 1111 of title 28, U.S.C., 1940 ed., making applicable to Tax Court Proceedings "the rules of evidence applicable in the courts of the District of Columbia in the type of proceeding which, prior to Sept. 16, 1938, were within the jurisdiction of the courts of equity of said District," were omitted as unnecessary and inconsistent with other provisions of law relating to the Federal courts. The rules of evidence in Tax Court proceedings are the same as those

which apply to civil procedure in other courts. See *Dempster Mill. Mfg. Co. v. Burnet*, 1931, 46 F.2d 604, 60 App.D.C. 23.

For rule-making power of the Supreme Court in copyright infringement actions, see section 25(e) of title 17, U.S.C., 1940 ed., Copyrights. See, also, section 205(a) of title 11, U.S.C., 1940 ed., Bankruptcy, authorizing the Supreme Court to promulgate rules relating to service of process in railroad reorganization proceedings.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1111 of Title 28, U.S.C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

1949 ACT

This amendment clarifies section 2071 of title 28, U.S.C., by giving express recognition to the power of the Supreme Court to prescribe its own rules and by giving a better description of its procedural rules.

AMENDMENTS

1949—Act May 24, 1949, expressed recognition to the Supreme Court's power to prescribe its own rules and give a better description of its procedural rules.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-462, § 4, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments made by this Act [enacting provisions set out as notes under this section, amending Rule 4 of the Federal Rules of Civil Procedure, set out in the Appendix to this title, adding Form 18-A in the Appendix of Forms, and amending section 951 of Title 18, Crimes and Criminal Procedure] shall take effect 45 days after the enactment of this Act [Jan. 12, 1983]."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97-462, § 1, Jan. 12, 1983, 96 Stat. 2527, provided: "That this Act [enacting provisions set out as notes under this section, amending Rule 4 of the Federal Rules of Civil Procedure, set out in the Appendix to this title, adding Form 18-A in the Appendix of Forms, and amending section 951 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Federal Rules of Civil Procedure Amendments Act of 1982.'"

AMENDMENTS TO CIVIL RULES PROPOSED APRIL 28, 1982

Pub. L. 97-462, § 5, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments to the Federal Rules of Civil Procedure [Rule 4], the effective date of which was delayed by the Act entitled 'An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure', approved August 2, 1982 (96 Stat. 246) [Pub. L. 97-227, see below], shall not take effect."

Pub. L. 97-227, Aug. 2, 1982, 96 Stat. 246, provided: "That notwithstanding the provisions of section 2072 of title 28, United States Code, the amendments to rule 4 of the Federal Rules of Civil Procedure as proposed by the Supreme Court of the United States and transmitted to the Congress by the Chief Justice on April 28, 1982, shall take effect on October 1, 1983, unless previously approved, disapproved, or modified by Act of Congress.

"Sec. 2. This Act shall be effective as of August 1, 1982, but shall not apply to the service of process that takes place between August 1, 1982, and the date of enactment of this Act [Aug. 2, 1982]."

AMENDMENTS TO CRIMINAL RULES AND RULES OF EVIDENCE PROPOSED APRIL 30, 1979; POSTPONEMENT OF EFFECTIVE DATE

Pub. L. 96-42, July 31, 1979, 93 Stat. 326, provided: "That notwithstanding any provision of section 3771 or 3772 of title 18 of the United States Code or of section 2072, 2075, or 2076 of title 28 of the United States Code to the contrary—

"(1) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure affecting rules 11(e)(6), 17(h), 32(f), and 44(c), and adding new rules 26.2 and 32.1, and the amendment so proposed and transmitted to the Federal Rules of Evidence affecting rule 410, shall not take effect until December 1, 1980, or until and then only to the extent approved by Act of Congress, whichever is earlier; and

"(2) the amendment proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, affecting rule 40 of the Federal Rules of Criminal Procedure shall take effect on August 1, 1979, with the following amendments:

"(A) In the matter designated as paragraph (1) of subdivision (d), strike out 'in accordance with Rule 32.1(a)'. "

"(B) In the matter designated as paragraph (2) of subdivision (d), strike out 'in accordance with Rule 32.1(a)(1)'. "

APPROVAL AND EFFECTIVE DATE OF RULES GOVERNING SECTION 2254 CASES AND SECTION 2255 PROCEEDINGS FOR UNITED STATES DISTRICT COURTS

Pub. L. 94-426, § 1, Sept. 28, 1976, 90 Stat. 1334, provided: "That the rules governing section 2254 cases in the United States district courts and the rules governing section 2255 proceedings for the United States district courts, as proposed by the United States Supreme Court, which were delayed by the Act entitled 'An Act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court' (Public Law 94-349), are approved with the amendments set forth in section 2 of this Act and shall take effect as so amended, with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977."

POSTPONEMENT OF EFFECTIVE DATE OF PROPOSED RULES AND FORMS GOVERNING PROCEEDINGS UNDER SECTIONS 2254 AND 2255 OF THIS TITLE

Pub. L. 94-349, § 2, July 8, 1976, 90 Stat. 822, provided: "That, notwithstanding the provisions of section 2072 of title 28 of the United States Code, the rules and forms governing section 2254 [section 2254 of this title] cases in the United States district courts and the rules and forms governing section 2255 [section 2255 of this title] proceedings in the United States district courts which are embraced by the order entered by the United States Supreme Court on April 26, 1976, and which were transmitted to the Congress on or about April 26, 1976, shall not take effect until thirty days after the adjournment sine die of the 94th Congress, or until and to the extent approved by Act of Congress, whichever is earlier."

APPROVAL AND EFFECTIVE DATE OF AMENDMENTS PROPOSED NOVEMBER 20, 1972 AND DECEMBER 18, 1972

Pub. L. 93-595, § 3, Jan. 2, 1975, 88 Stat. 1959, provided that: "The Congress expressly approves the amendments to the Federal Rules of Civil Procedure [Rules 30(c), 32(c), 43, and 44.1] and the amendments to the Federal Rules of Criminal Procedure [Rules 26, 26.1, and 28], which are embraced by the orders entered by the Supreme Court of the United States on November 20, 1972, and December 18, 1972, and such amendments shall take effect on the one hundred and

eightieth day beginning after the date of the enactment of this Act [Jan. 2, 1975]."

CONGRESSIONAL APPROVAL REQUIREMENT FOR PROPOSED RULES OF EVIDENCE FOR UNITED STATES COURTS AND AMENDMENTS TO FEDERAL RULES OF CIVIC PROCEDURE AND CRIMINAL PROCEDURE; SUSPENSION OF EFFECTIVENESS OF SUCH RULES

Pub. L. 93-12, Mar. 30, 1973, 87 Stat. 9, provided: "That notwithstanding any other provisions of law, the Rules of Evidence for United States Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure, which are embraced by the orders entered by the Supreme Court of the United States on Monday, November 20, 1972, and Monday, December 18, 1972, shall have no force or effect except to the extent, and with such amendments, as they may be expressly approved by the Act of Congress."

ADMIRALTY RULES

The Rules of Practice in Admiralty and Maritime Cases, promulgated by the Supreme Court on Dec. 20, 1920, effective Mar. 7, 1921, as revised, amended, and supplemented, were rescinded, effective July 1, 1966, in accordance with the general unification of civil and admiralty procedure which became effective July 1, 1966. Provision for certain distinctly maritime remedies were preserved however in the Supplemental Rules for Certain Admiralty and Maritime Claims, rules A to F, Federal Rules of Civil Procedure, Appendix to this title.

FEDERAL RULES OF CIVIL PROCEDURE

Rules by district courts, authority to make, see rule 83, Appendix to this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Court of Appeals, rules, see rule 57, Title 18, Appendix, Crimes and Criminal Procedure.
District court rules, see rule 57.

CROSS REFERENCES

Court of Appeals—

Designation and assignment of District Court judge to sit on, see section 292 of this title.

Designation of places for terms or sessions of, see section 48 of this title.

Participation by members of bar at judicial conference of circuit, see section 333 of this title.

Court of International Trade—

Assignment or reassignment of cases, see section 253 of this title.

Notice of time and place of hearing before judge or division, see section 2632 of this title.

District Court—

Advance payment of fees, see section 1914 of this title.

Division of business, see section 137 of this title.

Exercise of judicial powers, see section 132 of this title.

Regular terms, see section 138 of this title.

Special terms, see section 141 of this title.

Tax Court rules, see section 7453 of Title 26, Internal Revenue Code.

§ 2072. Rules of civil procedure

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts and courts of appeals of the United States in civil actions, including admiralty and maritime cases, and appeals therein, and the practice and procedure in proceedings for the review by the courts of ap-

peals of decisions of the Tax Court of the United States and for the judicial review or enforcement of orders of administrative agencies, boards, commissions, and officers.

Such rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May, and until the expiration of ninety days after they have been thus reported.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court.

(June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, § 103, 63 Stat. 104; July 18, 1949, ch. 343, § 2, 63 Stat. 446; May 10, 1950, ch. 174, § 2, 64 Stat. 158; July 7, 1958, Pub. L. 85-508, § 12(m), 72 Stat. 348; Nov. 6, 1966, Pub. L. 89-773, § 1, 80 Stat. 1323.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§ 637, 723b, 723c, 730, and 761 (R.S. §§ 862, 917; Mar. 3, 1887, ch. 359, § 4, 24 Stat. 506; Mar. 3, 1911, ch. 231, §§ 291, 297, 36 Stat. 1167, 1168; Feb. 13, 1925, ch. 229, § 13, 43 Stat. 941; June 19, 1934, ch. 651, §§ 1, 2, 48 Stat. 1064).

Section consolidates sections 723b and 723c of title 28, U.S.C., 1940 ed., with parts of sections 837, 730, and 761 of such title.

Provisions of sections 637 and 730 of title 28, U.S.C., 1940 ed., relating to admiralty rules are incorporated in section 2073 of this title.

The provision of section 723c of title 28, U.S.C., 1940 ed., for the uniting of rules for suits in equity and actions at law so as to secure one form of civil action, was omitted as executed.

Provisions of section 761 of title 28, U.S.C., 1940 ed., relating to rules governing suits in the Court of Claims appear in section 2071 of this title.

Words "and for the courts of the District of Columbia" were omitted. The phrase "district courts" includes the District Court for the District of Columbia. The Municipal Court for the District of Columbia has been directed to make its rules by Act April 1, 1942, ch. 207, § 5(b), 56 Stat. 192 (D.C. Code Supp. 1943, § 11-756(b)).

Changes were made in phraseology.

The term "district courts of the United States", includes the district courts for Hawaii and Puerto Rico. See section 451 of this title.

Sections 646 and 873a of title 48, U.S.C., 1940 ed., make the Federal Rules of Civil Procedure applicable to Hawaii and Puerto Rico, respectively. Such sections are recommended for repeal as covered by the revised section.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see 80th Congress Senate Report No. 1559, amendment No. 40.

1949 ACT

This amendment to section 2072 of title 28, U.S.C., and the similar amendment of section 2073 of such title by another section of this bill, will require the Chief Justice to report to Congress proposed rules and

amendments of rules instead of channelling reports through the Attorney General who now reports them to Congress. The present provision that the Attorney General should act as a transmitting agent between the Supreme Court and the Congress is inconsistent with the plan of title 28, U.S.C., under which the Attorney General no longer acts as the administrative officer of the Federal courts. The provision was continued in section 2072 of title 28 inadvertently. Similar amendments are proposed for section 2073 of title 28, and section 3771 of title 18, U.S.C., by other sections of this bill.

AMENDMENTS

1966—Pub. L. 89-773 eliminated words "for district courts" from the catchline, inserted provisions in the text empowering the Supreme Court to prescribe by general rules the practice and procedure of courts of appeals in civil actions, and the practice and procedure in proceedings for the review by the courts of appeals of decisions of the Tax Court of the United States and for the judicial review or enforcement of orders of administrative agencies, boards, commissions, and officers, and expanded the term "civil actions" to include admiralty and maritime cases, and appeals therein.

1958—Pub. L. 85-508 eliminated provisions which related to the District Court for the Territory of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1950—Act May 10, 1950, allowed proposed rule changes to be submitted to Congress not later than May 1 of each year and to become effective 90 days from the date of their being reported from the Supreme Court.

1949—Act July 18, 1949, made it applicable to District Court for Alaska.

Act May 24, 1949, substituted "Chief Justice" for "Attorney General" in third par.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, upon admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c18, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

AMENDMENTS PROPOSED APRIL 28, 1982

The amendments to Rule 4, Federal Rules of Civil Procedure, the effective date of which [Aug. 1, 1982] was delayed to Oct. 1, 1983, by Pub. L. 97-227, not to take effect, see section 5 of Pub. L. 97-462, set out as a note under section 2071 of this title.

APPROVAL AND EFFECTIVE DATE OF RULES GOVERNING SECTION 2254 CASES AND SECTION 2255 PROCEEDINGS FOR UNITED STATES DISTRICT COURTS

Rules and forms governing proceedings under sections 2254 and 2255 of this title proposed by Supreme Court order and which were delayed by section 2 of Pub. L. 94-349, were approved and took effect with respect to petitions under section 2254 and motions under section 2255 of this title filed on or after Feb. 1, 1977, see section 1 of Pub. L. 94-426, set out as a note under section 2071 of this title.

POSTPONEMENT OF EFFECTIVE DATE OF PROPOSED RULES AND FORMS GOVERNING PROCEEDINGS UNDER SECTIONS 2254 AND 2255 OF THIS TITLE

Rules and forms governing proceedings under sections 2254 and 2255 of this title proposed by Supreme Court order of Apr. 26, 1976 effective 30 days after adjournment sine die of 94th Congress, or until and to the extent approved by Act of Congress, whichever is earlier, see section 2 of Pub. L. 94-349, set out as a note under section 2071 of this title.

APPLICABILITY TO VIRGIN ISLANDS

Rules of civil procedure promulgated under this section as applicable to the District Court of the Virgin Islands, see section 1615 of Title 48, Territories and Insular Possessions.

ADMIRALTY RULES

The Rules of Practice in Admiralty and Maritime Cases, promulgated by the Supreme Court on Dec. 20, 1920, effective Mar. 7, 1921, as revised, amended, and supplemented, were rescinded, effective July 1, 1966, in accordance with the general unification of civil and admiralty procedure which became effective July 1, 1966. Provision for certain distinctly maritime remedies were preserved however, in the Supplemental Rules for Certain Admiralty and Maritime Claims, Rules A to F, Federal Rules of Civil Procedure, Appendix to this title.

FEDERAL RULES OF CIVIL PROCEDURE

Application of rules of procedure, see rules 1, 2, 35, 38, 81, Appendix to this title.

Evidence, see rule 43.

One form of action, see rules 1 and 2.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal procedure rules, power of Supreme Court to prescribe, see sections 3771 and 3772, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2112 of this title; title 26 section 7482; title 29 section 160; title 48 sections 1424, 1615.

[§§ 2073, 2074. Repealed. Pub. L. 89-773, § 2, Nov. 6, 1966, 80 Stat. 1323]

Section 2073, acts June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, § 104, 63 Stat. 104; May 10, 1950, ch. 174, § 3, 64 Stat. 158, empowered the Supreme Court to prescribe, by general rules, the practice and procedure in admiralty and maritime cases in the district courts. See section 2072 of this title.

Section 2074, act July 27, 1954, ch. 583, § 1, 68 Stat. 567, empowered the Supreme Court to prescribe rules for review of decisions of the Tax Court of the United States. See section 2072 of this title.

SAVINGS PROVISIONS

Section 2 of Pub. L. 89-773 provided in part that the repeal of sections 2073 and 2074 of this title shall not operate to invalidate or repeal rules adopted under the authority of one of those sections prior to the enactment of Pub. L. 89-773, which rules shall remain in effect until superseded by rules prescribed under the authority of section 2072 of this title as amended by Pub. L. 89-773.

§ 2075. Bankruptcy rules

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May and until the expiration of ninety days after they have been thus reported.

(Added Pub. L. 88-623, § 1, Oct. 3, 1964, 78 Stat. 1001; Pub. L. 95-598, title II, § 247, Nov. 6, 1978, 92 Stat. 2672.)

AMENDMENTS

1978—Pub. L. 95-598 substituted "in cases under title 11" for "under the Bankruptcy Act" and struck out provisions directing that all laws in conflict with bankruptcy rules be of no further force or effect after such rules have taken effect.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 48 sections 1424, 1615.

§ 2076. Rules of evidence

The Supreme Court of the United States shall have the power to prescribe amendments to the Federal Rules of Evidence. Such amendments shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session of Congress but not later than the first day of May, and until the expiration of one hundred and eighty days after they have been so reported; but if either House of Congress within that time shall by resolution disapprove any amendment so reported it shall not take effect. The effective date of any amendment so reported may be deferred by either House of Congress to a later date or until approved by Act of Congress. Any rule whether proposed or in force may be amended by Act of Congress. Any provision of law in force at the expiration of such time and in conflict with any such amendment not disapproved shall be of no further force or effect after such amendment has taken effect. Any such amendment creating, abolishing, or modifying a privilege shall have no force or effect unless it shall be approved by act of Congress.

(Added Pub. L. 93-595, § 2(a)(1), Jan. 2, 1975, 88 Stat. 1948, and amended Pub. L. 94-149, § 2, Dec. 12, 1975, 89 Stat. 806.)

AMENDMENTS

1975—Pub. L. 94-149 inserted a period at end of the section.

CROSS REFERENCES

Applicability of section to amendment of Classified Information Procedures Act, see section 11 of the Act set out in the Appendix to Title 18, Crimes and Criminal Procedure.

§ 2077. Publication of rules; advisory committees

(a) The rules for the conduct of the business of each court of appeals, including the operating procedures of such court, shall be published. Each court of appeals shall print or cause to be printed necessary copies of the rules. The Judicial Conference shall prescribe the fees for sales of copies under section 1913 of this title, but the Judicial Conference may provide for free distribution of copies to members of the bar of each court and to other interested persons.

(b) Each court of appeals shall appoint an advisory committee for the study of the rules of

practice and internal operating procedures of the court of appeals. The advisory committee shall make recommendations to the court concerning such rules and procedures. Members of the committee shall serve without compensation, but the Director may pay travel and transportation expenses in accordance with section 5703 of title 5.

(Added Pub. L. 97-164, title II, § 208(a), Apr. 2, 1982, 96 Stat. 54.)

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 462 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

CHAPTER 133—REVIEW—MISCELLANEOUS PROVISIONS

Sec.	
2101.	Supreme Court; time for appeal or certiorari; docketing; stay.
2102.	Priority of criminal case on appeal from State court.
2103.	Appeal from State court or from a United States court of appeals improvidently taken regarded as petition for writ of certiorari.
2104.	Appeals from State courts.
2105.	Scope of review; abatement.
2106.	Determination.
2107.	Time for appeal to court of appeals.
2108.	Proof of amount in controversy.
2109.	Quorum of Supreme Court justices absent.
[2110.]	Repealed.]
2111.	Harmless error.
2112.	Record on review and enforcement of agency orders.
2113.	Definition.

HISTORICAL AND REVISION NOTES

1949 Act

This section inserts in the chapter analysis of chapter 133 of title 28, U.S.C., a new item "2111," in view of the insertion in such title, by another section of this bill, of a new section 2111.

AMENDMENTS

1982—Pub. L. 97-164, title I, § 136, Apr. 2, 1982, 96 Stat. 41, struck out item 2110 "Time for appeal to Court of Claims in tort claims cases".

1970—Pub. L. 91-358, title I, § 172(a)(2)(B), July 29, 1970, 84 Stat. 590, added item 2113.

1962—Pub. L. 87-669, § 2, Sept. 19, 1962, 76 Stat. 556, substituted "or from a United States court of appeals improvidently taken regarded as petition for" for "improvidently taken regarded as" in item 2103.

1958—Pub. L. 85-791, § 1, Aug. 28, 1958, 72 Stat. 941, added item 2112.

1949—Act May 24, 1949, ch. 139, § 105, 63 Stat. 104, added item 2111.

FEDERAL RULES OF APPELLATE PROCEDURE

See Appendix to this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Appeals, how taken, see rules 37 to 39, Title 18, Appendix, Crimes and Criminal Procedure.

§ 2101. Supreme Court; time for appeal or certiorari; docketing; stay

(a) A direct appeal to the Supreme Court from any decision under sections 1252, 1253 and 2282 of this title, holding unconstitutional in whole or in part, any Act of Congress, shall be

taken within thirty days after the entry of the interlocutory or final order, judgment or decree. The record shall be made up and the case docketed within sixty days from the time such appeal is taken under rules prescribed by the Supreme Court.

(b) Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within sixty days if final.

(c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.

(d) The time for appeal or application for a writ of certiorari to review the judgment of a State court in a criminal case shall be as prescribed by rules of the Supreme Court.

(e) An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.

(f) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

(June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, § 106, 63 Stat. 104.)

HISTORICAL AND REVISION NOTES

1948 Act

Based on title 28, U.S.C., 1940 ed., §§ 47, 47a, 349a, 350, 380, 380a, section 29 of title 15, U.S.C., 1940 ed., Commerce and Trade, and section 45 of title 49, U.S.C., 1940 ed., Transportation (Feb. 11, 1903, ch. 544, § 2, 32 Stat. 1167; Mar. 3, 1911, ch. 231, §§ 210, 266, 291, 36 Stat. 1150, 1162, 1167; Mar. 4, 1913, ch. 160, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 220; Sept. 6, 1916, ch. 448, § 6, 39 Stat. 727; Feb. 13, 1925, ch. 229, §§ 1, 8 (a, b, d), 43 Stat. 938, 940; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 7, 1934, ch. 426, 48 Stat. 936; Aug. 24, 1937, ch. 754, §§ 2, 3, 50 Stat. 752; June 9, 1944, ch. 239, 58 Stat. 272).

Section consolidates section 350 of title 28, U.S.C., 1940 ed., with those portions of sections 47, 47a, 349a, 380, and 380a, of said title 28, section 29, of title 15, U.S.C., 1940 ed., and section 45 of title 49, U.S.C., 1940 ed., respective time for taking direct appeal. (For dis-