1965—Subsec. (b). Pub. L. 89–215 substituted ''thirty days'' for ''twenty days'' wherever appearing.

1949—Subsec. (b). Act May 24, 1949, §83(a), provided that the petition for removal need not be filed until 20 days after the defendant has received a copy of the plaintiff's initial pleading, and provided that the petition for removal shall be filed within 20 days after the service of summons.

Subsec. (e). Act May 24, 1949, §83(b), indicated that notice need not be given simultaneously with the filing, but may be made promptly thereafter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–63 effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases removed to Federal court, see section 105 of Pub. L. 112–63, set out as a note under section 1332 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 applicable with respect to complaints filed under section 1337 of Title 19, Customs Duties, on or after the date on which the World Trade Organization Agreement enters into force with respect to the United States [Jan. 1, 1995], or in cases under section 1337 of Title 19 in which no complaint is filed, with respect to investigations initiated under such section on or after such date, see section 322 of Pub. L. 103–465, set out as a note under section 1337 of Title 19.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–78 effective Oct. 1, 1977, see section 4 of Pub. L. 95–78, set out as an Effective Date of Pub. L. 95–78 note under section 2074 of this title.

§ 1447. Procedure after removal generally

(a) In any case removed from a State court, the district court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise.

(b) It may require the removing party to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court.

(c) A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.

(d) An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise.

(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.

(June 25, 1948, ch. 646, 62 Stat. 939; May 24, 1949, ch. 139, §84, 63 Stat. 102; Pub. L. 88–352, title IX, §901, July 2, 1964, 78 Stat. 266; Pub. L. 100–702, title X, §1016(c), Nov. 19, 1988, 102 Stat. 4670; Pub. L. 102–198, §10(b), Dec. 9, 1991, 105 Stat. 1626; Pub. L. 104–219, §1, Oct. 1, 1996, 110 Stat. 3022; Pub. L. 112–51, §2(d), Nov. 9, 2011, 125 Stat. 546.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§71, 72, 74, 76, 80, 81 and 83 (Mar. 3, 1911, ch. 231, §§28, 29, 31, 33, 37 and 38, 36 Stat. 1094–1098; Jan. 20, 1914, ch. 11, 39 Stat. 278; Aug. 23, 1916, ch. 399, 39 Stat. 532; Apr. 16, 1920, ch. 146, 41 Stat. 554; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54).

Section consolidates procedural provisions of sections 71, 72, 74, 76, 80, 81 and 83 of title 28, U.S.C., 1940 ed., with important changes in substance and phraseology.

Subsection (a) is derived from sections 72, 76, 81 and 83 of title 28, U.S.C., 1940 ed. The remaining provisions of said section 83 are the basis of section 1448 of this title.

Subsection (b) is derived from sections 72, 74, 76 and 83 of title 28, U.S.C., 1940 ed., which have been rewritten to provide the utmost simplicity and flexibility of procedure in bringing the State court record to the district court.

[*Editorial Note*.—Subsecs. (c), (d) and (e) as originally revised and incorporated in this section read as follows:

''(c) It may order the pleadings recast and the parties realigned according to their real interest.

''(d) If any party fails to comply with its lawful orders, the district court may enter such further orders and judgments as justice requires.

''(e) If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.'']

Subsections (c) and (d) are substituted for unnecessary and inconsistent procedural provisions.

Subsection (e) [now subsec. (c)] is derived from sections 71 and 80 of title 28, U.S.C., 1940 ed. Such subsection is rewritten to eliminate the cumbersome procedure of remand. Under this chapter as revised, the petition for removal under section 1446 of this chapter will be filed in the Federal court in the first instance and the right of removal determined in that court before the petition is granted.

The provisions in section 80 of title 28, U.S.C., 1940 ed., relating to actions commenced in district courts, as distinguished from actions removed thereto, are incorporated in section 1359 of this title. Other provisions of said section 80 appear in section 1919 of this title.

1949 ACT

This section strikes out subsections (c) and (d) of section 1447 of title 28, U.S.C., as covered by the Federal Rules of Civil Procedure, and adds a new subsection to such section 1447 to remove any doubt that the former law as to the finality of an order of remand to a State court is continued. This section also amends renumbered subsection (c) to remove any doubt that the former law authorizing the district court upon remand to order payment of costs is continued.

Editorial Notes

AMENDMENTS

2011—Subsec. (d). Pub. L. 112–51 inserted ''1442 or'' before ''1443''.

1996—Subsec. (c). Pub. L. 104–219 substituted ''any defect other than lack of subject matter jurisdiction'' for ''any defect in removal procedure'' in first sentence.

1991—Subsec. (b). Pub. L. 102–198 substituted ''removing party'' for ''petitioner''.

1988—Subsec. (c). Pub. L. 100–702, § 1016(c)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.''

Subsec. (e). Pub. L. 100–702, § 1016(c)(2), added subsec. (e).

1964—Subsec. (d). Pub. L. 88–352, inserted exception provision.

1949—Subsec. (c). Act May 24, 1949, § 84(a), struck out former subsecs. (c) and (d), renumbered former subsec. (e) to be subsec. (c) and inserted at end of first sentence of new subsec. (c) ''and may order the payment of just costs''.

Subsec. (d). Act May 24, 1949, § 84(b), added subsec. (d).

Statutory Notes and Related Subsidiaries

EXCEPTION TO SUBSECTION (d)

Act Aug. 4, 1947, ch. 458, § 3(c), 61 Stat. 732, provides in part that the United States shall have the right to appeal from any order of remand entered in any case removed to a United States district court pursuant to the provisions of act Apr. 12, 1926, ch. 115, 44 Stat. 239. These acts referred to herein relate to restrictions on land of the Five Civilized Tribes of Oklahoma and are set out as notes under section 355 of Title 25, Indians.

§ 1448. Process after removal

In all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.

This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.

(June 25, 1948, ch. 646, 62 Stat. 940.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 83 (Apr. 16, 1920, ch. 146, 41 Stat. 554).

Words ''district court of the United States'' were substituted for ''United States Court,'' because only the district courts now possess jurisdiction over removed civil and criminal cases.

Changes were made in phraseology.

§ 1449. State court record supplied

Where a party is entitled to copies of the records and proceedings in any suit or prosecution in a State court, to be used in any district court of the United States, and the clerk of such State court, upon demand, and the payment or tender of the legal fees, fails to deliver certified copies, the district court may, on affidavit reciting such facts, direct such record to be supplied by affidavit or otherwise. Thereupon such proceedings, trial, and judgment may be had in such district court, and all such process awarded, as if certified copies had been filed in the district court.

(June 25, 1948, ch. 646, 62 Stat. 940; May 24, 1949, ch. 139, § 85, 63 Stat. 102.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., § 78 (Mar. 3, 1911, ch. 231, § 35, 36 Stat. 1098).

Changes were made in phraseology.

1949 ACT

This section corrects a typographical error by eliminating from section 1449 of title 28, U.S.C., the words ''any attachment or sequestration of the'', which had been inadvertently included, and inserting in lieu thereof the words, ''and the clerk of such State court, upon''.

Editorial Notes

AMENDMENTS

1949—Act May 24, 1949, substituted ''and the clerk of such State court, upon'' for ''any attachment or sequestration of the''.

§ 1450. Attachment or sequestration; securities

Whenever any action is removed from a State court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant in such action in the State court shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the State court.

All bonds, undertakings, or security given by either party in such action prior to its removal shall remain valid and effectual notwithstanding such removal.

All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court.

(June 25, 1948, ch. 646, 62 Stat. 940.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 79 (Mar. 3, 1911, ch. 231, § 36, 36 Stat. 1098).

Changes were made in phraseology.

§ 1451. Definitions

For purposes of this chapter—

(1) The term ''State court'' includes the Superior Court of the District of Columbia.

(2) The term ''State'' includes the District of Columbia.

(Added Pub. L. 91–358, title I, § 172(d)(1), July 29, 1970, 84 Stat. 591.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91–358, set out as an Effective Date of 1970 Amendment note under section 1257 of this title.

§ 1452. Removal of claims related to bankruptcy cases

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such