REFERENCES IN TEXT

CODIFICATION
Section was enacted as part of the L–1 Visa (Intra–company Transferee) Reform Act of 2004, and also as part of the L–1 Visa and H–1B Visa Reform Act and the Consolidated Appropriations Act, 2005, and not as part of the Immigration and Nationality Act which comprises this chapter.

EFFECTIVE DATE
Section effective 90 days after Dec. 8, 2004, see section 417 of Pub. L. 108–447, set out as an Effective Date of 2004 Amendment note under section 1184 of this title.

§ 1381. Secretary of Labor report
Not later than January 31 of each year, the Secretary of Labor shall report to the Committees on the Judiciary of the Senate and the House of Representatives on the investigations undertaken based on—
(1) the authorities described in clauses (i) and (ii) of section 1182(n)(2)(G) of this title; and
(2) the expenditures by the Secretary described in section 1356(v)(2)(D) of this title.

CODIFICATION
Section was enacted as part of the H–1B Visa Reform Act of 2004, and also as part of the L–1 Visa and H–1B Visa Reform Act and the Consolidated Appropriations Act, 2005, and not as part of the Immigration and Nationality Act which comprises this chapter.

EFFECTIVE DATE
Section effective 180 days after Dec. 8, 2004, see section 430 of Pub. L. 108–447, set out as an Effective Date of 2004 Amendment note under section 1182 of this title.

SUBCHAPTER III—NATIONALITY AND NATURALIZATION

PART I—NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION

§ 1401. Nationals and citizens of United States at birth
The following shall be nationals and citizens of the United States at birth:
(a) a person born in the United States, and subject to the jurisdiction thereof;
(b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe; provided, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;
(c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;
(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;
(e) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;
(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;
(g) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years: Provided, That any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 288 of title 22, may be included in order to satisfy the physical-presence requirement of this paragraph. This provision shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date; and
(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.

1986—Subsec. (g). Pub. L. 99–653 substituted “five years, at least two” for “ten years, at least five”.
1978—Subsec. (a). Pub. L. 95–432, § 3, struck out “(a)” before “The following” and redesignated pars. (1) to (7) as (a) to (g), respectively.

AMENDMENTS
Subsec. (b). Pub. L. 95–432, §1, struck out subsec. (b) which provided that anyone who was a national or citizen of the United States under subsec. (a)(7) lose his nationality or citizenship unless he be continuously physically present in the United States for a period of not less than two years between the ages of 14 and 28 or that the alien parent be naturalized while the child was under 18 years of age and the child began permanent residence in the United States while under 18 years of age and that absence from the United States of less than 60 days not break the continuity of presence.

Subsec. (c). Pub. L. 95–432, §1, struck out subsec. (c) which provided that former subsec. (b) apply to persons born abroad subsequent to May 24, 1934, except that this not be construed to alter the citizenship of any person born abroad subsequent to May 24, 1934 who, prior to the effective date of this chapter, had taken up residence in the United States before attaining 16 years of age, and thereafter, whether before or after the effective date of this chapter, complied with the residence requirements of section 201(g) and (h) of the Nationality Act of 1946.

Subsec. (d). Pub. L. 95–432, §1, struck out subsec. (d) which provided that nothing in former subsec. (b) be construed to alter the citizenship of any person who came into the United States prior to Oct. 27, 1972, and who, whether before or after Oct. 27, 1972, immediately following such coming complied with the physical presence requirements for retention of citizenship specified in former subsec. (b), prior to amendment of former subsec. (b) by Pub. L. 92–584.

1972—Subsec. (b). Pub. L. 92–584, §1, substituted provisions that nationals and citizens of the United States under subsec. (a)(7), lose such status unless they are present continuously in the United States for two years between the ages of fourteen and twenty eight years, or the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years, and that absence from the United States of less than sixty days will not break the continuity of presence, for provisions that such status would be lost unless the nationals and citizens come to the United States prior to attaining twenty three years and be present continuously in the United States for five years, and that such presence should be between the age of fourteen and twenty eight years.


1966—Subsec. (a)(7). Pub. L. 89–770 authorized periods of employment with the United States Government or an international organization by the citizen parent, or any periods during which the citizen parent is physically present aboard as the dependent unmarried son or daughter and a member of the household of a person honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization, to be included in order to satisfy the physical presence requirement, and permitted the proviso to be applicable to persons born on or after December 24, 1952.

Effective Date of 1986 Amendment

Effective Date of 1978 Amendment

Effective Date
Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note preceding former section 1011 of this title.

Waiver of Retention Requirements
Pub. L. 103–416, title I, §101(b), Oct. 25, 1994, 108 Stat. 4306, provided that: "(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied to persons born before, on, or after the date of the enactment of this Act [Oct. 25, 1994] as though the amendment made by subsection (a) [amending this section], and subsection (b) [enacting provisions set out above], had been in effect as of the date of their birth.

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 [former 50 U.S.C. 4306] (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797))."

Retroactive Application of 1994 Amendment

"(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied to persons born before, on, or after the date of the enactment of this Act [Oct. 25, 1994] as though the amendment made by subsection (a) [amending this section], and subsection (b) [enacting provisions set out above], had been in effect as of the date of their birth.

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 [former 50 U.S.C. 4306] (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797))."

Applicability of Transmission Requirements
Pub. L. 103–416, title I, §101(d), Oct. 25, 1994, 108 Stat. 4306, as amended by Pub. L. 104–208, div. C, title VI, §671(b)(1), Sept. 30, 1996, 110 Stat. 3009–721, provided that: "This section [amending this section and enacting provisions set out above], the amendments made by this section, and any retroactive application of such amendments shall not affect the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States citizenship to any person whose claim is based on the amendment made by subsection (a) [amending this section] or through whom such a claim is derived."

Admission of Alaska as State

§ 1401a. Birth abroad before 1952 to service parent
Section 1401(g) of this title shall be considered to have been and to be applicable to a child born outside of the United States and its outlying possessions after January 12, 1941, and before December 24, 1952, of parents one of whom is a citizen of the United States who has served in the Armed Forces of the United States after December 31, 1946, and before December 24, 1952, and
whose case does not come within the provisions of section 201(g) or (i) of the Nationality Act of 1940.


REFERENCES IN TEXT

Section 201(g) and (i) of the Nationality Act of 1940, referred to in text, which were repealed by act June 27, 1952, ch. 477, title IV, §403(a)(42), 66 Stat. 280, eff. Dec. 24, 1952, provided as follows:

"The following shall be nationals and citizens of the United States at birth:

* * * * *

"(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: Provided, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: Provided further, That, if the child has not taken up a residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

"The preceding provisions shall not apply to a child born abroad whose American parent is at the time of the child's birth residing abroad solely or principally in the employment of the Government of the United States or a bona fide American, educational, scientific, philanthropic, religious, commercial, or financial organization, having its principal office or place of business in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation:

* * * * *

"(i) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who has served or shall serve honorably in the armed forces of the United States after December 7, 1941, and before the date of the termination of hostilities in the present war as proclaimed by the President or determined by a joint resolution by the Congress and who, prior to the birth of such person, has had ten years' residence in the United States and one of its outlying possessions, at least five of which were after attaining the age of twelve years, the other being an alien: Provided, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: Provided further, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease."

CODIFICATION

Section was not enacted as part of the Immigration and Nationality Act which comprises this chapter.

AMENDMENTS

1981—Pub. L. 97–116 substituted "Section 1401(g)" for "Section 1401(a)(7)".


Section, Pub. L. 85–316, §16, Sept. 11, 1957, 71 Stat. 644, provided that absence from the United States of less than twelve months would not break the continuity of presence in the administration of section 1401(b) of this title. See section 1401(b) of this title.

§ 1402. Persons born in Puerto Rico on or after April 11, 1899

All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth.

(June 27, 1952, ch. 477, title III, ch. 1, §302, 66 Stat. 236.)

§ 1403. Persons born in the Canal Zone or Republic of Panama on or after February 26, 1904

(a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States.

(June 27, 1952, ch. 477, title III, ch. 1, §303, 66 Stat. 236.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

The effective date of this chapter, referred to in text, is the 180th day immediately following June 27, 1952. See section 407 of act June 27, 1952, set out as an Effective Date note under section 1101 of this title.

CHANGE OF NAME

Panama Railroad Company redesignated Panama Canal Company by act Sept. 26, 1950, ch. 1049, §2(a)(2), 64 Stat. 1038. References to Panama Canal Company in laws of the United States are deemed to refer to Panama Canal Commission pursuant to section 3602(b)(5) of Title 22, Foreign Relations and Intercourse.

§ 1404. Persons born in Alaska on or after March 30, 1867

A person born in Alaska on or after March 30, 1867, except a noncitizen Indian, is a citizen of
§ 1405. Persons born in Hawaii

A person born in Hawaii on or after August 12, 1898, and before April 30, 1900, is declared to be a citizen of the United States as of April 30, 1900. A person born in Hawaii on or after April 30, 1900, is a citizen of the United States at birth. A person who was a citizen of the Republic of Hawaii on August 12, 1898, is declared to be a citizen of the United States as of April 30, 1900.

§ 1406. Persons living in and born in the Virgin Islands

(a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927:

(1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

(2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;

(3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and

(4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.

(b) All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth.

§ 1407. Persons living in and born in Guam

(a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those temporarily absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are declared to be citizens of the United States: Provided, That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person herebefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this chapter.

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 237, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.
§ 1408. Nationals but not citizens of the United States at birth

Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

(3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and

(4) A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years—

(A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

(B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 1401(g) of this title shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.


AMENDMENTS


EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–525, § 3, Oct. 24, 1988, 102 Stat. 2614, provided that the amendment made by section 3 is effective as if included in the enactment of Pub. L. 99–396.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–396, §15(b), Aug. 27, 1986, 100 Stat. 843, provided that: "The amendment made by subsection (a) [amending this section] shall apply to persons born before, on, or after the date of the enactment of this Act [Aug. 27, 1986]. In the case of a person born before the date of the enactment of this Act—

"(1) the status of a national of the United States shall not be considered to be conferred upon the person until the date the person establishes to the satisfaction of the Secretary of State that the person meets the requirements of section 308(4) of the Immigration and Nationality Act [par. (4) of this section], and

"(2) the person shall not be eligible to vote in any general election in American Samoa earlier than January 1, 1987."
§ 1421. Naturalization authority

(a) Authority in Attorney General

The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

(b) Court authority to administer oaths

(1) Jurisdiction

Subject to section 1448(c) of this title—

(A) General jurisdiction

Except as provided in subparagraph (B), each applicant for naturalization may elect to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

(B) Exclusive authority

An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 1448(a) of this title to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

(2) Information

(A) General information

In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

(ii) the Attorney General—

(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 1448(a) of this title, and

(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

(B) Assignment of individuals in the case of exclusive authority

If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), at the time of the approval of the person's application for naturalization, of—

(i) the court's exclusive authority to administer the oath of allegiance under section 1448(a) of this title to such a person during the period specified in paragraph (3)(A), and

(ii) the date or dates (if any) under paragraph (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

(3) Scope of exclusive authority

(A) Limited period and advance notice required

The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.
(B) Authority of Attorney General

Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) of this section during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) Waiver of exclusive authority

Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 1448(a) of this title to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration ceremonies. Upon notification of a court’s waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

(4) Issuance of certificates

The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

(5) Eligible courts

For purposes of this section, the term “eligible court” means—

(A) a district court of the United States in any State, or

(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.

(c) Judicial review

A person whose application for naturalization under this subchapter is denied, after a hearing before an immigration officer under section 1447(a) of this title, may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5. Such review shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

(d) Sole procedure

A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this subchapter and not otherwise.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–232, §102(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “An applicant for naturalization may choose to have the oath of allegiance under section 1448(a) of this title administered by the Attorney General or by any district court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts in this subsection specified to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.”

Pub. L. 102–232, §305(a), substituted “district court” for “District Court”.


1988—Subsec. (e). Pub. L. 100–525 substituted “district court” for “District Court”.

1980—Pub. L. 96–3 struck out provisions which conferred jurisdiction on District Court for Territory of Hawaii. See section 91 of Title 28, Judiciary and Judicial Procedure, and notes thereunder.

1958—Subsecs. (a), (b), (c), (d), (e) added. Pub. L. 85–508 struck out provisions which conferred jurisdiction on District Court for Territory of Alaska. See section 81A of Title 28, which established a United States District Court for the State of Alaska.
section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, repealing section 1459 of this title, but only if the petition is withdrawn not later than 3 months after the effective date.

"(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act [Nov. 29, 1990].

"(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.


"(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title [amending this section, sections 1101, 1423, 1424, 1426 to 1430, 1433, 1435 to 1440, 1441 to 1451, and 1455 of this title, and section 1429 of Title 18, Crimes and Criminal Procedure, repealing section 1459 of this title, and enacting provisions set out as a note under section 1440 of this title] unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

"(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, abilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

"(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.—The amendments made by section 304 [amending section 1426 of this title] (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this Act [Nov. 29, 1990] and shall apply to exemptions from training or service obtained before, on, or after such date.

"(f) FILIPINO WAR VETERANS.—Section 405 [enacting provisions formerly set out as a note under section 1440 of this title] (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

ADMISSION OF ALASKA AND HAWAI'I TO STATEHOOD


§ 1422. Eligibility for naturalization

The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.


AMENDMENTS

1988—Pub. L. 100–525 struck out at end "Notwithstanding section 405(b) of this Act, this section shall apply to any person whose petition for naturalization shall hereafter be filed, or shall have been pending on the effective date of this chapter."

§ 1423. Requirements as to understanding the English language, history, principles and form of government of the United States

(a) No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own application who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: Provided, That the requirements of this paragraph relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

(b)(1) The requirements of subsection (a) of this section shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

(2) The requirement of subsection (a)(1) of this section shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 1445 of this title, either—

(A) is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence, or

(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsequent to a lawful admission for permanent residence.

(3) The Attorney General, pursuant to regulations, shall provide for special consideration, as determined by the Attorney General, concerning the requirement of subsection (a)(2) of this section with respect to any person who, on the date of the filing of the person's application for naturalization as provided in section 1445 of this title, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.

effective as if included in section 407(d) of the Immigration and Naturalization Act as provided in section 1445 of this title, either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence: Provided further, That, after "Provided, That", substituted "this paragraph" for "this section" after "requirements of", and added subsec. (b).

1990—Par. (1). Pub. L. 101–649 substituted "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence" for "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence".

1978—Par. (1). Pub. L. 95–579 substituted "person who, on the date of the filing of his petition for naturalization as provided in section 1445 of this title, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" for "person who, on the effective date of this chapter, is over fifty years of age and has been living in the United States for periods totaling at least twenty years".

**SECTION 1. SHORT TITLE.**

"This Act may be cited as the 'Hmong Veterans' Naturalization Act of 2000'.

**SECTION 2. EXEMPTION FROM ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.**

"The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)) shall not apply to the naturalization of any person—

"(1) who—

"(A) was admitted into the United States as a refugee from Laos pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); and

"(B) served with a special guerrilla unit, or irregular forces, operating from a base in Laos in support of the United States military at any time during the period beginning February 28, 1961, and ending September 18, 1978;

"(2) who—

"(A) satisfies the requirement of paragraph (1)(A); and

"(B) was the spouse of a person described in paragraph (1) on the date on which such described person applied for admission into the United States as a refugee; or

"(3) who—

"(A) satisfies the requirement of paragraph (1)(A); and

"(B) is the surviving spouse of a person described in paragraph (1)(B) which described person was killed or died in Laos, Thailand, or Vietnam.

**SECTION 3. SPECIAL CONSIDERATION CONCERNING CIVICS REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS OR IRREGULAR FORCES IN LAOS.**

"The Attorney General shall provide for special consideration, as determined by the Attorney General, concerning the requirement of paragraph (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(2)) with respect to the naturalization of any person described in paragraph (1), (2), or (3) of section 2 of this Act.

**SECTION 4. DOCUMENTATION OF QUALIFYING SERVICE.**

"A person seeking an exemption under section 2 or special consideration under section 3 shall submit to the Attorney General documentation of their, or their spouse's, service with a special guerrilla unit, or irregular forces, described in section 2(1)(B), in the form of—

"(1) original documents;

"(2) an affidavit of the serving person's superior officer;

"(3) two affidavits from other individuals who also were serving with such a special guerrilla unit, or irregular forces, and who personally knew of the person's service; or

"(4) other appropriate proof.

**SECTION 5. DETERMINATION OF ELIGIBILITY FOR EXEMPTION AND SPECIAL CONSIDERATION.**

"(a) In determining a person's eligibility for an exemption under section 2 or special consideration under section 3 the Attorney General—

"(1) shall review the refugee processing documentation for the person, or, in an appropriate case, for the person and the person's spouse, to verify that the requirements of section 2 relating to refugee applications and admissions have been satisfied;

"(2) shall consider the documentation submitted by the person under section 4;

"(3) may request an advisory opinion from the Secretary of Defense regarding the person's, or their spouse's, service in a special guerrilla unit, or irregular forces, described in section 2(1)(B); and

"(4) may consider any documentation provided by organizations maintaining records with respect to Hmong veterans or their families.
"(b) The Secretary of Defense shall provide any opinion requested under paragraph (3) to the extent practicable, and the Attorney General shall take into account any opinion that the Secretary of Defense is able to provide.

"SEC. 6. DEADLINE FOR APPLICATION AND PAYMENT OF FEES.

"This Act shall apply to a person only if the person's application for naturalization is filed, as provided in section 334 of the Immigration and Nationality Act (8 U.S.C. 1445), with appropriate fees not later than 36 months after the date of the enactment of this Act [May 26, 2000]; in the case of a person described in section 2(3), the application referred to in the preceding sentence, and appropriate fees, shall be filed not later than 36 months after the date of the enactment of this sentence [Nov. 1, 2000]."

"SEC. 7. LIMITATION ON NUMBER OF BENEFICIARIES.

"Notwithstanding any other provision of this Act, the total number of aliens who may be granted an exemption under section 2 or special consideration under section 3, or both, may not exceed 45,000."

§ 1424. Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government

(a) Notwithstanding the provisions of section 405(b) of this Act, no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organization or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5) of this subsection.

(b) The provisions of this section or of any other section of this chapter shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this chapter do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the application for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the application is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) of this section solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) of this section if such person estab-
lishes that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes.

(e) A person may be naturalized under this subchapter without regard to the prohibitions in subsections (a)(2) and (c) of this section if the person—

(1) is otherwise eligible for naturalization;

(2) is within the class described in subsection (a)(2) of this section solely because of past membership in, or past affiliation with, a party or organization described in that subsection;

(3) does not fall within any other of the classes described in that subsection; and

(4) is determined by the Director of Central Intelligence, in consultation with the Secretary of Defense, that when Department of Defense activities are relevant to the determination, and with the concurrence of the Attorney General and the Secretary of Homeland Security, to have made a contribution to the national security or to the national intelligence mission of the United States.


REFERENCES IN TEXT

Section 405(b) of this Act, referred to in subsec. (a), is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

This chapter, referred to in subsec. (b), was in the original—“this Act”. meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1551 of this title and Tables.

AMENDMENTS


1994—Subsec. (a)(2). Pub. L. 103–416 substituted “or” for “and” before “(F)”.

1991—Subsec. (a)(2). Pub. L. 102–232 inserted “and” before “(F)” and struck out “; (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 786 of title 50; or (H) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-front organization during the time it is registered or required to be registered under section 786 of title 50” after “may hereafter adopt”.


1988—Subsec. (a)(2)(D). Pub. L. 100–525 substituted “party of” for “party or”.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1994 AMENDMENT


EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1425. Ineligibility to naturalization of deserters from the Armed Forces

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval service, of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.


§ 1426. Citizenship denied alien relieved of service in Armed Forces because of alienage

(a) Permanent ineligibility

Notwithstanding the provisions of section 405(b), subject to subsection (c) of this section, any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) Conclusiveness of records

The records of the Selective Service System or of the Department of Defense shall be conclusive

1 See References in Text note below.
as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

(c) Service in armed forces of foreign country

An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.


REFERENCES IN TEXT

Section 405(b), referred to in subsec. (a), is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–649, § 404(1), inserted ‘but subject to subsection (c) of this section’ after ‘section 405(b)’.


EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to exemptions from training or service obtained before, on, or after Nov. 29, 1990, see section 408(e) of Pub. L. 101–649, set out as a note under section 1421 of this title.

§ 1427. Requirements of naturalization

(a) Residence

No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time, and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months, (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absences

Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the application for naturalization, or during the period between the date of filing the application and the date of any hearing under section 1447(a) of this title, shall break the continuity of such residence, unless the applicant shall establish to the satisfaction of the Attorney General that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the application for naturalization) shall break the continuity of such residence, except that in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries in such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the Attorney General that his absence from the United States for such period has been for such purpose.

The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

(c) Physical presence

The granting of the benefits of subsection (b) of this section shall not relieve the applicant from the requirement of physical presence within the United States for the period specified in
subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of this section of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing an application for naturalization. 

(d) Moral character

No finding by the Attorney General that the applicant is not deportable shall be accepted as conclusive evidence of good moral character. 

(e) Determination

In determining whether the applicant has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the Attorney General shall not be limited to the applicant’s conduct during the five years preceding the filing of the application, but may take into consideration as a basis for such determination the applicant’s conduct and acts at any time prior to that period.

(f) Persons making extraordinary contributions to national security

(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that an applicant otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the applicant may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 1424 of this title, and no residence within a particular State or district of the Service in the United States shall be required: Provided, That the applicant has continuously resided in the United States for at least one year prior to naturalization: Provided further, That the provisions of this subsection shall not apply to any alien described in clauses (i) through (v) of section 1158(b)(2)(A) of this title.

(2) An applicant for naturalization under this subsection may be administered the oath of allegiance under section 1440(a) of this title by any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities. 

(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed five. The Director of Central Intelligence shall inform the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives within a reasonable time prior to the filing of each application under the provisions of this subsection.


AMENDMENTS

2005—Subsec. (g). Pub. L. 109–149, §518, temporarily added subsec. (c) reading as follows: “(1) The continuous residency requirement under subsection (a) of this section may be reduced to 3 years for an applicant for naturalization if—

(A) the applicant is the beneficiary of an approved petition for classification under section 1154(a)(1)(C) of this title;

(B) the applicant has been approved for adjustment of status under section 1255(a) of this title; and

(C) such reduction is necessary for the applicant to represent the United States at an international event.

(2) The Secretary of Homeland Security shall adjudicate an application for naturalization under this section not later than 30 days after the submission of such application if the applicant—

(A) requests such expedited adjudication in order to represent the United States at an international event; and

(B) demonstrates that such expedited adjudication is related to such representation.

(3) An applicant is ineligible for expedited adjudication under paragraph (2) if the Secretary of Homeland Security determines that such expedited adjudication poses a risk to national security. Such a determination shall be subject to review.

(4)(A) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge and collect a $1,000 premium processing fee from each applicant described in this subsection to offset the additional costs incurred to expedite the processing of applications under this subsection.

(B) The fee collected under subparagraph (A) shall be deposited as offsetting collections in the Immigration Examinations Fee Account.” See Termination Date of 2005 Amendment note below.

1996—Subsec. (f). Pub. L. 104–208 substituted “clauses (i) through (v) of section 1158(b)(2)(A) of this title” for “paragraphs (A) through (D) of section 1233(h)(2) of this title”.


Pub. L. 101–649, §402, substituted “and who has resided within the State in which the petitioner filed the petition for at least six months” for “and who has resided within the State in which the petition filed the petition for at least six months” in cl. (1).

Subsec. (b). Pub. L. 101–649, §407(d)(1)(A), (B), substituted “the Attorney General” for “the court” in first par. and subpar. (2) of second par., and “date of final hearing” in first par. for “date of final hearing” in first par. of this title; and substituted “the Attorney General” for “the court”.

Pub. L. 101–649, §407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101–649, §407(c)(2), substituted references to applicant and application for references to petitioner and petition wherever appearing.


Pub. L. 101–649, §407(c)(2), substituted references to applicant, applicant’s, and application for references to petitioner, petitioner’s, and petition wherever appearing.

Subsec. (f). Pub. L. 101–649, §409(e)(1), redesignated subsec. (g) as (f) and struck out former subsec. (f) which was redesignated subsec. (g).
read as follows: “Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 792 or 793 of title 50.’’


Subsec. (f)(2). Pub. L. 101–649, § 407(d)(1)(E), amended first sentence generally. Prior to amendment, first sentence read as follows: ‘‘A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner.’’


1981—Subsec. (b). Pub. L. 97–116 inserted provision that the spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

CHANGE OF NAME
Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency.

See section 108(a), (b) of Pub. L. 104–208, set out as a note under section 3001 of Title 50, War and National Defense.

TERMINATION DATE OF 2005 AMENDMENT
Pub. L. 109–149, title V, § 518(b), Dec. 30, 2005, 119 Stat. 2882, provided that: ‘‘The amendment made by subsection (a) [amending this section] is repealed on January 1, 2006.’’

EFFECTIVE DATE OF 1996 AMENDMENT
Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS
For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

EXPEDITED NATURALIZATION

‘‘(a) IN GENERAL.—With the approval of the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization, an applicant described in subsection (b) and otherwise eligible for naturalization may be naturalized without re-
gard to the residence and physical presence require-
ments of section 316(a) of the Immigration and Nation-
al Act [8 U.S.C. 1429(a)], or to the prohibitions of sec-
tion 313 of such Act [8 U.S.C. 1431], and no residence
within a particular State or district of the Immigration
and Naturalization Service in the United States shall
be required.

(b) ELIGIBLE APPLICANT.—An applicant eligible for naturalization under this section is the spouse or child of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information regarding the alien’s participation in the conduct of United States intelligence activities and who—

(1) has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least one year prior to naturalization; and

(2) is not described in clauses (i) through (iv) of section 214(b)(3)(B) of such Act [8 U.S.C. 1255(b)(3)(B)].

(c) ADMINISTRATION OF OATH.—An applicant for naturalization under this section may be administered the oath of allegiance under section 537(a) of the Immigration and Naturality Act [8 U.S.C. 1448(a)] by the Attorney General or any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

‘‘(d) DEFINITIONS.—For purposes of this section—

(1) the term ‘child’ means a child as defined in subpar-
agrapes (A) through (E) of section 101(b)(1) of the Immigration and Nationality Act [8 U.S.C. 1101(b)(1)], without regard to age or marital status; and

(2) the term ‘spouse’ means the wife or husband of a deceased alien referred to in subsection (b) who was married to such alien during the time the alien participated in the conduct of United States intelligence activities.’’

§ 1428. Temporary absence of persons performing religious duties

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for the purpose of performing the ministerial or priestly functions of a religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has hereafter been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing within the United States for the purpose of naturalization under the provisions of section 313 of the Immigration and Nationality Act, notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

References in Text

This chapter, referred to in text, was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Section 405(b), referred to in text, is section 405(b) of act June 27, 1952, ch. 477, title IV, 66 Stat. 280, which is set out as a Savings Clause note under section 1101 of this title.

AMENDMENTS

1996—Pub. L. 104–208 substituted "removal" for "deportation" wherever appearing and "cancelling" for "suspending".

1990—Pub. L. 101–649, §407(d)(3), in last sentence substituted "considered by the Attorney General" for "finally heard by a naturalization court" and "upon the Attorney General" for "upon the naturalization court".

Pub. L. 101–649, §407(c)(4), substituted "application" for "petition" and "applicant" for "petitioner".

1969—Pub. L. 90–633 substituted reference to exception provided in sections 1439 and 1440 of this title for reference to exception provided in sections 1438 and 1439 of this title.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§1430. Married persons and employees of certain nonprofit organizations

(a) Any person whose spouse is a citizen of the United States, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her, may be naturalized upon compliance with all the requirements of this subchapter except the provisions of paragraph (1) of section 1427(a) of this title if such person immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least three years, and during the three years immediately preceding the date of filing his application has been living in marital union with the citizen spouse (except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent), who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months.

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and
commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within a State or a district of the Service in the United States of the United States shall be required.

(c) Any person who (1) is employed by a bona fide United States incorporated nonprofit organization which is principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes United States interests abroad and which is recognized as such by the Attorney General, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his application for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the Attorney General in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this subchapter except that no prior residence or specified period of physical presence within the United States or any State or district of the Service in the United States, or proof thereof, shall be required.

(d) Any person who is the surviving spouse, child, or parent of a United States citizen, whose citizen spouse, parent, or child dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who, in the case of a surviving spouse, was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this subchapter except that no prior residence or specified physical presence within the United States shall be required. For purposes of this subsection, the terms “United States citizen” and “citizen spouse” include a person granted posthumous citizenship under section 1440–1 of this title.

(e)(1) In the case of a person lawfully admitted for permanent residence in the United States who is the spouse of a member of the Armed Forces of the United States, is authorized to accompany such member and reside abroad with the member pursuant to the member’s official orders, and is so accompanying and residing with the member in marital union, such residence and physical presence abroad shall be treated, for purposes of subsection (a) and section 1427(a) of this title, as residence and physical presence in—

(A) the United States; and

(B) any State or district of the Department of Homeland Security in the United States.

(2) Notwithstanding any other provision of law, a spouse described in paragraph (1) shall be eligible for naturalization proceedings overseas pursuant to section 1443a of this title.


AMENDMENTS


2003—Subsec. (d). Pub. L. 108–136, §1703(b), inserted “, child, or parent” after “surviving spouse” and “, parent, or child” after “whose citizen spouse”, and substituted “who, in the case of a surviving spouse, was living” for “who was living”.

Pub. L. 108–136, §1703(c)(1), inserted at end “For purposes of this subsection, the terms ‘United States citizen’ and ‘citizen spouse’ include a person granted posthumous citizenship under section 1440–1 of this title.”

2000—Subsec. (a). Pub. L. 106–386 inserted “, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty,” after “citizen of the United States” and “(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)” after “has been living in marital union with the citizen spouse”.


Pub. L. 101–649, §407(b)(1)(A), substituted “has resided within the State or the district of the Service in the United States in which the applicant filed his petition for at least three months” for “has resided within the State in which he filed his petition for at least six months.”


Pub. L. 101–649, §407(b)(1)(B), substituted “within a State or a district of the Service in the United States” for “within the jurisdiction of the naturalization court”.


Pub. L. 101–649, §407(c)(5), substituted “application” for “petition”.


Effective Date of 2008 Amendment
Pub. L. 110–181, div. A, title VI, §674(d), Jan. 28, 2008, 122 Stat. 1825, provided that: “The amendments made by this section [amending this section and sections 1433 and 1443a of this title] shall take effect on the date of enactment of this Act [Jan. 28, 2008] and apply to any application for naturalization or issuance of a certificate of citizenship pending on or after such date.”

Effective Date of 2003 Amendment


Abolition of Immigration and Naturalization Service and Transfer of Functions
For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

Requirements for Citizenship for Staff of George C. Marshall European Center for Security Studies
A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization,
(2) The child is under the age of eighteen years,
(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.
(b) Adoption
Subsection (a) of this section shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(c) Name and birth date
A Certificate of Citizenship or other Federal document issued or requested to be amended under this section shall reflect the child’s name and date of birth as indicated on a State court order, birth certificate, certificate of foreign birth, certificate of birth abroad, or similar State vital records document issued by the child’s State of residence in the United States after the child has been adopted or readopted in that State.


Amendments
2000—Pub. L. 106–395 amended section catchline and text generally. Prior to amendment, text read as follows:
“(a) A child born outside of the United States, one of whose parents at the time of the child’s birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States when—

(1) such naturalization takes place while such child is unmarried and under the age of eighteen years; and
(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.”

Subsec. (b). Pub. L. 100–525, §9(w), substituted “Subsection (a)” for “Subsection (a)(1).”

1986—Subsec. (a)(1). Pub. L. 99–653, §14, which inserted “unmarried and” after “such child is”, was repealed by Pub. L. 100–525, §8(l).
1981—Subsec. (b). Pub. L. 97–116 substituted “an adopted child only if the child” for “a child adopted while under the age of sixteen years who”.

1978—Subsec. (a). Pub. L. 95–417 substituted in pars. (1) and (2) “eighteen years” for “sixteen years”.
Subsec. (b). Pub. L. 95–417 substituted provisions making subsection (a)(1) of this section applicable to adopted children for provisions making subsection (a) of this section inapplicable to adopted children.

Effective Date of 2000 Amendment
effect 120 days after the date of the enactment of this Act [Oct. 30, 2000] and shall apply to individuals who satisfy the requirements of section 320 or 322 of the Immigration and Nationality Act (8 U.S.C. 1431, 1433), as in effect on such effective date."

**Effective Date of 1988 Amendment**


**Effective Date of 1981 Amendment**


**Effective Date of Repeal**

Repeal effective 120 days after Oct. 30, 2000, see section 104 of Pub. L. 106–395, set out as an Effective Date of 2000 Amendment note under section 1431 of this title.

§ 1433. Children born and residing outside the United States; conditions for acquiring certificate of citizenship

(a) Application by citizen parents; requirements

A parent who is a citizen of the United States (or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian) may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 1431 of this title. The Attorney General shall issue a certificate of citizenship to such applicant upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

1. At least one parent (or, at the time of his or her death, was) is a citizen of the United States, whether by birth or naturalization.

2. The United States citizen parent—

   (A) has (or, at the time of his or her death, had) been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

   (B) has (or, at the time of his or her death, had) a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

3. The child is under the age of eighteen years.

4. The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).

5. The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

(b) Attainment of citizenship status; receipt of certificate

Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section 1448(a) of this title, upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

(c) Adopted children

Subsections (a) and (b) of this section shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 1101(b)(1) of this title.

(d) Children of Armed Forces members

In the case of a child of a member of the Armed Forces of the United States who is authorized to accompany such member and reside abroad with the member pursuant to the member’s official orders, and is so accompanying and residing with the member—

1. any period of time during which the member of the Armed Forces is residing abroad pursuant to official orders shall be treated, for purposes of subsection (a)(2)(A), as physical presence in the United States;

2. subsection (a)(5) shall not apply; and

3. the oath of allegiance described in subsection (b) may be subscribed to abroad pursuant to section 1443a of this title.


**References in Text**

This chapter, referred to in subsec. (b), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

**Amendments**


2002—Subsec. (a). Pub. L. 107–273, § 11030B(1), in introductory provisions, inserted “(or, if the citizen parent has died during the preceding 5 years, a citizen grand-
parent or citizen legal guardian)” after “citizen of the United States” and substituted “such applicant” for “such parent”.

Subsec. (a)(1). Pub. L. 107–273, §11030B(2), inserted “(or, at the time of his or her death, was)” after “parent”.

Subsec. (a)(2)(A). Pub. L. 107–273, §11030B(3)(A), inserted “(or, at the time of his or her death, had)” after “(A) has”.

Subsec. (a)(2)(B). Pub. L. 107–273, §11030B(3)(B), inserted “(or, at the time of his or her death, had)” after “(B) has”.

Subsec. (a)(4). Pub. L. 107–273, §11030H(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

“(4) No period of residence or specified period of residence for citizenship of citizen parents; in subsec. (a) naturalization on application of parent, is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.”


1999—Subsec. (a)(4). Pub. L. 106–139 substituted “16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 1101(b)(1) of this title)” for “16 years” and “either of such subparagraphs for “subparagraph (E) or (F) of section 1101(b)(1) of this title”.

1994—Pub. L. 103–416 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a) naturalization on application of citizen parents; in subsec. (b) adopted children; and subsec. (c) specified period of residence for adopted children.


1990—Pub. L. 101–649, §407(c)(6), substituted “applying” for “petitioning” and “application” for “petition”.


“petitions”.

Pub. L. 101–649, §407(b)(2), substituted “within a State or a district of the Service in the United States” for “within the jurisdiction of the naturalization court”.


1986—Subsec. (a). Pub. L. 99–653, §16, which inserted “unmarried and” after “be naturalized if”, was repealed by Pub. L. 100–525.

1981—Subsec. (b). Pub. L. 97–116, §18(n), substituted “an adopted child only if the child” for “a child adopted while under the age of sixteen years who”.


1979—Subsec. (b). Pub. L. 95–417 substituted provisions making subsec. (a) of this section applicable to adopted children for provisions making subsec. (a) of this section inapplicable to adopted children.

Effective Date of 2008 Amendment

Amendment by Pub. L. 110–181 effective Jan. 28, 2008, and applicable to any application for naturalization or issuance of a certificate of citizenship pending on or after such date, see section 21(a) of Pub. L. 97–116 set out as a note under section 1101 of this title.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

Application of 1994 Amendment

Pub. L. 104–208, div. C, title VI, §671(b)(2), Sept. 30, 1996, 110 Stat. 3009–721, which provided that in applying amendment made by subsection (a), amending this section, to children born before Nov. 14, 1986, any reference in matter inserted by such amendment to “five years, at least two of which” was deemed a reference to “10 years, at least 5 of which”, was repealed by Pub. L. 106–38, §1, Aug. 8, 1997, 111 Stat. 1115, effective as if included in the enactment of Pub. L. 103–416.


§1435. Former citizens regaining citizenship

(a) Requirements

Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person’s spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this subchapter, except—

(1) no period of residence or specified period of physical presence within the United States or within the State or district of the Service in the United States where the application is filed shall be required; and

(2) the application need not set forth that it is the intention of the applicant to reside permanently within the United States.

Such person, or any person who was naturalized in accordance with the provisions of section...
317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship. Provided, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) Additional requirements

No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the Attorney General that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing an application for naturalization and up to the time of admission and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her application for naturalization.

(c) Oath of allegiance

(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 1448 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title: Provided, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

(2) The provisions of paragraphs (2) and (3) of subsection (c) of this section shall apply to any person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1) of this section.


References in Text

Section 317(a) and (b) of the Nationality Act of 1940, referred to in subsections (a) and (c)(1), which was classified to section 717(a) and (b) of this title, was repealed by section 406(a)(2) of act June 27, 1952. See subsections (a) and (c) of this section.

Amendments


1990—subsec. (a)(1), pub. l. 101–649, § 407(b)(3), (c)(7), (d)(6)(a)(i), substituted “State or district of the Service in the United States” for “State” and “application” for “petition” and inserted “and” at end.

subsec. (a)(2), pub. l. 101–649, § 407(c)(7), (d)(6)(a)(i), substituted references to applicant and application for references to petitioner and petition, and substituted period for semicolon at end.

subsec. (a)(3), (4), pub. l. 101–649, § 407(d)(6)(a)(ii), struck out pars. (3) and (4) which related to filling of petition and hearing on petition.

subsec. (b), pub. l. 101–649, § 407(c)(7), (d)(6)(b), substituted references to application for references to petition wherever appearing, and “Attorney General” for “naturalization court”.

subsec. (c)(1), pub. l. 101–649, § 407(c)(7), substituted “an application” for “a petition”.

subsec. (c)(2), pub. l. 101–649, § 407(d)(6)(c)(i), substituted “the Attorney General or the judge or clerk of a court described in section 1421(b) of this title” for “the judge or clerk of a naturalization court”.

subsec. (c)(3), pub. l. 101–649, § 407(d)(6)(c)(ii), substituted “court, or the Attorney General” for “or naturalization court” in two places.

1988—subsec. (a)(4), pub. l. 100–525 substituted “has” for “and the witnesses have”.

Effective Date of 1994 Amendment

Pub. L. 103–416, title I, § 103(b), oct. 25, 1994, 108 stat. 4398, provided that: “The amendment made by sub-
section (a) [amending this section] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act (Oct. 25, 1994)."

**Abolition of Immigration and Naturalization Service and Transfer of Functions**

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

**ITALIAN ELECTIONS; NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ELECTIONS**

Act Aug. 16, 1951, ch. 321, §1, 65 Stat. 191, as amended by section 401(a) of act June 27, 1952, provided: "That a person who, while a citizen of the United States, has lost citizenship of the United States solely by reason of having voted in a political election or plebiscite held in Italy between January 1, 1946, and April 18, 1948, inclusive, and who has not subsequently to such voting committed any act which, had he remained a citizen, would have operated to expatriate him, may be naturalized by taking, prior to two years from the enactment of this Act [June 27, 1952], before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, the oath required by section 337 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, the application for naturalization specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, the oath required by section 337 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. Naturalization procured under this Act shall be subject to revocation as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title], and subsection (f) of that section [section 1451(f) of this title] shall apply to any person claiming United States citizenship through the naturalization of an individual under this Act."

**§ 1436. Nationals but not citizens; residence within outlying possessions**

A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this subchapter, except that in applications for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this subchapter shall include residence and physical presence within any of the outlying possessions of the United States.

(Amendment) 1990—Pub. L. 101–649 substituted "applications" for "petitions".

**§ 1437. Resident Philippine citizens excepted from certain requirements**

Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent residence for the purpose of applying for naturalization under this subchapter.

(Amendment) 1990—Pub. L. 101–649 substituted "applying" for "petitioning".

**§ 1438. Former citizens losing citizenship by entering armed forces of foreign countries during World War II**

(a) Requirements; oath; certified copies of oath

Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country

shall be delivered to such person at a cost not exceeding $5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. Any such person shall have, from and after naturalization under this Act, the same citizenship status as that which existed immediately prior to its loss; Provided, That no such person shall be eligible to take the oath prescribed by section 337 of the Immigration and Nationality Act [section 1448 of this title] unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421(a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. Naturalization procured under this Act shall be subject to revocation as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title], and subsection (f) of that section [section 1451(f) of this title] shall apply to any person claiming United States citizenship through the naturalization of an individual under this Act."
at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of subchapter III of this chapter, except section 1427(a) of this title, and except as otherwise provided in subsection (b) of this section, be naturalized by taking before the Attorney General or before a court described in section 1421(b) of this title the oath required by section 1448 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice and by the Attorney General to the Secretary of State.

(b) Exceptions

No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a) of this section, a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Status

Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: Provided, That nothing contained here- in, or in any other provision of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) Span of World War II

For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(e) Inapplicability to certain persons

This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States.


REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (c), which was classified to section 723 of this title, was repealed by section 403(a)(42) of act June 27, 1952. See subsec. (a) of this section.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–649 substituted “the Attorney General” for “the former Attorney General” and “Secretary of State” for “the former Secretary of State” before period at end.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1439. Naturalization through service in the armed forces

(a) Requirements

A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person’s application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

(b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) no residence within a State or district of the Service in the United States shall be required;

(2) notwithstanding section 1429 of this title insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service;

(3) the applicant shall furnish to the Secretary of Homeland Security, prior to any hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable (the certificate or certificates herein provided for shall be conclusive evidence of such service and discharge); and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.
(c) Periods when not in service

In the case such applicant's service was not continuous, the applicant's residence in the United States and State or district of the Service in the United States, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such application between the periods of applicant's service in the Armed Forces, shall be alleged in the application filed under the provisions of subsection (a) of this section, and proved at any hearing thereon. Such allegation and proof shall also be made as to any period between the termination of applicant's service and the filing of the application for naturalization.

(d) Residence requirements

The applicant shall comply with the requirements of section 1427(a) of this title, if the termination of such service has been more than six months preceding the date of filing the application for naturalization, except that such service within five years immediately preceding the date of filing such application shall be considered as residence and physical presence within the United States.

(e) Moral character

Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 1427(a) of this title.

(f) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.


AMENDMENTS

2008—Subsecs. (g), (h). Pub. L. 110–382, §§3(a), 4, temporarily added subsecs. (g) and (h) which related to processing and adjudication of applications for naturalization and required annual reports to Congress on failures to process and adjudicate certain applications within 1 year of filing due to delays in conducting required background checks. See Termination Date of 2008 Amendment note below.


Pub. L. 108–136, §1701(b)(1)(A), substituted “honorably (the “for “honorably. The “ and “discharge); and” for “discharge.”


1990—Subsec. (a), Pub. L. 101–649, §407(b)(4)(A), (c)(10), substituted “State or district of the Service in the United States” for “State”, “for at least three months” for “for at least six months”, and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (b), Pub. L. 101–649, §407(b)(4)(B), (c)(10), (d)(8), as amended by Pub. L. 102–232, substituted “within a State or district of the Service in the United States” for “within the jurisdiction of the court” in par. (1), “any hearing” for “the final hearing” in par. (3), and references to applicant and application for references to petitioner and petition wherever appearing.

Subsec. (c). Pub. L. 101–649, §407(b)(4)(C), (c)(10), (d)(8), as amended by Pub. L. 102–232, substituted “State or district of the Service in the United States” for “State”, “any hearing” for “the final hearing”, and references to applicant’s and application for references to petitioner’s and petition wherever appearing.

1990—Subsec. (b)(2). Pub. L. 97–116 struck out “and section 1447(c) of this title” after “relates to deportability” and “and the witnesses” after “petition, the petitioner”.


CHANGE OF NAME


Termination Date of 2008 Amendment


Effective Date of 2003 Amendment

Pub. L. 108–136, div. A, title XVII, §1701(c)(2), Nov. 24, 2003, 117 Stat. 1692, provided that: “The amendments made by paragraph (1) [amending this section and section 1440 of this title] shall apply to citizenship granted on or after the date of the enactment of this Act [Nov. 24, 2003].”

§ 1440  TITLE 8—ALIENS AND NATIONALITY

(a) Requirements

Any person who, while an alien or a noncitizen national of the United States, has served honorably as a member of the Selected Reserve of the Ready Reserve or in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1938, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as of the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment, reenlistment, extension of enlistment, or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, or on board a public vessel owned or operated by the United States for noncommercial service, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: Provided, however, That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section.

(b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 1429 of this title as they relate to deportability and the provisions of section 1442 of this title;

(2) no period of residence or specified period of physical presence within the United States or any State or district of the Service in the United States shall be required;

(3) service in the military, air or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the applicant served or is serving, which shall state whether the applicant served honorably in an active-duty status during either World War I or during a period beginning September 1, 1938, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions; and

(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

(c) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 1451 of this title. The fact that the naturalized person was separated from the
service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.


REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS


Subsec. (c), Pub. L. 108–136, §1701(c)(1)(B), amended text generally. Prior to amendment, text read as follows: “Citizenship granted pursuant to this section may be revoked in accordance with section 1541 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.”

1997—Subsec. (a)(1). Pub. L. 105–85 inserted “reenlistment, extension of enlistment, after ‘at the time of enlistment’ and ‘on board a public vessel owned or operated by the United States for non-commercial service’, after ‘Swains Island’, ‘after’”.


Subsec. (b), Pub. L. 101–649, §407(c)(11), as amended by Pub. L. 102–232, substituted references to applicant and application for references to petitioner and petition wherever appearing.


Subsec. (b)(3), (4). Pub. L. 101–649, §407(b)(5)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which authorized filing of petition in any court having naturalization jurisdiction.

1988—Subsec. (d). Pub. L. 100–525 struck out subsec. (d) which read as follows: “The eligibility for naturalization of any person who filed a petition for naturalization prior to January 1, 1947, under section 701 of the Nationality Act of 1940, as amended (56 Stat. 182, 58 Stat. 886, 59 Stat. 658), and which is still pending on the effective date of this chapter, shall be determined in accordance with the provisions of this section.”

1981—Subsec. (b)(5). Pub. L. 97–116 struck out subpar. (5) which provided that, notwithstanding section 1447(c) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses have appeared before and been examined by a representative of the Service.

1968—Subsec. (a). Pub. L. 90–633, §1, added the Vietnam hostilities and any subsequent period of military operations involving armed conflict with a hostile foreign force as periods during which a person may be naturalized through service in active duty status.

Subsec. (b)(1). Pub. L. 90–633, §6, inserted reference to provisions of section 1429 of this title as they relate to deportability.

Subsec. (b)(4). Pub. L. 90–633, §2, inserted reference to the period of the Vietnam hostilities and to any other subsequent period which the President by Executive order designates as a period in which the Armed Forces of the United States were engaged in military operations involving armed conflict with a hostile foreign force.


EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 1701(c)(1)(B) of Pub. L. 108–136 applicable to citizenship granted on or after Nov. 24, 2003, see section 1701(c)(2) of Pub. L. 108–136, set out as a note under section 1139 of this title.


EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. A, title X, §1080(b), Nov. 18, 1997, 111 Stat. 1917, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to enlistments, reenlistments, extensions of enlistment, and inductions of persons occurring on or after the date of the enactment of this Act [Nov. 18, 1997].”

EFFECTIVE DATE OF 1991 AMENDMENT


EFFECTIVE DATE OF 1981 AMENDMENT


ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

NATURALIZATION OF NATIVES OF PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II

Pub. L. 102–395, title I, §113, Oct. 6, 1992, 106 Stat. 1844, which provided that, notwithstanding any other provision of law, effective 120 days after Oct. 6, 1992, and applicable to natives of the Philippines who applied for naturalization under section 406 of Pub. L. 101–649, set out below, and who applied within 2 years after such effective date, the naturalization of natives of the Philippines who apply for naturalization under section 406 of Pub. L. 101–649 was to be conducted in Philippines as well as in United States by employees of Immigration and Naturalization Service designated pursuant to section 1446(b) of this title, and required Attorney General to prescribe necessary implementing regulations and maintain permanent records of the oaths of allegiance taken in accordance with these provisions, was re-

Pub. L. 101–649, title IV, §485, Nov. 29, 1990, 104 Stat. 5009, amended by Pub. L. 104–318, title I, §104(d), Oct. 25, 1994, 108 Stat. 4308; Pub. L. 105–119, title I, §112(b), Nov. 26, 1997, 111 Stat. 2459, provided that section 1440(h)(1) and (2) of this title did not apply to the naturalization of certain persons born in the Philippines who served honorably in an active duty status during the World War II occupation and liberation of the Philippines within the Philippine Army or within a recognized guerrilla unit or who served within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East at any time during the period beginning September 1, 1939, and ending December 31, 1946, who were otherwise eligible for naturalization under section 1440, and who applied for naturalization during the 2-year period beginning on Nov. 29, 1990.

NATURALIZATION OF ALIENS ENLISTED IN REGULAR ARMY

Act June 30, 1950, ch. 443, §§ 4, 64 Stat. 316, as amended June 27, 1982, ch. 477, title IV, §402(e), 66 Stat. 276, provided that: "Notwithstanding the dates or periods of service specified and designated in section 329 of the Immigration and Nationality Act [this section], the provisions of that section are applicable to aliens enlisted or reenlisted pursuant to the provisions of this Act and who have completed five or more years of military service, if honorably discharged therefrom. Any alien enlisted or reenlisted pursuant to the provisions of this Act who subsequently enters the United States, American Samoa, Swains Island, or the Canal Zone, pursuant to military orders shall, if otherwise qualified for citizenship, and after completion of five or more years of military service, if honorably discharged therefrom, be deemed to have been lawfully admitted to the United States for permanent residence within the meaning of such section 329(a) [subsection (a) of this section]."

EX. ORD. NO. 12081. TERMINATION OF EXPEDITIOUS NATURALIZATION BASED ON MILITARY SERVICE

Ex. Ord. No. 12081, Sept. 18, 1978, 43 F.R. 42237, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 329 of the Immigration and Nationality Act (8 U.S.C. 1432), I hereby order as follows:

(a) Permitting granting of posthumous citizenship for aliens and noncitizen nationals who served in an active-duty status in the Armed Forces of the United States during the period of the Persian Gulf Conflict, it is hereby ordered that the statutory period of Persian Gulf Conflict military operations in which the Armed Forces of the United States were engaged in armed conflict with a hostile force commenced on August 2, 1990, and terminated on April 11, 1991. Those persons serving honorably in active-duty status in the Armed Forces of the United States during this period are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 329(b) of title 8, United States Code.

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 329 of the Immigration and Nationality Act (8 U.S.C. 1432) (the "Act"), and solely in order to provide expedited naturalization for aliens and noncitizen nationals serving in an active-duty status in the Armed Forces of the United States during the period of the war against terrorists of global reach, it is hereby ordered as follows:

For the purpose of determining qualification for the exception from the usual requirements for naturalization, the period of Persian Gulf Conflict military operations in which the Armed Forces of the United States were engaged in armed conflict with a hostile force commenced on August 2, 1990, and terminated on April 11, 1991. Those persons serving honorably in active-duty status in the Armed Forces of the United States during this period are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 329(b) of title 8, United States Code.

WILLIAM J. CLINTON.

§1440–1. Posthumous citizenship through death while on active-duty service in armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities

(a) Permitting granting of posthumous citizenship

Notwithstanding any other provision of this subchapter, the Secretary of Homeland Security shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) of this section if the Secretary of Homeland Security approves an application for that posthumous citizenship under subsection (c) of this section.

(b) Noncitizens eligible for posthumous citizenship

A person referred to in subsection (a) of this section is a person who, while an alien or a noncitizen national of the United States—
(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 1440(a) of this title;

(2) died as a result of injury or disease incurred in or aggravated by that service, and

(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 1440(a) of this title.

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

(c) Requests for posthumous citizenship

(1) In general

A request for the granting of posthumous citizenship to a person described in subsection (b) of this section may be filed on behalf of that person—

(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary’s designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

(B) by the next-of-kin.

(2) Approval

The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

(A) the request is filed not later than 2 years after—

(i) November 24, 2003; or

(ii) the date of the person’s death;

whichever date is later;

(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b) of this section; and

(C) the Director finds that the person satisfied the requirement of subsection (b)(3) of this section.

(d) Documentation of posthumous citizenship

If the Director of the Bureau of Citizenship and Immigration Services approves the request referred to in subsection (c) of this section, the Director shall send to the next-of-kin of the person who is granted citizenship, a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person’s death.

Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect any fee for such services unless the laws of the State require such charge.
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to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this section shall be made to the Attorney General as in the case of other reports required of clerks of courts by title III of the Immigration and Nationality Act [§ 1401 et seq.].


REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Title III of the Act is classified principally to subchapter III (§ 1401 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title chapter III (§ 1401 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title chapter III (§ 1401 et seq.) of this chapter.

CODIFICATION

Section was not enacted as part of the Immigration and Nationality Act which comprises this chapter.

ABOLITION OF IMMIGRATION AND NATIONALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1440f. Fingerprints and other biometric information for members of the United States Armed Forces

(a) In general

Notwithstanding any other provision of law, including section 552a of title 5 (commonly referred to as the “Privacy Act of 1974”), the Secretary of Homeland Security shall use the fingerprints provided by an individual at the time the individual enlisted in the United States Armed Forces, or at the time the individual filed an application for adjustment of status, to satisfy any requirement for background and security checks in connection with an application for naturalization if—

(1) the individual may be naturalized pursuant to section 1439 or 1440 of this title;

(2) the individual was fingerprinted and provided other biometric information in accordance with the requirements of the Department of Defense at the time the individual enlisted in the United States Armed Forces;

(3) the individual—

(A) submitted an application for naturalization not later than 24 months after the date on which the individual enlisted in the United States Armed Forces; or

(B) provided the required biometric information to the Department of Homeland Security through a United States Citizenship and Immigration Services Application Support Center at the time of the individual’s application for adjustment of status if filed not later than 24 months after the date on which the individual enlisted in the United States Armed Forces; and

(4) the Secretary of Homeland Security determines that the biometric information provided, including fingerprints, is sufficient to conduct the required background and security checks needed for the applicant’s naturalization application.

(b) More timely and effective adjudication

Nothing in this section precludes an individual described in subsection (a) from submitting a new set of biometric information, including fingerprints, to the Secretary of Homeland Security with an application for naturalization. If the Secretary determines that submitting a new set of biometric information, including fingerprints, would result in more timely and effective adjudication of the individual’s naturalization application, the Secretary shall—

(1) inform the individual of such determination; and

(2) provide the individual with a description of how to submit such biometric information, including fingerprints.

(c) Cooperation

The Secretary of Homeland Security, in consultation with the Secretary of Defense, shall determine the format of biometric information, including fingerprints, acceptable for usage under subsection (a). The Secretary of Defense, or any other official having custody of the biometric information, including fingerprints, referred to in subsection (a), shall—

(1) make such prints available, without charge, to the Secretary of Homeland Security for the purpose described in subsection (a); and

(2) otherwise cooperate with the Secretary of Homeland Security to facilitate the processing of applications for naturalization under subsection (a).

(d) Electronic transmission

Not later than one year after June 26, 2008, the Secretary of Homeland Security shall, in coordination with the Secretary of Defense and the Director of the Federal Bureau of Investigation, implement procedures that will ensure the rapid electronic transmission of biometric information, including fingerprints, from existing repositories of such information needed for military personnel applying for naturalization as described in subsection (a) and that will safeguard privacy and civil liberties.

(e) Centralization and expedited processing

(1) Centralization

The Secretary of Homeland Security shall centralize the data processing of all applications for naturalization filed by members of the United States Armed Forces on active duty serving abroad.

(2) Expedited processing

The Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence shall take appropriate actions to ensure that applications for naturalization by members of the United States Armed Forces described in paragraph (1), and associated background checks, receive expedited processing and are adjudicated within 180 days of the receipt of responses to all background checks.


CODIFICATION

Section was enacted as part of the Kendell Frederick Citizenship Assistance Act, and not as part of the Im-
migation and Nationality Act which comprises this chapter.

§ 1440g. Provision of information on military naturalization

(a) In general
Not later than 30 days after the effective date of any modification to a regulation related to naturalization under section 1439 or 1440 of this title, the Secretary of Homeland Security shall make appropriate updates to the Internet sites maintained by the Secretary to reflect such modification.

(b) Sense of Congress
It is the sense of Congress that the Secretary of Homeland Security, not later than 180 days after each effective date described in subsection (a), should make necessary updates to the appropriate application forms of the Department of Homeland Security.


CODIFICATION
Section was enacted as part of the Kendell Frederick Citizenship Assistance Act, and not as part of the Immigration and Nationality Act which comprises this chapter.

§ 1441. Constructive residence through service on certain United States vessels

Any periods of time during all of which a person who was previously lawfully admitted for permanent residence has served honorably or with good conduct, in any capacity other than as a member of the Armed Forces of the United States, (A) on board a vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in a citizen of the United States; or (B) on board a vessel whose home port is in the United States, and (i) which is registered under the laws of the United States, or (ii) the full legal and equitable title to which is in a citizen of the United States, or a corporation organized under the laws of any of the several States of the United States, shall be deemed residence and physical presence within the United States within the meaning of section 1427(a) of this title, if such service occurred within five years immediately preceding the date such person shall file an application for naturalization. Service on vessels described in subsection (A) of this section shall be proved by duly authenticated copies of the records of the executive departments or agency having custody of the records of such service. Service on vessels described in clause (B) of this section may be proved by certificates from the masters of such vessels.


AMENDMENTS
1991—Pub. L. 102–232 substituted “of this section” for “of this subsection” in two places.
1988—Pub. L. 100–525 designated provisions of former par. (1) of subsec. (a) as entire section, and struck out former pars. (2) and (3) and subsec. (b) which read as follows:

“(2) For the purposes of this subsection, any periods of time prior to September 23, 1950, during all of which any person had served honorably or with good conduct for an aggregate period of five years on any vessel described in section 325(a) of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, shall be deemed residence and physical presence within the United States within the meaning of section 1427(a) of this title, if such petition is filed within one year from the effective date of this chapter. Notwithstanding the provisions of section 1429 of this title, a person entitled to claim the exemptions contained in this paragraph shall not be required to establish a lawful admission for permanent residence.

“(3) For the purposes of this subsection, any periods of time prior to September 23, 1950, during all of which any person not within the provisions of paragraph (2) of this subsection had, prior to September 23, 1950, served honorably or with good conduct on any vessel described in section 325(a) of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, and was so serving on September 23, 1950, shall be deemed residence and physical presence within the United States within the meaning of section 1427(a) of this title, if such person at any time prior to filing his petition for naturalization shall have been lawfully admitted to the United States for permanent residence, and if such petition is filed on or before September 23, 1955.

“(b) Any person who was excepted from certain requirements of the naturalization laws under section 325 of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, and had filed a petition for naturalization under section 325 of the Nationality Act of 1940, may, if such petition was pending on September 23, 1950, and is still pending on the effective date of this chapter, be naturalized upon compliance with the applicable provisions of the naturalization laws in effect upon the date such petition was filed: Provided, That any such person shall be subject to the provisions of section 1424 of this title and to those provisions of section 1429 of this title which relate to the prohibition against the naturalization of a person against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act, or which relate to the prohibition against the final hearing on a petition for naturalization if there is pending against the petitioner a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act.”

EFFECTIVE DATE OF 1991 AMENDMENT

§ 1442. Alien enemies

(a) Naturalization under specified conditions
An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien’s application for naturalization shall be pending at the beginning of the state of war and the applicant is otherwise entitled to admission to citizenship.

(b) Procedure
An alien embraced within this section shall not have his application for naturalization considered or heard except after 90 days’ notice to the Attorney General to be considered at the ex-
amination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued from time to time for so long as the Attorney General may require.

(c) Exceptions from classification

The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have an application for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this subchapter, and thereupon such alien shall have the privilege of filing an application for naturalization.

(d) Effect of cessation of hostilities

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended.

(e) Apprehension and removal

Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien.


amendments

1990—subsec. (a). pub. l. 101–649, § 407(c)(13), substituted references to applicant and application for references to petitioner and petition wherever appearing.

subsec. (b). pub. l. 101–649, § 407(d)(9), substituted ‘‘considered or heard except after 90 days’’ notice to the Attorney General to be considered at the examination or hearing, and the Attorney General’s objection to such consideration shall cause the application to be continued’’ for ‘‘called for a hearing, or heard, except after ninety days’’ notice given by the clerk of the court to the Attorney General to be represented at the hearing, and the Attorney General’s objection to such final hearing shall cause the petition to be continued’’.

subsec. (c). pub. l. 101–649, § 407(c)(13), substituted ‘‘application’’ for ‘‘petition’’ after ‘‘have his’’.

subsec. (d). pub. l. 101–649, § 407(c)(13), substituted ‘‘an application’’ for ‘‘a petition’’ wherever appearing.

subsec. (e). pub. l. 101–649, § 407(e)(2), struck out at end ‘‘Notwithstanding the provisions of section 405(b) of this Act, this subsection shall also apply to the case of any such alien whose petition for naturalization was filed prior to the effective date of this chapter and which is still pending on that date’’.

abolition of immigration and naturalization service and transfer of functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1443. Administration

(a) Rules and regulations governing examination of applicants

The Attorney General shall make such rules and regulations as may be necessary to carry into effect the provisions of this part and is authorized to prescribe the scope and nature of the examination of applicants for naturalization as to their admissibility to citizenship. Such examination shall be limited to inquiry concerning the applicant’s residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(b) Instruction in citizenship

The Attorney General is authorized to promote instruction and training in citizenship responsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and national organizations, including those concerned with vocational education.

(c) Prescription of forms

The Attorney General shall prescribe and furnish such forms as may be required to give effect to the provisions of this part, and only such forms as may be so provided shall be legal. All certificates of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(d) Administration of oaths and depositions

Employees of the Service may be designated by the Attorney General to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or of hardship, the Attorney General may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(e) Issuance of certificate of naturalization or citizenship

A certificate of naturalization or of citizenship issued by the Attorney General under the authority of this subchapter shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and outlying possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(f) Copies of records

Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this chapter shall be admitted in evidence equally with the originals in any and all cases and proceedings under this chapter and in all cases
and proceedings in which the originals thereof might be admissible as evidence.

(g) Furnished quarters for photographic studios

The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters, without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of persons seeking to comply with requirements under the immigration and nationality laws. Such studio shall be under the supervision of the Attorney General.

(h) Public education regarding naturalization benefits

In order to promote the opportunities and responsibilities of United States citizenship, the Attorney General shall broadly distribute information concerning the benefits which persons may receive under this subchapter and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations. There are authorized to be appropriated (for each fiscal year beginning with fiscal year 1991) such sums as may be necessary to carry out this subsection.


REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 252, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS


Subsec. (g). Pub. L. 101–649, §407(d)(10), struck out “for the purpose of making appropriate recommendations to the naturalization courts” before period at end of first sentence and struck out second sentence which read as follows: “Such examination, in the discretion of the Attorney General, and under such rules and regulations as may be prescribed by him, may be conducted before or after the applicant has filed his petition for naturalization.”


EFFECTIVE DATE OF 1991 AMENDMENT


ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1443a. Naturalization proceedings overseas for members of the Armed Forces and their spouses and children

Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces, and persons made eligible for naturalization by section 319(e) or 322(d) of such Act (8 U.S.C. 1430(e), 1433(d)), are available through United States embassies, consulates, and as practicable, United States military installations overseas.

References in Text

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Title III of the Act is classified principally to subchapter III (§1401 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Codification

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Immigration and Nationality Act which comprises this chapter.

Amendments

2008—Pub. L. 110–181 inserted “and their spouses and children” after “Armed Forces” in section catchline and “-, and persons made eligible for naturalization by section 319(e) or 322(d) of such Act,” after “Armed Forces” in text.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective Jan. 28, 2008, and applicable to any application for naturalization or issuance of a certificate of citizenship pending on or after such date, see section 674(d) of Pub. L. 110–181, set out as a note under section 1430 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2004, see section 1705(b) of Pub. L. 109–136, set out as an Effective Date of 2003 Amendment note under section 1439 of this title.

FINALIZATION OF NATURALIZATION PROCEEDINGS FOR MEMBERS OF THE ARMED FORCES

Pub. L. 109–136, div. A, title XVII, §1707(e), Nov. 24, 2003, 117 Stat. 1692, provided that: “Not later than 90 days after the date of the enactment of this Act [Nov. 24, 2003], the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

(1) A high priority for grant of emergency leave.

(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.”

§ 1444. Photographs; number

(a) Three identical photographs of the applicant shall be signed by and furnished to each applicant for naturalization or citizenship. One of such photographs shall be affixed by the Attorney General to the original certificate of naturalization issued to the naturalized citizen and
one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Three identical photographs of the applicant shall be furnished by each applicant for—

(1) a record of lawful admission for permanent residence to be made under section 1259 of this title;
(2) a certificate of derivative citizenship;
(3) a certificate of naturalization or of citizenship;
(4) a special certificate of naturalization;
(5) a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed;
(6) a new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had his name changed by order of a court of competent jurisdiction or by marriage; and
(7) a declaration of intention.

One such photograph shall be affixed to each such certificate issued by the Attorney General and one shall be affixed to the copy of such certificate retained by the Service.


AMENDMENTS

EFFECTIVE DATE OF 1994 AMENDMENT

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS
For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§1445. Application for naturalization; declaration of intention
(a) Evidence and form
An applicant for naturalization shall make and file with the Attorney General a sworn application in writing, signed by the applicant in the applicant’s own handwriting if physically able to write, which application shall be on a form prescribed by the Attorney General and shall include averments of all facts which in the opinion of the Attorney General may be material to the applicant’s naturalization, and required to be proved under this subchapter. In the case of an applicant subject to a requirement of continuous residence under section 1427(a) or 1430(a) of this title, the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.

(b) Who may file
No person shall file a valid application for naturalization unless he shall have attained the age of eighteen years. An application for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

(c) Hearings
Hearings under section 1447(a) of this title on applications for naturalization shall be held at regular intervals specified by the Attorney General.

(d) Filing of application
Except as provided in subsection (e) of this section, an application for naturalization shall be filed in the office of the Attorney General.

(e) Substitute filing place and administering oath other than before Attorney General
A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

(1) is of a permanent nature and is sufficiently serious to prevent the person’s personal appearance, or
(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.

(f) Declaration of intention
An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General. Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing an application for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien’s lawful admission for permanent residence in any proceeding, action, or matter arising under this chapter or any other Act.


REFERENCES IN TEXT
This chapter, referred to in subsec. (f), was in the original a reference to this Act, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS


1971—Pub. L. 92–160 struck out “or citizenship or” after “nationality or” in section catchword.


1952—Pub. L. 82–415 struck out “or” after “nationality” in section catchword.
§ 1446. Investigation of applicants; examination of applications

(a) Waiver

Before a person may be naturalized, an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person applying for naturalization in the vicinity or vicinities of which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or engaged in business or work for at least five years immediately preceding the filing of his application for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such issue or classes of cases as may be designated by him.

(b) Conduct of examinations; authority of designees; record

The Attorney General shall designate employees of the Service to conduct examinations upon applications for naturalization. For such purposes any such employee so designated is authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any applicant for naturalization, to administer oaths, including the oath of the applicant for naturalization, and to require by subpoena the attendance and testimony of witnesses, including applicant, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any district court of the United States; and any such court may, in the event of neglect or refusal to respond to a subpoena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the examination authorized by this subsection shall be admissible as evidence in any hearing conducted by an immigration officer under section 1447(a) of this title. Any such employee shall, at the examination, inform the applicant of the remedies available to the applicant under section 1447 of this title.

(c) Transmittal of record of examination

The record of the examination upon any application for naturalization may, in the discretion of the Attorney General be transmitted to the Attorney General and the determination with respect thereto of the employee designated to conduct such examination shall when made also be transmitted to the Attorney General.

(d) Determination to grant or deny application

The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

(e) Withdrawal of application

After an application for naturalization has been filed with the Attorney General, the appli-
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An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.


AMENDMENTS


Subsec. (a). Pub. L. 101–649, § 407(c)(16), (d)(13)(B), substituted “Before a person may be naturalized” for “At any time prior to the holding of the final hearing on a petition for naturalization provided for by section 1447(a) of this title”, “applying for ‘petitioning’”, and “application” for “petition”.

Subsec. (b). Pub. L. 101–649, § 407(c)(16), (d)(13)(C), substituted “applications” for “petitions” and “applicant” for “petitioner” wherever appearing, struck out “preliminary” before “examinations” and before “examination”, struck out “to any naturalization court and to make recommendations thereon to such court” before period at end of first sentence, substituted “any District Court of the United States” for “any court exercising naturalization jurisdiction as specified in section 1421 of this title”, and substituted “hearing conducted by an immigration officer under section 1447(a) of this title” for “final hearing conducted by a naturalization court designated in section 1421 of this title”.

Pub. L. 101–649, § 401(c), inserted at end “Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 1447 of this title.”

Subsec. (c). Pub. L. 101–649, § 407(c)(16), (d)(13)(D), struck out “preliminary” before “examination” wherever appearing, and substituted “determination” for “recommendation” and “application” for “petition”.

Subsecs. (d) to (f). Pub. L. 101–649, § 407(d)(13)(E), amended subsecs. (d) to (f) generally, substituting provisions relating to determinations, withdrawal of application, and transfer of application, for provisions relating to recommendations, withdrawal of petition, and transfer of petition, respectively.


Subsec. (f)(2). Pub. L. 100–525, § 9(bb), struck out before period at end “,” except that the court to which the petition is transferred may in its discretion, require the production of two credible United States citizens to testify as to the petitionor’s qualifications for naturalization since the date of such transfer”.


Subsec. (f). Pub. L. 97–116, § 15(c)(2), (3), redesignated subsec. (i) as (f) and struck out former subsec. (f) which required affidavits of at least two credible witnesses, citizens of the United States, concerning the residency and the good moral character, etc., of the petitioner.

Subsec. (g). Pub. L. 97–116, § 15(c)(3), struck out subsec. (h) which related to satisfactory evidence as to good moral character, etc., at the hearing on the petition.


EFFECTIVE DATE OF 1991 AMENDMENT


EFFECTIVE DATE OF 1991 AMENDMENT


ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

CRIMINAL BACKGROUND CHECKS

Pub. L. 105–119, title I, Nov. 26, 1997, 111 Stat. 2448, provided in part: “That during fiscal year 1998 and each fiscal year thereafter, none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service shall be used to complete adjudication of an application for naturalization unless the Immigration and Naturalization Service has received confirmation from the Federal Bureau of Investigation that a full criminal background check has been completed, except for those exempted by regulation as of January 1, 1997.”

§ 1447. Hearings on denials of applications for naturalization

(a) Request for hearing before immigration officer

If, after an examination under section 1446 of this title, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

(b) Request for hearing before district court

If there is a failure to make a determination under section 1446 of this title before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.
(c) Appearance of Attorney General

The Attorney General shall have the right to appear before any immigration officer in any naturalization proceedings for the purpose of cross-examining the applicant and the witnesses produced in support of the application concerning any matter touching or in any way affecting the applicant’s right to admission to citizenship, and shall have the right to call witnesses, including the applicant, produce evidence, and be heard in opposition to, or in favor of the granting of any application in naturalization proceedings.

(d) Subpoenas of witnesses

The immigration officer shall, if the applicant requests it at the time of filing the request for the hearing, issue a subpoena for the witnesses named by such applicant to appear upon the day set for the hearing, but in case such witnesses cannot be produced upon the hearing other witnesses may be summoned upon notice to the Attorney General in such manner and at such time as the Attorney General may by regulation prescribe. Such subpoenas may be enforced in the same manner as subpoenas under section 1446(b) of this title may be enforced.

(e) Change of name

It shall be lawful at the time and as a part of the administration by a court of the oath of allegiance under section 1448(a) of this title for the court, in its discretion, upon the bona fide prayer of the applicant included in an appropriate petition to the court, to make a decree changing the name of said person and the certificate of naturalization shall be issued in accordance therewith.


AMENDMENTS


Subsecs. (a), (b). Pub. L. 101–649, § 407(d)(14)(B), amended subsecs. (a) and (b) generally, substituting provisions relating to requests for hearing upon denial of application and failure to make determination, for provisions relating to holding of hearing in open court and exceptions to same, respectively. See 1990 Amendment note below.

Subsec. (c). Pub. L. 101–649, § 407(c)(17), (d)(14)(C), substituted “immigration officer” for “court” and references to applicant, applicant’s, and application for references to petitioner, petitioner’s, and petition wherever appearing.

Subsec. (d). Pub. L. 101–649, § 407(d)(14)(D)(i), as amended by Pub. L. 102–232, § 305(g), substituted “immigration officer shall, if the applicant requests it at the time of filing the request for the hearing” for “clerk of court shall, if the petitioner requests it at the time for filing the petition for naturalization”. Pub. L. 101–649, § 407(c)(17), (d)(14)(D)(ii), (iii), substituted “applicant” for “petitioner”, struck out “final” before “hearing” wherever appearing, and inserted “Such subpoenas may be enforced in the same manner as subpoenas under section 1446(b) of this title may be enforced.”


Pub. L. 101–649, § 407(c)(17), substituted “applicant” for “petitioner”.


Subsec. (c). Pub. L. 97–116, § 15(d)(2), (3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which prescribed a waiting period of thirty days after the filing of a petition for naturalization for the holding of a final hearing and permitted waiver of such period by the Attorney General if he determined that a waiver was in the public interest.

Subsec. (d). Pub. L. 97–116, § 15(3), (4), redesignated subsec. (e) as (d) and struck out provision permitting the substitution of witnesses if after the petition is filed any of the verifying witnesses appear to be not competent, provided the petitioner acted in good faith in producing such witness. Former subsec. (d) redesignated (c).


1969—Subsec. (c). Pub. L. 91–136 struck out requirement that Attorney General, as a prerequisite to waiver of the waiting period, make an affirmative finding that such waiver will promote the security of the United States, and further struck out the provision prohibiting the acquisition of citizenship by final oath within 60 days preceding a general election and prior to the tenth day following such election.

EFFECTIVE DATE OF 1991 AMENDMENT


EFFECTIVE DATE OF 1981 AMENDMENT


ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1448. Oath of renunciation and allegiance

(a) Public ceremony

A person who has applied for naturalization shall, in order to be and before being admitted to citizenship, take in a public ceremony before the Attorney General or a court with jurisdiction under section 1421(b) of this title an oath (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States
against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5)(A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civil intention when required by the law. Any such person shall be required to take an oath containing the substance of clauses (1) to (5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the Attorney General that he is opposed to the bearing of arms in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of said clauses (1) to (4) and clause (5)(C). The term “religious training and belief” as used in this section shall mean an individual’s belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. In the case of the naturalization of a child under the provisions of section 1433 of this title the Attorney General may waive the taking of the oath if in the opinion of the Attorney General the child is unable to understand its meaning. The Attorney General may waive the taking of the oath by a person if in the opinion of the Attorney General the person is unable to understand, or to communicate an understanding of, its meaning because of a physical or developmental disability or mental impairment. If the Attorney General waives the taking of the oath by a person under the preceding sentence, the person shall be considered to have met the requirements of section 1427(a)(3) of this title with respect to attachment to the principles of the Constitution and well disposition to the good order and happiness of the United States.

(b) Hereditary titles or orders of nobility

In case the person applying for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the applicant shall in addition to complying with the requirements of subsection (a) of this section, make under oath in the same public ceremony in which the oath of allegiance is administered, an express renunciation of such title or order of nobility, and such renunciation shall be recorded as a part of such proceedings.

(c) Expedited judicial oath administration ceremony

Notwithstanding section 1421(b) of this title, an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant’s immediate family, permanent disability sufficiently incapacitating as to prevent the applicant’s personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.

(d) Rules and regulations

The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.

(AMENDMENTS)

2000—Subsec. (a). Pub. L. 106–448 inserted at end “The Attorney General may waive the taking of the oath by a person if in the opinion of the Attorney General the person is unable to understand, or to communicate an understanding of, its meaning because of a physical or developmental disability or mental impairment. If the Attorney General waives the taking of the oath by a person under the preceding sentence, the person shall be considered to have met the requirements of section 1427(a)(3) of this title with respect to attachment to the principles of the Constitution and well disposition to the good order and happiness of the United States.”


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§ 1450. Functions and duties of clerks and records of declarations of intention and applications for naturalization

(a) The clerk of each court that administers oaths of allegiance under section 1448 of this title shall—

(1) deliver to each person administered the oath of allegiance by the court pursuant to section 1448(a) of this title the certificate of naturalization prepared by the Attorney General pursuant to section 1421(b)(2)(A)(I) of this title.

(2) forward to the Attorney General a list of applicants actually taking the oath at each scheduled ceremony and information concern-
§ 1451. Revocation of naturalization

(a) Concealment of material evidence; refusal to testify

It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any district court of the United States in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: Provided, That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

(b) Notice to party

The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answers to the petition of the United States; and if such proceedings under subsection (a) of this section were procured by concealment of a material fact or by willful misrepresentation, such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(c) Membership in certain organizations; prima facie evidence

If a person who shall have been naturalized after December 24, 1952 shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 1424 of this title, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(d) Applicability to citizenship through naturalization of parent or spouse

Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section, or under the provisions of section 1449(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsection (c) of this section, or under the provisions of section 1449(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

(e) Citizenship unlawfully procured

When a person shall be convicted under section 1425 of title 18 of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(f) Cancellation of certificate of naturalization

Whenever an order admitting an alien to citizenship shall be revoked and set aside or a cer-
tificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. The clerk of court shall transmit a copy of such order and judgment to the Attorney General. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

(g) Applicability to certificates of naturalization and citizenship

The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this subchapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other act.

(h) Power to correct, reopen, alter, modify, or vacate order

Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person.

References in Text

Section 702 of the Nationality Act of 1940, as amended, referred to in subsec. (g), which was classified to section 1002 of this title, was repealed by section 403(a)(42) of act June 27, 1952. See section 1440 of this title.

AMENDMENTS


Subsec. (g). Pub. L. 101–649, § 407(d)(18)(B), (C), amended second sentence generally and struck out third sentence. Prior to amendment, second and third sentences read as follows: “In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation.”

Subsec. (i). Pub. L. 101–649, § 407(d)(18)(D), substituted “the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person” for “any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment or decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure or statutes governing the jurisdiction of the court to take such action.”

1988—Subsec. (c). Pub. L. 100–525, § 9(dd)(1), substituted “December 24, 1952” for “the effective date of this chapter”.

Subsecs. (e) to (j). Pub. L. 100–525, § 9(dd)(2), (3), redesignated former subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which read as follows: “The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 338 of the Nationality Act of 1940 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or been available to a wife or minor child of the naturalized person had such naturalization not been revoked. Provided, That this subsection shall not apply in any case in which the revocation and setting aside of the order was the result of actual fraud.”

1986—Subsec. (d). Pub. L. 99–653 substituted “one year” for “five years”.

1961—Subsec. (a). Pub. L. 87–301, § 18(a), inserted “were illegally procured or” after “that such order and certificate of naturalization”. Subsec. (b). Pub. L. 87–301, § 18(b), inserted “illegally procured or” before “procured by concealment”.


EFFECTIVE DATE OF 1991 AMENDMENT


EFFECTIVE DATE OF 1986 AMENDMENT


ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.
§ 1452. Certificates of citizenship or U.S. non-citizen national status; procedure

(a) Application to Attorney General for certificate of citizenship; oath of allegiance

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsection (c), (d), (e), or (g) of section 1401 of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 538), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (c), (d), (e), or (g) of section 1401 of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 538), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139), or under the provisions of section 1403 of this title, may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States.

(b) Application to Secretary of State for certificate of non-citizen national status; oath of allegiance

A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon—

(1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and

(2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this chapter of a petitioner for naturalization,

the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.


REFERENCES IN TEXT

Section 1993 of the Revised Statutes, referred to in subsec. (a), which was classified to section 6 of this title, was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, §504, 54 Stat. 1172.

The Nationality Act of 1940, referred to in subsec. (a), is act Oct. 14, 1940, ch. 876, 54 Stat. 1137, as amended. Sections 201, 263, and 205 of the Nationality Act of 1940, which were classified to sections 601, 603, and 605, respectively, of this title, were repealed by section 403(a)(42) of act June 27, 1952.

Act May 7, 1934 (48 Stat. 667), referred to in subsec. (a), which was classified to sections 3b and 3c of this title, was omitted from the Code.

Act Aug. 4, 1937, referred to in subsec. (a), which was classified to sections 5d and 5e of this title, was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, §504, 54 Stat. 1172.

This chapter, referred to in subsecs. (a) and (b)(2), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS


Subsecs. (a), (b), Pub. L. 99–396, §16(a)(2), (3), designated existing provisions as subsec. (a) and added subsec. (b).


1991—Pub. L. 97–116 substituted "(c), (d), (e), or (g) of section 1401" for "(3), (4), (5), or (7) of section 1401(a)".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–416 effective on the first day of the first month beginning more than 120 days after Oct. 25, 1994, see section 102(d) of Pub. L. 103–416, set out as a note under section 1433 of this act.

EFFECTIVE DATE OF 1991 AMENDMENT


EFFECTIVE DATE OF 1988 AMENDMENT


EFFECTIVE DATE OF 1981 AMENDMENT


ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

CERTIFICATES OF NON-CITIZEN NATIONAL STATUS; §35 LIMIT ON FEES FOR PROCESSING APPLICATIONS FILED BEFORE END OF FISCAL YEAR 1987

Pub. L. 99–396, §16(c), Aug. 27, 1986, 100 Stat. 843, provided that: "The Secretary of State may not impose a
fee exceeding $35 for the processing of an application for a certificate of non-citizen national status under section 341(b) of the Immigration and Nationality Act (8 U.S.C. 1452(b)) filed before the end of fiscal year 1967.'" 

§ 1453. Cancellation of certificates issued by Attorney General, the Commissioner or a Deputy Commissioner; action not to affect citizenship status

The Attorney General is authorized to cancel any certificate of citizenship, certificate of naturalization, copy of a declaration of intention, or other certificate, document or record here-tofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General if it shall appear to the Attorney General's satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him or the Commissioner or a Deputy Commissioner; but the person for or to whom such document or record has been issued or made shall be given at such person's last-known place of address written notice of the intention to cancel such document or record with the reasons therefor and shall be given at least sixty days in which to show cause why such document or record should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.


Effective Date

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1551 of this title.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1454. Documents and copies issued by Attorney General

(a) If any certificate of naturalization or citizenship issued to any citizen or any declaration of intention furnished to any declarant is lost, mutilated, or destroyed, the citizen or declarant may make application to the Attorney General for a new certificate or declaration. If the Attorney General finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who shall have, or may come into possession of it is required to surrender it to the Attorney General.

(b) The Attorney General shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign state. Such certificate when issued shall be furnished to the Secretary of State for transmission to the proper authority in such foreign state.

(c) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Attorney General finds the name of the applicant to have been changed as claimed, the Attorney General shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(d) The Attorney General is authorized to make and issue certifications of any part of the naturalization records of any court, or of any certificate of naturalization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court.


Amendments

1988—Pub. L. 100–525 redesignated subsecs. (b) to (e) as (a) to (d), respectively, and struck out former subsec. (a) which read as follows: ‘‘A person who claims to have been naturalized in the United States under section 323 of the Nationality Act of 1940 may make application to the Attorney General for a certificate of naturalization. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen and that he has been naturalized as claimed in the application, such individual shall be furnished a certificate of naturalization by the Attorney General, but only if the applicant is at the time within the United States.’’

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1455. Fiscal provisions

(a) The Attorney General shall charge, collect, and account for fees prescribed by the Attorney General pursuant to section 9701 of title 31 for the following:

(1) Making, filing, and docketing an application for naturalization, including the hearing on such application, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the Attorney General.

(2) Receiving and filing a declaration of intent, and issuing a duplicate thereof.

(b) Notwithstanding the provisions of this chapter or any other law, no fee shall be charged or collected for an application for declaration of intent or a certificate of naturalization in lieu of a declaration or a certificate alleged to have been lost, mutilated, or destroyed, submitted by a person who was a member of the military or naval forces of the United States at any
time after April 20, 1898, and before July 5, 1902; or at any time after April 5, 1917, and before November 12, 1918; or who served on the Mexican border as a member of the Regular Army or National Guard between June 1916 and April 1917; or who has served or hereafter serves in the military, air, or naval forces of the United States after September 16, 1940, and who was not at any time during such period or thereafter separated from such forces under other than honorable conditions, who was not a conscientious objector who performed no military duty whatever or refused to wear the uniform, or who was not at any time during such period or thereafter discharged from such military, air, or naval forces on account of alienage.

(c) Except as provided by section 1358(q)(2) of this title or any other law, all fees collected by the Attorney General shall be deposited by the Attorney General in the Treasury of the United States except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 1358(m) of this title, provided, however, That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States, and in Guam, under this subchapter, shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam, respectively.

(d) During the time when the United States is at war the Attorney General may not charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing an application for naturalization or issuing a certificate of naturalization upon admission to citizenship.

(e) In addition to the other fees required by this subchapter, the applicant for naturalization shall, upon the filing of an application for naturalization, deposit with and pay to the Attorney General a sum of money sufficient to cover the costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this subchapter a specified percentage of all fees described in subsection (a)(1) of this section collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.

References in Text

This chapter, referred to in subsec. (b), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 183, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Amendments

2002—Subsec. (c). Pub. L. 107–273 substituted “Except as provided by section 1358(q)(2) of this title or any other law, all” for “All”.


Subsec. (c). Pub. L. 102–232, §309(b)(14), which provided for a clarifying amendment to subsec. (c), could not be executed, because the phrase which was to be amended did not appear after the amendment by Pub. L. 102–232, §309(a)(1)(A)(ii), see below.


Subsec. (c). Pub. L. 101–649, §407(d)(19)(B), (C), (F), redesignated subsec. (h) as (d), substituted “The Attorney General may not” for “no clerk of a United States court shall” and “an application” for “a petition”.
such clerk in naturalization proceedings. Provided, how-
erver, That the clerk of the District Court of the Virgin Islands of the United States and of the District Court of Guam shall report but shall not be required to pay
over to the Attorney General the fees collected by any such clerk in naturalization proceedings."

Subsec. (e), Pub. L. 101–649, § 407(c)(20), (d)(19)(B), (E), (F), redesignated subsec. (1) as (e), substituted "an ap-
plication" for "a petition" and "applicant" for "petition-
er" wherever appearing, substituted references to Attorney General for references to clerk of court where-
evver appearing, and struck out former subsec. (e) which read as follows: "The accounting required by sub-
sections (c) and (d) of this section shall be made and the
fees paid over to the Attorney General by such re-
spective clerks in their quarterly accounts which they
are required to render to the Attorney General within
thirty days from the close of each quarter of each and
every fiscal year, in accordance with regulations pre-
scribed by the Attorney General."

Subsec. (f), Pub. L. 101–649, §407(d)(19)(B), struck out subsec. (f) which read as follows: "The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the
duties imposed by this subchapter upon clerks of courts
from fees retained under the provisions of this section
by such clerks in naturalization proceedings."

Subsecs. (g) to (i), Pub. L. 101–649, § 407(d)(19)(F), re-
designated subsecs. (g) to (i) as (c) to (e), respectively.

9701 of title 51” for “title V of the Independent Offices
Appropriation Act, 1982 (65 Stat. 290)” in introductory
provisions.

Subsec. (g). Pub. L. 100–495, as amended by Pub. L.
102–232, §309(a)(1)(A)(i), inserted “except that all such
fees collected or paid over on or after October 1, 1988,
shall be deposited in the Immigration Examinations
Fee Account established under section 1356(m) of this
title” after “Treasury of the United States”.

for “$6,000” in two places.

section 463a of title 31 and substituted provisions mak-
ing reference to setting of fees by Attorney General for
provisions establishing fees of $10 and $5 respectively for
covered services.

Subsec. (b). Pub. L. 90–609 struck out provisions set-
ing fixed dollar amounts for specified services to be
charged, collected, and accounted for by Attorney Gen-
eral.

Subsec. (g). Pub. L. 90–609 substituted fees received
under this subchapter for fees received under subsec. (b)
of this section as description of fees received from ap-
clicants residing in the Virgin Islands of the United
States and in Guam which are turned over to the trea-
sury of the Virgin Islands and Guam respectively.

and” before “in the District Court of the Virgin Is-
lands”.

Effective Date of 1991 Amendment
Amendment by section 102(b)(3) of Pub. L. 102–232 ef-
fective 30 days after Dec. 12, 1991, see section 102(c) of
Pub. L. 102–232, set out as a note under section 1421 of
this title.

Amendment by section 305(l) of Pub. L. 102–232 effective
as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 301(1) of Pub. L.
102–232, set out as a note under section 1101 of this title.

Amendment by section 309(a)(1)(A)(i) of Pub. L. 102–232 effective as if included in the enactment of the
Department of Justice Appropriations Act, 1989, Pub. L.
100–495, title II, see section 309(a)(3) of Pub. L. 102–232,
as amended, set out as a note under section 1356 of
this title.

Effective Date of 1981 Amendment
Amendment by Pub. L. 97–116 applicable to fiscal
years beginning on or after Oct. 1, 1981, see section
21(b)(2) of Pub. L. 97–116, set out as a note under section
1101 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization
Service, transfer of functions, and treatment of related
references, see note set out under section 1551 of this
title.

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L.
85–508 was dependent on admission of Alaska into the
Union under section (b) of Pub. L. 85–508. Admission
was accomplished Jan. 3, 1959 on issuance of Proc. No.
3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required
by sections 1 and 8(c) of Pub. L. 85–508. See notes preceding
former section 21 of Title 48, Territories and Insular
Possessions.

§ 1456. Repealed. Pub. L. 86–682, §12(c), Sept. 2,
1960, 74 Stat. 708, eff. Sept. 1, 1960

Section, act June 27, 1952, ch. 477, title III, ch. 2, §345,
66 Stat. 266, related to free transmittal of official mail
in naturalization matters. See section 332b of Title 39,
Postal Service.

§1457. Publication and distribution of citizen-
ship textbooks; use of naturalization fees

Authorization is granted for the publication and
distribution of the citizenship textbook de-
scribed in subsection (b) of section 1443 of this
(title for the reimbursement of the appro-
priation of the Department of Justice upon the
records of the Treasury Department from the
naturalization fees deposited in the Treasury
through the Service for the cost of such publica-
tion and distribution, such reimbursement to be
made upon statements by the Attorney General
of books so published and distributed.

(June 27, 1952, ch. 477, title III, ch. 2, §346, 66
Stat. 266.)

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization
Service, transfer of functions, and treatment of related
references, see note set out under section 1551 of this

§1458. Compilation of naturalization statistics
and payment for equipment

The Attorney General is authorized and di-
rected to prepare from the records in the cus-
tody of the Service a report upon those here-
tofore seeking citizenship to show by national-
ties their relation to the numbers of aliens an-
ually arriving and to the prevailing census pop-
ulations of the foreign-born, their economic, vo-
cational, and other classification, in statistical
form, with analytical comment thereon, and to
prepare such report annually hereafter. Pay-
ment for the equipment used in preparing such
compilation shall be made from the appropria-
tion for the enforcement of this chapter by the
Service.

(June 27, 1952, ch. 477, title III, ch. 2, §347, 66
Stat. 266.)

References in Text
This chapter, referred to in text, was in the original,
Effects, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

Effective Date
Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

Abolition of Immigration and Naturalization Service and Transfer of Functions
For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.


Part III—Loss of Nationality
§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions
(a) A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality—
(1) obtaining naturalization in a foreign state upon his own application or upon an application filed by a duly authorized agent, after having attained the age of eighteen years; or
(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof, after having attained the age of eighteen years; or
(3) entering, or serving in, the armed forces of a foreign state if (A) such armed forces are engaged in hostilities against the United States, or (B) such persons serve as a commissioned or non-commissioned officer; or
(4)(A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years if he has or acquires the nationality of such foreign state; or (B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or
(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or
(6) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or
(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, or willfully performing any act in violation of section 2383 of title 18, or violating section 2384 of title 18 by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

(b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after September 26, 1961 under, or by virtue of, the provisions of this chapter or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this chapter or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.

(6) making a formal renunciation of nationality in such form as may be prescribed by the Secretary of State; or
(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, or willfully performing any act in violation of section 2383 of title 18, or violating section 2384 of title 18 by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

References in Text
This chapter, referred to in subsec. (a), was in the original a reference to this Act, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Amendments
1968—Subsec. (a). Pub. L. 100–525, §9(hh), substituted “A person” for “From and after the effective date of this chapter a person”.

Subsecs. (a) to (c). Pub. L. 100–525, §8(m), (n), amended Pub. L. 99–653, See 1968 Amendment notes below.

1966—Subsec. (a). Pub. L. 99–653, §18(a), as amended by Pub. L. 100–525, §8(m)(1), inserted “voluntarily performing any of the following acts with the intention of relinquishing United States nationality” after “his nationality by”. Subsec. (a)(1). Pub. L. 99–653, §18(b), substituted “or upon an application filed by a duly authorized agent, after having attained the age of eighteen years” for “upon an application filed in his behalf by a parent, guardian, or duly authorized agent, or through the naturalization of a parent having legal custody of such person: Provided That nationality shall not be lost by any person under this section as the result of the naturalization of a parent or parents while such person is under the age of twenty-one years, or as the result of

References in Text
This chapter, referred to in subsec. (b), was in the original a reference to this Act, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.
a naturalization obtained on behalf of a person under twenty-one years of age by a parent, guardian, or duly authorized agent, unless such person shall fail to enter the United States to establish a permanent residence prior to his twenty-fifth birthday: And provided further, That a person who shall have lost nationality prior to January 1, 1948, through the naturalization in a foreign state of a parent or parents, may, within one year from the effective date of this chapter, apply for a visa and for admission to the United States as a special immigrant under the provisions of section 1101(a)(27)(E) of this title!

Subsec. (a)(2). Pub. L. 99–653, §18(c), inserted "after having attained the age of eighteen years" after "political subdivision thereof".

Subsec. (a)(3). Pub. L. 99–653, §18(d), as amended by Pub. L. 100–525, §8(m)(2), substituted "if (A) such armed forces are engaged in hostilities against the United States, or (B) such persons serve as a commissioned or non-commissioned officer: or" for "unless, prior to such entry or service, such entry or service is specifically authorized in writing by the Secretary of State and the Secretary of Defense: Provided, That the entry into such service by a person prior to the attainment of his eighteenth birthday shall serve to expatriate such person only if there exists an option to secure a release from such service and such person fails to exercise such option at the attainment of his eighteenth birthday: or".

Subsec. (a)(4). Pub. L. 99–653, §18(e), (f), as amended by Pub. L. 100–525, §8(m)(3), inserted "after attaining the age of eighteen years" after "political subdivision thereof," in subpars. (A) and (B).

Subsecs. (b), (c). Pub. L. 99–653, §19, as amended by Pub. L. 100–525, §8(m)(4), redesignated former subsec. (c) as (b) and substituted "'Any' for "Except as provided in subsection (b) of this section, any", and struck out former subsec. (b) which read as follows: "Any person who commits or performs any act specified in subsection (a) of this section shall be conclusively presumed to have done so voluntarily and without having been subjected to duress of any kind, if such person at the time of the act was a national of the state in which the act was performed and had been physically present in such state for a period or periods totaling ten years or more immediately prior to such act."

1961—Subsec. (a). Pub. L. 97–116 struck out "(a)" designation as added by section 4 of Pub. L. 95–432, which was not executed since it would have resulted in a subsec. (a) designation of "(a)(a)" and, substituted in par. (1) former subsec. (b) which read as follows: "Any person who commits or performs any act specified in subsection (a) of this section shall be conclusively presumed to have done so voluntarily and without having been subjected to duress of any kind, if such person at the time of the act was a national of the state in which the act was performed and had been physically present in such state for a period or periods totaling ten years or more immediately prior to such act."


1957—Subsec. (b). Pub. L. 85–357, §2, 75 Stat. 661, provided that the entry into such service by a person prior to the attainment of his eighteenth birthday shall serve to expatriate such person only if there exists an option to secure a release from such service and such person fails to exercise such option at the attainment of his eighteenth birthday: or."
United States can lose United States nationality under this chapter while within the United States or any of its outlying possessions, but loss of nationality shall result from the performance within the United States or any of its outlying possessions of any of the acts or the fulfillment of any of the conditions specified in this Part if and when the national thereafter takes up a residence outside the United States and its outlying possessions.

(b) A national who within six months after attaining the age of eighteen years asserts his claim to United States nationality, in such manner as the Secretary of State shall by regulation prescribe, shall not be deemed to have lost United States nationality by the commission, prior to his eighteenth birthday, of any of the acts specified in paragraphs (3) and (5) of section 1481(a) of this title.


REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS


1986—Subsec. (b). Pub. L. 99–653, as amended by Pub. L. 100–525, substituted “section 1481(a)” for “paragraphs (3) and (4)”.


1961—Subsec. (b). Pub. L. 97–116, §18(r), substituted “paragraphs (7), (8), and (9)” for “paragraphs (6), and (7)”.

Effective Date of 1968 Amendment

Amendment by Pub. L. 100–525 applicable to actions taken before, on, or after Nov. 14, 1986, see section 23(g) of Pub. L. 99–653, set out as a note under section 1481 of this title.

Effective Date of 1988 Amendment

Amendment by Pub. L. 100–525 substituted “before December 25, 1993” for “upon the effective date of this subchapter”.


Section 1484, act June 27, 1952, ch. 477, title III, ch. 3, §352, 66 Stat. 269, related to loss of nationality by naturalized national by continuous residence for 3 years in the territory or foreign state of which the individual was a former national or in which his place of birth was situated or continuous residence for 5 years in any other foreign state or states.


Section 1486, acts June 27, 1952, ch. 477, title III, ch. 3, §§354, 66 Stat. 271; Aug. 4, 1959, Pub. L. 86–129, §§2, 3, 73 Stat. 274; Sept. 26, 1961, Pub. L. 87–301, §20, 75 Stat. 656, provided exceptions for certain persons from loss of nationality by continuous residence for five years in any foreign country of which the individual was not a national or in which his place of birth was situated.


$1488. Nationality lost solely from performance of acts or fulfillment of conditions

The loss of nationality under this part shall result solely from the performance by a national of the acts or fulfillment of the conditions specified in this part.


$1489. Application of treaties; exceptions

Nothing in this subchapter shall be applied in contravention of the provisions of any treaty or convention to which the United States is a party and which has been ratified by the Senate before December 25, 1952: Provided, however, That no woman who was a national of the United States shall be deemed to have lost her nationality solely by reason of her marriage to an alien on or after September 22, 1922, or to an alien racially ineligible to citizenship on or after March 3, 1931, or, in the case of a woman who was a United States citizen at birth, through residence abroad following such marriage, notwithstanding the provisions of any existing treaty or convention.

PART IV—MISCELLANEOUS

§ 1501. Certificate of diplomatic or consular officer of United States as to loss of American nationality

Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of part III of this subchapter, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates. Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this chapter, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 1503 of this title.


REFERENCES IN TEXT

Chapter IV of the Nationality Act of 1940, as amended, referred to in text, which was classified to sections 800 to 810 of this title, was repealed by section 403(a)(42) of this title.

1994—Pub. L. 103–416 inserted at end “Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this chapter, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 1503 of this title.”

AMENDMENTS

1994—Pub. L. 103–416 inserted at end “Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this chapter, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 1503 of this title.”

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1502. Certificate of nationality issued by Secretary of State for person not a naturalized citizen of United States for use in proceedings of a foreign state

The Secretary of State is authorized to issue, in his discretion and in accordance with rules and regulations prescribed by him, a certificate of nationality for any person not a naturalized citizen of the United States who presents satisfactory evidence that he is an American national and that such certificate is needed for use in judicial or administrative proceedings in a foreign state. Such certificate shall be solely for use in the case for which it was issued and shall be transmitted by the Secretary of State through appropriate official channels to the judicial or administrative officers of the foreign state in which it is to be used.

(June 27, 1952, ch. 477, title III, ch. 4, § 359, 66 Stat. 273.)

CODIFICATION

Section was formerly classified to section 101 of this title.

§ 1503. Denial of rights and privileges as national

(a) Proceedings for declaration of United States nationality

If any person who is within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may institute an action under the provisions of section 2201 of title 28 against the head of such department or independent agency for a judgment declaring him to be a national of the United States, except that no such action may be instituted in any case if the issue of such person’s status as a national of the United States (1) arose by reason of, or in connection with any removal proceeding under the provisions of this chapter or any other act, or (2) is in issue in any such removal proceeding. An action under this subsection may be instituted only within five years after the final administrative denial of such right or privilege and shall be filed in the district court of the United States for the district in which such person resides or claims a residence, and jurisdiction over such officials in such cases is conferred upon those courts.

(b) Application for certificate of identity; appeal

If any person who is not within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may make application to a diplomatic or consular officer of the United States in the foreign country in which he is residing for a certificate of identity for the purpose of traveling to a port of entry in the United States and applying for admission. Upon proof to the satisfaction of such diplomatic or consular officer that such application is made in good faith and has a substantial basis, he shall issue to such person a certificate of identity. From any denial of an ap-
application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing his reasons for his decision. The Secretary of State shall prescribe rules and regulations for the issuance of certificates of identity as above provided. The provisions of this sub-section shall be applicable only to a person who at some time prior to his application for the certificate of identity has been physically present in the United States, or to a person under sixteen years of age who was born abroad of a United States citizen parent.

(c) Application for admission to United States under certificate of identity; revision of determination

A person who has been issued a certificate of identity under the provisions of subsection (b) of this section, and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this chapter relating to the conduct of proceedings involving aliens seeking admission to the United States. A final determination by the Attorney General that any such person is not entitled to admission to the United States shall be subject to review by any court of competent jurisdiction in habeas corpus proceedings and not otherwise. Any person described in this section who is finally denied admission to the United States shall be subject to all the provisions of this chapter relating to aliens seeking admission to the United States.


REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original a reference to this Act, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS


Subsec. (c). Pub. L. 104–208, § 308(d)(4)(P)(ii), substituted “denied admission” for “excluded from admission”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 389 of Pub. L. 104–208, set out as a note under section 1101 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1504. Cancellation of United States passports and Consular Reports of Birth

(a) The Secretary of State is authorized to cancel any United States passport or Consular Report of Birth, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through illegality or fraud practiced upon, the Secretary. The person for or to whom such document has been issued or made shall be given, at such person’s last known address, written notice of the cancellation of such document, together with the procedures for seeking a prompt post-cancellation hearing. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

(b) For purposes of this section, the term “Consular Report of Birth” refers to the report, designated as a “Report of Birth Abroad of a Citizen of the United States”, issued by a consular officer to document a citizen born abroad.


SUBCHAPTER IV—REFUGEE ASSISTANCE

§ 1521. Office of Refugee Resettlement; establishment; appointment of Director; functions

(a) There is established, within the Department of Health and Human Services, an office to be known as the Office of Refugee Resettlement (hereinafter in this subchapter referred to as the “Office”). The head of the Office shall be a Director (hereinafter in this subchapter referred to as the “Director”), to be appointed by the Secretary of Health and Human Services (hereinafter in this subchapter referred to as the “Secretary”).

(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies), in consultation with the Secretary of State, programs of the Federal Government under this subchapter.


AMENDMENTS

1994—Subsec. (b). Pub. L. 103–236 substituted “the Secretary of State” for “and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this subchapter referred to as the Coordinator)”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Subchapter applicable with respect to fiscal years beginning on or after Oct. 1, 1979, see section 313 of Pub. L. 96–212, set out as a note under section 1522 of this title.