of means of losing nationality, and is now covered by section 1488 of this title.

Section 809, acts Oct. 14, 1940, ch. 876, title I, subchap. IV, § 409, 54 Stat. 1171; Oct. 16, 1941, ch. 446, 55 Stat. 743; Oct. 9, 1942, ch. 585, 56 Stat. 779; Sept. 27, 1944, ch. 419, 58 Stat. 747; Oct. 11, 1945, ch. 410, 59 Stat. 544, related to nationality not lost under sections 804 or 807 until October, 1942, and is now covered by section 1487 of this title.

Section 810, act Oct. 14, 1940, ch. 876, title I, subchap. IV, § 410, 54 Stat. 1171, related to chapter being inapplicable where it contravened convention of treaties, and is now covered by section 1489 of this title.

SUBCHAPTER V—MISCELLANEOUS

§§ 901 to 903. Repealed. June 27, 1952, ch. 477, title IV, § 403(a)(42), 66 Stat. 280, eff. Dec. 24, 1952

Section 901, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 501, 54 Stat. 1171, related to procedure when diplomatic officials believe that persons in foreign state have lost American nationality, and is now covered by section 1501 of this title.

Section 902, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 502, 54 Stat. 1171, related to certificates of nationality for non-naturalized United States nationals, and is now covered by section 1502 of this title.

Section 903, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 503, 54 Stat. 1171, related to judicial proceedings for declaration of United States nationality in event of denial of rights and privileges as national, and is now covered by section 1503 of this title.

§§ 903a, 903b. Transferred

CODIFICATION

Sections 903a and 903b transferred to sections 1731 and 1732, respectively, of Title 22, Foreign Relations and Intercourse.

§§ 904 to 907. Repealed. June 27, 1952, ch. 477, title IV, § 403(a)(42), 66 Stat. 280, eff. Dec. 24, 1952

Section 904, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1172, related to repeals.

Section 905, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 505, 54 Stat. 1174, related to separability clause.

Section 906, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 505, 54 Stat. 1174, related to effective date of chapter.

Section 907, act Oct. 14, 1940, ch. 876, title 1, § 1, 54 Stat. 1137, related to short title of chapter.

SPECIFIC REPEALS BY ACT OCTOBER 14, 1940

In addition to the provisions from which former section 904 was taken, section 504 of act Oct. 14, 1940, specifically repealed all or parts of the following: Title 8, §§ 1, 3, 5a-1, 5d, 5e, 6, 7, 8, 9, 9a, 11, 16, 17, 17a, 18, 106, 106a, 106b, 106c, 351, 352, 353, 354, 356, 356a, 357, 358, 358a, 360, 362, 364, 365, 366, 366a, 367, 368, 368a, 369, 369a, 372, 372a, 373, 377, 377b, 377c, 378, 379, 380, 380a, 380b, 381, 382, 382a, 382b, 382c, 384, 385, 386, 387, 388, 389, 390, 391, 392, 392b, 392c note, 392d note, 392e, 392f, 392g, 393, 394, 395, 396, 397, 398, 399, 399a, 399b, 399c, 399d, 399e, 399f, 400, 401, 402, 403, 404, 405, 408, 409, 410, 411, 412, 413, 414, 415; Title 18, §§ 135, 137, 138, 139, 140, 141, 142, 143; Title 39, § 324; Title 48, § 733b; Title 50 App. § 202.

SUBCHAPTER VI—NATURALIZATION OF PERSONS SERVING IN THE ARMED FORCES OF THE UNITED STATES DURING WORLD WAR II

§§ 1001 to 1006. Repealed. June 27, 1952, ch. 477, title IV § 403(a)(42), 66 Stat. 280, eff. Dec. 24, 1952

Section 1001, act Oct. 14, 1940, ch. 876, title III, § 701, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 182, and amended Dec. 22, 1944, ch. 662, § 1, 58 Stat. 886; Dec. 28, 1945, ch. 590, § 1(c)(1), 59 Stat. 658, related to exceptions from certain requirements of naturalization of persons serving in the armed forces during World War II, and is now covered by section 1440 of this title.

Section 1002, act Oct. 14, 1940, ch. 876, title III, § 701, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 182, and amended Dec. 22, 1944, ch. 662, § 2, 58 Stat. 887, related to alien serving outside of jurisdiction of naturalization court, and is now covered by section 1440 of this title.

Section 1003, act Oct. 14, 1940, ch. 876, title III, § 703, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 183, related to waiver of notice to commissioner in case of alien enemy, and is now covered by section 1440 of this title.

Section 1004, act Oct. 14, 1940, ch. 876, title III, § 704, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 183, related to persons excepted from former subchapter, and is now covered by section 1440 of this title.

Section 1005, act Oct. 14, 1940, ch. 876, title III, § 705, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 183, related to forms, rules and regulations, and is now covered by section 1440 of this title.

Section 1006, act Oct. 14, 1940, ch. 876, title III, § 706, as added Dec. 28, 1945, ch. 590, § 1(c)(2), 59 Stat. 658, related to time of service limitation, and is now covered by section 1440 of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 sections 510, 591, 3253, 8253; title 22 section 2454.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1101. Definitions

(a) As used in this chapter—

(1) The term "administrator" means the administrator of the Bureau of Security and Consular Affairs of the Department of State.

(2) The term "advocates" includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term "alien" means any person not a citizen or national of the United States.

(4) The term "application for admission" has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.

(5) The term "Attorney General" means the Attorney General of the United States.

(6) The term "border crossing identification card" means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations.

(7) The term "clerk of court" means a clerk of a naturalization court.

(8) The terms "Commissioner" and "Deputy Commissioner" mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term "consular officer" means any consular, diplomatic, or other officer of the United States designated under regulations prescribed under authority contained in this chapter, for the purpose of issuing immigrant or nonimmigrant visas. In cases of aliens, in the Canal Zone and the outlying possessions of the United States, the term "consular officer" means an officer designated by the Governor of the Canal Zone, or the governors of the outlying possessions, for the purpose of issuing immigrant or nonimmigrant visas under this chapter.

(10) The term "crewman" means a person serving in any capacity on board a vessel or aircraft.

(11) The term "diplomatic visa" means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regnlations as the Secretary of State may prescribe.

(12) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13) The term "entry" means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided,* That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.

(14) The term "foreign state" includes outlying possessions of a foreign state, but seif-governing dominions or territories under mandate or trusteeship shall be regarded as separate foreign states.

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A)(i) an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government, recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

(C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

(D) an alien crewman serving in good faith as such in any capacity required for normal operation and service on board a vessel (other than a fishing vessel having its home port or an operating base in the United States) or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(E) an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him; (i) solely to carry on substantial trade, principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;

(F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designed by him and approved by the Attorney General after consultation with the Office of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(G)(i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669) [22 U.S.C. 288 et seq.], accredited resident members of the staff of such representatives, and members of his or their immediate family;

(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization; and the members of his immediate family;

(iv) officers, or employees of such international organizations, and the members of their immediate families;

(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

(H) an alien having a residence in a foreign country which he has no intention of abandoning (i) who is of distingnished merit and abiiity and who is coming temporarily to the United States to perform services of an exceptional nature requiring such merit and ability, and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency; or (ii) who is coming temporarily to the United States to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; or (iii) who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training; and the alien spouse and minor children of any such alien specified in this paragraph if accompanying him or following to join him.

(I) upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative, if accompanying or following to join him;

(J) an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Secretary of State, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving traming and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 1182(j) of this title, and the alien spouse and minor children of any such alien if accompanying him or following to join him.

(K) an alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry, and the minor children of such fiancée or fiancé accompanying him or following to join him.

(L) an alien who, immediately preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiiiate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiiiate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the allen spouse and minor children of any such allen if accompanying him or following to join him.

(16) The term "immigrant visa" means an immigrant visa required by this chapter and properly issued by a consular officer at his office

outside of the United States to an eligible immigrant under the provisions of this chapter.

(17) The term "immigration laws" includes this chapter and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(18) The term "immigration officer" means any employee or class of employees of the Service or of the United States designated by the Attorney General, individually or by regulation, to perform the functions of an immigration officer specified by this chapter or any section of this title.

(19) The term "ineligible to citizenship," when used in reference to any individual, means, notwithstanding the provisions of any treaties relating to military service, an individual who is, or was at any time permanently debarred from becoming a citizen of the United States under section 3(a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844), or under section 4(a) of the Selective Service Act of 1948, as amended (62 Stat. 605; 65 Stat. 76) [50 App. U.S.C. 454(a)], or under any section of this chapter, or any other Act, or under any law amendatory of, supplementary to, or in substitution for, any of such sections or Acts.

(20) The term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

(21) The term "national" means a person owing permanent allegiance to a state.

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(23) The term "naturalization" means the conferring of nationality of a state upon a person after birth, by any means whatsoever.

(24) The term "naturalization court", unless otherwise particularly described, means a court authorized by section 1421(a) of this title to exercise naturalization jurisdiction.

(25) The term "noncombatant service" shall not include service in which the individual is not subject to military discipline, court martial, or does not wear the uniform of any branch of the armed forces.

(26) The term "nonimmigrant visa" means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this chapter.

(27) The term "special immigrant" means—

(A) an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under section 1435(a) or 1438 of this title, apply for reacquisition of citizenship;

(C)(i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States; and (ii) the spouse or the child of any such immigrant, if accompanying or following to join him; or

(D) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided*, That the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.

(28) The term "organization" means, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.

(29) The term "outlying possessions of the United States" means American Samoa and Swains Island.

(30) The term "passport" means any travel document issued by competent authority showing the bearer's origin, identity, and nationality if any, which is valid for the entry of the bearer into a foreign country.

(31) The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(32) The term "profession" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

(33) The term "residence" means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. Residence shall be considered continuous for the purposes of sections 1482 and 1484 of this title where there is a continuity of stay but not necessarily an uninterrupted physical presence in a foreign state or states or outside the United States.

(34) The term "Service" means the Immigration and Naturalization Service of the Department of Justice.

(35) The term "spouse", "wife", or "husband" do not include a spouse, wife, or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

(36) The term "State" includes (except as used in section 1421(a) of this title) the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

(37) The term "totalitarian party" means an organization which advocates the establishment in the United States of a totalitarian dic-

tatorship or totalitarianism. The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States. For the purpose of issuing certificates of citizenship to persons who are citizens of the United States, the term "United States" as used in section 1452 of this title includes the Canal Zone.

(39) The term "unmarried", when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(41) The term "graduates of medical school" means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state.

(b) As used in subchapters I and II of this chapter—

(1) The term "child" means an unmarried person under twenty-one years of age who is—

(A) a legitimate child; or

(B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred; or

(C) a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation.

(D) an illegitimate child, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother;

(E) a child adopted while under the age of fourteen years if the child has thereafter been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided,* That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter.

(F) a child, under the age of fourteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 1151(b) of this title, who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence; *Provided,* That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States: *Provided further,* That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter.

(2) The terms "parent", "father", or "mother" mean a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in subdivision (1) of this subsection.

(3) The term "person" means an individual or an organization.

(4) The term "special inquiry officer" means any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this chapter to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this chapter, as the Attorney General shall prescribe.

(5) The term "adjacent islands" includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

(c) As used in subchapter III of this chapter—

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 1431 to 1434 of this title, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of sixteen years, and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

(2) The terms "parent", "father", and "mother" include in the case of a posthumous child a deceased parent, father, and mother.

(d) As used in Part III of subchapter III of this chapter—

(1) The term "veteran" means a person who served in the armed forces of the United States at any time in an active-duty status during the period from April 21, 1898, to August 12, 1898, or from April 6, 1917, to November 11, 1918, or from December 7, 1941, to December 31, 1946, or from June 25, 1950, to July 1, 1955, all dates inclusive, and who was discharged therefrom under honorable conditions. The records of the armed forces shall be conclusive as to type of a discharge and as to whether the conditions under which a discharge was given were honorable.

(2)(A) The term "Spanish-American War" relates to the period from April 21, 1898, to August 12, 1898; (B) the term "World War I" relates to the period from April 6, 1917, to November 11, 1918; (C) the term "World War II" relates to the period from December 7, 1941, to December 31, 1946; and (D) the term "Korean hostilities" relates to the period from June 25, 1950, to July 1, 1955, all dates inclusive.

(e) For the purposes of this chapter—

(1) The giving, loaning, or promising of support or of money or any other thing of value to be used for advocating any doctrine shall constitute the advocating of such doctrine; but nothing in this paragraph shall be construed as an exclusive definition of advocating.

(2) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(3) Advocating the economic, international, and governmental doctrines of world communism means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(f) For the purposes of this chapter—

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established is, or was—

(1) a habitual drunkard;

(2) one who during such period has committed adultery;

(3) a member of one or more of the classes of persons, whether excludable or not, described in paragraphs (11), (12), and (31) of section 1182(a) of this title; or paragraphs (9), (10), and (23) of section 1182(a) of this title, if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period;

(4) one whose income is derived principally from illegal gambling activities;

(5) one who has been convicted of two or more gambling offenses committed during such period;

(6) one who has given false testimony for the purpose of obtaining any benefits under this chapter;

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of the crime of murder.

The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.

(g) For the purposes of this chapter any alien ordered deported (whether before or after the enactment of this chapter) who has left the United States, shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed.

(June 27, 1952, ch. 477, title I, § 101, 66 Stat. 166; Sept. 11, 1957, Pub. L. 85-316, §§ 1, 2, 71 Stat. 639; July 7, 1958, Pub. L. 85-508, § 22, 72 Stat. 351; Mar. 18, 1959, Pub. L. 86-3, § 20(a), 73 Stat. 13; Sept. 21, 1961, Pub. L. 87-256, § 109(a), (b), 75 Stat. 534; Sept. 26, 1961, Pub. L. 87-301, §§ 1, 2, 7, 75 Stat. 650, 653; Oct. 3, 1965, Pub. L. 89-236, §§ 8, 24, 79 Stat. 916, 922; Nov. 2, 1966, Pub. L. 89-710, 80 Stat. 1104; Apr. 7, 1970, Pub. L. 91-225, § 1, 84 Stat. 116; Dec. 16, 1975, Pub. L. 94-155, 89 Stat. 824; Oct. 12, 1976, Pub. L. 94-484, title VI, § 601(b), 90 Stat. 2301; Oct. 20, 1976, Pub. L. 94-571, § 7(a), 90 Stat. 2706.)

References in Text

The Headquarters Agreement with the United Nations (61 Stat. 758), referred to in subsec. (a)(15)(C), is set out as a note under section 287 of Title 22, Foreign Relations and Intercourse.

The International Organizations Immunities Act (59 Stat. 669), referred to in subsec. (a)(15)(G)(i), is act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, which is classified principally to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse, and which also amended several other laws. For further details, see References in Text and Short Title notes set out under section 288 of Title 22. For complete classification of this Act to the Code, see Tables volume.

Section 3(a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844) referred to in subsec. (a)(19) was formerly classified to section 303 of Appendix to Title 50, War and National Defense and has been omitted from the Code as obsolete.

The Selective Service Act of 1948, referred to in subsec. (a)(19), was redesignated the Universal Military Training and Service Act by act June 19, 1951, 65 Stat. 75, and subsequently redesignated the Military Selective Service Act of 1967 by act June 30, 1967, Pub. L. 90-40, 81 Stat. 100.

Amendments

1976—Subsec. (a)(15)(H)(i). Pub. L. 94-484, § 601(b)(1), added " , and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency".

Subsec. (a)(15)(H)(ii). Pub. L. 94-484, § 601(b)(2), added " , but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession".

Subsec. (a)(15)(H)(iii). Pub. L. 94-484, § 601(b)(3), added " , other than to receive graduate medical education or training".

Subsec. (a)(15)(J). Pub. L. 94-484, § 601(b)(4), added "and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 1182(j) of this title".

Subsec. (a)(27). Pub. L. 94-571 struck out subpar. (A) provision defining the term "special immigrant" to include an immigrant born in any independent foreign country of the Western Hemisphere or in the Canal Zone and the spouse and children of any such immigrant, if accompanying, or following to join him and restricting issuance of an immigrant visa until consular officer was in receipt of a determination made by the Secretary of Labor pursuant to former provisions of section 1182(a)(14) of this title; and redesignated as subpars. (A) to (D) former subpars. (B) to (E).

Subsec. (a)(41). Pub. L. 94-484, § 601(e), added subsec. (a)(41).

1975—Subsec. (b)(1)(F). Pub. L. 94-155 provided for adoption of alien children under the age of fourteen by unmarried United States citizens who are at least twenty-five years of age and added requirement that before adoption the Attorney General be satisfied that proper care will be provided the child after admission.

1970—Subsec. (a)(15)(H). Pub. L. 91-225, § 1(a), provided for nonimmigrant alien status for alien spouse and minor children of any alien specified in par. (H) if accompanying him or following to join him and deleted "temporary", "other", and "industrial" preceding "services", "temporary services", and "trainee" in cls. (i) to (iii), respectively.

Subsec. (a)(15)(K), (L). Pub. L. 91-225, § 1(b), added subpars. (K) and (L).

1966—Subsec. (a)(38). Pub. L. 89-710 inserted sentence providing that the term "United States" as used in section 1452 of this title, for the purpose of issuing certificates of citizenship to persons who are citizens of the United States, shall include the Canal Zone.

1965—Subsec. (a)(27). Pub. L. 89-236, § 8(a), substituted "special immigrant" for "nonquota immigrant" as the term being defined.

Subsec. (a)(32). Pub. L. 89-236, § 8(b), substituted the term "profession" and its definition for the term "quota immigrant" and its definition.

Subsec. (b)(1)(F). Pub. L. 89-236, § 8(c), expanded the definition to include a child, under the age of 14 at the time a petition is filed in his behalf to accord a classification as an immediate relative or who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surving parent is incapable of providing the proper care which will be provided the child if admitted to the United States and who has in writing irrevocably released the child for emigration and adoption, and made minor amendments in the existing definition.

Subsec. (b)(6). Pub. L. 89-238, § 24, struck out subsec. (b)(6) which defined the term "eligible orphan".

1961—Subsec. (a)(15). Pub. L. 87-256 included the alien spouse and minor children of any such alien if accompanying him or following to join him in subpar. (F), and added subpar. (J).

Subsec. (b)(1). Pub. L. 87-301, § 2, added subpar. (F).

Subsec. (b)(6). Pub. L. 87-301, § 1, added subsec. (b)(6).

Subsec. (d)(1). Pub. L. 87-301, § 7(a), inserted "or from June 25, 1950, to July 1, 1955,".

Subsec. (d)(2). Pub. L. 87-301, § 7(b), added the definition of Korean hostilities.

1959—Subsec. (a). Pub. L. 86-3 eliminated Hawaii from cl. (36).

1958—Subsec. (a)(36). Pub. L. 85-508 eliminated Alaska.

1957—Subsec. (b)(1). Pub. L. 85-316 inserted "whether or not born out of wedlock" in subpar. (B), and added subpars. (D) and (E).

Effective Date of 1976 Amendments

Section 10 of Pub. L. 94-571 provided that: "The foregoing provisions of this Act, including the amendments made by such provisions [see Short Title of 1976 Amendment note under this section], shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act [Oct. 20, 1976]."

Amendment by Pub. L. 94-484 effective ninety days after Oct. 12, 1976, see section 601(f) of Pub. L. 94-484, set out as a note under section 1182 of this title.

Effective Date of 1965 Amendment

Effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

Effective Date

Section 407 of act June 27, 1952, provided that: "Except as provided in subsection (k) of section 401 [former section 1106(k) of this title], this Act [this chapter] shall take effect at 12:01 ante meridian United States Eastern Standard Time on the one hundred eightieth day immediately following the date of its enactment [June 27, 1952]."

Short Title of 1976 Amendment

Section 1 of Pub. L. 94-571 provided: "That this Act [amending this section and sections 1151, 1152, 1153, 1154, 1181, 1182, 1251, 1254, and 1255 of this title and enacting provisions set out as notes under this section and sections 1153 and 1255 of this title] may be cited as the 'Immigration and Nationality Act Amendments of 1976'."

Short Title

Congress in enacting this chapter and various amendments to other laws provided in part by section 1 of Act June 27, 1952 that it should be popularly known as the "Immigration and Nationality Act". For amendments to sections of other titles, see Tables Volumes.

Repeals

Section 403(b) of act June 27, 1952, provided that: "Except as otherwise provided in section 405 [set out as a note under this section], all other laws, or parts of laws, in conflict or inconsistent with this Act [this chapter] are, to the extent of such conflict or inconsistency, repealed."

Savings Clause

Section 405 of act June 27, 1952, provided in part that:

"(a) Nothing contained in this Act [this chapter], unless otherwise specifically provided therein, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certificate of citizenship, warrant of arrest, order or warrant of deportation, order of exclusion, or other document or proceeding which shall be valid at the time this Act [this chapter] shall take effect; 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, at the time this Act [this chapter] shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters the statutes or parts of statutes repealed by this Act [this chapter] are, unless otherwise specifically provided therein, hereby continued in force and effect. When an immigrant, in possession of an unexpired immigrant visa issued prior to the effective date of this Act [this chapter], makes application for admission, his admissibility shall be determined under the provisions of law in effect on the date of the issuance of such visa. An application for suspension of deportation under section 19 of the Immigration Act of 1917, as amended [former section 155 of this title], or for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended [former section 1953 of Appendix to Title 50], which is

pending on the date of enactment of this Act [June 27, 1952], shall be regarded as a proceeding within the meaning of this subsection.

"(b) Except as otherwise specifically provided in title III [subchapter III of this chapter], any petition for naturalization heretofore filed which may be pending at the time this Act [this chapter] shall take effect shall be heard and determined in accordance with the requirements of law in effect when such petition was filed.

"(c) Except as otherwise specifically provided in this Act [this chapter] the repeal of any statute by this Act [this chapter] shall not terminate nationality heretofore lawfully acquired nor restore nationality heretofore lost under any law of the United States or any treaty to which the United States may have been a party.

"(d) Except as otherwise specifically provided in this Act [this chapter], or any amendment thereto, fees, charges and prices for purposes specified in title V of the Independent Offices Appropriation Act, 1952 (Public Law 137, Eighty-second Congress, approved August 31, 1951), may be fixed and established in the manner and by the head of any Federal Agency as specified in that Act.

"(e) This Act [this chapter] shall not be construed to repeal, alter, or amend section 231(a) of the Act of April 30, 1946 (60 Stat. 148; [section 1281(a) of Title 22]), the Act of June 20, 1949 (Public Law 110, section 8, Eighty-first Congress, first session; 63 Stat. 208 [section 403h of Title 50]), the Act of June 5, 1950 (Public Law 535, Eighty-first Congress, second session [former section 1501 et seq. of Title 22]), nor title V of the Agricultural Act of 1949, as amended (Public Law 78, Eighty-second Congress, first session [former sections 1461 to 1468 of title 7])."

SEPARABILITY OF PROVISIONS

Section 406 of act June 27, 1952, provided that: "If any particular provision of this Act [this chapter], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby."

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85-508 as dependent upon the admission of the State of Alaska into the Union, see section 8(b) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

ADMISSION OF HAWAII AS STATE

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, upon issuance of Proc. No. 3309, Aug. 25, 1959, 25 F.R. 6868, 73 Stat. c74, as required by sections 1 and 7(c) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding former section 491 of Title 48, Territories and Insular Possessions.

APPROPRIATIONS

Section 404 of act June 27, 1952, provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this chapter]."

ADDITIONAL DEFINITIONS

Many of the terms listed in this section are similarly defined in section 782 of Title 50, War and National Defense.

PHILIPPINE TRADERS AS NONIMMIGRANTS

Philippine traders as classifiable as nonimmigrants under subsec. (a)(15)(E) of this section, see section 1184a of this title.

CROSS REFERENCES

Definition of the terms—
- Allen enemies, see section 21 of Title 50, War and National Defense.
- Crew list visa, see section 1201 of this title.
- Order of deportation, see section 1252 of this title.
- Permits to enter, see section 1185 of this title.
- Person, see sections 1185 and 1322 of this title.
- Religious training and belief, see section 1448 of this title.
- Transportation line and transportation company, see section 1228 of this title.
- United States, see section 1185 of this title.

Immigration and Naturalization Service, see section 1551 et seq. of this title.

Peace Corps programs, nonimmigrant status of foreign participants, see section 2508 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1102, 1151, 1151a, 1152, 1153, 1154, 1181, 1182, 1184, 1184a, 1201, 1251, 1254, 1255b, 1257, 1258, 1282, 1303, 1481 of this title; title 2 section 441e; title 18 section 613; title 22 sections 1474, 2395, 2508; title 26 sections 871, 872, 1441, 3121, 3231, 3306; title 42 section 410; title 45 sections 228a, 231, 351; title 50 App. sections 453, 456.

§ 1102. Diplomatic and semidiplomatic immunities

Except as otherwise provided in this chapter, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this chapter relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

(1) within the class described in paragraph (15)(A)(i) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary, the provisions of paragraph (27) of section 1182(a) of this title;

(2) within the class described in paragraph (15)(G)(i) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentaion [1] necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of paragraph (27) of section 1182(a) of this title; and

(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of paragraphs (27) and (29) of section 1182(a) of this title.

(June 27, 1952, ch. 477, title I, § 102, 66 Stat. 173.)

CROSS REFERENCES

All cases affecting ambassadors, other public ministers and consuls—
- Judicial power as extending to, see Const. Art. III, § 2, cl. 1.
- Supreme Court as having original jurisdiction, in, see Const. Art. III, § 2, cl. 2.

[1] So in original. Probably should read "documentation."

Definition of alien, immigrant visa, nonimmigrant alien, nonimmigrant visa, and passport, see section 1101 of this title.

International organizations, privileges, exemptions, and immunities of officers, employees, and their families, see section 288d of Title 22, Foreign Relations and Intercourse.

Original and exclusive jurisdiction of—

District courts of all actions and proceedings against consuls or vice consuls of foreign states, see section 1351 of Title 28, Judiciary and Judiciary Procedure.

Supreme Court of all actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants not inconsistent with the law of nations, see section 1251 of Title 28, Judiciary and Judicial Procedure.

Original but not exclusive jurisdiction of Supreme Court of all actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties, see section 1251 of Title 28, Judiciary and Judicial Procedure.

§ 1103. Powers and duties of the Attorney General and Commissioner; appointment of Commissioner

(a) The Attorney General shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens, except insofar as this chapter or such laws relate to the powers, functions, and duties conferred upon the President, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers: *Provided, however,* That determination and ruling by the Attorney General with respect to all questions of law shall be controlling. He shall have control, direction, and supervision of all employees and of all the files and records of the Service. He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such intructions; [1] and perform such other acts as he deems necessary for carrying out his authority under the provisions of this chapter. He is authorized, in accordance with the civil-service laws and regulations and chapter 51 and subchapter III of chapter 53 of title 5, to appoint such employees of the Service as he deems necessary, and to delegate to them or to any officer or employee of the Department of Justice in his discretion any of the duties and powers imposed upon him in this chapter; he may require or authorize any employee of the Service or the Department of Justice to perform or exercise any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon any other employee of the Service. He shall have the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the Service as to him shall appear necessary and proper. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Service. He may, with the concurrence of the Secretary of State, establish officers of the Service in foreign countries; and, after consultation with the Secretary of State, he may, whenever in his judgment such action may be necessary to accomplish the purposes of this chapter, detail employees of the Service for duty in foreign countries.

(b) The Commissioner shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate. He shall be charged with any and all responsibilities and authority in the administration of the Service and of this chapter which are conferred upon the Attorney General as may be delegated to him by the Attorney General or which may be prescribed by the Attorney General.

(June 27, 1952, ch. 477, title I, § 103, 66 Stat. 173.)

[1] So in original. Probably should read "instructions".

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949" on authority of sec. 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of subsec. (b) which prescribed the annual compensation of the Commissioner were omitted to conform with the provisions of the Federal Executive Salary Schedule. See section 5316 of Title 5.

EMERGENCY PLANS FOR ALIEN CONTROL

Attorney General to develop emergency plans for control of aliens and for control of entry and departure, see section 501(5) of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, App., War and National Defense. Ex. Ord. No. 11310, Oct. 11, 1966, 31 F.R. 13199, which also related to emergency plans for alien control, was revoked by Ex. Ord. No. 11490.

CROSS REFERENCES

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 of this title.

Definition of alien, attorney general, commissioner, consular officer, entry, immigration laws, and service, see section 1101 of this title.

Office of Commissioner of Immigration and Naturalization, see section 1552 of this title.

§ 1104. Secretary of State

(a) Powers and duties

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties, and functions of the Bureau of Security and Consular Affairs; and (3) the determination of nationality of a person not in the United

States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) Creation of Bureau of Security and Consular Affairs; appointment and duties of Administrator

There is established in the Department of State a Bureau of Security and Consular Affairs, to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank equal to that of an Assistant Secretary of State. He shall be appointed by the President by and with the advice and consent of the Senate. The administrator shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

(c) Passport Office, Visa Office, and other offices; directors

Within the Bureau there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) Transfer of duties

The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of Security and Consular Affairs.

(e) General Counsel of Visa Office; appointment and duties

There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this chapter.

(f) Deputy Under Secretary of State for Administration; jurisdiction

The Bureau shall be under the immediate jurisdiction of the Deputy Under Secretary of State for Administration.

(June 27, 1952, ch. 477, title I, § 104, 66 Stat. 174; June 28 1962, Pub. L. 87-510, § 4(a)(2), 76 Stat. 123; Aug. 14, 1964, Pub. L. 88-426, title III, § 305(43), 78 Stat. 428.)

AMENDMENTS

1964—Subsec. (b). Pub. L. 88-426 repealed provisions which related to the compensation of the Administrator. See section 5311 et seq. of Title 5, Government Organization and Employees.

1962—Subsec. (b). Pub. L. 87-510 provided for the appointment of the Administrator of the Bureau of Security and Consular Affairs by the President by and with the advice and consent of the Senate.

EFFECTIVE DATE OF 1964 AMENDMENT

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

CROSS REFERENCES

Compensation of Administrator, Bureau of Security and Consular Affairs, see section 5315 of Title 5, Government Organization and Employees.

Definition of administrator, consular officer, immigrant visa, immigration laws, national, nonimmigrant visa, passport, and service, see section 1101 of this title.

Deputy Under Secretaries of State, see sections 2652 and 2653 of Title 22, Foreign Relations and Intercourse.

Legal Adviser of the Department of State, establishment of office, appointment and rank, see section 2653 of Title 22.

§ 1105. Liaison with internal security officers

The Commissioner and the administrator shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this chapter in the interest of the internal security of the United States. The Commissioner and the administrator shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this chapter, and all other immigration and nationality laws.

(June 27, 1952, ch. 477, title I, § 105, 66 Stat. 175.)

CROSS REFERENCES

Central Intelligence Agency, see section 403 et seq. of Title 50, War and National Defense.

Definition of administrator, commissioner, and immigration laws, see section 1101 of this title.

Federal Bureau of Investigation, see section 531 et seq. of Title 28, Judiciary and Judicial Procedure.

Internal security, see section 781 et seq. of Title 50, War and National Defense.

§ 1105a. Judicial review of orders of deportation and exclusion

(a) Exclusiveness of procedure

The procedure prescribed by, and all the provisions of chapter 158 of title 28, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of deportation, heretofore or hereafter made against aliens within the United States pursuant to ad-

ministrative proceedings under section 1252(b) of this title or comparable provisions of any prior Act, except that—

Time for filing petition

(1) a petition for review may be filed not later than six months from the date of the final deportation order or from the effective date of this section, whichever is the later.[1]

Venue

(2) the venue of any petition for review under this section shall be in the judicial circuit in which the administrative proceedings before a special inquiry officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this chapter, of the petitioner, but not in more than one circuit;

Respondent; service of petition; stay of deportation

(3) the action shall be brought against the Immigration and Naturalization Service, as respondent. Service of the petition to review shall be made upon the Attorney General of the United States and upon the official of the Immigration and Naturalization Service in charge of the Service district in which the office of the clerk of the court is located. The service of the petition for review upon such official of the Service shall stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;

Determination upon administrative record

(4) except as provided in clause (B) of paragraph (5) of this subsection, the petition shall be determined solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive;

Claim of nationality; determination or transfer to district court for hearing de novo

(5) whenever any petitioner, who seeks review of an order under this section, claims to be a national of the United States and makes a showing that his claim is not frivolous, the court shall (A) pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or (B) where a genuine issue of material fact as to the petitioner's nationality is presented, transfer the proceedings to a United States district court for the district where the petitioner has his residence for hearing de novo of the nationality claim and determination as if such proceedings were originally initiated in the district court under the provisions of section 2201 of title 28. Any such petitioner shall not be entitled to have such issue determined under section 1503(a) of this title or otherwise;

Challenge of validity of deportation order in criminal proceeding; motion for judicial review before trial; hearing de novo on nationality claim; determination of motion; dismissal of indictment upon invalidity of order; appeal

(6) if the validity of a deportation order has not been judicially determined, its validity may be challenged in a criminal proceeding against the alien for violation of subsection (d) or (e) of section 1252 of this title only by separate motion for judicial review before trial. Such motion shall be determined by the court without a jury and before the trial of the general issue. Whenever a claim to United States nationality is made in such motion, and in the opinion of the court, a genuine issue of material fact as to the alien's nationality is presented, the court shall accord him a hearing de novo on the nationality claim and determine that issue as if proceedings had been initiated under the provisions of section 2201 of title 28. Any such alien shall not be entitled to have such issue determined under section 1503(a) of this title or otherwise. If no such hearing de novo as to nationality is conducted, the determination shall be made solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial and probative evidence on the record considered as a whole, shall be conclusive. If the deportation order is held invalid, the court shall dismiss the indictment and the United States shall have the right to appeal to the court of appeals within thirty days. The procedure on such appeals shall be as provided in the Federal rules of criminal procedure. No petition for review under this section may be filed by any alien during the pendency of a criminal proceeding against such alien for violation of subsection (d) or (e) of section 1252 of this title;

Deferment of deportation; compliance of alien with other provisions of law; detention or taking into custody of alien

(7) nothing in this section shall be construed to require the Attorney General to defer deportation of an alien after the issuance of a deportation order because of the right of judicial review of the order granted by this section, or to relieve any alien from compliance with subsections (d) and (e) of section 1252 of this title. Nothing contained in this section shall be construed to preclude the Attorney General from detaining or continuing to detain an alien or from taking him into custody pursuant to subsection (c) of section 1252 of this title at any time after the issuance of a deportation order;

Typewritten record and briefs

(8) it shall not be necessary to print the record or any part thereof, or the briefs, and the court shall review the proceedings on a typewritten record and on typewritten briefs; and

Habeas corpus

(9) any alien held in custody pursuant to an order of deportation may obtain judicial review thereof by habeas corpus proceedings.

(h) Limitation of certain aliens to habeas corpus proceedings

Notwithstanding the provisions of any other law, any alien against whom a final order of exclusion has been made heretofore or hereafter under the provisions of section 1226 of this title or comparable provisions of any prior Act may

[1] So in original. The period probably should be a semicolon.

obtain judicial review of such order by habeas corpus proceedings and not otherwise.

(c) Exhaustion of administrative remedies or departure from United States; disclosure of prior judicial proceedings

An order of deportation or of exclusion shall not be reviewed by any court if the alien has not exhausted the administrative remedies available to him as of right under the immigration laws and regulations or if he has departed from the United States after the issuance of the order. Every petition for review or for habeas corpus shall state whether the validity of the order has been upheld in any prior judicial proceeding, and, if so, the nature and date thereof, and the court in which such proceeding took place. No petition for review or for habeas corpus shall be entertained if the validity of the order has been previously determined in any civil or criminal proceeding, unless the petition presents grounds which the court finds could not have been presented in such prior proceeding, or the court finds that the remedy provided by such prior proceeding was inadequate or ineffective to test the validity of the order.

(June 27, 1952, ch. 477, title I, § 106, as added Sept. 26, 1961, Pub. L. 87-301, § 5(a), 75 Stat. 651.)

REFERENCES IN TEXT

"Effective date of this section", referred to in subsec. (a)(1), means the effective date of Pub. L. 87-301. See effective date note below.

The "Federal rules of criminal procedure", referred to in subsec. (a)(6), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

CODIFICATION

In subsec. (a), "chapter 158 of title 28" was substituted for "the Act of December 29, 1950, as amended (64 Stat. 1129; 68 Stat. 961; 5 U.S.C. 1031 et seq.)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 4(e) of which enacted chapter 158 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE; PENDING PROCEEDINGS; SEPARABILITY OF PROVISIONS

Section 5(b) of Pub. L. 87-301 provided that: "This section shall take effect on the thirtieth day after its approval [Sept. 26, 1961] and, notwithstanding the provisions of any other law, including section 405 of the Immigration and Nationality Act [set out as a note under section 1101 of this title], shall then be applicable to all administrative proceedings involving deportation or exclusion of aliens notwithstanding (1) that the person involved entered the United States prior to the effective date of this section or of the Immigration and Nationality Act [this chapter] or (2) that the administrative proceeding was commenced or conducted prior to the effective date of this section or of the Immigration and Nationality Act [this chapter]. Any judicial proceeding to review an order of deportation which is pending unheard in any district court of the United States on the effective date of this section (other than a habeas corpus or criminal proceeding in which the validity of the deportation order has been challenged) shall be transferred for determination in accordance with this section to the court of appeals having jurisdiction to entertain a petition for review under this section. Any judicial proceeding to review an order of exclusion which is pending unheard on the effective date of this section shall be expedited in the same manner as is required in habeas corpus. All laws or parts of laws inconsistent with this section are, to the extent of such inconsistency, repealed. If any particular provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby."

§ 1106. Repealed. Pub. L. 91-510, title IV, § 422(a), Oct. 26, 1970, 84 Stat. 1189

Section, act June 27, 1952, ch. 477, title IV, § 401, 66 Stat. 274, provided for establishment of Joint Committee on Immigration and Nationality, including its composition, necessity of membership on House or Senate Committee on the Judiciary, vacancies and election of chairman, functions, reports, submission of regulations to Committee, hearings and subpena, travel expenses, employment of personnel, payment of Committee expenses, and effective date.

EFFECTIVE DATE OF REPEAL

Repeal effective immediately prior to noon on Jan. 3, 1971, see section 601(1) of Pub. L. 91-510, set out as a note under section 72a of Title 2, The Congress.

ABOLITION OF JOINT COMMITTEE ON IMMIGRATION AND NATIONALITY

Pub. L. 91-510, title IV, § 421, Oct. 26, 1970, 84 Stat. 1189, abolished the Joint Committee on Immigration and Nationality established by former subsec. (a) of this section.

SUBCHAPTER II—IMMIGRATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1101 of this title.

PART I—SELECTION SYSTEM

§ 1151. Numerical limitations on total lawful admissions

(a) Quarterly and yearly limitations

Exclusive of special immigrants defined in section 1101(a)(27) of this title, and immediate relatives of United States citizens as specified in subsection (b) of this section, (1) the number of aliens born in any foreign state or dependent area located in the Eastern Hemisphere who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 1153(a)(7) of this title, enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 45,000 and shall not in any fiscal year exceed a total of 170,000; and (2) the number of aliens born in any foreign state of the Western Hemisphere or in the Canal Zone, or in a dependent area located in the Western Hemisphere, who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 1153(a)(7) of this title, enter conditionally shall not in any of the first three quarters of any fiscal year exceed a total of 32,000 and shall not in any fiscal year exceed a total of 120,000.

(b) Immediate relatives defined

The "immediate relatives" referred to in subsection (a) of this section shall mean the children, spouses, and parents of a citizen of the United States: *Provided,* That in the case of parents, such citizen must be at least twenty-one years of age. The immediate relatives specified in this subsection who are otherwise quali-

fied for admission as immigrants shall be admitted as such, without regard to the numerical limitations in this chapter.

(June 27, 1952, ch. 477, title II, ch. 1, § 201, 66 Stat. 175; Oct. 3, 1965, Pub. L. 89-236, § 1, 79 Stat. 911; Oct. 20, 1976, Pub. L. 94-571, § 2, 90 Stat. 2703.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-571, § 2(1), designated existing provisions as clause (1) limited to aliens born in any foreign state or dependent area located in the Eastern Hemisphere and added clause (2).

Subsecs. (c) to (e). Pub. L. 94-571, § 2(2), struck out subsec. (c) which provided for determination of unused quota numbers, subsec. (d) which provided for an immigration pool, limitation on total numbers, and allocations therefrom, and subsec. (e) which provided for termination of immigration pool on June 30, 1968, and for carryover of admissible immigrants.

1965—Subsec. (a). Pub. L. 89-236 substituted provisions setting up a 170,000 maximum on total annual immigration and 45,000 maximum on total quarterly immigration without regard to national origins, for provisions setting an annual quota for quota areas which allowed admission of one-sixth of one per centum of the portion of the national population of the continental United States in 1920 attributable by national origin of that quota area and setting a minimum quota of 100 for each quota area.

Subsec. (b). Pub. L. 89-236 substituted provisions defining "immediate relatives", for provisions calling for a determination of the annual quota for each quota area by the Secretaries of State and Commerce and the Attorney General, and the proclamation of the quotas by the President.

Subsec. (c). Pub. L. 89-236 substituted provisions allowing the carryover through June 30, 1968, of the quotas for quota areas in effect on June 30, 1965, and the redistribution of unused quota numbers, for provisions which limited the issuance of immigrant visas.

Subsec. (d). Pub. L. 89-236 substituted provisions creating an immigration pool and allocating its numbers without reference to the quotas to which an alien is chargeable, for provisions allowing the issuance of an immigrant visa to an immigrant as a quota immigrant even though he might be a nonquota immigrant.

Subsec. (e). Pub. L. 89-236 substituted provisions terminating the immigration pool on June 30, 1968, for provisions permitting the reduction of annual quotas based on national origins pursuant to Act of Congress prior to the effective date of proclaimed quotas.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 20 of Pub. L. 89-236 provided that: "This Act [which amended this section and sections 1101, 1152 to 1156, 1181, 1182, 1201, 1202, 1204, 1251, 1253, 1254, 1255, 1259, 1322, and 1351 of this title, repealed section 1157 of this title, and enacted provisions set out as a note under this section] shall become effective on the first day of the first month after the expiration of thirty days following the date of its enactment [October 3, 1965] except as provided herein."

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975; INCREASE OF LIMITATIONS

Pub. L. 94-274, title I, § 118(a), Apr. 21, 1976, 90 Stat. 389, provided that: "For the purposes of sections 201(a) and 202(a) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1151(a) and 1152(a)) the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitations of 170,000 specified in section 201(a) and 20,000 specified in section 202(a), shall be increased to 212,500 and 25,000, respectively, for the period of July 1, 1975, through September 30, 1976."

SELECT COMMISSION ON WESTERN HEMISPHERE IMMIGRATION

Section 21(a) to (d) and (f) to (h) of Pub. L. 89-236 established a Select Commission on Western Hemisphere Immigration to study the following matters:

(1) Prevailing and projected demographic, technological, and economic trends, particularly as they pertain to Western Hemisphere nations;

(2) Present and projected unemployment in the United States, by occupations, industries, geographic areas and other factors, in relation to immigration from the Western Hemisphere;

(3) The interrelationships between immigration, present and future, and existing and contemplated national and international programs and projects of Western Hemisphere nations, including programs and projects for economic and social development;

(4) The operation of the immigration laws of the United States as they pertain to Western Hemisphere nations, including the adjustment of status for Cuban refugees, with emphasis on the adequacy of such laws from the standpoint of fairness and from the standpoint of the impact of such laws on employment and working conditions within the United States;

(5) The implications of the foregoing with respect to the security and international relations of Western Hemisphere nations; and

(6) Any other matters which the Commission believes to be germane to the purposes for which it was established.

The Commission was directed to make a final report to the President on or before January 15, 1968, and terminated not later than 60 days after filing the final report.

TERMINATION OF QUOTA DEDUCTIONS

Section 10 of Pub. L. 85-316, Sept. 11, 1957, 71 Stat. 642, provided that the quota deductions required under the provisions of former subsec. (e) of this section, the Displaced Persons Act of 1948, as amended, the act of June 30, 1950, and the act of April 9, 1952 were terminated effective July 1, 1957.

CROSS REFERENCES

Definition of immigrant, immigrant visa, and national, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1151a, 1152, 1153, 1154, 1202, 1254, 1255 of this title.

§ 1151a. Numerical limitations on special immigrants

The number of special immigrants within the meaning of section 1101(a)(27)(A) of this title, exclusive of special immigrants who are immediate relatives of United States citizens as described in section 1151(b) of this title, shall not, in the fiscal year beginning July 1, 1968, or in any fiscal year thereafter, exceed a total of 120,000.

(Pub. L. 89-236, § 21(e), Oct. 3, 1965, 79 Stat. 920.)

CODIFICATION

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

Opening provisions of section 21(e) of Pub. L. 89-236 which provided: "Unless legislation inconsistent herewith is enacted on or before June 30, 1968, in response

to recommendations of the Commission or otherwise" are eliminated since such legislation was not enacted.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975; INCREASE OF LIMITATIONS

Pub. L. 94-274, title I, § 118(b), Apr. 21, 1976, 90 Stat. 389, provided that: "For the purposes of section 21(e) of the Act of October 3, 1965 (79 Stat. 921) [this section], the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitation of 120,000 specified in section 21(e) shall be increased to 150,000 for the period of July 1, 1975, through September 30, 1976."

§ 1152. Numerical limitations on individual foreign states

(a) Prohibition against preference or priority because of race, sex, nationality, place of birth, or place of residence

No person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of his race, sex, nationality, place of birth, or place of residence, except as specifically provided in sections 1101(a)(27), 1151(b), and 1153 of this title: *Provided*, That the total number of immigrant visas and the number of conditional entries made available to natives of any single foreign state under paragraphs (1) through (8) of section 1153(a) of this title shall not exceed 20,000 in any fiscal year.

(b) Determination of individual foreign states by Secretary of State; charging immigrant to proper foreign state

Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State. All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this chapter the foreign state to which an immigrant is chargeable shall be determined by birth within such foreign state except that (1) an alien child, when accompanied by his alien parent or parents, may be charged to the same foreign state as the accompanying parent or of either accompanying parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the accompanying parent or parents, and if the foreign state to which such parent has been or would be chargeable has not exceeded the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (2) if an alien is chargeable to a different foreign state from that of his accompanying spouse, the foreign state to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state of the accompanying spouse, if such spouse has received or would be qualified for an immigrant visa and if the foreign state to which such spouse has been or would be chargeable has not exceeded the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or if he is not a citizen or subject of any country then in the last foreign country in which he had his residence as determined by the consular officer; (4) an alien born within any foreign state in which neither of his parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state of either parent.

(c) Immigrants born in colonies of foreign states

Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 1101(a)(27) of this title, or an immediate relative of a United States citizen, as defined in section 1151(b) of this title, shall be chargeable, for the purpose of the limitations set forth in section 1151(a) of this title and subsection (a) of this section, to the hemisphere in which such colony or other component or dependent area is located, and to the foreign state, respectively, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 600 in any one fiscal year.

(d) Changes in territorial limits of foreign states

In the case of any change in the territorial limits of foreign states, the Secretary of State shall, upon recognition of such change issue appropriate instructions to all diplomatic and consular offices.

(e) Additional visas and conditional entries; availability and allocation

Whenever the maximum number of visas or conditional entries have been made available under this section to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas and conditional entries, not to exceed 20,000 in the case of a foreign state or 600 in the case of a dependent area, shall be made available and allocated as follows:

(1) Visas shall first be made available, in a number not to exceed 20 per centum of the number specified in this subsection, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 20 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the pro-

fessions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe, in a number not to exceed 6 per centum of the number specified in this subsection, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term "general area of the Middle East" means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

(8) Visas so allocated but not required for the classes specified in paragraphs (1) through (7) shall be made available to other qualified immigrants strictly in the chronological order in which they qualify.

(June 27, 1952, ch. 477, title II, ch. 1, § 202, 66 Stat. 176; Sept. 26, 1961, Pub. L. 87-301, § 9, 75 Stat. 654; Oct. 3, 1965, Pub. L. 89-236, § 2, 79 Stat. 911; Oct. 20, 1976, Pub. L. 94-571, § 3, 90 Stat. 2703.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-571, § 3(1), struck out the last proviso reading "Provided further, That the foregoing proviso shall not operate to reduce the number of immigrants who may be admitted under the quota of any quota area before June 30, 1968".

Subsec. (c). Pub. L. 94-571, § 3(2), in revising the provisions, substituted "overseas from the foreign state, other than a special immigrant, as defined in section 1101(a)(27) of this title, or an immediate relative of a United States citizen, as defined in section 1151(b) of this title, shall be chargeable for the purpose of the limitations set forth in section 1151(a) of this title and subsection (a) of this section, to the hemisphere in which such colony or other component or dependent area is located, and to the foreign state, respectively, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 600 in any one fiscal year" for "unless a special immigrant as provided in section 1101(a)(27) of this title or an immediate relative of a United States citizen as specified in section 1151(b) of this title, shall be chargeable, for the purpose of limitation set forth in subsection (a) of this section, to the foreign state, except that the number of persons born in any such colony or other component or dependent area overseas from the foreign state chargeable to the foreign state in any one fiscal year shall not exceed 1 per centum of the maximum number of immigrant visas available to such foreign state".

Subsec. (e). Pub. L. 94-571, § 3(3), added subsec. (e).

1965—Subsec. (a). Pub. L. 89-236 substituted provisions prohibiting preferences or priorities or discrimination in the issuance of an immigrant visa because of race, sex, nationality, place of birth, or place of residence, setting a limit of 20,000 per year on the total number of entries available to natives of any single foreign state, and prohibiting the 20,000 limitation from reducing the number of immigrants under the quota of any quota area before June 30, 1968, for provisions calling for the charging of immigrants, with certain exceptions, to the annual quota of the quota area of his birth.

Subsec. (b). Pub. L. 89-236 substituted provisions calling for treatment of each independent country, self-governing dominion, mandated territory, and trusteeship territory as a separate foreign state for purposes of determining the numerical limitation imposed on each foreign state, and chargeability of immigrants to the country of their birth except where such chargeability would cause the family unit to be divided, for provisions setting up the Asia-Pacific triangle and providing for the special treatment of quota chargeability thereunder on the basis of racial ancestry.

Subsec. (c). Pub. L. 89-236 substituted provisions making immigrants born in colonies or other component or dependent areas of a foreign state chargeable to the foreign state and placing a limitation on the number of such immigrants of 1 per centum of the maximum number of visas available to the foreign state, for provisions making immigrants born in colonies for which no specific quota are set chargeable to the governing country and placing a limit of 100 on such immigrants from each governing country each year, with special application to the Asia-Pacific triangle.

Subsec. (d). Pub. L. 89-236 substituted provisions requiring the Secretary of State, upon a change in the territorial limits of foreign states, to issue appropriate instructions to all diplomatic and consular offices, for provisions that the terms of an immigration quota for a quota area do not constitute recognition of the transfer of territory or of a government not recognized by the United States.

Subsec. (e). Pub. L. 89-236 repealed subsec. (e) which allowed revision of quotas.

1961—Subsec. (e). Pub. L. 87-301 provided that if an area undergoes a change of administrative arrangements, boundaries, or other political change, the annual quota of the newly established area, or the

visas authorized to be issued shall not be less than the total of quotas in effect or visas authorized for the area immediately preceding the change, and deleted provisions which in the event of an increase in minimum quota areas above twenty in the Asia-Pacific triangle, would proportionately decrease each quota of the area so the sum of all area quotas did not exceed two thousand.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING JULY 1, 1975; INCREASE OF LIMITATIONS

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, considered part of the fiscal year beginning on July 1, 1975, for purposes of subsec. (a) of this section, and increase in limitations, see section 118(a) of Pub. L. 94-274, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of alien, attorney general, child, consular officer, immigrant, immigrant visa, outlying possessions of the United States, parent, residence, spouse, wife, or husband, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1154, 1254, 1255, 1255b of this title.

§ 1153. Allocation of immigrant visas

(a) Categories of preference priorities; per centum limitations; conditional entries; waiting lists

Aliens who are subject to the numerical limitations specified in section 1151(a) of this title shall be allotted visas or their conditional entry authorized, as the case may be, as follows:

(1) Visas shall be first made available, in a number not to exceed 20 per centum of the number specified in section 1151(a)(1) or (2) of this title, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 20 per centum of the number specified in section 1151(a)(1) or (2) of this title, plus any visas not required for the classes specified in paragraph (1) of this subsection, to qualified immigrants who are the spouses, unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 1151(a)(1) or (2) of this title, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 1151(a)(1) or (2) of this title, plus any visas not required for the classes specified in paragraphs (1) through (3) of this subsection, to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in section 1151(a)(1) or (2) of this title, plus any visas not required for the classes specified in paragraphs (1) through (4) of this subsection, to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 1151(a)(1) or (2) of this title, to qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe and in a number not to exceed 6 per centum of the number specified in section 1151(a)(1) or (2) of this title, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term "general area of the Middle East" means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

(8) Visas authorized in any fiscal year, less those required for issuance to the classes specified in paragraphs (1) through (6) and less the number of conditional entries and visas made available pursuant to paragraph (7), shall be made available to other qualified immigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Secretary of State. No immigrant visa shall be issued to a nonpreference immigrant under this paragraph, or to an immi-

grant with a preference under paragraph (3) or (6) of this subsection, until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 1182(a)(14) of this title.

(9) A spouse or child as defined in section 1101(b)(1)(A), (B), (C), (D), or (E) of this title shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa or to conditional entry under paragraphs (1) through (8) of this subsection, be entitled to the same status, and the same order of consideration provided in subsection (b) of this section, if accompanying, or following to join, his spouse or parent.

(b) Order of consideration given applications for immigrant visas

In considering applications for immigrant visas under subsection (a) of this section consideration shall be given to applicants in the order in which the classes of which they are members are listed in subsection (a) of this section.

(c) Order of issuance of immigrant visas

Immigrant visas issued pursuant to paragraphs (1) through (6) of subsection (a) of this section shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 1154 of this title.

(d) Presumption of nonpreference status; grant of status hy consular officers

Every immigrant shall be presumed to be a nonpreference immigrant until he establishes to the satisfaction of the consular officer and the immigration officer that he is entitled to a preference status under paragraphs (1) through (7) of subsection (a) of this section, or to a special immigrant status under section 1101(a)(27) of this title, or that he is an immediate relative of a United States citizen as specified in section 1151(b) of this title. In the case of any alien claiming in his application for an immigrant visa to be an immediate relative of a United States citizen as specified in section 1151(b) of this title or to be entitled to preference immigrant status under paragraphs (1) through (6) of subsection (a) of this section, the consular officer shall not grant such status until he has been authorized to do so as provided by section 1154 of this title.

(e) Estimates of anticipated numhers of visas to he issued; termination and reinstatement of registration of aliens; revocation of approval of petition

For the purposes of carrying out his responsibilities in the orderly administration of this section, the Secretary of State is authorized to make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories of subsection (a) of this section and to rely upon such estimates in authorizing the issuance of such visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within two years following notification of the availability of such visa that such failure to apply was due to circumstances beyond his control. Upon such termination the approval of any petition approved pursuant to section 1154(b) of this title shall be automatically revoked.

(f) Report to Congress on refugees conditionally entering the United States

The Attorney General shall submit to the Congress a report containing complete and detailed statement of facts in the case of each alien who conditionally entered the United States pursuant to subsection (a)(7) of this section. Such reports shall be submitted on or before January 15 and June 15 of each year.

(g) Inspection and examination of refugees after two years

Any alien who conditionally entered the United States as a refugee, pursuant to subsection (a)(7) of this section, whose conditional entry has not been terminated by the Attorney General pursuant to such regulations as he may prescribe, who has been in the United States for at least two years, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States, and his case dealt with in accordance with the provisions of sections 1225, 1226, and 1227 of this title.

(h) Retroactive readjustment of refugee status to that of alien lawfully admitted for permanent residence

Any alien who, pursuant to subsection (g) of this section, is found, upon inspection by the immigration officer or after hearing before a special inquiry officer, to be admissible as an immigrant under this chapter at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 1182(a)(20) of this title, shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

(June 27, 1952, ch. 477, title II, ch. 1, § 203, 66 Stat. 178; Sept. 11, 1957, Pub. L. 85-316, § 3, 71 Stat. 639; Sept. 22, 1959, Pub. L. 86-363, §§ 1-3, 73 Stat. 644; Oct. 3, 1965, Pub. L. 89-236, § 3, 79 Stat. 912; Oct. 20, 1976, Pub. L. 94-571, § 4, 90 Stat. 2705.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-571, § 4(1)-(3), substituted "section 1151(a)(1) or (2) of this title" for "section 1151(a)(ii) of this title" in pars. (1) to (7); made visas available, in par. (3), to qualified immigrants whose services in the professions, sciences, or arts are sought by an employer in the United States; and required, in par. (5), that the United States citizens be at least twenty-one years of age.

Subsec. (e). Pub. L. 94-571, § 4(4), substituted provision requiring the Secretary of State to terminate the registration of an alien who fails to apply for an immigrant visa within one year following notification of the availability of such visa, including provision for reinstatement of a registration upon establishment within two years following the notification that the failure to apply was due to circumstances beyond the alien's control for prior provision for discretionary termination of the registration on a waiting list of an alien failing to evidence continued intention to apply for a visa as prescribed by regulation and added provision for automatic revocation of approval of a petition

aproved under section 1154(b) of this title upon such termination.

1965—Subsec. (a). Pub. L. 89-236 substituted provisions setting up preference priorities and percentage allocations of the tetal numerical limitation for the admission of qualified immigrants, consisting of unmarried sons or daughters of U.S. citizens (20 percent), husbands, wives, and unmarried sons or daughters of alien residents (20 percent plus any unused portion of class 1), members of professions, scientists, and artists (10 percent), married sons or daughters of U.S. citizens (10 percent plus any unused portions of classes 1—3), brothers or sisters of U.S. citizens (24 percent plus any unused portions of classes 1 through 4), skilled or unskilled persons capable of filling labor shortages in the United States (10 percent), refugees (6 percent), otherwise qualified immigrants (portion not used by classes 1 through 7), and allowing a spouse or child to be given the same status and order of consideration as the spouse or parent, for provisions spelling out the preferences under the quotas based on the previous national origins quota systems.

Subsec. (b). Pub. L. 89-236 substituted provisions requiring that consideration be given applications for immigrant visas in the order in which the classes of which they are members are listed in subsec. (a), for provisions allowing issuance of quota immigrant visas under the previous national origins quota system in the order of filing in the first calendar month after receipt of notice of approval for which a quota number was available.

Subsec. (c). Pub. L. 89-236 substituted provisions requiring issuance of immigrant visas pursuant to paragraphs (1) through (6) of subsection (a) of this section in the order of filing of the petitions therefor with the Attorney General, for provisions which related to issuance of quota immigrant visas in designated classes in the order of registration in each class on quota waiting lists.

Subsec. (d). Pub. L. 89-236 substituted provisions requiring each immigrant to establish his preference as claimed and prohibiting consular officers from granting status of immediate relative of a United States citizen or preference until authorized to do so, for provisions spelling out the order for consideration of applications for quota immigrant visas under the various prior classes.

Subsec. (e). Pub. L. 89-236 substituted provisions authorizing the Secretary of State to make estimates of anticipated members of visas issued and to terminate the waiting-list registration of any registrant failing to evidence a continued intention to apply for a visa, for provisions establishing a presumption of quota status for immigrants and requiring the immigrant to establish any claim to a preference.

Subsecs. (f) to (h). Pub. L. 89-236 added subsecs. (f) to (h).

1959—Subsec. (a)(2). Pub. L. 86-363, § 1, accorded adult unmarried sons or daughters of United States citizens second preference in the allocation of immigrant visas within quotas.

Subsec. (a)(3). Pub. L. 86-363, § 2, substituted "unmarried sons or daughters" for "children".

Subsec. (a)(4). Pub. L. 86-363, § 3, substituted "married sons or married daughters" for "sons, or daughters", increased the percentage limitation from 25 to 50 per centum, and made the preference avaliable to spouses and children of qualified quota immigrants if accompanying them.

1957—Subsec. (a)(1). Pub. L. 85-316 substituted "or following to join him" for "him".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

ENTITLEMENT TO PREFERENTIAL STATUS

Section 9 of Pub. L. 94-571 provided that:

"(a) The amendments made by this Act [see Short Title of 1976 Amendment note under section 1101 of this title] shall not operate to effect the entitlement to immigrant status or the order of consideration for issuance of an immigrant visa of an allen entitled to a preference status, under section 203(a) of the Immigration and Nationality Act [subsec. (a) of this section] as in effect on the day before the effective date of this Act [see Effective Date of 1976 Amendment note under section 1101 of this title], on the basis of a petition filed with the Attorney General prior to such effective date.

"(b) An allen chargeable to the numerical limitation contained in section 21(e) of the Act of October 3, 1965 (79 Stat. 921) [which provided that unless legislation inconsistent therewith was enacted on or before June 30, 1968, the number of special immigrants within the meaning of section 1101(a)(27)(A) of this title, exclusive of special immigrants who were immediate relatives of United States citizens as described in section 1151(b) of this title, should not, in the fiscal year beginning July 1, 1968, or in any fiscal year thereafter, exceed a tetal of 120,000] who established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence on the day before the effective date of this Act [see Effective Date of 1976 Amendment note under section 1101 of this title] shall be deemed to be entitled to immigrant status under section 203(a)(8) of the Immigration and Nationality Act [subsec. (a)(8) of this section] and shall be accorded the priority date previously established by him. Nothing in this section shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of the Immigration and Nationality Act [subsec. (a) of this section], as amended by section 4 of this Act. Any petition filed by, or in behalf of, such an alien to accord him a preference status under section 203(a) [subsec. (a) of this section] shall, upon approval, be deemed to have been filed as of the priority date previously established by such alien. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act [sections 1151 and 1152 of this title], as amended by this Act [see Short Title of 1976 Amendment note under section 1101 of this title]."

NONQUOTA IMMIGRANT STATUS OF CERTAIN RELATIVES OF UNITED STATES CITIZENS; ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS FILED PRIOR TO JANUARY 1, 1962

Pub. L. 87-885, § 1, Oct. 24, 1962, 76 Stat. 1247, provided that certain allen relatives of United States citizens registered on a consular waiting list under priority date earlier than March 31, 1954, and eligible for a quota immigrant status on a basis of a petition filed with the Attorney General prior to January 1, 1962, and the spouse and children of such alien, be held to be nonquota immigrants and be issued nonquota immigrant visas.

NONQUOTA IMMIGRANT STATUS OF SKILLED SPECIALISTS; ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS FILED PRIOR TO APRIL 1, 1962

Pub. L. 87-885, § 2, Oct. 24, 1962, 76 Stat. 1247, provided that certain allen skilled specialists eligible for a quota immigrant status on the basis of a petition filed with the Attorney General prior to April 1, 1962, be held to be nonquota immigrants and be issued nonquota immigrant visas.

ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS FILED PRIOR TO JULY 1, 1961

Section 25 of Pub. L. 87-301 provided that certain alien relatives of United States citizens eligible for a quota immigrant status on the basis of a petition filed with the Attorney General prior to July 1, 1961, be held to be a nonquota immigrant and, if otherwise admissible under the provisions of this chapter, be issued a nonquota immigrant visa; and that at any time prior to the expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, a special nonquota immigrant visa be issued to an eligible orphan as defined in section 4 of the act of September 11, 1957, as amended (8 U.S.C. 1205; 71 Stat. 639, 73 Stat. 490, 74 Stat. 505 [former section 1205 of this title]), if a visa petition filed in behalf of such eligible orphan was (A) approved by the Attorney General prior to September 30, 1961, or (B) pending before the Attorney General prior to September 30, 1961, and the Attorney General approves such petition.

ADOPTED SONS OR ADOPTED DAUGHTERS, PREFERENCE STATUS

Section 5(c) of Pub. L. 86-363 provided that aliens granted a preference pursuant to petitions approved by the Attorney General on the ground that they were the adopted sons or adopted daughters of United States citizens were to remain in that status notwithstanding the provisions of section 1 of Pub. L. 86-363, unless they acquired a different immigrant status pursuant to a petition approved by the Attorney General.

ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS APPROVED PRIOR TO JULY 1, 1958

Section 12A of Pub. L. 85-316, as added by section 2 of Pub. L. 85-700, Aug. 21, 1958, 72 Stat. 699, providing that aliens eligible for quota immigrant status on basis of a petition approved prior to July 1, 1958, shall be held to be nonquota immigrants and issued visas, was repealed by Pub. L. 87-301, § 24(a)(6), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 12A of Pub. L. 85-316 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS APPROVED PRIOR TO JULY 1, 1957

Section 12 of Pub. L. 85-316 providing that aliens eligible for quota immigrant status on basis of a petition approved prior to July 1, 1957, shall be held to be nonquota immigrants, and if otherwise admissible, be issued visas, was repealed by Pub. L. 87-301, § 24(a)(5), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 12 of Pub. L. 85-316 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

SPECIAL NONQUOTA IMMIGRANT VISAS FOR REFUGEES

Section 6 of Pub. L. 86-363 authorizing issuance of nonquota immigrant visas to aliens eligible to enter for permanent residence if the alien was the beneficiary of a visa petition approved by the Attorney General, and such petition was filed by a person admitted under former section 1971 et seq., of Title 50, Appendix, was repealed by Pub. L. 87-301, § 24(a)(7), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 6 of Pub. L. 86-363 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

NONQUOTA IMMIGRANT STATUS OF SPOUSES AND CHILDREN OF CERTAIN ALIENS

Section 4 of Pub. L. 86-363 providing that an alien registered on a consular waiting list was eligible for quota immigrant status on basis of a petition approved prior to Jan. 1, 1959, along with the spouse and children of such alien, was repealed by Pub. L. 87-301, § 24(a)(7), Sept. 26, 1961.

Repeal of section 4 of Pub. L. 86-363 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

CROSS REFERENCES

Definition of alien, application for admission, attorney general, child, consular officer, immigrant, immigrant visa, immigration officer, lawfully admitted for permanent residence, parent, and spouse, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1152, 1154, 1182, 1254, 1255 of this title; title 26 section 3304; title 42 section 1382c.

§ 1154. Procedure for granting immigrant status

(a) Petition for preference status or immediate relative status; form; oath

Any citizen of the United States claiming that an alien is entitled to a preference status by reason of the relationships described in paragraphs (1), (4), or (5) of section 1153(a) of this title, or to an immediate relative status under section 1151(b) of this title, or any alien lawfully admitted for permanent residence claiming that an alien is entitled to a preference status by reason of the relationship described in section 1153(a)(2) of this title, or any alien desiring to be classified as a preference immigrant under section 1153(a)(3) of this title (or any person on behalf of such an alien), or any person desiring and intending to employ within the United States an alien entitled to classification as a preference immigrant under section 1153(a)(6) of this title, may file a petition with the Attorney General for such classification. The petition shall be in such form as the Attorney General may by regulations prescribe and shall contain such information and be supported by such documentary evidence as the Attorney General may require. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer or an immigration officer.

(b) Investigation; consultation; approval; authorization to grant preference status

After an investigation of the facts in each case, and after consultation with the Secretary of Labor with respect to petitions to accord a status under section 1153(a)(3) or 1153(a)(6) of this title, the Attorney General shall, if he determines that the facts stated in the petition are true and that the alien in behalf of whom the petition is made is an immediate relative specified in section 1151(b) of this title, or is eligible for a preference status under section 1153(a) of this title, approve the petition and forward one copy thereof to the Department of State. The Secretary of State shall then authorize the consular officer concerned to grant the preference status.

(c) Limitation on orphan petitions approved for a single petitioner; prohibition against approval in cases of marriages entered into in order to evade immigration laws

Notwithstanding the provisions of subsection (b) of this section no more than two petitions may be approved for one petitioner in behalf of a child as defined in section 1101(b)(1)(E) or 1101(b)(1)(F) of this title unless necessary to prevent the separation of brothers and sisters and no petition shall be approved if the alien has previously been accorded a nonquota or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws.

(d) Report to Congress covering approved petitions for professional or occupational preferences

The Attorney General shall forward to the Congress a report on each approved petition for immigrant status under sections 1153(a)(3) or 1153(a)(6) of this title stating the basis for his approval and such facts as were by him deemed to be pertinent in establishing the beneficiary's qualifications for the preferential status. Such reports shall be submitted to the Congress on the first and fifteenth day of each calendar month in which the Congress is in session.

(e) Subsequent finding of non-entitlement to preference classification

Nothing in this section shall be construed to entitle an immigrant, in behalf of whom a petition under this section is approved, to enter the United States as a preference immigrant under section 1153(a) of this title or as an immediate relative under section 1151(b) of this title if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

(f) Provisions applicable to qualified immigrants specified in section 1152(e)(1) through (6) of this title

The provisions of this section shall be applicable to qualified immigrants specified in paragraphs (1) through (6) of section 1152(e) of this title.

(June 27, 1952, ch. 477, title II, ch. 1, § 204, 66 Stat. 179; Oct. 24, 1962, Pub. L. 87-885, § 3, 76 Stat. 1247; Oct. 3, 1965, Pub. L. 89-236, § 4, 79 Stat. 915; Oct. 20, 1976, Pub. L. 94-571, § 7(b), 90 Stat. 2706.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-571 added subsec. (f).

1965—Subsec. (a). Pub. L. 89-236 substituted provisions spelling out the statutory grounds for filing a petition for preference status and prescribing the authority of the Attorney General to require documentary evidence in support and the form of the petition, for provisions prohibiting consular officers from granting preference status before being authorized to do so in cases of applications based on membership in the ministry of a religious denomination or high education, technical training, or specialized experience which would be substantially beneficial to the United States.

Subsec. (b). Pub. L. 89-236 substituted provisions authorizing investigation of petitions by the Attorney General, consultation with the Secretary of Labor, and authorization to consular officers, for provisions specifying the form of application for preference status on the basis of membership in the ministry of a religious denomination or high education, technical training, or specialized experience which would be substantially beneficial to the United States and the circumstances making an application appropriate.

Subsec. (c). Pub. L. 89-236 substituted provisions limiting the number of orphan petitions which may be approved for one petitioner and prohibiting approval of any petition of an alien whose prior marriage was determined by the Attorney General to have been entered into for the purpose of evading the immigration laws, for provisions which related to investigation of facts by the Attorney General and submission of reports to Congress covering the granting of preferential status.

Subsec. (d). Pub. L. 89-236 substituted provisions requiring the Attorney General to submit reports to Congress on each approved petition for professional or occupational preference, for provisions prohibiting a statutory construction of the section which would entitle an immigrant to preferential classification if, upon arrival at the port of entry, he was found not to be entitled to such classification.

Subsec. (e). Pub. L. 89-236 added subsec. (e).

1962—Subsec. (c). Pub. L. 87-885 provided for submission of reports to Congress.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

ALIEN SHEEPHERDERS

Act Sept. 3, 1954, ch. 1254, §§ 1 to 3, 68 Stat. 1145, provided for the importation of skilled alien sheepherders upon approval by the Attorney General, certification to the Secretary of State by the Attorney General of names and addresses of sheepherders whose applications for importation were approved, and issuance of not more than 385 special nonquota immigrant visas. Provisions of said act expired on Sept. 3, 1955, by terms of section 1 thereof.

CROSS REFERENCES

Definition of alien, attorney general, consular officer, immigrant, immigrant visa, organization, and person, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1153, 1155 of this title.

§ 1155. Revocation of approval of petitions; notice of revocation; effective date

The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 1154 of this title. Such revocation shall be effective as of the date of approval of any such petition. In no case, however, shall such revocation have effect unless there is mailed to the petitioner's last known address a notice of the revocation and unless notice of the revocation is communicated through the Secretary of State to the beneficiary of the petition before such beneficiary commences his journey to the United States. If notice of revocation is not so given, and the beneficiary applies for admission to the United States, his admissibility shall be determined in

the manner provided for by sections 1225 and 1226 of this title.

(June 27, 1952, ch. 477, title II, ch. 1, § 205, 66 Stat. 180; Sept. 22, 1959, Pub. L. 86-363, § 5(a), (b), 73 Stat. 644; Sept. 26, 1961, Pub. L. 87-301, §§ 3, 10, 75 Stat. 650, 654; Oct. 3, 1965, Pub. L. 89-236, § 5, 79 Stat. 916.)

AMENDMENTS

1965—Pub. L. 89-236 struck out the entire section which had set out, in subsecs. (a) to (d), the procedure for granting non-quota status or preference by reason of relationship and inserted in its place, with minor changes, provisions formerly contained in section 1156 of this title authorizing the Attorney General to revoke his approval of petitions for good and sufficient cause.

1961—Subsec. (b). Pub. L. 87-301, § 3(a), provided that no petition for quota immigration status or a preference shall be approved if the beneficiary is an alien defined in section 1101(b)(1)(F) of this title, established requirements to be met by petitioners before a petition for nonquota immigrant status for a child as defined in section 1101(b)(1)(F) can be approved by the Attorney General, and authorized the administration of oaths by immigration officers when the petition is executed outside the United States.

Subsec. (c). Pub. L. 87-301, §§ 3(b), 10, substituted "section 1101(b)(1)(E) or (F)" for "section 1101(b)(1)(E)", and provided that no petition shall be approved if the alien had previously been accorded a nonquota status under section 1101(a)(27)(A) of this title or a preference quota status under section 1153(a)(3) of this title, by reason of marriage entered into to evade the immigration laws.

1959—Subsec. (b). Pub. L. 86-363, § 5(a), authorized the filing of petitions by any United States citizen claimmg that an immigrant is his unmarried son or unmarried daughter, by any alien lawfully admitted for permanent residence claiming that an immigrant is his unmarried son or unmarried daughter instead of child, or by any United States citizen claiming that an immigrant is his married son or married daughter instead of son or daughter, and prohibited approval of petition for quota immigrant status or preference of alien without proof of parent relationship of the petitioner to such alien.

Subsec. (c). Pub. L. 86-363, § 5(b), limited approval to two petitions for one petitioner in behalf of a child as defined in section 1101(b)(1)(E) of this title unless necessary to prevent separation of brothers and sisters.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of alien, attorney general, child, consular officer, entry, immigrant, immigrant visa, lawfully admitted for permanent residence, parent, and spouse, see section 1101 of this title.

§ 1156. Unused immigrant visas

If an immigrant having an immigrant visa is excluded from admission to the United States and deported, or does not apply for admission before the expiration of the validity of his visa, or if an alien having an immigrant visa issued to him as a preference immigrant is found not to be a preference immigrant, an immigrant visa or a preference immigrant visa, as the case may be, may be issued in lieu thereof to another qualified alien.

(June 27, 1952, ch. 477, title II, ch. 1, § 206, 66 Stat. 181; Oct. 3, 1965, Pub. L. 89-236, § 6, 79 Stat. 916.)

AMENDMENTS

1965—Pub. L. 89-236 substituted provisions allowing immigrant visas or preference immigrant visas to be issued to another qualified alien in lieu of immigrants excluded or deported, immigrants failing to apply for admission, or immigrants found not to be preference immigrants, for provisions relating to revocation of approval of petitions which, with minor amendments, were transferred to section 1155 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of application for admission and attorney general, see section 1101 of this title.

§ 1157. Repealed. Pub. L. 89-236, § 7, Oct. 3, 1965, 79 Stat. 916

Section, act June 27, 1952, ch. 477, title II, ch. 1, § 207, 66 Stat. 181, prohibited issuance of immigrant visas to other immigrants in lieu of immigrants excluded from admission, immigrants deported, immigrants failing to apply for admission to the United States, or immigrants found to be non-quota immigrants after having previously been found to be quota immigrants. See section 1156 of this title.

EFFECTIVE DATE OF REPEAL

For effective date of repeal of section by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

PART II—ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

§ 1181. Admission of immigrants into the United States

(a) Documents required; admission under quotas before June 30, 1968

Except as provided in subsection (b) of this section no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document or document of identity and nationality, if such document is required under the regulations issued by the Attorney General. With respect to immigrants to be admitted under quotas of quota areas prior to June 30, 1968, no immigrant visa shall be deemed valid unless the immigrant is properly chargeable to the quota area under the quota of which the visa is issued.

(b) Readmission without required documents; Attorney General's discretion

Notwithstanding the provisions of section 1182(a)(20) of this title in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 1101(a)(27)(A) of this title, who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

(June 27, 1952, ch. 477, title II, ch. 2, § 211, 66 Stat. 181; Oct. 3, 1965, Pub. L. 89-236, § 9, 79 Stat. 917; Oct. 20, 1976, Pub. L. 94-571, § 7(c), 90 Stat. 2706.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-571 substituted reference to section 1101 "(a)(27)(A)" of this title for "(a)(27)(B)".

1965—Subsec. (a). Pub. L. 89-236 restated the requirement of an unexpired visa and passport for every immigrant arriving in the United States to conform to the changes with respect to the classification of immigrant visas.

Subsec. (b). Pub. L. 89-236 substituted "returning resident immigrants, defined in section 1101(a)(27)(B) of this title, who are otherwise admissible", for "otherwise admissible aliens lawfully admitted for permanent residence who depart from the United States temporarily".

Subsec. (c). Pub. L. 89-236 repealed subsec. (c) which gave the Attorney General discretionary authority to admit aliens who arrive in the United States with defective visas under specified conditions.

Subsec. (d). Pub. L. 89-236 repealed subsec. (d) which imposed restrictions on the exercise of the Attorney General's discretion to admit aliens arriving with defective visas.

Subsec. (e). Pub. L. 89-236 repealed subsec. (e) which required every alien making application for admission as an immigrant to present the documents required under the regulations issued by the Attorney General.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of alien, application for admission, attorney general, immigrant, immigrant visa, lawfully admitted for permanent residence, national, parent, passport, and United States, see section 1101 of this title.

Re-entry permit, see section 1203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1182, 1230 of this title.

§ 1182. Excludable aliens

(a) General classes

Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

(1) Aliens who are mentally retarded;

(2) Aliens who are insane;

(3) Aliens who have had one or more attacks of insanity;

(4) Aliens afflicted with psychopathic personality, sexual deviation, or a mental defect;

(5) Aliens who are narcotic drug addicts or chronic alcoholics;

(6) Aliens who are afflicted with any dangerous contagious disease;

(7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;

(8) Aliens who are paupers, professional beggars, or vagrants;

(9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission, to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. Any alien who would be excludable because of a conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of title 18, by reason of the punishment actually imposed, or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of title 18, by reason of the punishment which might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense;

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more;

(11) Aliens who are polygamists or who practice polygamy or advocate the practice of polygamy;

(12) Aliens who are prostitutes or who have engaged in prostitution, or aliens coming to the United States solely, principally, or incidentally to engage in prostitution; aliens who directly or indirectly procure or attempt to procure, or who have procured or attempted to procure, or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose; and aliens who are or have been supported by, or receive or have received, in whole or in part, the proceeds of prostitution or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution;

(13) Aliens coming to the United States to engage in any immoral sexual act;

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has

determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 1153(a)(3) and (6) of this title, and to nonpreference immigrant aliens described in section 1153(a)(8) of this title;

(15) Aliens who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, are likely at any time to become public charges;

(16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission:

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this chapter or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 1252(b) of this title, unless prior to their embarkation or reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

(18) Aliens who are stowaways;

(19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact;

(20) Except as otherwise specifically provided in this chapter, any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General pursuant to section 1181(a) of this title;

(21) Except as otherwise specifically provided in this chapter, any immigrant at the time of application for admission whose visa has been issued without compliance with the provisions of section 1153 of this title;

(22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

(23) Any alien who has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, or any salt derivative, or preparation of opium or coca leaves, or insonipecaine or any addiction-forming or addiction-sustaining opiate; or any alien who the consular officer or immigration officer know or have reason to believe is or has been an illicit trafficker in any of the aforementioned drugs;

(24) Aliens (other than aliens described in section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere) who seek admission from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory line, or if signatory, a noncomplying transportation line under section 1228(a) of this title and who have not resided for at least two years subsequent to such arrival in such territory or adjacent islands;

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any 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, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) 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: *Provided,* That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of World communism or the establishment in the United States of a totalitarian dictatorship, or who are members 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 the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members 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 organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) 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 (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their 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 or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) 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 (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members 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 (G) of this paragraph;

(I) Any alien who is within any of the classes described in subparagraphs (B) to (H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the

Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 786 of title 50;

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 1227(e) of this title, whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(32) Aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 1101(a)(27)(A) of this title (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted for permanent residence), to nonpreference immigrant aliens described in section 1153(a)(8) of this title, and to preference immigrant aliens described in section 1153(a)(3) and (6) of this title.

(b) Nonapplicability of subsection (a)(25)

The provisions of paragraph (25) of subsection (a) of this section shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alien lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien can read under paragraph (25) of subsection (a) of this section, the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.

(c) Nonapplicability of subsections (a)(1) to (25), (30), and (31)

Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraphs (1) to (25), (30), and (31) of subsection (a) of this section. Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 1181(b) of this title.

(d) Nonapplicability of subsections (a)(11), (25), and (28); temporary admission of nonimmigrants; waiver of subsection (a)(26) requirements; parole; bond and conditions for temporary admissions, report to Congress; applicability to aliens leaving territories; reciprocal admission of officials of foreign governments, etc.

(1) The provisions of paragraphs (11) and (25) of subsection (a) of this section shall not be applicable to any alien who in good faith is seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15)(A)(iii) or (G)(v) of section 1101(a) of this title.

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) of this section may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents there-

of having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 1228(d) of this title.

(5) The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (28) of subsection (a) of this section.

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26) of said subsection, shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. The Attorney General shall by regulations provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 1227(a) of this title.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

(e) Educational visitor status; foreign residence requirement; waiver

No person admitted under section 1101(a)(15)(J) of this title or acquiring such status after admission (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, (ii) who at the time of admission or acquisition of status under section 1101(a)(15)(J) of this title was a national or resident of a country which the Secretary of State, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 1101(a)(15)(H) or section 1101(a)(15)(L) of this title until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States: *Provided*, That upon the favorable recommendation of the Secretary of State, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: *And provided further*, That, except in the case of an alien described in clause (iii), the Attorney General may, upon the favorable recommendation of the Secretary of State, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Secretary of State a statement in writing that it has no objection to such waiver in the case of such alien.

(f) Suspension of entry or imposition of restrictions by President

Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrant or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

(g) Bond and conditions for admission for permanent residence of mentally retarded, tubercular, and mentally ill but cured aliens

Any alien who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien afflicted with tuberculosis in any form who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion after consultation

with the Surgeon General of the United States Public Health Service, may by regulations prescribe. Any alien excludable under paragraph (3) of subsection (a) of this section because of past history of mental illness who has one of the same family relationships as are prescribed in this subsection for aliens afflicted with tuberculosis and whom the Surgeon General of the United States Public Health Service finds to have been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery shall be eligible for a visa in accordance with the terms of this subsection.

(b) Nonapplicability of subsection (a)(9), (10), or (12)

Any alien, who is excludable from the United States under paragraphs (9), (10), or (12) of subsection (a) of this section, who (A) is the spouse or child, including a minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(i) Admission for permanent residence of alien spouse, parent, or child excludable for fraud, misrepresentation, or perjury

Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States, by fraud or misrepresentation, or (2) he admits the commission of perjury in connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(j) Limitation on immigration of foreign medical graduates

(1) The additional requirements referred to in section 1101(a)(15)(J) of this title for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Commissioner of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement;

(B) Before making such agreement, the accredited school has been satisfied that the alien has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that upon such completion and return, he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country; and

(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the request of the government of his nationality or last residence, if (i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country, (ii) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (iii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such

requirements, to enter the United States to participate in such program.

(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection.

(June 27, 1952, ch. 477, title II, ch. 2, § 212, 66 Stat. 182; July 18, 1956, ch. 629, title III, § 301 (a), 70 Stat. 575; July 7, 1958, Pub. L. 85-508, § 23, 72 Stat. 351; Mar. 18, 1959, Pub. L. 86-3, § 20(b), 73 Stat. 13; July 14, 1960, Pub. L. 86-648, § 8, 74 Stat. 505; Sept. 21, 1961, Pub. L. 87-256, § 109(c), 75 Stat. 535; Sept. 26, 1961, Pub. L. 87-301, §§ 11-15, 75 Stat. 654, 655; Oct. 3, 1965, Pub. L. 89-236, §§ 10, 15, 79 Stat. 917, 919; Apr. 7, 1970, Pub. L. 91-225, § 2, 84 Stat. 116; Oct. 12, 1976, Pub. L. 94-484, title VI, § 601(a), (c), (d), 90 Stat. 2300, 2301; Oct. 20, 1976, Pub. L. 94-571, §§ 5, 7(d), 90 Stat. 2705, 2706.)

References in Text

Section 786 of title 50, referred to in subsec. (a) (28) (E) and (29), which required registration and annual reports of Communist organizations, was repealed by Pub. L. 90-237, § 5, Jan. 2, 1968, 81 Stat. 766.

The effective date of this subsection, referred to in subsec. (j)(2), is ninety days after Oct. 12, 1976.

Amendments

1976—Subsec. (a)(14). Pub. L. 94-571, § 5, in revising par. (14), inserted in cl. (A) "(or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts)" and deleted from cl. (A) "in the United States" following "sufficient workers" and "destined" preceding "to perform" and introductory provision of last sentence making exclusion of aliens under par. (14) applicable to special immigrants defined in former provision of section 1101(a)(27)(A) of this title (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted to the United States for permanent residence).

Subsec. (a)(24). Pub. L. 94-571, § 7(d), substituted in the parenthetical text "section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere" for "section 1101(a)(27)(A) and (B) of this title".

Subsec. (a)(32). Pub. L. 94-484, § 601(a), added subsec. (a)(32).

Subsec. (e). Pub. L. 94-484, § 601(c), substituted "(i) whose" for "whose (i)", and "residence, (ii)" for "residence, or (ii)", added "or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training," before "shall be eligible", and added ", except in the case of an alien described in clause (iii)," in the second proviso.

Subsec. (j). Pub. L. 94-484, § 601(d), added subsec. (j).

1970—Subsec. (e). Pub. L. 91-225 inserted cls. (i) and (ii) and reference to eligibility for nonimmigrant visa under section 1101(a)(15)(L) of this title, provided for waiver of requirement of two-year foreign residence abroad where alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion or where the foreign country of alien's nationality or last residence has furnished a written statement that it has no objection to such waiver for such alien, and deleted alternative provision for residence and physical presence in another foreign country and former first and final provisos reading "Provided, That such residence in another foreign country shall be considered to have satisfied the requirements of this subsection if the Secretary of State determines that it has served the purpose and the intent of the Mutual Educational and Cultural Exchange Act of 1961" and "And provided further, That the provisions of this subchapter shall apply also to those persons who acquired exchange visitor status under the United States Information and Educational Exchange Act of 1948, as amended."

1965—Subsec. (a)(1). Pub. L. 89-236, § 15(a), substituted "mentally retarded" for "feebleminded".

Subsec. (a)(4). Pub. L. 89-236, § 15(b), substituted "or sexual deviation" for "epilepsy".

Subsec. (a)(14). Pub. L. 89-236, § 10(a), added the requirement that the Secretary of Labor make an affirmative finding that any alien seeking to enter the United States as a worker, skilled or otherwise, will not replace a worker in the United States nor will the employment of the alien adversely affect the wages and working conditions of individuals in the United States similarly employed, and made the requirement applicable to special immigrants (other than the parents, spouses, and minor children of U.S. citizens or permanent resident aliens) preference immigrants described in sections 1153(a)(3) and 1153(a)(6) of this title, and nonpreference immigrants.

Subsec. (a)(20). Pub. L. 89-236, § 10(b), substituted "1181(a)" for "1181(e)"

Subsec. (a)(21). Pub. L. 89-236, § 10(c), struck out "quota" preceding "immigrant".

Subsec. (a)(24). Pub. L. 89-236, § 10(d), substituted "other than aliens described in section 1101(a)(27)(A) and (B)" for "other than those aliens who are native-born citizens of countries enumerated in section 1101(a)(27) of this title and aliens described in section 1101(a)(27)(B) of this title" as the material contained within the parentheses following "Aliens".

Subsec. (g). Pub. L. 89-236, § 15(c), redesignated subsec. (f) of sec. 212 of the Immigration and Nationality Act as subsec. (g) thereof, which for purposes of codification had already been designated as subsec. (g) of this section and granted the Attorney General authority to admit any alien who is the spouse, unmarried son or daughter, minor adopted child, or parent of a citizen or lawful permanent resident and who is mentally retarded or has a past history of mental illness under the same conditions as authorized in the case of such close relatives afflicted with tuberculosis.

Subsecs. (h), (i). Pub. L. 89-236, § 15(c), redesignated subsecs. (g) and (h) of sec. 212 of the Immigration and Nationality Act as subsecs. (h) and (i) respectively thereof, which for purposes of codification had already been designated as subsecs. (h) and (i) of this section.

1961—Subsec. (a)(6). Pub. L. 87-301, § 11, eliminated references to tuberculosis and leprosy.

Subsec. (a)(9). Pub. L. 87-301, § 13, authorized admission of aliens who would be excluded because of conviction of a violation classifiable as an offense under section 1(3) of Title 18, by reason of punishment actually imposed, or who admit commission of an offense classifiable as a misdemeanor under section 1(2) of Title 18, by reason of punishment which might have been imposed, if otherwise admissible and provided the alien has committed, or admits to commission of, only one such offense.

Subsec. (e). Pub. L. 87-256 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87-256 redesignated former subsec. (e) as (f).

Subsecs. (g) to (i). Pub. L. 87-301, §§ 12, 14, 15 added subsecs. (f) to (h), which for purposes of codification have been designated as (g) to (i).

1960—Subsec. (a). Pub. L. 86-648 inserted "or marihuana" following "narcotic drugs" in cl. (23).

1959—Subsec. (d). Pub. L. 86-3 eliminated provisions from cl. (7) which related to aliens who left Hawaii and to persons who were admitted to Hawaii under section 8(a)(1) of the act of March 24, 1934, or as nationals of the United States.

1958—Subsec. (d)(7). Pub. L. 85-508 eliminated provisions which related to aliens who left Alaska.

1956—Subsec. (a)(23). Act July 18, 1956, included conspiracy to violate a narcotic law, and the illicit pos-

session of narcotics, as additional grounds for exclusion.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

Section 601(f) of Pub. L. 94-484 provided that: "The amendments made by this section [amending this section and section 1101 of this title] shall take effect ninety days after the date of enactment of this section [Oct. 12, 1976]."

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236 see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 18, 1956, effective July 19, 1956, see section 401 of act July 18, 1956.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

LABOR CERTIFICATION FOR GRADUATES OF FOREIGN MEDICAL SCHOOLS; DEVELOPMENT OF DATA BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE NOT LATER THAN OCT. 12, 1977

Section 906 of Pub. L. 94-484 provided that:

"(a) The Secretary of Health, Education, and Welfare shall (not later than one year after the date of the enactment of this Act) [Oct. 12, 1976] develop sufficient data to enable the Secretary of Labor to make equitable determinations with regard to applications for labor certification by graduates of foreign medical schools.

"(b) The data required under subsection (a) shall include the number of physicians (by specialty and by percent of population) in a geographic area necessary to provide adequate medical care, including such care in hospitals, nursing homes, and other health care institutions, in such area.

"(c) The Secretary of Health, Education, and Welfare, shall develop such data after consultation with such medical or other associations as may be necessary."

RESETTLEMENT OF REFUGEE-ESCAPEE; REPORTS; FORMULA; TERMINATION DATE; PERSONS DIFFICULT TO RESETTLE; CREATION OF RECORD OF ADMISSION FOR PERMANENT RESIDENCE

Pub. L. 86-648, §§ 1 to 4, 11, July 14, 1960, 74 Stat. 504, as amended by Pub. L. 87-510, § 6, June 28, 1962, 76 Stat. 124; Pub. L. 89-236, § 16, Oct. 3, 1965, 79 Stat. 919, provided:

"[SECTION 1. Repealed. Pub. L. 89-236, § 16, Oct. 3, 1965, 79 Stat. 919.]

"[SEC. 2. Repealed. Pub. L. 89-236, § 16, Oct. 3, 1965, 79 Stat. 919.]

"SEC. 3. Any alien who was paroled into the United States as a refugee-escapee, pursuant to section 1 of the Act, whose parole has not theretofore been terminated by the Attorney General pursuant to such regulations as he may prescribe under the authority of section 212(d)(5) of the Immigration and Nationality Act [subsec. (d)(5) of this section]; and who has been in the United States for at least two years, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States, and his case dealt with in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act [sections 1225, 1226 and 1227 of this title].

"SEC. 4. Any alien who, pursuant to section 3 of this Act, is found, upon inspection by the immigration officer or after hearing before a special inquiry officer, to be admissible as an immigrant under the Immigration and Nationality Act [this chapter] at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) of the said Act [subsec. (a)(20) of this section], shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

* * * * *

"[Sec. 11. Repealed. Pub. L. 89-236, § 16, Oct. 3, 1965, 79 Stat. 919.]"

CREATION OF RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN HUNGARIAN REFUGEES

Pub. L. 85-559, July 25, 1958, 72 Stat. 419, provided:

"That any alien who was paroled into the United States as a refugee from the Hungarian revolution under section 212(d)(5) of the Immigration and Nationality Act [subsection (d)(5) of this section] subsequent to October 23, 1956, who has been in the United States for at least two years, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service, and shall thereupon be inspected and examined for admission into the United States, and his case dealt with, in accordance with the provisions of sections 235, 236 and 237 of that Act [sections 1225, 1226 and 1227 of this title].

"SEC. 2. Any such alien who, pursuant to section 1 of this Act, is found, upon inspection by an immigration officer or after hearing before a special inquiry officer, to have been and to be admissible as an immigrant at the time of his arrival in the United States and at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) of the Immigration and Nationality Act [subsection (a)(20) of this section], shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

"SEC. 3. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any other law relating to immigration, nationality, or naturalization."

CROSS REFERENCES

Alien enemies, see section 21 et seq. of Title 50, War and National Defense.

Alien women, prevention of transportation in foreign commerce under international agreement, see section 1557 of this title.

Atomic weapons information, waiver of admission requirements, see section 47c of Title 50, War and National Defense.

Bonds—

- Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 of this title.
- Bond or undertaking as prerequisite to admission of aliens likely to become public charge or with certain physical disabilities, see section 1183 of this title.
- Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 of this title.
- Forms to be prescribed by Attorney General, see section 1103 of this title.

Definition of the term—

- Adjacent islands, as used in this subchapter, see section 1101(b)(5) of this title.

Advocating a doctrine, see section 1101(e)(1) of this title.
Affiliation, see section 1101(e)(2) of this title.
Alien, see section 1101(a)(3) of this title.
Application for admission, see section 1101(a)(4) of this title.
Attorney General, see section 1101(a)(5) of this title.
Border crossing identification card, see section 1101(a)(6) of this title.
Child, as used in subchapter III of this chapter, see section 1101(c)(1) of this title.
Child, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(1) of this title.
Consular officer, see section 1101(a)(9) of this title.
Doctrine, see section 1101(a)(12) of this title.
Entry, see section 1101(a)(13) of this title.
Foreign state, see section 1101(a)(14) of this title.
Immigrant, see section 1101(a)(15) of this title.
Immigrant visa, see section 1101(a)(16) of this title.
Immigration officer, see section 1101(a)(18) of this title.
Ineligible to citizenship, see section 1101(a)(19) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
National, see section 1101(a)(21) of this title.
Nonimmigrant alien, see section 1101(a)(15) of this title.
Nonimmigrant visa, see section 1101(a)(26) of this title.
Organization, see section 1101(a)(28) of this title.
Parent, as used in subchapter III of this chapter, see section 1101(c)(2) of this title.
Parent, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(2) of this title.
Passport, see section 1101(a)(30) of this title.
Permanent, see section 1101(a)(31) of this title.
Person of good moral character, see section 1101 (f) of this title.
Profession, see section 1101(a)(32) of this title.
Residence, see section 1101(a)(33) of this title.
Special immigrant, see section 1101(a)(27) of this title.
Spouse, see section 1101(a)(35) of this title.
Totalitarian party and totalitarian dictatorship, see section 1101(a)(37) of this title.
United States, see section 1101(a)(38) of this title.
World communism, see section 1101(a)(40) of this title.

Deportation for offenses committed after entry into United States, see section 1251 of this title.

Detention of aliens for observation and examination, see section 1222 of this title.

Diplomatic and semidiplomatic immunities, see section 1102 of this title.

Espionage and censorship, see section 792 et seq. of Title 18, Crimes and Criminal Procedure.

Internal security, see section 781 et seq. of Title 50, War and National Defense.

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

Passports and visas, see section 1541 et seq. of Title 18, Crimes and Criminal Procedure.

Principals, see section 2 of Title 18, Crimes and Criminal Procedure.

Readmission without documentation after temporary departure, see section 1181 of this title.

Reentry permit, see section 1203 of this title.

Sabotage, see section 2151 et seq. of Title 18, Crimes and Criminal Procedure.

Stowaways on vessels or aircraft, see section 2199 of Title 18, Crimes and Criminal Procedure.

Submission of alien seeking immigrant or nonimmigrant visa to physical and mental examination, see section 1201 of this title.

Treason, sedition and subversive activities, see section 2381 et seq. of Title 18, Crimes and Criminal Procedure.

White slave traffic, see section 2421 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1102, 1153, 1181, 1183, 1201, 1222, 1223, 1224, 1225, 1226, 1251, 1255, 1259, 1282, 1284, 1322, 1327 of this title; title 26 section 3304; title 42 section 1382c.

§§ 1182a to 1182c. Repealed. Pub. L. 87-301, § 24(a)(1), (3), Sept. 26, 1961, 75 Stat. 657

Section 1182a, act Sept. 3, 1954, ch. 1254, § 4, 68 Stat. 1145, related to the admission of aliens who were either convicted, or who admitted the commission, of a misdemeanor, and is now covered by section 1182(a)(9) of this title.

Section 1182b, Pub. L. 85-316, § 5, Sept. 11, 1957, 71 Stat. 640, permitted the admission of an alien spouse, child or parent excludable for crime involving moral turpitude in cases of hardship, when not contrary to national welfare or security, and with the Attorney General's consent, and under conditions and procedures prescribed by him, and is now covered by section 1182(h) of this title.

Section 1182c, Pub. L. 85-316, § 6, Sept. 11, 1957, 71 Stat. 640; Pub. L. 86-253, § 1, Sept. 9, 1959, 73 Stat. 490, authorized the admission of an alien spouse, child, or parent of a United States citizen afflicted with tuberculosis under terms, conditions and controls prescribed by the Attorney General, and is now covered by section 1182(g) of this title.

§ 1183. Admission of aliens on giving bond or undertaking; return upon permanent departure

An alien excludable under paragraph (7) or (15) of section 1182(a) of this title may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper bond or undertaking approved by the Attorney General, in such amount and containing such conditions as he may prescribe, to the United States, and to all States, territories, counties, towns, municipalities, and districts thereof holding the United States and all States, territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. Such bond or undertaking shall terminate upon the permanent departure from the United States, the naturalization, or the death of such alien, and any sums or other security held to secure performance thereof, except to the extent forfeited for violation of the terms thereof, shall be returned to the person by whom furnished, or to his legal representatives. Suit may be brought thereon in the name and by the proper law officers of the United States for the use of the United States, or of any State, territory, district, county, town, or municipality in which such alien becomes a public charge.

(June 27, 1952, ch. 477, title II, ch. 2, § 213, 66 Stat. 188; July 10, 1970, Pub. L. 91-313, § 1, 84 Stat. 413.)

AMENDMENTS

1970—Pub. L. 91-313 substituted provisions admitting, under the specified conditions, an alien excludable under pars. (7) or (15) of section 1182(a) of this title, for provisions admitting, under the specified conditions, any alien excludable because of the likelihood of becoming a public charge or because of physical dis-

ability other than tuberculosis in any form, leprosy, or a dangerous contagious disease, and struck out provisions authorizing a cash deposit with the Attorney General in lieu of a bond, such amount to be deposited in the United States Postal Savings System, and provisions that the admission of the alien be consideration for the giving of the bond, undertaking, or cash deposit.

CROSS REFERENCES

Bonds—

Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 of this title.

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or those likely to become public charges, see section 1201 of this title.

Exaction from excludable aliens applying for temporary admission, see section 1182 of this title.

Forms to be prescribed by Attorney General, see section 1103 of this title.

Definition of alien and attorney general, see section 1101 of this title.

Nationality and naturalization, see section 1401 et seq. of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201, 1226 of this title.

§ 1184. Admission of nonimmigrants

(a) Regulations

The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 1258 of this title, such alien will depart from the United States.

(b) Presumption of status; written waiver

Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 1101(a)(15) of this title. An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act [22 U.S.C. 288 et seq.], or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 1257(b) of this title.

(c) Petition of importing employer

The question of importing any alien as a nonimmigrant under section 1101(a)(15)(H) or (L) of this title in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition, shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant.

(d) Issuance of visa to fiancée or fiancé of citizen

A visa shall not be issued under the provisions of section 1101(a)(15)(K) of this title until the consular officer has received a petition filed in the United States by the fiancée and fiancé of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. It shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have a bona fide intention to marry and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival. In the event the marriage with the petitioner does not occur within three months after the entry of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be deported in accordance with sections 1252 and 1253 of this title. In the event the marriage between the said alien and the petitioner shall occur within three months after the entry and they are found otherwise admissible, the Attorney General shall record the lawful admission for permanent residence of the alien and minor children as of the date of the payment of the required visa fees.

(June 27, 1952, ch. 477, title II, ch. 2, § 214, 66 Stat. 189; Apr. 7, 1970, Pub. L. 91-225, § 3, 84 Stat. 117.)

REFERENCES IN TEXT

The International Grganizations Immunities Act, referred to in subsec. (b), is classified to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-225, § 3(a), inserted reference to subpar. (L) of section 1101(a)(15) of this title.

Subsec. (d). Pub. L. 91-225, § 3(b), added subsec. (d).

IMPORTATION OF SHEEPHERDERS; TERMINATION OF QUOTA DEDUCTIONS

Quota deductions authorized by acts June 30, 1950, ch. 423, 64 Stat. 306; Apr. 9, 1952, ch. 171, 66 Stat. 50, terminated effective July 1, 1957.

CANCELLATION OF CERTAIN NONIMMIGRANT DEPARTURE BONDS

Pub. L. 85-531, July 18, 1958, 72 Stat. 375, authorized the Attorney General, upon application made not later than July 18, 1963, to cancel any departure bond posted pursuant to the Immigration Act of 1924, as amended, or the Immigration and Nationality Act [this chapter], on behalf of any refugee who entered the United States as a nonimmigrant after May 6, 1945, and prior to July 1, 1953, and who had his immigration status adjusted to that of an alien admitted for permanent residence pursuant to any public or private law.

CROSS REFERENCES

Bonds—

Bond or undertaking as prerequisite to admission of aliens likely to become public charges or with certain disabilities, see section 1183 of this title.

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 of this title.

Exaction from excludable aliens applying for temporary admission, see section 1182 of this title.

Forms to be prescribed by Attorney General, see section 1103 of this title.

Definition of alien, attorney general, consular officer, immigrant, immigrant visa, immigration officer, nonimmigrant alien, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1201 of this title, title 26 section 3306.

§ 1184a. Philippine Traders as nonimmigrants

Upon a basis of reciprocity secured by agreement entered into by the President of the United States and the President of the Philippines, a national of the Philippines, and the spouse and children of any such national if accompanying or following to join him, may, if otherwise eligible for a visa and if otherwise admissible into the United States under this chapter, be considered to be classifiable as a nonimmigrant under section 1101(a)(15)(E) of this title if entering solely for the purposes specified in clause (i) or (ii) of said section 1101(a)(15)(E).

(June 18, 1954, ch. 323, 68 Stat. 264.)

CODIFICATION

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

§ 1185. Travel control of citizens and aliens during war or national emergency

(a) Restrictions and prohibitions on aliens

When the United States is at war or during the existence of any national emergency proclaimed by the President, or, as to aliens, whenever there exists a state of war between or among two or more states, and the President shall find that the interests of the United States require that restrictions and prohibitions in addition to those provided otherwise than by this section be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or the Congress, be unlawful—

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) Citizens

After such proclamation as is provided for in subsection (a) of this section has been made and published and while such proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

(c) Penalties

Any person who shall willfully violate any of the provisions of this section, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than $5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle, vessel, or aircraft together with its appurtenances, equipment, tackle, apparel, and furniture concerned in any such violation, shall be forfeited to the United States.

(d) Definitions

The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(e) Nonadmission of certain aliens

Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

(f) Revocation of proclamation as affecting penalties

The revocation of any proclamation, rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such proclamation, rule, regulation, or order.

(g) Permits to enter

Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section.

(June 27, 1952, ch. 477, title II, ch. 2, § 215, 66 Stat. 190.)

CROSS REFERENCES

Counterfeiting and forgery, see section 471 et seq. of Title 18, Crimes and Criminal Procedure.

Definition of alien, entry, passport, person, state, and United States, see section 1101 of this title.

False personation, see section 911 et seq. of Title 18, Crimes and Criminal Procedure.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Fines, penalties and forfeitures, see section 2461 et seq. of Title 28, Judiciary and Judicial Procedure.

Fraud and false statements, see section 1001 et seq. of Title 18, Crimes and Criminal Procedure.

Passports and visas, see section 1541 et seq. of Title 18, Crimes and Criminal Procedure.

Repeal of statutes as affecting existing liabilities, see section 109 of Title 1, General Provisions.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1251 of this title.

PART III—ISSUANCE OF ENTRY DOCUMENTS

§ 1201. Issuance of visas

(a) Immigrants; nonimmigrants

Under the conditions hereinafter prescribed and subject to the limitations prescribed in this chapter or regulations issued thereunder, a consular officer may issue (1) to an immigrant who has made proper application therefor, an immigrant visa which shall consist of one copy of the application provided for in section 1202 of this title, visaed by such consular officer, and shall specify the quota, if any, to which the immigrant is charged, the immigrant's particular status under such quota, the preference, nonpreference, immediate relative, or special immigration classification to which the alien is charged, the date on which the validity of the visa shall expire, and such additional information as may be required; and (2) to a nonimmigrant who has made proper application therefor, a nonimmigrant visa, which shall specify the classification under section 1101(a)(15) of this title of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.

(b) Registration and fingerprinting; photographs; waiver of requirement

Each alien who applies for a visa shall be registered and fingerprinted in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in section 1101(a)(15)(A) and (G) of this title, or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

(c) Period of validity; requirement of visa

An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class. An immigrant visa may be replaced under the original number during the year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided,* the consular officer is in possession of the duplicate signed copy of the original visa, the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fee for an application and an immigrant visa.

(d) Physical examination

Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in accordance with such regulations as may be prescribed. Prior to the issuance of a nonimmigrant visa to any alien, the consular officer may require such alien to submit to a physical or mental examination, or both, if in his opinion such examination is necessary to ascertain whether such alien is eligible to receive a visa.

(e) Surrender of visa

Each immigrant shall surrender his immigrant visa to the immigration officer at the port of entry, who shall endorse on the visa the date and the port of arrival, the identity of the vessel or other means of transportation by which the immigrant arrived, and such other endorsements as may be by regulations required.

(f) Surrender of documents

Each nonimmigrant shall present or surrender to the immigration officer at the port of entry such documents as may be by regulation

required. In the case of an alien crewman not in possession of any individual documents other than a passport and until such time as it becomes practicable to issue individual documents, such alien crewman may be admitted, subject to the provisions of this part, if his name appears in the crew list of the vessel or aircraft on which he arrives and the crew list is visaed by a consular officer, but the consular officer shall have the right to exclude any alien crewman from the crew list visa.

(g) Non-issuance of visas or other documents

No visa or other documentation shall be issued to an alien if (1) it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that such alien is ineligible to receive a visa or such other documentation under section 1182 of this title, or any other provision of law, (2) the application fails to comply with the provisions of this chapter, or the regulations issued thereunder, or (3) the consular officer knows or has reason to believe that such alien is ineligible to receive a visa or such other documentation under section 1182 of this title, or any other provision of law: *Provided,* That a visa or other documentation may be issued to an alien who is within the purview of subsection (a)(7) or (15) of section 1182 of this title, if such alien is otherwise entitled to receive a visa or other documentation, upon receipt of notice by the consular officer from the Attorney General of the giving of a bond or undertaking providing indemnity as in the case of aliens admitted under section 1183 of this title: *Provided further,* That a visa may be issued to an alien defined in section 1101(a)(15)(B) or (F) of this title, if such alien is otherwise entitled to receive a visa, upon receipt of a notice by the consular officer from the Attorney General of the giving of a bond with sufficient surety in such sum and containing such conditions as the consular officer shall prescribe, to insure that at the expiration of the time for which such alien has been admitted by the Attorney General, as provided in section 1184(a) of this title, or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 1258 of this title, such alien will depart from the United States.

(h) Nonadmission upon arrival

Nothing in this chapter shall be construed to entitle any alien, to whom a visa or other documentation has been issued, to enter the United States, if, upon arrival at a port of entry in the United States, he is found to be inadmissible under this chapter, or any other provision of law. The substance of this subsection shall appear upon every visa application.

(i) Revocation of visas or documents

After the issuance of a visa or other documentation to any alien, the consular officer or the Secretary of State may at any time, in his discretion, revoke such visa or other documentation. Notice of such revocation shall be communicated to the Attorney General, and such revocation shall invalidate the visa or other documentation from the date of issuance: *Provided,* That carriers or transportation companies, and masters, commanding officers, agents, owners, charterers, or consignees, shall not be penalized under section 1323(b) of this title for action taken in reliance on such visas or other documentation, unless they received due notice of such revocation prior to the alien's embarkation.

(June 27, 1952, ch. 477, title II, ch. 3, § 221, 66 Stat. 191; Sept. 26, 1961, Pub. L. 87-301, § 4, 75 Stat. 651; Oct. 3, 1965, Pub. L. 89-236, §§ 11(a), (b), 17, 79 Stat. 918, 919.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-236, § 11(a), substituted a reference to preference, nonpreference, immediate relative, and special immigration classification, for a reference to nonquota categories to which immigrants are classified.

Subsec. (c). Pub. L. 89-236, § 11(b), struck out references to "quota" wherever appearing.

Subsec. (g). Pub. L. 89-236, § 17, added proviso permitting issuance of student or visitors visas in cases where the alien gives a bond so as to allow resolution of doubts in borderline cases in which the consular officer is uncertain as to the bona fides of the nonimmigrant's intention to remain in the United States temporarily.

1961—Subsec. (c). Pub. L. 87-301 provided that an immigrant visa issued to a child adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces or employed abroad by our Government, or temporarily abroad on business, shall remain valid to such time, but not exceeding three years, as the adoptive parent returns to the United States in due course of service, employment or business.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Bonds—
- Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 of this title.
- Bond or undertaking as prerequisite to admission of aliens likely to become public charges or with certain physical disabilities, see section 1183 of this title.
- Exaction from excludable aliens applying for temporary admission, see section 1182 of this title.
- Forms to be prescribed by Attorney General, see section 1103 of this title.

Definition of the term—
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Consular officer, see section 1101(a)(9) of this title.
- Crewman, see section 1101(a)(10) of this title.
- Diplomatic visa, see section 1101(a)(11) of this title.
- Entry, see section 1101(a)(13) of this title.
- Immigrant, see section 1101(a)(15) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Immigration officer, see section 1101(a)(18) of this title.
- National, see section 1101(a)(21) of this title.
- National of the United States, see section 1101(a)(22) of this title.
- Nonimmigrant alien, see section 1101(a)(15) of this title.
- Nonimmigrant visa, see section 1101(a)(26) of this title.
- Passport, see section 1101(a)(30) of this title.
- United States, see section 1101(a)(38) of this title.

Passports, see section 211a et seq. of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201a, 1204, 1230, 1301, 1302 of this title.

§ 1201a. Waiver of fingerprinting requirements for nonimmigrant aliens

The Secretary of State and the Attorney General are authorized, in their discretion and on a basis of reciprocity, pursuant to such regulations as they may severally prescribe, to waive the requirement of fingerprinting specified in sections 1201(b) and 1302 of this title, respectively, in the case of any nonimmigrant alien.

(Pub. L. 85-316, § 8, Sept. 11, 1957, 71 Stat. 641.)

CODIFICATION

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

DEFINITIONS; APPLICABILITY OF SECTION 1101(a) AND (b) OF THIS TITLE

Section 14 of Pub. L. 85-316 provided that: "Except as otherwise specifically provided in this Act [enacting this section, former sections 1182b, 1182c, 1205, 1251a, and 1255a, and sections 1255b and 1401b of this title, amending sections 1101(b)(1), 1153(a)(1), and 1434(c) of this title, and enacting notes formerly set out under sections 1151, 1153, and 1205 of this title, and section 1971a of Appendix to Title 50], the definitions contained in subsections (a) and (b) of section 101 of the Immigration and Nationality Act [section 1101(a) and (b) of this title] shall apply to sections 4, 5, 6, 7, 8, 9, 12, 13, and 15 of this Act [this section, former sections 1182b, 1182c,1205, 1251a, and 1255a, and section 1255b of this title, and notes formerly set out under section 1153 of this title and section 1971a of Appendix to Title 50]."

CROSS REFERENCES

Definition of attorney general and nonimmigrant alien, see section 1101 of this title.

§ 1202. Application for visas

(a) Immigrant visas

Every alien applying for an immigrant visa and for alien registration shall make application therefor in such form and manner and at such place as shall be by regulations prescribed. In the application the immigrant shall state his full and true name, and any other name which he has used or by which he has been known; age and sex; the date and place of his birth; present address and places of previous residence; whether married or single, and the names and places of residence of spouse and children, if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); languages he can speak, read, or write; names and addresses of parents, and if neither parent living then the name and address of his next of kin in the country from which he comes; port of entry into the United States; final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so, the name and complete address of such relative or friend; the purpose for which he is going to the United States; the length of time he intends to remain in the United States; whether or not be [1] intends to remain in the United States permanently; whether he was ever arrested, convicted or was ever in prison or almshouse; whether he has ever been the beneficiary of a pardon or an amnesty; whether he has ever been treated in an institution or hospital or other place for insanity or other mental disease; if he claims to be an immediate relative within the meaning of section 1151(b) of this title or a preference or special immigrant, the facts on which he bases such claim; whether or not he is a member of any class of individuals excluded from admission into the United States, or whether he claims to be exempt from exclusion under the immigration laws; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(b) Other documentary evidence for immigrant visa

Every alien applying for an immigrant visa shall present a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Secretary of State. The immigrant shall furnish to the consular officer with his application two copies of a certification by the appropriate police authorities stating what their records show concerning the immigrant; two certified copies of any existing prison record, military record, and record of his birth; and two certified copies of all other records or documents concerning him or his case which may be required by the consular officer. One copy of each document so furnished shall be permanently attached to each copy of the application and become a part thereof. In the event that the immigrant establishes to the satisfaction of the consular officer that any document or record required by this subsection is unobtainable, the consular officer may permit the immigrant to submit in lieu of such document or record other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain.

(c) Nonimmigrant visas; immigrant registration; form, manner and contents of application

Every alien applying for a nonimmigrant visa and for alien registration shall make application therefor in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of birth, his nationality, the purpose and length of his intended stay in the United States; personal description (including height, complexion, color of hair and eyes, and marks of identification); his marital status; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(d) Other documentary evidence for nonimmigrant visa

Every alien applying for a nonimmigrant visa and alien registration shall furnish to the consular officer, with his application, a certified copy of such documents pertaining to him as may be by regulations required.

(e) Signing and verification of application

Except as may be otherwise prescribed by regulations, each copy of an application required

[1] So in original. Probably should read "he".

by this section shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. One copy of the application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa, and the other copy shall be disposed of as may be by regulations prescribed. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp placed by the consular officer in the alien's passport.

(f) Confidential nature of records

The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.

(June 27, 1952, ch. 477, title II, ch. 3, § 222, 66 Stat. 193; Sept. 26, 1961, Pub. L. 87-301, § 6, 75 Stat. 653; Oct. 3, 1965, Pub. L. 89-236, § 11(c), 79 Stat. 918.)

AMENDMENTS

1965—Subsec. (a). Pub L. 89-236 substituted "an immediate relative within the meaning of section 1151 (b) of this title or a preference or special immigrant", for "preference quota or a nonquota immigrant".

1961—Subsecs. (a), (c). Pub. L. 87-301 eliminated the requirement to state applicant's race and ethnic classification.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of the term—
- Alien, see section 1101(a)(3) of this title.
- Child, as used in subchapter III of this chapter, see section 1101(c)(1) of this title.
- Child, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(1) of this title.
- Consular officer, see section 1101(a)(9) of this title.
- Entry, see section 1101(a)(13) of this title.
- Immigrant, see section 1101(a)(15) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Immigration laws, see section 1101(a)(17) of this title.
- National, see section 1101(a)(21) of this title.
- Nonimmigrant visas, see section 1101(a)(26) of this title.
- Parent, as used in subchapter III of this chapter, see section 1101(c)(2) of this title.
- Parent, as used in this subchapter and subchapter I of this title, see section 1101(b)(2) of this title.
- Passport, see section 1101(a)(30) of this title.
- Permits to enter, as used in section 1185, see section 1185(g) of this title.
- Residence, see section 1101(a)(33) of this title.
- Special immigrant, see section 1101(a)(27) of this title.
- Spouse, see section 1101(a)(35) of this title.
- Unmarried, see section 1101(a)(39) of this title.

Detention of aliens for observation and examination, see section 1222 of this title.

Registration and fingerprinting of alien applying for a visa, see section 1201 of this title.

Submission of alien seeking immigrant or nonimmigrant visa to physical and mental examination, see section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1201 of this title.

§ 1203. Re-entry permit

(a) Application; contents

(1) Any alien lawfully admitted for permanent residence, or (2) any alien lawfully admitted to the United States pursuant to clause 6 of section 3 of the Immigration Act of 1924, between July 1, 1924, and July 5, 1932, both dates inclusive, who intends to depart temporarily from the United States may make application to the Attorney General for a permit to reenter the United States, stating the length of his intended absence or absences, and the reasons therefor. Such applications shall be made under oath, and shall be in such form, contain such information, and be accompanied by such photographs of the applicant as may be by regulations prescribed.

(b) Issuance of permit; extension

If the Attorney General finds (1) that the applicant under subsection (a)(1) of this section has been lawfully admitted to the United States for permanent residence, or that the applicant under subsection (a)(2) of this section has since admission maintained the status required of him at the time of his admission and such applicant desires to visit abroad and to return to the United States to resume the status existing at the time of his departure for such visit, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, the Attorney General may, in his discretion, issue the permit, which shall be valid for not more than one year from the date of issuance: *Provided*, That the Attorney General may in his discretion extend the validity of the permit for a period or periods not exceeding one year in the aggregate. The permit shall be in such form as shall be by regulations prescribed for the complete identification of the alien.

(c) Multiple reentries

During the period of validity, such permit may be used by the alien in making one or more applications for reentry into the United States.

(d) Presented and surrendered

Upon the return of the alien to the United States the permit shall be presented to the immigration officer at the port of entry, and upon the expiration of its validity, the permit shall be surrendered to the Service.

(e) Permit in lieu of visa

A permit issued under this section in the possession of the person to whom issued, shall be accepted in lieu of any visa which otherwise would be required from such person under this

chapter. Otherwise a permit issued under this section shall have no effect under the immigration laws except to show that the alien to whom it was issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.

(June 27, 1952, ch. 477, title II, ch. 3, § 223, 66 Stat. 194.)

REFERENCES IN TEXT

Clause (6) of section 3 of the Immigration Act of 1924, referred to in subsec. (a), was formerly classified to section 203(6) of this title, was repealed by section 403(a)(2) of act June 27, 1952, and is now covered by section 1101(a)(15)(E) of this title.

CROSS REFERENCES

Cost of maintenance not to be assessed upon arrival of alien with unexpired reentry permit, see section 1227 of this title.

Definition of alien, attorney general, entry, immigration laws, immigration officer, lawfully admitted for permanent residence, and United States, see section 1101 of this title.

Detention expenses not to be assessed upon arrival of alien with unexpired reentry permit, see section 1223 of this title.

Readmission without reentry permit of certain aliens who depart from United States temporarily, see section 1181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1352 of this title.

§ 1204. Immediate relative and special immigrant visas

A consular officer may, subject to the limitations provided in section 1201 of this title, issue an immigrant visa to a special immigrant or immediate relative as such upon satisfactory proof, under regulations prescribed under this chapter that the applicant is entitled to special immigrant or immediate relative status.

(June 27, 1952, ch. 477, title II, ch. 3, § 224, 66 Stat. 195; Oct. 3, 1965, Pub. L. 89-236, § 11(d), 79 Stat. 918.)

AMENDMENTS

1965—Pub. L. 89-236 eliminated reference to sections 1154 and 1155 of this title and substituted "special immigrant or immediate relative" for "nonquota immigrant".

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of consular officer, immigrant visa, special immigrant, see section 1101 of this title.

§ 1205. Repealed. Pub. L. 87-301, § 24(a)(2), Sept. 26, 1961, 75 Stat. 657

Section, Pub. L. 85-316, § 4, Sept. 11, 1957, 71 Stat. 639; Pub. L. 86-253, § 2, Sept. 9, 1959, 73 Stat. 490; Pub. L. 86-648, § 7, July 14, 1960, 74 Stat. 505, related to nonquota immigrant visas for eligible orphans.

PART IV—PROVISIONS RELATING TO ENTRY AND EXCLUSION

§ 1221. Lists of alien and citizen passengers arriving and departing

(a) Shipment or aircraft manifest; arrival; form and contents; exclusions

Upon the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any such person on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests of the persons on board such vessel or aircraft. Such lists or manifests shall be prepared at such time, be in such form and shall contain such information as the Attorney General shall prescribe by regulation as being necessary for the identification of the persons transported and for the enforcement of the immigration laws. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person arriving by air on a trip originating in foreign contiguous territory, except (with respect to such arrivals by air) as may be required by regulations issued pursuant to section 1229 of this title.

(b) Departure; shipment or aircraft manifest; form and contents; exclusions

It shall be the duty of the master or commanding officer or authorized agent of every vessel or aircraft taking passengers on board at any port of the United States, who are destined to any place outside the United States, to file with the immigration officers before departure from such port a list of all such persons taken on board. Such list shall be in such form, contain such information, and be accompanied by such documents, as the Attorney General shall prescribe by regulation as necessary for the identification of the persons so transported and for the enforcement of the immigration laws. No master or commanding officer of any such vessel or aircraft shall be granted clearance papers for his vessel or aircraft until he or the authorized agent has deposited such list or lists and accompanying documents with the immigration officer at such port and made oath that they are full and complete as to the information required to be contained therein, except that in the case of vessels or aircraft which the Attorney General determines are making regular trips to ports of the United States, the Attorney General may, when expedient, arrange for the delivery of lists of outgoing persons at a later date. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person departing by air on a trip originating in the United States who is destined to foreign contiguous territory, except (with respect to such departure by air) as may be required by regulations issued pursuant to section 1229 of this title.

(c) Record of citizens and resident aliens leaving permanently for foreign countries

The Attorney General may authorize immigration officers to record the following information regarding every resident person leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Names, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen or national, the facts on which claim to that status is based.

(d) Penalties against noncomplying shipments or aircraft

If it shall appear to the satisfaction of the Attorney General that the master or commanding officer, owner, or consignee of any vessel or aircraft, or the agent of any transportation line, as the case may be, has refused or failed to deliver any list or manifest required by subsection (a) or (b) of this section, or that the list or manifest delivered is not accurate and full, such master or commanding officer, owner, or consignee, or agent, as the case may be, shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each person concerning whom such accurate and full list or manifest is not furnished, or concerning whom the manifest or list is not prepared and sworn to as prescribed by this section or by regulations issued pursuant thereto. No vessel or aircraft shall be granted clearance pending determination of the question of the liability to the payment of such penalty, or while it remains unpaid, and no such penalty shall be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such penalty.

(e) Waiver of requirements

The Attorney General is authorized to prescribe the circumstances and conditions under which the list or manifest requirements of subsections (a) and (b) of this section may be waived.

(June 27, 1952, ch. 477, title II, ch. 4, § 231, 66 Stat. 195.)

CROSS REFERENCES

Bonds—
- Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 of this title.
- Bond or undertaking as prerequisite to admission of aliens likely to become public charges or with certain physical disabilities, see section 1183 of this title.
- Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 of this title.
- Exaction from excludable aliens applying for temporary admission, see section 1182 of this title.
- Forms to be prescribed by Attorney General, see section 1103 of this title.

Definition of the term—
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Crewman, see section 1101(a)(10) of this title.
- Immigration laws, see section 1101(a)(10) of this title.
- Immigration officer, see section 1101(a)(18) of this title.
- National, see section 1101(a)(21) of this title.
- National of the United States, see section 1101(a)(22) of this title.
- Permanent, see section 1101(a)(31) of this title.
- Residence, see section 1101(a)(33) of this title.
- United States, see section 1101(a)(38) of this title.
- Unmarried, see section 1101(a)(39) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1330 of this title.

§ 1222. Detention of aliens for observation and examination upon arrival

For the purpose of determining whether aliens (including alien crewmen) arriving at ports of the United States belong to any of the classes excluded by this chapter, by reason of being afflicted with any of the diseases or mental or physical defects or disabilities set forth in section 1182(a) of this title, or whenever the Attorney General has received information showing that any aliens are coming from a country or have embarked at a place where any of such diseases are prevalent or epidemic, such aliens shall be detained on board the vessel or at the airport of arrival of the aircraft bringing them, unless the Attorney General directs their detention in a United States immigration station or other place specified by him at the expense of such vessel or aircraft except as otherwise provided in this chapter, as circumstances may require or justify, for a sufficient time to enable the immigration officers and medical officers to subject such aliens to observation and an examination sufficient to determine whether or not they belong to the excluded classes.

(June 27, 1952, ch. 477, title II, ch. 4, § 232, 66 Stat. 196.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, and immigration officer, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1223 of this title.

§ 1223. Examination upon arrival

(a) Temporary removal

Upon the arrival at a port of the United States of any vessel or aircraft bringing aliens (including alien crewmen) the immigration officers may order a temporary removal of such aliens for examination and inspection at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve vessels or aircraft, the transportation lines, or the masters, commanding officers, agents, owners, or consignees of the vessel or aircraft upon which such aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this chapter bind such vessels or aircraft, trans-

portation lines, masters, commanding officers, agents, owners, or consignees. A temporary removal of aliens from such vessels or aircraft ordered pursuant to this subsection shall be made by an immigration officer at the expense of the vessels or aircraft or transportation lines, or the masters, commanding officers, agents, owners, or consignees of such vessels, aircraft or transportation lines, as provided in subsection (b) of this section and such vessels, aircraft, transportation lines, masters, commanding officers, agents, owners, or consignees, shall, so long as such removal lasts, be relieved of responsibility for the safekeeping of such aliens: *Provided*, That such vessels, aircraft, transportation lines, masters, commanding officers, agents, owners, or consignees may with the approval of the Attorney General assume responsibility for the safekeeping of such aliens during their removal to a designated place for examination and inspection, in which event, such removal need not be made by an immigration officer.

(b) Expenses of removal; coverage

Whenever a temporary removal of aliens is made under this section, the vessels or aircraft or transportation lines which brought them, and the masters, commanding officers, owners, agents, and consignees of the vessel, aircraft, or transportation line upon which they arrived shall pay all expenses of such removal to a designated place for examination and inspection or other place of detention and all expenses arising during subsequent detention, pending a decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the transportation line or to the vessel or aircraft which brought them. Such expenses shall include maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel, aircraft, or transportation line in the event of deportation, except where such expenses arise under section 1227(d) of this title or in such cases as the Attorney General may prescribe in the case of aliens paroled into the United States temporarily under the provisions of section 1182(d)(5) of this title.

(c) Detention expenses

Any detention expenses and expenses incident to detention incurred (but not including expenses of removal to the place of detention) pursuant to this section and section 1222 of this title shall not be assessed under this chapter against the vessel or aircraft or transportation line or the master, commanding officer, owner, agent, or consignee of the vessel, aircraft, or transportation line in the case of (1) any alien who arrived in possession of a valid unexpired immigrant visa, or (2) any alien who was finally admitted to the United States pursuant to this chapter after such detention, or (3) any alien other than an alien crewman, who arrived in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) application for admission was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event application for admission was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the vessel, aircraft, or transportation line or the master, commanding officer, owner, agent, or consignee of the vessel, aircraft, or transportation line establishes to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (4) any person claiming United States nationality or citizenship and in possession of an unexpired United States passport issued to him by competent authority, or (5) any person claiming United States nationality or citizenship and in possession of a certificate of identity issued pursuant to section 1503(b) of this title, or any other document of identity issued or verified by a consular officer which shows on its face that it is currently valid for travel to the United States and who was allowed to land in the United States after such detention.

(d) Penalties

Any refusal or failure to comply with the provisions of this section shall be punished in the manner specified in section 1227(b) of this title.

(June 27, 1952, ch. 477, title II, ch. 4, § 233, 66 Stat. 198.)

CROSS REFERENCES

Definition of the term—
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Consular officer, see section 1101(a)(9) of this title.
- Crewman, see section 1101(a)(10) of this title.
- Entry, see section 1101(a)(13) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Immigration officer, see section 1101(a)(18) of this title.
- Nonimmigrant visas, see section 1101(a)(26) of this title.
- Passport, see section 1101(a)(30) of this title.
- Service, see section 1101(a)(34) of this title.

Reentry permit—
- Generally, see section 1203 of this title.
- Readmission without reentry permit of certain aliens who depart from United States temporarily, see section 1181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1227 of this title.

§ 1224. Physical and mental examinations; appeal of findings

The physical and mental examination of arriving aliens (including alien crewmen) shall be made by medical officers of the United States Public Health Service, who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the special inquiry officers, any physical and mental defect or disease observed by such medical officers in any such alien. If medical officers of the United States Public Health Service are not available, civil surgeons of not less than four years' professional experience may be em-

ployed for such service upon such terms as may be prescribed by the Attorney General. Aliens (including alien crewmen) arriving at ports of the United States shall be examined by at least one such medical officer or civil surgeon under such administrative regulations as the Attorney General may prescribe, and under medical regulations prepared by the Surgeon General of the United States Public Health Service. Medical officers of the United States Public Health Service who have had special training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Attorney General may designate, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens who it is suspected may be excludable under paragraphs (1) to (4) or (5) of section 1182(a) of this title, and the services of interpreters shall be provided for such examination. Any alien certified under paragraphs (1) to (4) or (5) of section 1182(a) of this title, may appeal to a board of medical officers of the United States Public Health Service, which shall be convened by the Surgeon General of the United States Public Health Service, and any such alien may introduce before such board one expert medical witness at his own cost and expense.

(June 27, 1952, ch. 477, title II, ch. 4, § 234, 66 Stat. 198.)

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Definition of alien, attorney general, crewman, entry, immigration officer, and special inquiry officer, see section 1101 of this title.

Public Health Service, see section 201 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1226 of this title.

§ 1225. Inspection by Immigration Officers

(a) Powers of officers

The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe. Immigration officers are authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 1182 of this title. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Detention for further inquiry; cballenge of favorable decision

Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 1323(d) of this title, who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.

(c) Temporary exclusion; permanent exclusion by Attorney General

Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the

examination before either of such officers to be excludable under paragraphs (27), (28), or (29) of section 1182(a) of this title shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

(June 27, 1952, ch. 477, title II, ch. 4, § 235, 66 Stat. 198.)

CROSS REFERENCES

Contempts, see section 401 et seq. of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Crewman, see section 1101(a)(10) of this title.

Entry, see section 1101(a)(13) of this title.

Immigration officer, see section 1101(a)(18) of this title.

National of the United States, see section 1101(a)(22) of this title.

Service, see section 1101(a)(34) of this title.

Special inquiry officer, see section 1101(b)(4) of this title.

United States, see section 1101(3)(38) of this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal contempt, see rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1153, 1155, 1226, 1323 of this title.

§ 1226. Exclusion of aliens

(a) Proceedings

A special inquiry officer shall conduct proceedings under this section, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses. He shall have authority in any case to determine whether an arriving alien who has been detained for further inquiry under section 1225 of this title shall be allowed to enter or shall be excluded and deported. The determination of such special inquiry officer shall be based only on the evidence produced at the inquiry. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer under this section shall be conducted in accordance with this section, the applicable provisions of sections 1225 and 1357(b) of this title, and such regulations as the Attorney General shall prescribe, and shall be the sole and exclusive procedure for determining admissibility of a person to the United States under the provisions of this section. At such inquiry, which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such inquiry, shall be kept.

(b) Appeal

From a decision of a special inquiry officer excluding an alien, such alien may take a timely appeal to the Attorney General, and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 1225(c) of this title. From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney General. An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the Attorney General is made. Except as provided in section 1225(c) of this title such decision shall be rendered solely upon the evidence adduced before the special inquiry officer.

(c) Finality of decision of special inquiry officers

Except as provided in subsections (b) or (d) of this section, in every case where an alien is excluded from admission into the United States, under this chapter or any other law or treaty now existing or hereafter made, the decision of a special inquiry officer shall be final unless reversed on appeal to the Attorney General.

(d) Physical and mental defects

If a medical officer or civil surgeon or board of medical officers has certified under section 1224 of this title that an alien is afflicted with a disease specified in section 1182(a)(6) of this title, or with any mental disease, defect, or disability which would bring such alien within any of the classes excluded from admission to the United States under paragraphs (1) to (4) or (5) of section 1182(a) of this title, the decision of the special inquiry officer shall be based solely upon such certification. No alien shall have a right to appeal from such an excluding decision of a special inquiry officer. If an alien is excluded by a special inquiry officer because of the existence of a physical disease, defect, or disability, other than one specified in section 1182(a)(6) of this title, the alien may appeal from the excluding decision in accordance with subsection (b) of this section, and the provisions of section 1183 of this title may be invoked.

(June 27, 1952, ch. 477, title II, ch. 4, § 236, 66 Stat. 200.)

CROSS REFERENCES

Definition of alien, attorney general, entry, immigration officer, and special inquiry officer, see section 1101 of this title.

Judicial review of orders of exclusion, see section 1105a of this title.

Revocation of approval of certain petitions, notice, see section 1155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1153, 1155, 1323 of this title.

§ 1227. Immediate deportation of aliens excluded from admission or entering in violation of law

(a) Maintenance expenses

Any alien (other than an alien crewman) arriving in the United States who is excluded under this chapter, shall be immediately deported to the country whence he came, in accommodations of the same class in which he arrived, on the vessel or aircraft bringing him, unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained, as well as the transportation expense of his deportation from the United States, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) if the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (3) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

(b) Unlawful practice of transportation lines

It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this chapter or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country whence he came; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 1223 of this title; (5) to take any fee, deposit, or consideration on a contingent basis to ke [1] kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 1223 of this title, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of $300 for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

(c) Recovery of maintenance expenses by United States

If the vessel or aircraft, by which any alien who has been ordered deported under this section arrived, has left the United States and it is impracticable to deport the alien within a reasonable time by another vessel or aircraft owned by the same person, the cost of deportation may be paid from the appropriation for the enforcement of this chapter and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft.

(d) Stay of deportation; payment of maintenance expenses

The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against any provision of this chapter or other laws of the United States. The cost of maintenance of any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of $1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this subchapter. Such alien may be released under bond in the penalty of not less than $500 with security approved by the Attorney General on

[1] So in original. Probably should read "be".

condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

(e) Deportation of alien accompanying physically disabled alien

Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent, owner, or consignee of the vessel or aircraft in which such alien and accompanying alien arrived in the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section.

(June 27, 1952, ch. 477, title II, ch. 4, § 237, 66 Stat. 201.)

CROSS REFERENCES

Bond or undertaking with collector of customs as prerequisite to granting clearance prior to determination of question involving delivery of lists or manifests, see section 1221 of this title.

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Crewman, see section 1101(a)(10) of this title.

Entry, see section 1101(a)(13) of this title.

Immigrant visa, see section 1101(a)(16) of this title.

Immigration officer, see section 1101(a)(18) of this title.

National of the United States, see section 1101(a)(22) of this title.

Nonimmigrant visas, see section 1101(a)(26) of this title.

Passport, see section 1101(a)(30) of this title.

Service, see section 1101(a)(34) of this title.

United States, see section 1101(a)(38) of this title.

Reentry permit—

Generally, see section 1203 of this title.

Readmission without reentry permit of certain aliens who depart from United States temporarily, see section 1181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1153, 1182, 1223, 1253, 1330 of this title.

§ 1228. Entry through or from foreign contiguous territory and adjacent islands

(a) Contracts with transportation lines; rules and regulations

The Attorney General shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States through foreign contiguous territory or through adjacent islands. In prescribing rules and regulations and making contracts for the entry and inspection of aliens applying for admission through foreign contiguous territory or through adjacent islands, due care shall be exercised to avoid any discriminatory action in favor of transportation companies transporting to such territory or islands aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory or such adjacent islands of aliens brought thereto by them, to enter into a contract which will require them to submit to and comply with all the requirements of this chapter which would apply were they bringing such aliens directly to ports of the United States.

(b) Necessity of transportation contract

The Attorney General shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from foreign contiguous territory or from adjacent islands. No such transportation line shall be allowed to land any such alien in the United States until and unless it has entered into any such contracts which may be required by the Attorney General.

(c) Landing stations

Every transportation line engaged in carrying alien passengers for hire to the United States from foreign contiguous territory or from adjacent islands shall provide and maintain at its expense suitable landing stations, approved by the Attorney General, conveniently located at the point or points of entry. No such transportation line shall be allowed to land any alien passengers in the United States until such landing stations are provided, and unless such stations are thereafter maintained to the satisfaction of the Attorney General.

(d) Landing agreements

The Attorney General shall have power to enter into contracts including bonding agreements with transportation lines to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. Notwithstanding any other provision of this chapter, such aliens may not have their classification changed under section 1258 of this title.

(e) Definitions

As used in this section the terms "transportation line" and "transportation company" include, but are not limited to, the owner, charterer, consignee, or authorized agent operating any vessel or aircraft bringing aliens to the United States, to foreign contiguous territory, or to adjacent islands.

(June 27, 1952, ch. 477, title II, ch. 4, § 238, 66 Stat. 202.)

CROSS REFERENCES

Definition of adjacent islands, attorney general, entry, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1182, 1321, 1356 of this title.

§ 1229. Designation of ports of entry for aliens arriving by aircraft

The Attorney General is authorized (1) by regulation to designate as ports of entry for aliens arriving by aircraft any of the ports of entry for civil aircraft designated as such in accordance with law; (2) by regulation to provide such reasonable requirements for aircraft in

civil air navigation with respect to giving notice of intention to land in advance of landing, or notice of landing, as shall be deemed necessary for purposes of administration and enforcement of this chapter; and (3) by regulation to provide for the application to civil air navigation of the provisions of this chapter where not expressly so provided in this chapter to such extent and upon such conditions as he deems necessary. Any person who violates any regulation made under this section shall be subject to a civil penalty of $500 which may be remitted or mitigated by the Attorney General in accordance with such proceedings as the Attorney General shall by regulation prescribe. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft, and such aircraft may be libeled therefore in the appropriate United States court. The determination by the Attorney General and remission or mitigation of the civil penalty shall be final. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft and may be collected by proceedings in rem which shall conform as nearly as may be to civil suits in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings against aircraft in any particular not otherwise provided by law. Any aircraft made subject to a lien by this section may be summarily seized by, and placed in the custody of such persons as the Attorney General may by regulation prescribe. The aircraft may be released from such custody upon deposit of such amount not exceeding $500 as the Attorney General may prescribe, or of a bond in such sum and with such sureties as the Attorney General may prescribe, conditioned upon the payment of the penalty which may be finally determined by the Attorney General.

(June 27, 1952, ch. 477, title II, ch. 4, § 239, 66 Stat. 203.)

CROSS REFERENCES

Definition of alien, attorney general, and entry, see section 1101 of this title.

Designation of ports of entry for civil aircraft, see section 1509 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221, 1330 of this title.

§ 1230. Records of admission

(a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 1201(e) of this title to be surrendered at the port of entry by the arriving alien to an immigration officer.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 1181(b) of this title and of each nonimmigrant as the Attorney General deems necessary for the enforcement of the immigration laws.

(June 27, 1952, ch. 477, title II, ch. 4, § 240, 66 Stat. 204.)

CROSS REFERENCES

Definition of the term

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Entry, see section 1101(a)(13) of this title.

Immigrant visa, see section 1101(a)(15) of this title.

Immigrant visa, see section 1101(a)(16) of this title.

Immigration laws, see section 1101(a)(17) of this title.

Immigration officer, see section 1101(a)(18) of this title.

Nonimmigrant alien, see section 1101(a)(15) of this title.

United States, see section 1101(a)(38) of this title.

PART V—DEPORTATION; ADJUSTMENT OF STATUS

CROSS REFERENCES

Registration provisions pertaining to persons trained in foreign espionage systems, deportation in manner provided by this part for violation of, see section 855 of Title 50, War and National Defense.

PART REFERRED TO IN OTHER SECTIONS

This part is referred te in sections 1306, 1361 of this title; title 50 section 855.

§ 1251. Deportable aliens

(a) General classes

Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this chapter or in violation of any other law of the United States;

(3) hereafter, within five years after entry, becomes institutionalized at public expense because of mental disease, defect, or deficiency unless the alien can show that such disease, defect, or deficiency did not exist prior to his admission to the United States;

(4) is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefore in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial;

(5) has failed to comply with the provisions of section 1305 of this title unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 1306(c) of this title, or under section 36(c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate any provision of sections 611 to 621 of title 22, or has been convicted under section 1546 of title 18;

(6) is or at any time has been after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political Association; (iv) the Communist or any 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; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) 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: *Provided,* That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members 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 the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members 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 organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) 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 (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their 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 or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) 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 (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members 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 paragraph (G) of this subdivision;

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 1182(a) of this title, unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of section 1182(a) of this title, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the organization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 786 of title 50 have such knowledge or reason to believe) that such organization was a Communist organization;

(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry;

(9) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 1258 of this title, or to comply with the conditions of any such status;

(10) entered the United States from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory transportation company under section 1228(a) of this title and was without the required period of stay in such foreigu contiguous territory or adjacent is-

lands following such arrival (other than an alien described in section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere);

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonipecaine or any addiction-forming or addiction-sustaining opiate;

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 1182(a) of this title; or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(13) prior to, or at the time of any entry or at any time within five years after any entry, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semiautomatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940;

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940; or

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, of title 18; an Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes", approved October 6, 1917; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 1185 of this title; an Act entitled "An Act to punish the willful injury of destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918; sections 2151, 2153, 2154, 2155, and 2156 of title 18; an Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948 [50 App. U.S.C. 451 et seq.]; the Universal Military Training and Service Act [50 App. U.S.C. 451 et seq.]; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917, section 871 of title 18; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment thereof; [1] the Trading With the Enemy Act; section 6 of the Penal Code of the United States; section 2384 of title 18; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of title 18; or

(18) has been convicted under section 1328 of this title or under section 4 of the Immigration Act of February 5, 1917.

(b) Nonapplicability of subsection (a)(4)

The provisions of subsection (a)(4) of this section respecting the deportation of an alien convicted of a crime or crimes shall not apply (1) in the case of any alien who has subsequent to such conviction been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States, or (2) if the court sentencing such alien for such crime shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter. The provisions of this subsection shall not apply in the case of any alien who is

[1] So in original. The semicolon probably should be replaced with "known as".

charged with being deportable from the United States under subsection (a)(11) of this section.

(c) Fraudulent entry

An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 1182 (a) of this title, and to be in the United States in violation of this chapter within the meaning of subsection (a)(2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; or (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant.

(d) Applicability to all aliens

Except as otherwise specifically provided in this section, the provisions of this section shall be applicable to all aliens belonging to any of the classes enumerated in subsection (a) of this section, notwithstanding (1) that any such alien entered the United States prior to June 27, 1952, or (2) that the facts, by reason of which any such alien belongs to any of the classes enumerated in subsection (a) of this section, occurred prior to June 27, 1952.

(e) Deportation of certain nonimmigrants

An alien, admitted as a nonimmigrant under the provision of either section 1101(a)(15)(A)(i) or 1101(a)(15)(G)(i) of this title, and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under subsection (a)(6) or (7) of this section.

(f) Relationship to United States citizen or lawfully admitted alien as affecting deportation for fraudulent entry

The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure, or have procured visas or other documentation, or entry into the United States by fraud or misrepresentation shall not apply to an alien otherwise admissible at the time of entry who is the spouse, parent, or a child of a United States citizen or of an alien lawfully admitted for permanent residence.

(June 27, 1952, ch. 477, title II, ch. 5, § 241, 66 Stat. 204; July 18, 1956, ch. 629, title III, § 301 (b), (c), 70 Stat. 575; July 14, 1960, Pub. L. 86-648, § 9, 74 Stat. 505; Sept. 26, 1961, Pub. L. 87-301, § 16, 75 Stat. 655; Oct. 3, 1965, Pub. L. 89-236, § 11(e), 79 Stat. 918; Oct. 20, 1976, Pub. L. 94-571, § 7(e), 90 Stat. 2706.)

REFERENCES IN TEXT

Section 36(c) of the Alien Registration Act, 1940, referred to in subsec. (a)(5), was formerly classified to section 457 of this title, was repealed by section 403(a)(39) of act June 27, 1952, and is now covered by section 1306(c) of this title.

Section 786 of title 50, referred to in subsec. (a)(6)(E), (7), was repealed by Pub. L. 90-237, § 5, Jan. 2, 1968, 81 Stat. 766.

Title 1 of the Alien Registration Act, 1940, referred to in subsec. (a)(15), (16), was formerly classified to sections 9 to 13 of Title 18, Crimes and Criminal Procedure, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and is now covered by sections 2385 and 2387 of said Title 18 and Fed. Rules Cr. Proc. rule 41 (c), Title 18, Appendix, Crimes and Criminal Procedure.

An Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918, referred to in subsec. (a)(17), was formerly classified to Title 18, Crimes and Criminal Procedure, and was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

Section 791 of title 18, referred to in subsec. (a)(17), was repealed by Pub. L. 87-369, § 1, Oct. 4, 1961, 75 Stat. 795.

An act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes" approved Oct. 6, 1917, referred to in subsec. (a)(17), was formerly classified to sections 121 to 144 of Title 50, War and National Defense, and was repealed by Pub. L. 91-452, title XI, § 1106(a), Oct. 15, 1970, 84 Stat. 960.

An Act entitled "An Act to prevent in time of war departure from and entry into the United Statos contrary to the public safety", approved May 22, 1918, referred to in subsec. (a)(17), was formerly classified to sections 223 to 226b of Title 22, Foreign Relations and Intercourse, was repealed by section 403(a)(15) of act June 27, 1952, and is now covered by section 1185 of this title.

An Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918, referred to in subsec. (a)(17), was formerly classified to sections 101 to 106 of Title 50, War and National Defense, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and is now covered by sections 2151 and 2153 to 2156 of Title 18, Crimes and Criminal Procedure.

An Act entitled "An Act to authorize the President to increase temporarily the Military establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto, referred to in subsec. (a)(17), was formerly classified to sections 201 to 211 of Appendix to Title 50, War and National Defense, and has been omitted as obsolete.

The Selective Training and Service Act of 1940, referred to in subsec. (a)(17), was formerly classified to sections 301 to 318 of Appendix to said Title 50, and has been omitted as obsolete.

An Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917, referred to in subsec. (a)(17), was formerly classified to section 89 of Title 18, Crimes and Criminal Procedure, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and is now covered by section 871 of Title 18.

The Trading With The Enemy Act, referred to in subsec. (a)(17), is act Oct. 6, 1917, ch. 106, 40 Stat. 411. For complete classification of this Act to the Code, see section 1 of Title 50 App., War and National Defense, and Tables volume.

Sections 6 and 13 of the Penal Code of the United States, referred to in subsec. (a)(17), were formerly

classified to sections 6 and 13 of Title 18, Crimes and Criminal Procedure, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and are now covered by sections 2384 and 960, respectively, of Title 18.

An Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890, referred to in subsec. (a)(17), is popularly known as the Sherman Antitrust Act, and is classified to sections 1 to 7 of Title 15, Commerce and Trade.

Section 4 of the Immigration Act of February 5, 1917, referred to in subsec. (a)(18), was formerly classified to section 138 of this title, was repealed by section 403(a)(13) of act June 27, 1952, and is now covered by sections 1326, 1328 and 1329 of this title.

AMENDMENTS

1976—Subsec. (a)(10). Pub. L. 94-571 substituted "(other than an alien described in section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere)" for "(other than an alien who is a native-born citizen of any of the countries enumerated in section 1101(a)(27)(A) of this title and an alien described in section 1101(a)(27)(B) of this title)".

1965—Subsec. (a)(10). Pub. L. 89-236 substituted "section 1101(a)(27)(A) of this title" for "section 1101(a)(27)(C) of this title".

1961—Subsec. (f). Pub. L. 87-301 added subsec. (f).

1960—Subsec. (a). Pub. L. 86-648 inserted "or marihuana" following "narcotic drugs" in cl. (11).

1956—Subsec. (a)(11). Act July 18, 1956, § 301(b), included conspiracy to violate any narcotic law, and the illicit possession of narcotics, as additional grounds for deportation.

Subsec. (b). Act July 18, 1956, § 301(c), inserted "The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a) (11) of this section."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236 see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 18, 1956, effective July 19, 1956, see section 401 of act July 18, 1956.

CROSS REFERENCES

Conspiracy, see section 371 et seq. of Title 18, Crimes and Criminal Procedure.

Convicted aliens, deportation after imprisonment, see section 1252 of this title.

Definition of the term—

- Adjacent islands, see section 1101(b)(5) of this title.
- Advocates, see section 1101(a)(2) of this title.
- Advocating a doctrine, see section 1101(e)(1) of this title.
- Advocating the doctrines of world communism, see section 1101(e)(3) of this title.
- Affiliation, see section 1101(e)(2) of this title.
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Crewman, see section 1101(a)(10) of this title.
- Doctrine, see section 1101(a)(12) of this title.
- Entry, see section 1101(a)(13) of this title.
- Foreign state, see section 1101(a)(14) of this title.
- Immigrant, see section 1101(a)(15) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Immigration laws, see section 1101(a)(17) of this title.
- Nonimmigrant alien, see section 1101(a)(15) of this title.
- Organization, see section 1101(a)(28) of this title.
- Service, see section 1101(a)(34) of this title.
- Totalitarian party and totalitarian dictatorship, see section 1101(a)(37) of this title.
- United States, see section 1101(a)(38) of this title.
- Unmarried, see section 1101(a)(39) of this title.
- World communism, see section 1101(a)(40) of this title.

Diplomatic and semidiplomatic immunities, see section 1102 of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

Principals, see section 2 of Title 18, Crimes and Criminal Procedures.

Reprieves and pardons, power of President to grant, see Const. Art. 2, § 2, cl. 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1254 of this title; title 10 section 8253; title 22 sections 618, 2508; title 42 section 402.

§ 1251a. Repealed. Pub. L. 87-301, § 24(a)(3), Sept. 26, 1961, 75 Stat. 657

Section, Pub. L. 85-316, § 7, Sept. 11, 1957, 71 Stat. 640, excepted the spouse, child or parent of a United States citizen, and aliens admitted between Dec. 22, 1945 and Nov. 1, 1954, inclusive, who misrepresented their nationality, place of birth, identity or residence, provided this latter group did so misrepresent because of fear of persecution because of race, religion or politics if repatriated and not to evade quota restrictions, or an investigation of themselves, from the deportation provisions of section 1251 of this title which declared excludable, those aliens who sought to procure or procured entry into the United States by fraud and misrepresentation, or who were not of the nationality specified in their visas, and authorized the admission, after Sept. 11, 1957, of any alien spouse, parent or child of a United States citizen or of an alien admitted for permanent residence who sought, or had procured fraudulent entry into the United States or admitted committing perjury in connection therewith, if otherwise admissible and the Attorney General consented, and is now covered by subsec. (h) of section 1182 of this title, and subsec. (f) of section 1251 of this title.

§ 1252. Apprehension and deportation of aliens

(a) Arrest and custody; review of determination by court

Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (1) be continued in custody; or (2) be released under bond in the amount of not less than $500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (3) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against

him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

(b) Proceedings to determine deportability; removal expenses

A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and, as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such additional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this chapter, as the Attorney General shall prescribe. Such regulations shall include requirements that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held;

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose;

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; and

(4) no decision of deportability shall be valid unless it is based upon reasonable substantial, and probative evidence.

The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this chapter, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 1251 of this title if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraphs (4) to (7), (11), (12), (14) to (17), or (18) of section 1251(a) of this title. If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this chapter.

(c) Final order of deportation; place of detention

When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judicial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other condition as the Attorney General may prescribe. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is authorized and directed to arrange for appropriate places

of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the purpose are available for rental, the Attorney General is authorized, notwithstanding section 5 of title 41 or section 278a of title 40 to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available), and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

(d) Supervision of deportable alien; violation by alien

Any alien, against whom a final order of deportation as defined in subsection (c) of this section, heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision (1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall be fined not more than $1,000 or shall be imprisoned not more than one year, or both.

(e) Penalty for willful failure to depart; suspension of sentence

Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in paragraphs (4) to (7), (11), (12), (14) to (17), or (18) of section 1251(a) of this title, who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is had, then from the date of the final order of the court, or September 23, 1950, whichever is the later, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, and shall be imprisoned not more than ten years: *Provided,* That this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: *Provided further,* That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

(f) Unlawful reentry

Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after June 27, 1952, on any ground described in any of the paragraphs enumerated in subsection (e) of this section, the previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) of this section the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

(g) Voluntary deportation; payment of expenses

If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this chapter, unless such payment is otherwise provided for under this chapter.

(h) Service of prison sentence prior to deportation

An alien sentenced to imprisonment shall not be deported until such imprisonment has been

terminated by the release of the alien from confinement. Parole, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

(June 27, 1952, ch. 477, title II, ch. 5, § 242, 66 Stat. 208; Sept. 3, 1954, ch. 1263, § 17, 68 Stat. 1232.)

AMENDMENTS

1954—Subsec. (d). Act Sept. 3, 1954, deleted phrase "shall upon conviction be guilty of a felony."

CROSS REFERENCES

Alien deported in pursuance of law, see section 1101 of this title.

Conspiracy, see section 371 et seq. of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Immigration laws, see section 1101(a)(17) of this title.

Immigration officer, see section 1101(a)(18) of this title.

National, see section 1101(a)(21) of this title.

Passport, see section 1101(a)(30) of this title.

Special inquiry officer, see section 1101(b)(4) of this title.

United States, see section 1101(a)(38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Habeas corpus, see section 2241 et seq. of Title 28, Judiciary and Judicial Procedure.

Judicial review of orders of deportation, see section 1105a of this title.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

Sentence—

Sentence, judgment and execution, see section 3561 et seq. of Title 18, Crimes and Criminal Procedure.

Suspension of sentence and probation, see section 3651 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1182, 1184, 1282 of this title; title 22 sections 618, 2508; title 40 section 613.

§ 1253. Countries to which aliens shall be deported

(a) Acceptance by designated country; deportation upon nonacceptance by country

The deportation of an alien in the United States provided for in this chapter, or any other Act or treaty, shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

(3) to the country in which he was born;

(4) to the country in which the place of his birth is situated at the time he is ordered deported;

(5) to any country in which he resided prior to entering the country from which he entered the United States;

(6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or

(7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) Deportation during war

If the United States is at war and the deportation, in accordance with the provisions of subsection (a) of this section, of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

(1) if such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or

(2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) Payment of deportation costs; within five years

If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this chapter, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this chapter: *Provided,* That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 1282 of this title, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this chapter and the deportation from such port shall be at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this chapter.

(d) Cost of deportation, subsequent to five years

If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this chapter.

(e) Refusal to transport or to pay

A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this chapter, or a failure or refusal by any such person to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 1227(b) of this title.

(f) Payment of expenses of physically incapahle deportees

When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Countries delaying acceptance of deportees

Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.

(h) Withholding of deportation

The Attorney General is authorized to withhold deportation of any alien within the United States to any country in which in his opinion the alien would be subject to persecution on account of race, religion, or political opinion and for such period of time as he deems to be necessary for such reason.

(June 27, 1952, ch. 477, title II, ch. 5, § 243, 66 Stat. 212; Oct. 3, 1965, Pub. L. 89-236, § 11(f), 79 Stat. 918.)

AMENDMENTS

1965—Subsec. (h). Pub. L. 89-236 substituted "persecution on account of race, religion, or political opinion" for "physical persecution".

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of the term—
- Adjacent islands, section 1101(b)(5) of this title.
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Consular officer, see section 1101(a)(9) of this title.
- Crewman, see section 1101(a)(10) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- National, see section 1101(a)(21) of this title.
- Permanent, see section 1101(a)(31) of this title.
- Residence, see section 1101(a)(33) of this title.
- United States, see section 1101(a)(38) of this title.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1330 of this title; title 22 sections 618, 2508.

§ 1254. Suspension of deportation

(a) Adjustment of status for permanent residence; contents

As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien who applies to the Attorney General for suspension of deportation and—

(1) is deportable under any law of the United States except the provisions specified

in paragraph (2) of this subsection; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

(2) is deportable under paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 1251(a) of this title; has been physically present in the United States for a continuous period of not less than ten years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Continuous physical presence not required because of honorable service in Armed Forces and presence upon entry into service

The requirement of continuous physical presence in the United States specified in paragraphs 1 and (2) of subsection (a) of this section shall not be applicable to an alien who (A) has served for a minimum period of twenty-four months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and (B) at the time of his enlistment or induction was in the United States.

(c) Fulfillment of requirements of subsection (a); report to Congress

(1) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien. If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session.

(2) In the case of an alien specified in paragraph (1) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings.

(3) In the case of an alien specified in paragraph (2) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the suspension of such deportation, the Attorney General shall cancel deportation proceedings. If within the time above specified the Congress does not pass such a concurrent resolution, or if either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of the deportation of such alien, the Attorney General shall thereupon deport such alien in the manner provided by law.

(d) Record of cancellation of deportation

Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date of cancellation of deportation of such alien is made, and unless the alien is an immediate relative within the meaning of section 1151(b) of this title, the Secretary of State shall reduce by one the number of nonpreference immigrant visas authorized to be issued under section 1153(a)(8) of this title for the fiscal year then current.

(e) Voluntary departure

The Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 1251(a) of this title (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section), to depart voluntarily from the United States at his own expense in lieu of deportation if such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure under this subsection.

(f) Application of provisions to alien crewmen; students, scholars, etc.; natives of contiguous country or adjacent island

No provision of this section shall be applicable to an alien who (1) entered the United States as a crewman subsequent to June 30, 1964; or (2) was admitted to the United States pursuant to section 1101(a)(15)(J) of this title or has acquired such status after admission to the United States; or (3) is a native of any country contiguous to the United States or of any adjacent island named in section 1101(b)(5) of this title: *Provided,* That the Attorney General may in his discretion agree to the granting of suspension of deportation to an alien specified in clause (3) of this subsection if such alien establishes to the satisfaction of the Attorney

General that he is ineligible to obtain a nonquota immigrant visa.

(June 27, 1952, ch. 477, title II, ch. 5, § 244, 66 Stat. 214; Oct. 24, 1962, Pub. L. 87-885, § 4, 76 Stat. 1247; Oct. 3, 1965, Pub. L. 89-236, § 12, 79 Stat. 918; Oct. 20, 1976, Pub. L. 94-571, § 7(f), 90 Stat. 2706.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-571 struck out following "unless the alien" the words "is entitled to special immigrant classification under section 1101(a)(27)(A) of this title, or".

1965—Subsec. (d). Pub. L. 89-236, § 12(a), removed all references to quotas and provided that in each case where an alien, other than a special immigrant or an immediate relative, has his deportation suspended, a number is deducted from the nonpreference immigrant visas authorized for the current fiscal year.

Subsec. (f). Pub. L. 89-236, § 12(b), inserted "subsequent to June 30, 1964" following "entered the United States as a crewman".

1962—Subsec. (a). Pub. L. 87-885 inserted "applies to the Attorney General for suspension of deportation and" in the introductory paragraph; substituted "except the provisions specified in paragraph (2) of this subsection" and "extreme hardship" for "and is not a member of a class of aliens whose deportation could not have been suspended by reason of section 19(d) of the Immigration Act of 1917, as amended" and "exceptional and extremely unusual hardship", respectively, and deleted "applies to the Attorney General within five years after the effective date of this chapter for suspension of deportation; last entered the United States more than two years prior to June 27, 1952" preceding "is deportable under any law", in par. (1); redesignated former par. (5) as (2), eliminating from the former provisions "for an act committed or status acquired subsequent to such entry into the United States or having last entered the United States within two years prior to, or at any time after June 27, 1962, is deportable under paragraph (2) of section 1251(a) of this title as a person who has remained longer in the United States than the period for which he was admitted" following "section 1251(a) of this title" and "has not been served with a final order of deportation issued pursuant to this chapter in deportation proceedings up to the time of applying to the Attorney General for suspension of deportation" following "good moral character"; and eliminated former pars. (2) to (4), which authorized the Attorney General to suspend deportation and adjust status for permanent residence of aliens deportable for act committed or status existing prior to or at time of entry into the United States, deportable for act committed or status acquired subsequent to entry, and deportable for being a criminal, prostitute, or other immoral person, subversive, violator of narcotic laws, and similar class of persons, and person who entered without inspection, at time and place other than designated by the Attorney General, or without proper documents, respectively.

Subsec. (b). Pub. L. 87-885 substituted provisions declaring the requirement of continuous physical presence in the United States inapplicable to aliens who served honorably in the Armed Forces of the United States and were in the United States at the time of entry into service for provisions respecting the fulfillment of requirements of pars. (1) to (3) of former subsec. (a) and the making of reports to Congress, now incorporated in subsecs. (c)(1), (2) and (f) of this section.

Subsec. (c)(1). Pub. L. 87-885 incorporated the first three sentences of former subsecs. (b) and (c) in par. (1), eliminating from former subsec. (b) "paragraphs (1), (2), or (3)" and from former subsec. (c) "paragraph (4) or (5)" preceding "of subsection (a) of this section" in the first sentence, and from such former subsecs. (b) and (c) the requirement respecting the submission of reports on the fifteenth day of each calendar month in the third sentence.

Subsec. (c)(2). Pub. L. 87-885 incorporated the fourth and fifth sentences of former subsec. (b) in par. (2), prefacing the provisions with the introductory phrase reading "In the case of an alien specified in paragraph (1) of subsection (a) of this section."

Subsec. (c)(3). Pub. L. 87-885 incorporated the fourth and fifth sentences of former subsec. (c) in par. (3), prefacing the provisions with the introductory phrase reading "In the case of an alien specified in paragraph (2) of subsection (a) of this section."

Subsec. (d). Pub. L. 87-885 eliminated the word "area" from the phrase "reduce by one the quota of the quota area."

Subsec. (e). Pub. L. 87-885 substituted "paragraph (2) of subsection (a)" for "paragraph (4) or (5) of subsection (a)."

Subsec. (f). Pub. L. 87-885 added subsec. (f), which incorporates the last sentence of former subsec. (b) reading "The provisions of this subsection relating to the granting of suspension of deportation shall not be applicable to any alien who is a native of any country contiguous to the United States or of any adjacent island, unless he establishes to the satisfaction of the Attorney General that he is ineligible to obtain a nonquota immigrant visa."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of the term—
- Adjacent islands, see section 1101(b)(5) of this title.
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Child, as used in subchapter III of this chapter, see section 1101(c)(1) of this title.
- Child, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(1) of this title.
- Entry, see section 1101(a)(13) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Parent, as used in subchapter III of this chapter, see section 1101(c)(2) of this title.
- Parent, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(2) of this title.
- Person of good moral character, see section 1101(f) of this title.
- Special immigrant, see section 1101(a)(27) of this title.
- Spouse, see section 1101(a)(35) of this title.
- United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS.

This section is referred to in sections 1184, 1256 of this title.

§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence; record; alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa

(a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he

may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

(b) Upon the approval of an application for adjustment made under subsection (a) of this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under sections 1152(e) or 1153(a) of this title within the class to which the alien is chargeable for the fiscal year then current.

(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 1151(b) of this title) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 1182(d)(4)(C) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 245, 66 Stat. 217; Aug. 21, 1958, Pub. L. 85-700, § 1, 72 Stat. 699; July 14, 1960, Pub. L. 86-648, § 10, 74 Stat. 505; Oct. 3, 1965, Pub. L. 89-236, § 13, 79 Stat. 918; Oct. 20, 1976, Pub. L. 94-571, § 6, 90 Stat. 2705.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-571 deleted ", other than alien crewman," following "status of an alien" and substituted "filed" for "approved".

Subsec. (b). Pub. L. 94-571 inserted reference to section 1152(e) of this title and deleted a comma following "chargeable".

Subsec. (c). Pub. L. 94-571 substituted provision making the section inapplicable to alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa for provision making the section inapplicable natives of contiguous country or adjacent island.

1965—Subsec. (b). Pub. L. 89-236, § 13(a), struck out the reference to the quota area to which the alien is chargeable under section 1152 of this title and substituted therefor a reference to the number of the preference of nonpreference visas authorized to be issued under section 1153(a) of this title within the class to which the alien is chargeable.

Subsec. (c). Pub. L. 89-236, § 13(b), substituted "any country of the Western Hemisphere" for "any country contiguous to the United States".

1960—Subsec. (a). Pub. L. 86-648 substituted "alien, other than an alien crewman, who was inspected and admitted or paroled into the United States" for "alien who was admitted to the United States as a bona fide nonimmigrant", deleted former cl. (3) reading "an immigrant visa was immediately available to him at the time of his application", redesignated cl. (4) as (3), and deleted the concluding sentence reading "A quota immigrant visa shall be considered immediately available for the purposes of this subsection only if the portion of the quota to which the alien is chargeable is undersubscribed by applicants registered on a consular waiting list."

1958—Pub. L. 85-700 among other changes, substituted provisions allowing adjustment of status of alien who was admitted as a bona fide nonimmigrant to that of an alien lawfully admitted for permanent residence, for provisions allowing adjustment of status of alien who was lawfully admitted as a bona fide nonimmigrant and continued to maintain that status, to that of a permanent resident either as a quota immigrant or as a nonquota immigrant claiming nonquota status as the spouse or child of a citizen under certain specified conditions, by eliminating provision terminating nonimmigrant quota status of alien who files application for adjustment of status, and by adding subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 21, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CUBAN REFUGEES: ADJUSTMENT OF STATUS

Pub. L. 89-732, Nov. 2, 1966, 80 Stat. 1161, amended Pub. L. 94-571, § 8, Oct. 20, 1976, 90 Stat. 2706, provided:

"That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act [subsec. (c) of this section], the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least two years, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

"SEC. 2. In the case of any alien described in section 1 of this Act who prior to the effective date thereof [Nov. 2, 1966], has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act [Nov. 2, 1966], whichever date is later.

"SEC. 3. Section 13 of the Act entitled 'An Act to amend the Immigration and Nationality Act, and for other purposes', approved October 3, 1965 (Public Law 89-236) [amending subsecs. (b) and (c) of this section] is amended by adding at the end thereof the following new subsection:

"'(c) Nothing contained in subsection (b) of this section [amending subsec. (c) of this section] shall be construed to affect the validity of any application for adjustment under section 245 [this section] filed with the Attorney General prior to December 1, 1965, which would have been valid on that date; but as to all such applications the statutes or parts of statutes repealed or amended by this Act [Pub. L. 89-236] are, unless otherwise specifically provided therein, continued in force and effect.'

"SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101(a) and (b) of the Immigration and Nationality Act [section 1101(a), (b) of this title] shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of

the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any other law relating to immigration, nationality, or naturalization.

SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976 [see note set out under this section]."

CROSS REFERENCES

Definition of alien, attorney general, immigrant visa, lawfully admitted for permanent residence, nonimmigrant alien, permanent, residence, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1256 of this title.

§ 1255a. Repealed. Pub. L. 87-301, § 24(a)(5), Sept. 26, 1961, 75 Stat. 657

Section, Pub. L. 85-316, § 9, Sept. 11, 1957, 71 Stat. 641, provided for the adjustment of status of certain resident aliens to that of a person admitted for permanent residence, the recording by the Attorney General of the alien's lawful admission for permanent residence, and for granting of nonquota status to spouse and children.

EFFECTIVE DATE OF REPEAL

Section 24(b) of Pub. L. 87-301 provided that: "Paragraphs (4), (5), (6), and (7) of subsection (a) of this section [repealing this section and provisions set out as notes under section 1153 of this title and former section 1971a of Title 50, Appendix] shall take effect upon the expiration of the one hundred and eightieth day immediately following the date of enactment of this Act [Sept. 26, 1961]."

§ 1255b. Adjustment of status of certain nonimmigrants to that of persons admitted for permanent residence

Notwithstanding any other provision of law—

(a) Application

Any alien admitted to the United States as a nonimmigrant under the provisions of either section 1101(a)(15)(A)(i) or (ii) or 1101(a)(15)(G)(i) or (ii) of this title, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) Record of admission

If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien is a person of good moral character, that he is admissible for permanent residence under this chapter, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date of [1] the order of the Attorney General approving the application for adjustment of status is made.

[1] So in original. The word "of" probably should be deleted.

(c) Report to the Congress; resolution not favoring adjustment of status; reduction of quota

A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. If, during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law. If neither the Senate nor the House of Representatives passes such a resolution within the time above specified, the Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 1152 of this title for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

(d) Limitations

The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.

(Pub. L. 85-316, § 13, Sept. 11, 1957, 71 Stat. 642.)

CODIFICATION

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

DEFINITIONS; APPLICABILITY OF SECTION 1101(a) AND (b) OF THIS TITLE

Definitions contained in subsecs. (a) and (b) of section 1101 of this title as applicable to this section, see note set out under section 1201a of this title.

CROSS REFERENCES

Definition of the term—
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
- Nonimmigrant alien, see section 1101(a)(15) of this title.
- Person of good moral character, see section 1101(f) of this title.
- United States, see section 1101(a)(38) of this title.

§ 1256. Rescission of adjustment of status; report to Congress; effect upon naturalized citizen

(a) If, at any time within five years after the status of a person has been adjusted under the provisions of section 1254 of this title or under section 19(c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be

submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made. If, at any time within five years after the status of a person has been otherwise adjusted under the provisions of section 1255 or 1259 of this title or any other provision of law to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling deportation in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made.

(b) Any person who has become a naturalized citizen of the United States upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which such person was not in fact eligible, and which is subsequently rescinded under subsection (a) of this section, shall be subject to the provisions of section 1451 of this title as a person whose naturalization was procured by concealment of a material fact or by willful misrepresentation.

(June 27, 1952, ch. 477, title II, ch. 5, § 246, 66 Stat. 217.)

REFERENCES IN TEXT

Section 19(c) of the Immigration Act of February 5, 1917, referred to in subsec. (a), was formerly classified to section 155(c) of this title, and was repealed by section 403(a)(13) of act June 27, 1952.

CROSS REFERENCES

Definition of alien, attorney general, and lawfully admitted for permanent residence, see section 1101 of this title.

§ 1257. Adjustment of status of certain resident aliens to nonimmigrant status; exceptions

(a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15)(A), (E), or (G) of section 1101(a) of this title, if such alien had at the time of entry or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such paragraphs. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) of this section shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15)(A), (E), or (G) of section 1101(a) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 247, 66 Stat. 218.)

CROSS REFERENCES

Definition of alien, attorney general, entry, immigrant, lawfully admitted for permanent residence, and nonimmigrant alien, see section 1101 of this title.

Issuance of immigrant visa to alien entitled to nonimmigrant status upon waiver of rights accruing from such status, see section 1184 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1184 of this title; title 50 App. section 456.

§ 1258. Change of nonimmigrant classification

The Attorney General may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status, except an alien classified as a nonimmigrant under paragraph (15)(D) of section 1101(a) of this title, or an alien classified as a nonimmigrant under paragraph (15)(C) or (J) of section 1101(a) of this title, unless he applies to have his classification changed from a classification under paragraph (15)(C) or (J) to a classification under paragraph (15)(A) or (G) of section 1101(a) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 248, 66 Stat. 218; Sept. 21, 1961, Pub. L. 87-256, § 109(d), 75 Stat. 535.)

AMENDMENTS

1961—Pub. L. 87-256 inserted references to paragraph (15)(J) of section 1101(a) of this title in two instances.

CROSS REFERENCES

Definition of alien, attorney general, and nonimmigrant alien, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1184, 1201, 1228, 1251 of this title.

§ 1259. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to June 30, 1948

A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien, as of the date of the approval of his application or, if entry occurred prior to July 1, 1924, as of the date of such entry, if no such record is otherwise available and such alien shall satisfy the Attorney General that he is not inadmissible under section 1182(a) of this title insofar as it

relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and he establishes that he—

(a) entered the United States prior to June 30, 1948;

(b) has had his residence in the United States continuously since such entry;

(c) is a person of good moral character; and

(d) is not meligible to citizenship.

(June 27, 1952, ch. 477, title II, ch. 5, § 249, 66 Stat. 219; Aug. 8, 1958, Pub. L. 85-616, 72 Stat. 546; Oct. 3, 1965, Pub. L. 89-236, § 19, 79 Stat. 920.)

AMENDMENTS

1965—Pub. L. 89-236 substituted "June 30, 1948" for "June 28, 1940".

1958—Pub. L. 85-616 permitted record of lawful admission to be made in the case of aliens who entered the United States prior to June 28, 1940, authorized the record to be made as of the date of the approval of the application for those who entered subsequent to July 1, 1924, and prior to June 28, 1940, and substituted provisions requiring the alien to satisfy the Attorney General that he is not inadmissible under section 1182(a) of this title insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens for provisions which required the alien to satisfy the Attorney General that he was not subject to deportation.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Entry, see section 1101(a)(13) of this title.

Ineligible to citizenship, see section 1101(a)(19) of this title.

Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.

Permanent, see section 1101(a)(31) of this title.

Person of good moral character, see section 1101(f) of this title.

Residence, see section 1101(a)(33) of this title.

United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1444 of this title.

§ 1260. Removal of aliens falling into distress

The Attorney General may remove from the United States any alien who falls into distress or who needs public aid from causes arising subsequent to his entry, and is desirous of being so removed, to the native country of such alien, or to the country from which he came, or to the country of which he is a citizen or subject, or to any other country to which he wishes to go and which will receive him, at the expense of the appropriation for the enforcement of this chapter. Any alien so removed shall be ineligible to apply for or receive a visa or other documentation for readmission, or to apply for admission to the United States except with the prior approval of the Attorney General.

(June 27, 1952, ch. 477, title II, ch. 5, § 250, 66 Stat. 219.)

CROSS REFERENCES

Definition of alien, application for admission, attorney general, entry, and United States, see section 1101 of this title.

PART VI—SPECIAL PROVISIONS RELATING TO ALIEN CREWMEN

§ 1281. Alien crewmen

(a) Arrival; submission of list; exceptions

Upon arrival of any vessel or aircraft in the United States from any place outside the United States it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof to deliver to an immigration officer at the port of arrival (1) a complete, true, and correct list containing the names of all aliens employed on such vessel or aircraft, the positions they respectively hold in the crew of the vessel or aircraft, when and where they were respectively shipped or engaged, and those to be paid off or discharged in the port of arrival; or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(b) Reports of illegal landings

It shall be the duty of any owner, agent, consignee, master, or commanding officer of any vessel or aircraft to report to an immigration officer, in writing, as soon as discovered, all cases in which any alien crewman has illegally landed in the United States from the vessel or aircraft, together with a description of such alien and any information likely to lead to his apprehension.

(c) Departure; submission of list; exceptions

Before the departure of any vessel or aircraft from any port in the United States, it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof, to deliver to an immigration officer at that port (1) a list containing the names of all alien employees who were not employed thereon at the time of the arrival at that port but who will leave such port thereon at the time of the departure of such vessel or aircraft and the names of those, if any, who have been paid off or discharged, and of those, if any, who have deserted or landed at that port, or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(d) Violations

In case any owner, agent, consignee, master, or commanding officer shall fail to deliver complete, true, and correct lists or reports of aliens, or to report cases of desertion or landing, as required by subsections (a), (b), and (c) of this section, such owner, agent, consignee, master,

or commanding officer, shall, if required by the Attorney General, pay to the collector of customs of any customs district in which the vessel or aircraft may at any time be found the sum of $10 for each alien concerning whom such lists are not delivered or such reports are not made as required in the preceding subsections. No such vessel or aircraft shall be granted clearance from any port at which it arrives pending the determination of the question of the liability to the payment of such fine, and if such fine is imposed, while it remains unpaid. No such fine shall be remitted or refunded. Clearance may be granted prior to the determination of such question upon deposit of a bond or a sum sufficient to cover such fine.

(e) Regulations

The Attorney General is authorized to prescribe by regulations the circumstances under which a vessel or aircraft shall be deemed to be arriving in, or departing from the United States or any port thereof within the meaning of any provision of this Part.

(June 27, 1952, ch. 477, title II, ch. 6, § 251, 66 Stat. 219.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, immigration officer, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1330 of this title.

§ 1282. Conditional permits to land temporarily

(a) Period of time

No alien crewman shall be permitted to land temporarily in the United States except as provided in this section and sections 1182(d)(3), (5) and 1283 of this title. If an immigration officer finds upon examination that an alien crewman is a nonimmigrant under paragraph (15)(D) of section 1101(a) of this title and is otherwise admissible and has agreed to accept such permit, he may, in his discretion, grant the crewman a conditional permit to land temporarily pursuant to regulations prescribed by the Attorney General, subject to revocation in subsequent proceedings as provided in subsection (b) of this section, and for a period of time, in any event, not to exceed—

(1) the period of time (not exceeding twenty-nine days) during which the vessel or aircraft on which he arrived remains in port, if the immigration officer is satisfied that the crewman intends to depart on the vessel or aircraft on which he arrived; or

(2) twenty-nine days, if the immigration officer is satisfied that the crewman intends to depart, within the period for which he is permitted to land, on a vessel or aircraft other than the one on which he arrived.

(b) Revocation; expenses of detention

Pursuant to regulations prescribed by the Attorney General, any immigration officer may, in his discretion, if he determines that an alien is not a bona fide crewman, or does not intend to depart on the vessel or aircraft which brought him, revoke the conditional permit to land which was granted such crewman under the provisions of subsection (a)(1) of this section, take such crewman into custody, and require the master or commanding officer of the vessel or aircraft on which the crewman arrived to receive and detain him on board such vessel or aircraft, if practicable, and such crewman shall be deported from the United States at the expense of the transportation line which brought him to the United States. Until such alien is so deported, any expenses of his detention shall be borne by such transportation company. Nothing in this section shall be construed to require the procedure prescribed in section 1252 of this title to cases falling within the provisions of this subsection.

(c) Penalties

Any alien crewman who willfully remains in the United States in excess of the number of days allowed in any conditional permit issued under subsection (a) of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $500 or shall be imprisoned for not more than six months, or both.

(June 27, 1952, ch. 477, title II, ch. 6, § 252, 66 Stat. 220.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, immigration officer, nonimmigrant alien, and United States, see section 1101 of this title.

Misdemeanor, offense punishable by imprisonment for a term not exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1253, 1283, 1284 of this title.

§ 1283. Hospital treatment of alien crewmen afflicted with certain diseases

An alien crewman, including an alien crewman ineligible for a conditional permit to land under section 1282(a) of this title, who is found on arrival in a port of the United States to be afflicted with any of the disabilities or diseases mentioned in section 1285 of this title, shall be placed in a hospital designated by the immigration officer in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, commanding officer, or master of the vessel or aircraft, and not to be deducted from the crewman's wages. No such vessel or aircraft shall be granted clearance until such expenses are paid, or their payment appropriately guaranteed, and the collector of customs is so notified by the immigration officer in charge. An alien crewman suspected of being afflicted with any such disability or disease may be removed from the vessel or aircraft on which he arrived to an immigration station, or other appropriate place, for such observation as will enable the examining surgeons to determine definitely whether or not he is so afflicted, all expenses connected therewith to be borne in the manner hereinbefore prescribed. In cases in which it appears to the satisfaction of the immigration officer in charge that it will not be possible within a reasonable time to effect a cure, the return of the alien crewman shall be enforced on, or at the

expense of, the transportation line on which he came, upon such conditions as the Attorney General shall prescribe, to insure that the alien shall be properly cared for and protected, and that the spread of contagion shall be guarded against.

(June 27, 1952, ch. 477, title II, ch. 6, § 253, 66 Stat. 221.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, immigration officer, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1282, 1284, 1330 of this title.

§ 1284. Control of alien crewmen

(a) Penalties for failure

The owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof who fails (1) to detain on board the vessel, or in the case of an aircraft to detain at a place specified by an immigration officer at the expense of the airline, any alien crewman employed thereon until an immigration officer has completely inspected such alien crewman, including a physical examination by the medical examiner, or (2) to detain any alien crewman on board the vessel, or in the case of an aircraft at a place specified by an immigration officer at the expense of the airline, after such inspection unless a conditional permit to land temporarily has been granted such alien crewman under section 1282 of this title or unless an alien crewman has been permitted to land temporarily under section 1182(d)(5) or 1283 of this title for medical or hospital treatment, or (3) to deport such alien crewman if required to do so by an immigration officer, whether such deportation requirement is imposed before or after the crewman is permitted to land temporarily under section 1182(d)(5), 1282, or 1283 of this title, shall pay to the collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of $1,000 for each alien crewman in respect to whom any such failure occurs. No such vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs. The Attorney General may, upon application in writing therefor, mitigate such penalty to not less than $200 for each alien crewman in respect of whom such failure occurs, upon such terms as he shall think proper.

(b) Prima facie evidence against transportation line

Except as may be otherwise prescribed by regulations issued by the Attorney General, proof that an alien crewman did not appear upon the outgoing manifest of the vessel or aircraft on which he arrived in the United States from any place outside thereof, or that he was reported by the master or commanding officer of such vessel or aircraft as a deserter, shall be prima facie evidence of a failure to detain or deport such alien crewman.

(c) Deportation on other than arriving vessel or aircraft; expenses

If the Attorney General finds that deportation of an alien crewman under this section on the vessel or aircraft on which he arrived is unpracticable or impossible, or would cause undue hardship to such alien crewman, he may cause the alien crewman to be deported from the port of arrival or any other port on another vessel or aircraft of the same transportation line, unless the Attorney General finds this to be impracticable. All expenses incurred in connection with such deportation, including expenses incurred in transferring an alien crewman from one place in the United States to another under such conditions and safeguards as the Attorney General shall impose, shall be paid by the owner or owners of the vessel or aircraft on which the alien arrived in the United States. The vessel or aircraft on which the alien arrived shall not be granted clearance until such expenses have been paid or their payment guaranteed to the satisfaction of the Attorney General. An alien crewman who is transferred within the United States in accordance with this subsection shall not be regarded as having been landed in the United States.

(June 27, 1952, ch. 477, title II, ch. 6, § 254, 66 Stat. 221.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, immigration officer, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1321, 1330 of this title.

§ 1285. Employment on passenger vessels of aliens afflicted with certain disabilities

It shall be unlawful for any vessel or aircraft carrying passengers between a port of the United States and a port outside thereof to have employed on board upon arrival in the United States any alien afflicted with feeblemindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease. If it appears to the satisfaction of the Attorney General, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel or aircraft and that the existence of such affliction might have been detected by means of a competent medical examination at such time, the owner, commanding officer, agent, consignee, or master thereof shall pay for each alien so afflicted to the collector of customs of the customs district in which the port of arrival is located the sum of $50. No vessel or aircraft shall be granted clearance pending the determination of the question of the liabllity to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determi-

nation of such question upon the deposit of an amount sufficient to cover such sums or of a bond approved by the collector of customs with sufficient surety to secure the payment thereof. Any such fine may, in the discretion of the Attorney General, be mitigated or remitted.

(June 27, 1952, ch. 477, title II, ch. 6, § 255, 66 Stat. 222.)

CROSS REFERENCES

Definition of alien, attorney general, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1283, 1330 of this title.

§ 1286. Discharge of alien crewmen; penalties

It shall be unlawful for any person, including the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft, to pay off or discharge any alien crewman, except an alien lawfully admitted for permanent residence, employed on board a vessel or aircraft arriving in the United States without first having obtained the consent of the Attorney General. If it shall appear to the satisfaction of the Attorney General that any alien crewman has been paid off or discharged in the United States in violation of the provisions of this section, such owner, agent, consignee, charterer, master, commanding officer, or other person, shall pay to the collector of customs of the customs district in which the violation occurred the sum of $1,000 for each such violation. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond approved by the collector of customs with sufficient surety to secure the payment thereof. Such fine may, in the discretion of the Attorney General, be mitigated to not less than $500 for each violation, upon such terms as he shall think proper.

(June 27, 1952, ch. 477, title II, ch. 6, § 256, 66 Stat. 223.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, lawfully admitted for permanent residence, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1330 of this title, title 22 section 450.

§ 1287. Alien crewmen brought into the United States with intent to evade immigration laws; penalties

Any person, including the owner, agent, consignee, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof, who shall knowingly sign on the vessel's articles, or bring to the United States as one of the crew of such vessel or aircraft, any alien, with intent to permit or assist such alien to enter or land in the United States in violation of law, or who shall falsely and knowingly represent to a consular officer at the time of application for visa, or to the immigration officer at the port of arrival in the United States, that such alien is a bona fide member of the crew employed in any capacity regularly required for normal operation and services aboard such vessel or aircraft, shall be liable to a penalty not exceeding $5,000 for each such violation, for which sum such vessel or aircraft shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

(June 27, 1952, ch. 477, title II, ch. 6, § 257, 66 Stat. 223.)

CROSS REFEENCCES

Definition of alien consular officers, crewman, entry, immigration laws, immigration officer, and United States, see section 1101 of this title.

PART VII—REGISTRATION OF ALIENS

§ 1301. Alien seeking entry; contents

No visa shall be issued to any alien seeking to enter the United States until such alien has been registered and fingerprinted in accordance with section 1201(b) of this title, unless such alien has been exempted from being fingerprinted as provided in that section.

(June 27, 1952, ch. 477, title II, ch. 7, § 261, 66 Stat. 223.)

CROSS REFERENCES

Definition of alien, entry, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1303, 1304 of this title.

§ 1302. Registration of aliens

(a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 1201(b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 1201(b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.

(June 27, 1952, ch. 477, title II, ch. 7, § 262, 66 Stat. 224.)

REFERENCES IN TEXT

Sections 30 and 31 of the Alien Registration Act of 1940, referred to subsecs. (a) and (b), were formerly classified to sections 451 and 452 of this title and were repealed by section 403(a)(39) of act June 27, 1952.

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.

WAIVER OF FINGERPRINTING REQUIREMENTS FOR NONIMMIGRANT ALIENS

Authority of the Secretary of State and the Attorney General to waive the requirement of fingerprinting specified in this section, in the case of any nonimmigrant alien, see section 1201a of this title.

CROSS REFERENCES

Definition of alien, parent, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201a, 1303, 1304 of this title.

§ 1303. Registration of special groups

(a) Notwithstanding the provisions of sections 1301 and 1302 of this title, the Attorney General is authorized to prescribe special regulations and forms for the registration and fingerprinting of (1) alien crewmen, (2) holders of border-crossing identification cards, (3) aliens confined in institutions within the United States, (4) aliens under order of deportation, and (5) aliens of any other class not lawfully admitted to the United States for permanent residence.

(b) The provisions of section 1302 of this title and of this section shall not be applicable to any alien who is in the United States as a nonimmigrant under section 1101(a)(15)(A) or (a)(15)(G) of this title until the alien ceases to be entitled to such a nonimmigrant status.

(June 27, 1952, ch. 477, title II, ch. 7, § 263, 66 Stat. 224.)

CROSS REFERENCES

Definition of alien, attorney general, border crossing identification card, crewmen, lawfully admitted for permanent residence, and nonimmigrant alien, see section 1101 of this title.

§ 1304. Forms for registration and fingerprinting

(a) Preparation; contents

The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 1301 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 1302 of this title. Such forms shall contain inquiries with respect to (1) the date and place of entry of the alien into the United States; (2) activities in which he has been and intends to be engaged; (3) the length of time he expects to remain in the United States; (4) the police and criminal record, if any, of such alien; and (5) such additional matters as may be prescribed.

(b) Confidential nature

All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only to such persons or agencies as may be designated by the Attorney General.

(c) Information under oath

Every person required to apply for the registration of himself or another under this subchapter shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this subchapter shall be authorized to administer oaths for such purpose.

(d) Certificate of alien registration or alien receipt card

Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this chapter shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

(e) Personal possession of registration or receipt card; penalties

Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d) of this section. Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed $100 or be imprisoned not more than thirty days, or both.

(June 27, 1952, ch. 477, title II, ch. 7, § 264, 66 Stat. 224.)

REFERENCES IN TEXT

The Alien Registration Act of 1940, referred to in subsec. (d), was formerly classified to sections 451 to 460 of this title, and was repealed by section 403(a)(39) of act June 27, 1952.

CROSS REFERENCES

Definition of alien, attorney general, entry, and United States, see section 1101 of this title.

Misdemeanor, offense punishable by imprisonment for a term not exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1305. Change of address

Every alien required to be registered under this subchapter, or who was required to be registered under the Alien Registration Act, 1940, as amended, who is within the United States on the first day of January following the effective date of this chapter, or on the first day of January of each succeeding year shall, within thirty days following such dates, notify the Attorney General in writing of his current address and furnish such additional information as may by regulations be required by the Attorney General. Any such alien shall likewise notify the Attorney General in writing of each change of address and new address within ten days from the date of such change. Any such alien who is temporarily absent from the United States on the first day of January following the effective date of this chapter, or on the first day of January of any succeeding year shall furnish his current address and other information as required by this section within ten days after his return. Any such alien in the United States in a lawful temporary residence status shall in like manner also notify the Attorney General in writing of his address at the expiration of each three-month period during

which he remains in the United States regardless of whether there has been any change of address. In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given by such parent or legal guardian.

(June 27, 1952, ch. 477, title II, ch. 7, § 265, 66 Stat. 225.)

REFERENCES IN TEXT

The Alien Registration Act of 1940, referred to in the text, was formerly classified to sections 451 to 460 of this title, and was repealed by section 403(a)(39) of act June 27, 1952.

The effective date of this chapter, referred to in text, was 180 days after June 1952. See section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of alien, attorney general, parent, residence, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1251, 1306 of this title.

§ 1306. Penalties

(a) Willful failure to register

Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed $1,000 or be imprisoned not more than six months, or both.

(b) Failure to notify change of address

Any alien or any parent or legal guardian in the United States of any alien who fails to give written notice to the Attorney General, as required by section 1305 of this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed $200 or be imprisoned not more than thirty days, or both. Irrespective of whether an alien is convicted and punished as herein provided, any alien who fails to give written notice to the Attorney General, as required by section 1305 of this title, shall be taken into custody and deported in the manner provided by Part V of this subchapter, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(c) Fraudulent statements

Any alien or any parent or legal guardian of any alien, who files an application for registration containing statements known by him to be false, or who procures or attempts to procure registration of himself or attempts to procure registration of himself or another person through fraud, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed $1,000, or be imprisoned not more than six months, or both; and any alien so convicted shall, upon the warrant of the Attorney General, be taken into custody and be deported in the manner provided in Part V of this subchapter.

(d) Counterfeiting

Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any certificate of alien registration or an alien registration receipt card or any colorable imitation thereof, except when and as authorized under such rules and regulations as may be prescribed by the Attorney General, shall upon conviction be fined not to exceed $5,000 or be imprisoned not more than five years, or both.

(June 27, 1952, ch. 477, title II, ch. 7, § 266, 66 Stat. 225.)

CROSS REFERENCES

Definition of alien, attorney general, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1251 of this title.

PART VIII—GENERAL PENALTY PROVISIONS

§ 1321. Prevention of unauthorized landing of aliens; failure to report; penalties; prima facie evidence

(a) It shall be the duty of every person, including the owners, masters, officers, and agents of vessels, aircraft, transportation lines, or international bridges or toll roads, other than transportation lines which may enter into a contract as provided in section 1228 of this title, bringing an alien to, or providing a means for an alien to come to, the United States (including an alien crewman whose case is not covered by section 1284(a) of this title) to prevent the landing of such alien in the United States at a port of entry other than as designated by the Attorney General or at any time or place other than as designated by the immigration officers. Any such person, owner, master, officer, or agent who fails to comply with the foregoing requirements shall be liable to a penalty to be imposed by the Attorney General of $1,000 for each such violation, which may, in the discretion of the Attorney General, be remitted or mitigated by him in accordance with such proceedings as he shall be regulation prescribe. Such penalty shall be a lien upon the vessel or aircraft whose owner, master, officer, or agent violates the provisions of this section, and such vessel or aircraft may be libeled therefor in the appropriate United States court.

(b) Proof that the alien failed to present himself at the time and place designated by the immigration officers shall be prima facie evidence that such alien has landed in the United States at a time or place other than as designated by the immigration officers.

(June 27, 1952, ch. 477, title II, ch. 8, § 271, 66 Stat. 226.)

CROSS REFERENCES

Definition of alien, attorney general, crewman, entry, immigration officer, and United States, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1330 of this title.

§ 1322. Bringing in aliens subject to disability or afflicted with disease; persons liable; clearance papers; exceptions; definition

(a) Any person who shall bring to the United States an alien (other than an alien crewman) who is (1) mentally retarded, (2) insane, (3) afflicted with psychopathic personality, or with sexual deviation, (4) a chronic alcoholic, (5) afflicted with any dangerous contagious disease, or (6) a narcotic drug addict, shall pay to the collector of customs of the customs district in which the place of arrival is located for each and every alien so afflicted, the sum of $1,000 unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(b) Any person who shall bring to the United States an alien (other than an alien crewman) afflicted with any mental defect other than those enumerated in subsection (a) of this section, or any physical defect of a nature which may affect his ability to earn a living, as provided in section 1182(a)(7) of this title, shall pay to the collector of customs of the customs district in which the place of arrival is located for each and every alien so afflicted, the sum of $250, unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(c) No vessel or aircraft shall be granted clearance papers pending determination of the question of liability to the payment of any fine under this section, or while the fines remain unpaid, nor shall such fines be remitted or refunded; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs.

(d) Nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of entry in the United States aliens who are entitled by law to exemption from the excluding provisions of section 1182(a) of this title.

(e) As used in this section, the term "person" means the owner, master, agent, commanding officer, charterer, or consignee of any vessel or aircraft.

(June 27, 1952, ch. 477, title II, ch. 8, § 272, 66 Stat. 226; Oct. 3, 1965, Pub. L. 89-236, § 18, 79 Stat. 920.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-236 substituted "mentally retarded" for "feeble minded", struck out references to epileptics and persons afflicted with tuberculosis and leprosy, and added reference to persons afflicted with sexual deviation.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-236 effective, except as otherwise provided, on the first day of the first month after the expiration of thirty days following the date of enactment of Pub. L. 89-236, which was approved on Oct. 3, 1965, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of the term—
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Crewman, see section 1101(a)(10) of this title.
- Entry, see section 1101(a)(13) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Nonimmigrant, visa, see section 1101(a)(26) of this title.
- Person, as used in subchapter I of this chapter and this subchapter, see section 1101(b)(3) of this title.
- Service, see section 1101(a)(34) of this title.
- United States, see section 1101(a)(38) of this title.

Reentry permit, see section 1203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1330 of this title.

§ 1323. Unlawful bringing of aliens into United States

(a) Persons liable

It shall be unlawful for any person, including any transportation company, or the owner, master, commanding officer, agent, charterer, or consignee of any vessel or aircraft, to bring to the United States from any place outside thereof (other than from foreign contiguous territory) any alien who does not have an unexpired visa, if a visa was required under this chapter or regnlations issued thereunder.

(b) Evidence

If it appears to the satisfaction of the Attorney General that any alien has been so brought, such person, or transportation compa-

ny, or the master, commanding officer, agent, owner, charterer, or consignee of any such vessel or aircraft, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien so brought and, except in the case of any such alien who is admitted, or permitted to land temporarily, in addition, a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the alien on whose account the assessment is made. No vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such sums or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(c) Remissions or refund

Such sums shall not be remitted or refunded, unless it appears to the satisfaction of the Attorney General that such person, and the owner, master, commanding officer, agent, charterer, and consignee of the vessel or aircraft, prior to the departure of the vessel or aircraft from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, that the individual transported was an alien and that a visa was required.

(d) Alien stowaways

The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside thereof who fails to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer, or who fails to detain such stowaway on board or at such other designated place after inspection if ordered to do so by an immigration officer, or who fails to deport such stowaway on the vessel or aircraft on which he arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which he arrived when required to do so by an immigration officer, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien stowaway, in respect of whom any such failure occurs. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs. The provisions of section 1225 of this title for detention of aliens for examination before special inquiry officers and the right of appeal provided for in section 1226 of this title shall not apply to aliens who arrive as stowaways and no such alien shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the ultimate departure or removal or deportation of such alien from the United States.

(June 27, 1952, ch. 477, title II, ch. 8, § 273, 66 Stat. 227.)

CROSS REFERENCES

Definition of alien, attorney general, immigration officer, and United States, see section 1101 of this title.

Funds collected to be held in trust, see section 725s of Title 31, Money and Finance.

Revocation of visas or documents, notice prior to alien's embarkation as prerequisite to imposition of penalty, see section 1201 of this title.

Stowaways on vessels and aircraft, penalties generally, see section 2199 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201, 1225, 1330 of this title.

§ 1324. Bringing in and harboring certain aliens; persons liable; authority to arrest

(a) Any person, including the owner, operator, pilot, master, commanding officer, agent, or consignee of any means of transportation who—

(1) brings into or lands in the United States, by any means of transportation or otherwise, or attempts, by himself or through another, to bring into or land in the United States, by any means of transportation or otherwise;

(2) knowing that he is in the United States in violation of law, and knowing or having reasonable grounds to believe that his last entry into the United States occurred less than three years prior thereto, transports, or moves, or attempts to transport or move, within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(3) willfully or knowingly conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place, including any building or any means of transportation; or

(4) willfully or knowingly encourages or induces, or attempts to encourage or induce, either directly or indirectly, the entry into the United States of—

any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or reside within the United States under the terms of this chapter or any other law relating to the immigration or expulsion of aliens, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $2,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs: *Provided, however,* That for the purposes of this section, employment (including the ususal and normal practices incident to employment) shall not be deemed to constitute harboring.

(b) No officer or person shall have authority to make any arrests for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

(June 27, 1952, ch. 477, title II, ch. 8, § 274, 66 Stat. 228.)

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Crewman, see section 1101(a)(10) of this title.
Entry, see section 1101(a)(13) of this title.
Immigration officer, see section 1101(a)(18) of this title.
Residence, see section 1101(a)(33) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.
Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18. Crimes and Criminal Procedure.

§ 1325. Entry of alien at improper time or place; misrepresentation and concealment of facts

Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than $500, or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than $5,000, or both.

(June 27, 1952, ch. 477, title II, ch. 8, § 275, 66 Stat. 229.)

CROSS REFERENCES

Definition of entry, immigration officer, and United States, see section 1101 of this title.
Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1329 of this title.

§ 1326. Reentry of deported alien

Any alien who—

(1) has been arrested and deported or excluded and deported, and thereafter

(2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously excluded and deported, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act,

shall be guilty of a felony, and upon conviction thereof, be punished by imprisonment of not more than two years, or by a fine of not more than $1,000, or both.

(June 27, 1952, ch. 477, title II, ch. 8, § 276, 66 Stat. 229.)

CROSS REFERENCES

Definition of alien, attorney general, entry, and United States, see section 1101 of this title.
Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1329 of this title.

§ 1327. Aiding or assisting subversive alien to enter

Any person who knowingly aids or assists any alien excludable under section 1182(a)(27), (28), or (29) of this title to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

(June 27, 1952, ch. 477, title II, ch. 8, § 277, 66 Stat. 229.)

CROSS REFERENCES

Definition of alien, entry, and United States, see section 1101 of this title.
Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1328. Importation of alien for immoral purpose

The importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is forbidden. Whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall, in every such case, be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than $5,000 and by imprisonment for a term of not more than ten years. The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.

(June 27, 1952, ch. 477, title II, ch. 8, § 278, 66 Stat. 230.)

CROSS REFERENCES

Definition of alien and United States, see section 1101 of this title.
Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1251 of this title.

§ 1329. Jurisdiction of district courts

The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this subchapter. It shall be the duty of the United States attorney of the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under section 1325 or 1326 of this title may be apprehended. No suit or proceeding for a violation of any of the provisions of this subchapter shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reasons therefor.

(June 27, 1952, ch. 477, title II, ch. 8, § 279, 66 Stat. 230.)

CROSS REFERENCES

Jurisdiction of all offenses against the laws of the United States, see section 3231 of Title 18, Crimes and Criminal Procedure.

United States defined, see section 1101 of this title.

§ 1330. Collection of penalties and expenses

Notwithstanding any other provisions of this subchapter, the withholding or denial of clearance of or a lien upon any vessel or aircraft provided for in section 1221, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1321, 1322, or 1323 of this title shall not be regarded as the sole and exclusive means or remedy for the enforcement of payments of any fine, penalty or expenses imposed or incurred under such sections, but, in the discretion of the Attorney General, the amount thereof may be recovered by civil suit, in the name of the United States, from any person made liable under any of such sections.

(June 27, 1952, ch. 477, title II, ch. 8, § 280, 66 Stat. 230.)

CROSS REFERENCES

Definition of attorney general and United States, see section 1101 of this title.

PART IX—MISCELLANEOUS

§ 1351. Nonimmigrant visa fees

The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided*, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis.

(June 27, 1952, ch. 477, title II, ch. 9, § 281, 66 Stat. 230; Oct. 3, 1965, Pub. L. 89-236, § 14, 79 Stat. 919; Oct. 21, 1968, Pub. L. 90-609, § 1, 82 Stat. 1199.)

REFERENCES IN TEXT

The Headquarters Agreement, referred to in the text, is set out as a note under section 287 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Pub. L. 90-609 struck out provisions fixing statutory fees for specified immigration and nationality benefits fits and services rendered, including those pertaining to immigrant visas, reentry permits, adjustments of status to permanent residence, creation of record of admission for permanent residence, suspension of deportation, extension of stay to nonimmigrants, and application for admission to practice as attorney or representative before the Service.

1965—Subsec. (a). Pub. L. 89-236, § 14(a), (b), designated the opening existing material beginning "The following fees shall be charged:" and ending with the end of par. (7) as subsec. (a) and substituted reference to section 1154 of this title for sections 1154(b) and 1155(b) of this title in par. (6).

Subsec. (b). Pub. L. 89-236, § 14(c), added subsec. (b).

Subsec. (c). Pub. L. 89-236, § 14(d), designated the closing existing material consisting of the paragraph beginning "The fees for the furnishing" as subsec. (c).

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment, by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

AGREEMENTS ON PASSPORT VISA FEES

The United States has entered into various bilateral agreements with foreign countries reciprocally waiving or reducing passport fees for non-immigrants.

Country	Date signed	Entered into force	Citation
Albania	May 7, 1926	June 1, 1926	
Argentina	April 15, 1942	June 1, 1942	56 Stat. 1578.
Australia	Feb. 10, 1950	Feb. 10, 1950	1 UST 457.
	July 29, Aug. 9, 17, 20, 1955.	Aug. 20, 1955	6 UST 6225.
	Mar. 13, June 1, Aug. 19, 1959.	Aug. 19, 1959	11 UST 2049.
Austria	June 10, 28, July 12, 1949.	July 12, 1949	63 Stat. 2730.
Bahamas	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Barbados	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Belgium	May 3, 23, 1962.	May 23, 1962	13 UST 1246.
	Mar. 9, Apr. 20, 1971.		22 UST 678.
Brazil	Dec. 16, 17, 1937.	Jan. 1, 1938	186 LNTS 413.
	May 26, 1965	July 25, 1965	16 UST 1006.
Chile	Aug. 29, 1950	Sept. 1, 1950	1 UST 719.
China	Dec. 20, 1955, Feb. 20, 1956.	Feb. 20, 1956	7 UST 585.
	July 11, Oct. 17, Dec. 7, 1956.		18 UST 3167.
	May 8, June 9, 15, 1970.		21 UST 2213.
Columbia	June 13, 26, 1956, May 22, 1957.	June 21, 1957	10 UST 1250.
	June 5, 11, 1957.		10 UST 1250.
Congo (Brazzaville).	Aug. 19, Sept. 4, 5, 16, 1947.	Sept. 16, 1947	61 Stat. 3776.
Costa Rica	June 29, 1925	July 25, 1925	

Country	Date signed	Entered into force	Citation
Cyprus	July 11, 1962, Jan. 11, 1963.	Jan. 11, 1963	14 UST 6.
Czechoslovakia	Dec. 18, 21, 1962.	Dec. 21, 1962	13 UST 3842.
Denmark	July 2, Sept. 29, 1925.	Aug. 6, 1925	
	June 9, 21, July 7, 8, 1947.	July 8, 1947	62 Stat. 4068.
	Apr. 30, May 1, 1958.		
Dominican Republic.	Dec. 14, 16, 1955.	Feb. 1, 1956	7 UST 135.
Ecuador	Dec. 11, 1962, Jan. 7, 1963.	Jan. 7, 1963	14 UST 757.
Egypt	June 3, Aug. 1, 1963.	Aug. 1, 1963	14 UST 1191.
El Salvador	Dec. 7, 15, 1953.	Jan. 14, 1954	5 UST 859.
Estonia	Apr. 8, July 28, 1925.	July 28, 1925	
Fiji	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Finland	July 7, Aug. 26, Dec. 14, 1955.	Dec. 14, 1955	9 UST 1175.
	Feb. 15, 20, 1956.		9 UST 1179.
	Aug. 15, 1958	Aug. 15, 1958	9 UST 1183.
France	Aug. 19, Sept. 4, 5, 16, 1947.	Sept. 16, 1947.	61 Stat. 3776.
	Mar. 16, 31, 1949.	Mar. 31, 1949	63 Stat. 2737.
	Sept. 1, 21, 1961.	Sept. 21, 1961.	12 UST 3197.
The Gambia	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Germany (FRG).	Dec. 12, 30, 1952, Jan. 9, 1953.	Feb. 1, 1953	4 UST 126.
Greece	Jan. 7, 29, 1949.	Jan. 29, 1949	63 Stat. 2905.
Grenada	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Guatemala	May 30, 1956	May 30, 1956	7 UST 1075.
Guyana	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
	May 20, July 18, 1970.	Jan. 18, 1971	22 UST 233.
Honduras	May 20, 27, 1925.	June 1, 1925	
Iceland	Nov. 3, Dec. 21, 1925, June 11, 19, 21, 1926.	June 21, 1926.	
	June 4, 1956	June 4, 1956	7 UST 1017.
India	July 19, Aug. 11, 1948.	Aug. 11, 1948	5 UST 193.
Iran	Mar. 27, Apr. 20, 21, 1926.	Apr. 21, 1926	
Iraq	Feb. 27, 1939	Feb. 27, 1939	
	June 6, 1956	June 6, 1956	7 UST 1067.
Ireland	Aug. 1, 1949	Aug. 1, 1949	63 Stat. 2807.
Israel	Mar. 27, June 1, 1951.	July 1, 1951	3 UST 4796.
	Feb. 14, 28, Mar. 2, 1955.	Mar. 2, 1955	7 UST 2125.
Italy	Feb. 11, 21, 26, 1929.	Mar. 1, 1929	
	Sept. 28, 29, 1948.	Sept. 29, 1948.	62 Stat. 3480.
Jamaica	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Japan	May 21, Aug. 12, 26, Sept. 18, 1952.	Sept. 18, 1952.	5 UST 363.
	Aug. 9, 23, 1966.	Sept. 22, 1966.	17 UST 1228.
Korea	Mar. 28, 1968	Apr. 26, 1968	19 UST 4789.
Kuwait	Dec. 11, 27, 1960.	Dec. 27, 1960	11 UST 2650.
Latvia	Feb. 18, Mar. 27, 1935.	Mar. 27, 1935	
Lesotho	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Liboria	Aug. 31, 1925	Aug. 31, 1925	
	Oct. 28, 1947	Dec. 1, 1947	62 Stat. 3930.
Liechtenstein	Apr. 22, June 18, 30, 1926.	June 30, 1926.	
	Oct. 22, 31, Nov. 4, 13, 1947.	Nov. 13, 1947	6 UST 93.
Lithuania	Apr. 17, 1937	Apr. 17, 1937	
Luxembourg	Apr. 25, May 22, 26, 1936.	May 26, 1936	
Madagascar	Aug. 19, Sept. 4, 5, 16, 1947.	Sept. 16, 1947.	61 Stat. 3776.
Malaysia	Oct. 15, 22, 1954.		
	Mar. 5, 12, 1958.		
Malta	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Mauritius	Nov. 9, 12, 1948.	Nov. 12, 1948	62 Stat. 3824.
Mexico	Oct. 28, Nov. 10, 12, 1953.	Nov. 12, 1953	5 UST 174.
	May 29, 1974		25 UST 1172.
Monaco	Mar. 31, 1952	Mar. 31, 1952	3 UST 3942.
Morocco	Mar. 16, 31, 1949.	Mar. 31, 1949	63 Stat. 2737.
Netherlands	Jan. 21, Feb. 11, Mar. 5, 13, 1946.	Apr. 15, 1946	61 Stat. 3834.
	July 30, Aug. 20, 1947.	Aug. 20, 1947	61 Stat. 3838.
New Zealand	Mar. 14, 1949	Mar. 14, 1949	63 Stat. 2538.
	Dec. 16, 1957, May 2, 5, 1958.	May 5, 1958	9 UST 913.
	May 13, 1958		9 UST 919.
Nicaragua	July 6, Sept. 30, Oct. 22, 1955.	Oct. 22, 1955	10 UST 1696.
Norway	July 7, 29, 1947.	July 29, 1947	61 Stat. 3101.
	Apr. 25, 1958		
	Sept. 10, Oct. 19, 1948.	Oct. 19, 1948	62 Stat. 3649.
Pakistan	Oct. 10, 18, 1949.	Oct. 18, 1949	3 UST 365.
	Aug. 16, Oct. 11, Nov. 19, Dec. 16, 29, 1952, Mar. 19, Apr. 8, 1953.		4 UST 11.
	Aug. 4, Oct. 20, Nov. 25, 29, 1955.		6 UST 6107.
	Mar. 16, June 27, 1959.	June 27, 1959	12 UST 1685.
Panama	Mar. 27, May 22, 25, 1956.	June 1, 1956	7 UST 905.
Peru	Apr. 6, Sept. 26, Oct. 9, 1956.	Sept. 26, 1956.	8 UST 468.
	Jan. 4, 7, 1957		8 UST 468.
	Mar. 18, Apr. 23, 1970.	Apr. 23, 1970	21 UST 1317.
Philippines	Nov. 24, 1952	Nov. 24, 1952	3 UST 5196.
Poland	Dec. 17, 1962, Jan. 21, 1963.	Jan. 21, 1963	14 UST 118.
Portugal	Feb. 22, 24, 1950.	Feb. 24, 1950	1 UST 461.
	July 24, Aug. 4, 1950.	Aug. 4, 1950	1 UST 621.
Romania	Apr. 20, May 14, 26, 1962.	May 26, 1962	13 UST 1192.
	May 31, June 17, 1967.		18 UST 1266.
	Apr. 25, 1969	May 1, 1969	20 UST 699.
Singapore	Oct. 15, 22, 1954.		
	Mar. 5, 12, 1958.		
Seuth Africa	Mar. 28, Apr. 3, 1956.	May 1, 1956	7 UST 631.
	Mar. 31, 1958		9 UST 1023.
Spain	Jan. 21, 1952	Jan. 21, 1952	3 UST 2927.
	May 11, July 5, 1963.		14 UST 1206.

Country	Date signed	Entered into force	Citation
Sri Lanka (Ceylon).	Aug. 25, Sept. 7, 1956.	Sept. 7, 1956...	8 UST 83.
Surinam.....	Jan. 21, Feb. 11, Mar. 5, 13, 1946.	Apr. 15, 1946..	61 Stat. 3834.
Sweden	Apr. 10, 30, 1947.	Apr. 30, 1947..	61 Stat. 4050.
Switzerland.....	May 11, 1925..	May 11, 1925..	
	Oct. 22, 31, Nov. 4, 13, 1947.	Nov. 13, 1947..	6 UST 93.
Thailand.....	Sept. 19, 1925.	Sept. 19, 1925.	
Tonga.....	Nov. 9, 12, 1948.	Nov. 12, 1948..	62 Stat. 3824.
Trinidad and Tobago.	Nov. 9, 12, 1948.	Nov. 12, 1948..	62 Stat. 3824.
	Oct. 28, Nov. 12, 1969.	Nov. 12, 1969..	21 UST 1995.
Tunisia.....	Mar. 16, 31, 1949.	Mar. 31, 1949.	63 Stat. 2737.
Turkey.....	June 27, Aug. 8, Sept. 27, Oct. 11, 1955.	Oct. 11, 1955..	7 UST 337.
Union of Soviet Socialist Republics.	Mar. 26, Aug. 11, 20, 1958.	Aug. 20, 1958..	9 UST 1413.
	Sept. 29, 1975.	Sept. 29, 1975.	
United Kingdom.	Nov. 9, 12, 1948.	Nov. 12, 1948..	62 Stat. 3824.
	Aug. 26, Sept. 13, 1950.	Sept. 13, 1950.	1 UST 745.
Uruguay	Nov. 3, 8, 1949	Nov. 10, 1949..	64 Stat. B 122.
Venezuela.....	Jan. 5, 12, 1937.	Jan. 12, 1937..	
Yugoslavia	Dec. 24, 29, 1925.	Feb. 1, 1925....	
	Mar. 23, 25, 1950.	Mar. 25, 1950.	1 UST 471.
	Dec. 30, 1963, Mar. 27, Apr. 4, 1964.	Apr. 15, 1964..	15 UST 355.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Entry, see section 1101(a)(13) of this title.
Immigrant visa, see section 1101(a)(16) of this title.
National of the United States, see section 1101(a)(22) of this title.
National, see section 1101(a)(21) of this title.
Nonimmigrant alien, see section 1101(a)(15) of this title.
Nonimmigrant visa, see section 1101(a)(26) of this title.
Residence, see section 1101(a)(33) of this title.
Service, see section 1101(a)(34) of this title.
Reentry permit, see section 1203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1356 of this title.

§ 1352. Printing of reentry permits and blank forms of manifest and crew lists; sale to public

(a) Reentry permits issued under section 1203 of this title shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed by the Attorney General.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Documents, upon prepayment, copies of blank forms of manifests and crew lists and such other forms as may be prescribed and authorized by the Attorney General to be sold pursuant to the provisions of this subchapter.

(June 27, 1952, ch. 477, title II, ch. 9, § 282, 66 Stat. 231.)

CROSS REFERENCES

Definition of the term Attorney General, see section 1101 of this title.

§ 1353. Travel expenses and expense of transporting remains of officers and employees dying outside of United States

When officers, inspectors, or other employees of the Service are ordered to perform duties in a foreign country, or are transferred from one station to another, in the United States or in a foreign country, or while performing duties in any foreign country become eligible for voluntary retirement and return to the United States, they shall be allowed their traveling expenses in accordance with such regulations as the Attorney General may deem advisable, and they may also be allowed, within the discretion and under written orders of the Attorney General, the expenses incurred for the transfer of their wives and dependent children, their household effects and other personal property, including the expenses for packing, crating, freight, unpacking, temporary storage, and drayage thereof in accordance with subchapter II of chapter 57 of title 5. The expense of transporting the remains of such officers, inspectors, or other employees who die while in, or in transit to, a foreign country in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses of such interment and of preparation for shipment, are authorized to be paid on the written order of the Attorney General.

(June 27, 1952, ch. 477, title II, ch. 9, § 283, 66 Stat. 231.)

CODIFICATION

"Subchapter II of chapter 57 of title 5" was substituted for "the Act of August 2, 1946 (60 Stat. 806; 5 U.S.C., sec. 73b-1)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

CROSS REFERENCES

Definition of attorney general, service, and United States, see section 1101 of this title.

§ 1353a. Officers and employees; overtime services; extra compensation; length of working day

The Attorney General shall fix a reasonable rate of extra compensation for overtime services of immigration officers and employees of the Immigration and Naturalization Service who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air, such rates to be fixed on a basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime

extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian) and two additional days' pay for Sunday and holiday duty; in those ports where the customary working hours are other than those heretofore mentioned, the Attorney General is vested with authority to regulate the hours of such employees so as to agree with the prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for such employees or the overtime pay herein fixed.

(Mar. 2, 1931, ch. 368, § 1, 46 Stat. 1467; Ex. Ord. No. 6166, § 14, June 10, 1933; 1940 Reorg. Plan No. V, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238; June 27, 1952, ch. 477, title IV, § 402(i)(1), 66 Stat. 278.)

CODIFICATION

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

Ex. Ord. No. 6166, is authority for the substitution of "Immigration and Naturalization Service" for "Immigration Service"; and 1940 Reorg. Plan No. V. is authority for the substitution of "Attorney General" for "Secretary of Labor." See note set out under section 1551 of this title.

Section was formerly classified to section 342c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1952—Act June 27, 1952, substituted "immigration officers" for "inspectors".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance of the performance of any of his functions by any of such officers, agencies, and employees by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Payment of overtime services or for Sunday or holiday work under this section not prevented by generally applicable premium pay provisions covering government employees, see section 5549 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1353a, 1353d of this title; title 5 section 5549.

§ 1353b. Extra compensation; payment

The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance arriving in the United States from a foreign port to the Attorney General, who shall pay the same to the several immigration officers and employees entitled thereto as provided in this section and section 1353a of this title. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual inspection or examination of passengers or crew takes place or not: *Provided*, That this section shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.

(Mar. 2, 1931, ch. 368, § 2, 46 Stat. 1467; 1940 Reorg. Plan No. V, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238.)

CODIFICATION

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

1940 Reorg. Plan No. V is authority for the substitution of "Attorney General" for "Secretary of Labor." See note set out under section 1551 of this title.

Section was formerly classified to section 342d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Maximum charges for certain overtime services, notwithstanding any other provision of law, see section 1741 of Title 49, Transportation.

Payment of overtime services or for Sunday or holiday work under this section not prevented by generally applicable premium pay provisions covering government employees, see section 5549 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1353d of this title; title 5 section 5549.

§ 1353c. Immigration officials; service in foreign contiguous territory

Nothing in section 1914 of title 18, relative to augmenting salaries of Government officials from outside sources shall prevent receiving reimbursements for services of immigration officials incident to the inspection of aliens in foreign contiguous territory and such reimbursement shall be credited to the appropriation, "Immigration and Naturalization Service—Salaries and Expenses."

(Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1424; Sept. 3, 1954, ch. 1263, § 6, 68 Stat. 1227.)

REFERENCES IN TEXT

Section 1914 of title 18, referred to in the text, was repealed and is now covered by section 209 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

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

Section constituted a part of section 1 of act Mar. 4, 1921, ch. 161, 41 Stat. 1424, which rendered act Mar. 3, 1917, ch. 163, § 1, 39 Stat. 1106, (former section 66 of Title 5) inapplicable to immigration officials under the circumstances stated.

Section was formerly classified to section 68 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 60 Stat. 378.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1914 of title 18" for "section 66 of this title".

§ 1353d. Disposition of money received as extra compensation

Moneys collected on or after July 1, 1941, as extra compensation for overtime service of immigration officers and employees of the Immigration Service pursuant to sections 1353a and 1353b of this title, shall be deposited in the Treasury of the United States to the credit of the appropriation for the payment of salaries, field personnel of the Immigration and Naturalization Service, and the appropriation so credited shall be available for the payment of such compensation.

(Aug. 22, 1940, ch. 688, 54 Stat. 858; June 27, 1952, ch. 477, title IV, § 402(i)(2), 66 Stat. 278.)

CODIFICATION

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

Section was formerly classified to section 342e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1952—Act June 27, 1952, substituted "immigration officers" for "inspectors".

TRANSFERS OF FUNCTIONS

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1354. Applicability to members of the armed forces

Nothing contained in this subchapter shall be construed so as to limit, restrict, deny, or affect the coming into or departure from the United States of an alien member of the Armed Forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces: *Provided,* That nothing contained in this section shall be construed to give to or confer upon any such alien any other privileges, rights, benefits, exemptions, or immunities under this chapter, which are not otherwise specifically granted by this chapter.

(June 27, 1952, ch. 477, title II, ch. 9, § 284, 66 Stat. 232.)

CROSS REFERENCES

Definition of alien and United States, see section 1101 of this title.

§ 1355. Disposal of privileges at immigrant stations; rentals; retail sale; disposition of receipts

(a) Subject to such conditions and limitations as the Attorney General shall prescribe, all exclusive privileges of exchanging money, transporting passengers or baggage, keeping eating houses, or other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder (other than an alien) in accordance with the provision of section 5 of title 41 and for the use of Government property in connection with the exercise of such exclusive privileges a reasonable rental may be charged. The feeding of aliens, or the furnishing of any other necessary service in connection with any United States immigrant station, may be performed by the Service without regard to the foregoing provisions of this subsection if the Attorney General shall find that it would be advantageous to the Government in terms of economy and efficiency. No intoxicating liquors shall be sold at any immigrant station.

(b) Such articles determined by the Attorney General to be necessary to the health and welfare of aliens detained at any immigrant station, when not otherwise readily procurable by such aliens, may be sold at reasonable prices to such aliens through Government canteens operated by the Service, under such conditions and limitations as the Attorney General shall prescribe.

(c) All rentals or other receipts accruing from the disposal of privileges, and all moneys arising from the sale of articles through Service-operated canteens, authorized by this section, shall be covered into the Treasury to the credit of the appropriation for the enforcement of this subchapter.

(June 27, 1952, ch. 477, title II, ch. 9, § 285, 66 Stat. 232.)

CROSS REFERENCES

Definition of alien, attorney general, service, and United States, see section 1101 of this title.

§ 1356. Disposition of monies collected under the provisions of this subchapter

(a) All moneys paid into the Treasury to reimburse the Service for detention, transportation, hospitalization, and all other expenses of detained aliens paid from the appropriation for the enforcement of this chapter, and all moneys paid into the Treasury to reimburse the Service for expenses of landing stations referred to in section 1228(c) of this title paid by the Service from the appropriation for the enforcement of this chapter, shall be credited to the appropriation for the enforcement of this chapter for the fiscal year in which the expenses were incurred.

(b) Except as otherwise provided in subsection (a) of this section, or in any other provision of this subchapter, all moneys received in payment of fees and administrative fines and penalties under this subchapter shall be covered into the Treasury as miscellaneous receipts: *Provided, however,* That all fees received from applicants residing in the Virgin Islands of the United States, and in Guam, required to be paid under section 1351 of this title, shall be

paid over to the Treasury of the Virgin Islands and to the Treasury of Guam, respectively.

(June 27, 1952, ch. 477, title II, ch. 9, § 286, 66 Stat. 232.)

CROSS REFERENCES

Definition of alien and service, see section 1101 of this title.

§ 1357. Powers of immigration officers and employees

(a) Powers without warrant

Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States; and

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States. Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.

(b) Administration of oath; taking of evidence

Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this chapter and the administration of the Service; and any person to whom such oath has been administered, (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28) under the provisions of this chapter, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621 of title 18.

(c) Search without warrant

Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this chapter which would be disclosed by such search.

(June 27, 1952, ch. 477, title II, ch. 9, § 287, 66 Stat. 233; Oct. 18, 1976, Pub. L. 94-550, § 7, 90 Stat. 2535.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-550 inserted "(or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28)" following "to whom such oath has been administered" and "(or subscribe under penalty of perjury as permitted under section 1746 of title 28)" following "give false evidence or swear".

CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(3) of this title.

Entry, see section 1101(a)(13) of this title.

Immigration officer, see section 1101(a)(18) of this title.

Service, see section 1101(a)(34) of this title.

United States, see section 1101(a)(38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1226 of this title.

§ 1358. Local jurisdiction over immigrant stations

The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant stations.

(June 27, 1952, ch. 477, title II, ch. 9, § 288, 66 Stat. 234.)

§ 1359. Application to American Indians born in Canada

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

(June 27, 1952, ch. 477, title II, ch. 9, § 289, 66 Stat. 234.)

§ 1360. Establishment of central file; information from other departments and agencies

(a) There shall be established in the office of the Commissioner, for the use of security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this chapter.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health, Education, and Welfare shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

(June 27, 1952, ch. 477, title II, ch. 9, § 290, 66 Stat. 234; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of said 1953 Reorg. Plan No. 1.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Commissioner, see section 1101(a)(8) of this title.
Entry, see section 1101(a)(13) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

§ 1361. Burden of proof upon alien

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this chapter, and, if an alien, that he is entitled to the nonimmigrant, quota immigrant, or nonquota immigrant status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not subject to exclusion under any provision of this chapter. In any deportation proceeding under Part V of this subchapter against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

(June 27, 1952, ch. 477, title II, ch. 9, § 291, 66 Stat. 234.)

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Consular officer, see section 1101(a)(9) of this title.
Entry, see section 1101(a)(13) of this title.
Nonimmigrant alien, see section 1101(a)(15) of this title.
Profession, see section 1101(a)(32) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

§ 1362. Right to counsel

In any exclusion or deportation proceedings before a special inquiry officer and in any appeal proceedings before the Attorney General from any such exclusion or deportation proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

(June 27, 1952, ch. 477, title II, ch. 9, § 292, 66 Stat. 235.)

CROSS REFERENCES

Definition of attorney general and special inquiry officer, see section 1101 of this title.

§ 1363. Deposit of and interest on cash received to secure immigration bonds

(a) Cash received by the Attorney General as security on an immigration bond shall be deposited in the Treasury of the United States in trust for the obligor on the bond, and shall bear interest payable at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum. Such interest shall accrue from date of deposit occurring after April 27, 1966, to and including date of withdrawal or date of breach of the immigration bond, whichever occurs first: *Provided,* That cash received by the Attorney General as security on an immigration bond, and deposited by him in the postal savings system prior to discontinuance of the system, shall accrue interest as provided in this section from the date such cash ceased to accrue interest under the system. Appropriations to the Treasury Department for interest on uninvested funds shall be available for payment of said interest.

(b) The interest accruing on cash received by the Attorney General as security on an immigration bond shall be subject to the same disposition as prescribed for the principal cash, except that interest accruing to the date of breach of the immigration bond shall be paid to the obligor on the bond.

(June 27, 1952, ch. 477, title II, ch. 9, § 293, as added July 10, 1970, Pub. L. 91-313, § 2, 84 Stat. 413.)

SUBCHAPTER III—NATIONALITY AND NATURALIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1101, 1438 of this title.

PART I—NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION

§ 1401. Nationals and citizens of United States at hirtb

(a) The following shall be nationals and citizens of the United States at birth:

(1) a person born in the United States, and subject to the jurisdiction thereof;

(2) 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;

(3) 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;

(4) 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;

(5) 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;

(6) 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;

(7) 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 ten years, at least five 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 by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 288 of title 22, may be included in order to satisfy the physical-presence requirement of this paragraph. This proviso 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.

(b) Any person who is a national and citizen of the United States under paragraph (7) of subsection (a) of this section shall lose his nationality and citizenship unless—(1) he shall come to the United States and be continuously physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years; or (2) 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. In the administration of this subsection absences from the United States of less than sixty days in the aggregate during the period for which continuous physical presence in the United States is required shall not break the continuity of such physical presence.

(c) Subsection (b) of this section shall apply to a person born abroad subsequent to May 24, 1934: *Provided, however,* That nothing contained in this subsection shall be construed to alter or affect the citizenship of any person born abroad subsequent to May 24, 1934, who, prior to the effective date of this chapter, has taken up a residence in the United States before attaining the age of sixteen years and

thereafter, whether before or after the effective date of this chapter, complies or shall comply with the residence requirements for retention of citizenship specified in subsections (g) and (h) of section 201 of the Nationality Act of 1940, as amended.

(d) Nothing contained in subsection (b) of this section, as amended, shall be construed to alter or affect the citizenship of any person who has come to the United States prior to October 27, 1972, and who, whether before or after October 27, 1972, immediately following such coming complies or shall comply with the physical presence requirements for retention of citizenship specified in subsection (b) of this section prior to October 27, 1972, and the repeal of section 1401b of this title.

(June 27, 1952, ch. 477, title III, ch. 1, § 301, 66 Stat. 235; Nov. 6, 1966, Pub. L. 89-770, 80 Stat. 1322; Oct. 27, 1972, Pub. L. 92-584, §§ 1, 3, 86 Stat. 1289.)

REFERENCES IN TEXT

Subsections (g) and (h) of section 201 of the Nationality Act of 1940, as amended, referred to in subsec. (c), were formerly classified to section 601 of this title, and were repealed by section 403(a)(42) of act June 27, 1952.

Section 1401b of this title, referred to in subsec. (d), was repealed by Pub. L. 92-584, § 2, Oct. 27, 1972, 86 Stat. 1289, and is now covered by subsec. (b) of this section.

AMENDMENTS

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.

Subsec. (d). Pub. L. 92-584, § 3, added subsec. (d).

1966—Subsec. (a)(7). Pub. L. 89-770 authorized periods of employment with the United States Government or with an international organization by the citizen parent, or any periods during which the citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) 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

Chapter 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.

ADMISSION OF ALASKA AS STATE

Alaska Statehood provisions as not conferring, terminating or restoring United States nationality, see section 21 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
National of the United States, see section 1101(a)(22) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

Persons born and naturalized in United States and subject to its jurisdiction as citizens of United States and State wherein they reside, see Const. Amend. 14, § 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401a, 1408, 1409, 1452 of this title; title 26 sections 877, 2107, 2501.

§ 1401a. Birth abroad before 1952 to service parent

Section 1401(a)(7) 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.

(Mar. 16, 1956, ch. 85, 70 Stat. 50.)

REFERENCES IN TEXT

Section 201(g) and (i) of the Nationality Act of 1940, referred to in the 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 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.

"The preceding provisos 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 citi-

zen 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 or 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 a part of the Immigration and Nationality Act which comprises this chapter.

§ 1401b. Repealed. Pub. L. 92-584, § 2, Oct. 27, 1972, 86 Stat. 1289

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, and is now covered by 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.)

CROSS REFERENCES

United States defined, see section 1101 of this title.

§ 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

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.

CROSS REFERENCES

United States defined, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1452 of this title.

§ 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 the United States at birth. A noncitizen Indian born in Alaska on or after March 30, 1867, and prior to June 2, 1924, is declared to be a citizen of the United States as of June 2, 1924. An Indian born in Alaska on or after June 2, 1924, is a citizen of the United States at birth.

(June 27, 1952, ch. 477, title III, ch. 1, § 304, 66 Stat. 237.)

ADMISSION OF ALASKA AS STATE

Alaska Statehood provisions as not repealing, amending, or modifying the provisions of this section, see section 24 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

United States defined, see section 1101 of this title.

§ 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.

(June 27, 1952, ch. 477, title III, ch. 1, § 305, 66 Stat. 237.)

ADMISSION OF HAWAII AS STATE

Hawaii Statehood provisions as not repealing, amending, or modifying the provisions of this section, see section 20 of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 13, set out as a note at the beginning of chapter 3 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

United States defined, see section 1101 of this title.

§ 1406. Persons living in and boru 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.

(June 27, 1952, ch. 477, title III, ch. 1, § 306, 66 Stat. 237.)

CROSS REFERENCES

Definition of the term—
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
United States, see section 1101(a)(38) of this title.

§ 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 hereinbefore 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.

(June 27, 1952, ch. 477, title III, ch. 1, § 307, 66 Stat. 237.)

CROSS REFERENCES

Definition of the term—
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
National, see section 1101(a)(21) of this title.
National of the United States, see section 1101 (a)(22) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

§ 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; and

(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.

(June 27, 1952, ch. 477, title III, ch. 1, § 308, 66 Stat. 238.)

CROSS REFERENCES

Definition of the term—
National of the United States, see section 1101(a)(22) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1409 of this title.

§ 1409. Children born out of wedlock

(a) The provisions of paragraphs (3) to (5) and (7) of section 1401(a) of this title, and of paragraph (2) of section 1408, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this chapter, if the paternity of such child is established while such child is under the age of twenty-one years by legitimation.

(b) Except as otherwise provided in section 405 of this Act, the provisions of section 1401(a)(7) of this title shall apply to a child born out of wedlock on or after January 13, 1941, and prior to the effective date of this chapter, as of the date of birth, if the paternity of such child is established before or after the effective date of this chapter and while such child is under the age of twenty-one years by legitimation.

(c) Notwithstanding the provision of subsection (a) of this section, a person born, on or after the effective date of this chapter, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.

(June 27, 1952, ch. 477, title III, ch. 1, § 309, 66 Stat. 238.)

REFERENCES IN TEXT

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.

Section 405 of this Act, referred to in subsec. (b), is classified as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—
- Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
- Child, as used in this subchapter, see section 1101(c)(1) of this title.
- National, see section 1101(a)(21) of this title.
- National of the United States, see section 1101(a)(22) of this title.

PART II—NATIONALITY THROUGH NATURALIZATION

§ 1421. Jurisdiction to naturalize

(a) Exclusive jurisdiction to naturalize persons as citizens of the United States is conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State, District Court of the United States for the District of Columbia and for Puerto Rico, the District Court of the Virgin Islands of the United States, and the District Court of Guam; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein specified to naturalize persons shall extend only to such persons resident within the respective jurisdiction of such courts, except as otherwise specifically provided in this subchapter.

(b) A person who petitions for naturalization in any State court having naturalization jurisdiction may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Attorney General with such blank forms as may be required in naturalization proceedings.

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

(e) Notwithstanding the provisions of section 405(a), any petition for naturalization filed on or after September 26, 1961, shall be heard and determined in accordance with the requirements of this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, § 310, 66 Stat. 239; July 7, 1958, Pub. L. 85-508, § 25, 72 Stat. 351; Mar. 18, 1959, Pub. L. 86-3, § 20(c), 73 Stat. 13; Sept. 26, 1961, Pub. L. 87-301, § 17, 75 Stat. 656.)

REFERENCES IN TEXT

Section 405(a), referred to in subsec. (e), means section 405(a) of Act June 27, 1952, set out as a note under section 1101 of this title.

AMENDMENTS

1961—Subsec. (e). Pub. L. 87-301 added subsec. (e).

1959—Subsec. (a). Pub. L. 86-3 eliminated provisions which conferred jurisdiction on the District Court for the Territory of Hawaii. See section 91 of Title 28, Judiciary and Judicial Procedure, and notes thereunder.

1958—Subsec. (a). Pub. L. 85-508 eliminated provisions which conferred jurisdiction on the District Court for the Territory of Alaska. See section 81A of Title 28, Judiciary and Judicial Procedure, which established a United States District Court for the State of Alaska.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding former section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding former section 491 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Definition of the term—
- Attorney General, see section 1101(a)(5) of this title.
- Clerk of court, see section 1101(a)(7) of this title.
- Naturalization, see section 1101(a)(23) of this title.
- Naturalization court, see section 1101(a)(24) of this title.
- Residence, see section 1101(a)(33) of this title.
- State, except as used in subsec. (a) of this section, see section 1101(a)(36) of this title.
- United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1438, 1446, 1451, 1455 of this title.

§ 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. 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 31I, 66 Stat. 239.)

REFERENCES IN TEXT

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.

Section 405(b) of this Act, referred to in the text, is classified as a note under section 1101 of this title.

CROSS REFERENCES

Definition of naturalization and United States, see section 1101 of this title.

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

No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own petition 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 this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any 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: *Provided further,* That the requirements of this section 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 312, 66 Stat. 239.)

REFERENCES IN TEXT

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 Effctive Date note under section 1101 of this title.

CROSS REFERENCES

Naturalization defined, see section 1101 of this title.

§ 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 or [1] 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; (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; (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, 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 circu-

[1] So in original. Probably should be "of".

lates, 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 title shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this title 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 petition 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 petition 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 establishes 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 313, 66 Stat. 240.)

REFERENCES IN TEXT

Section 405(b) of this Act, referred to in subsec. (a), is classified as a note under section 1101 of this title.

Section 786 of title 50, referred to in subsec. (a)(2), was repealed by Pub. L. 90-237, § 5, Jan. 2, 1968, 81 Stat. 766.

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.

CROSS REFERENCES

Definition of the term—
- Advocates, see section 1101(a)(2) of this title.
- Advocating a doctrine, see section 1101(e)(1) of this title.
- Advocating the doctrines of world communism, see section 1101(e)(3) of this title.
- Affiliation, see section 1101(e)(2) of this title.
- Doctrine, see section 1101(a)(12) of this title.
- Foreign state, see section 1101(a)(14) of this title.
- Naturalization, see section 1101(a)(23) of this title.
- Organization, see section 1101(a)(28) of this title.
- Totalitarian party and totalitarian dictatorship, see section 1101(a)(37) of this title.
- United States, see section 1101(a)(38) of this title.
- World Communism, see section 1101(a)(40) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1434, 1435, 1441, 1451 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 forces 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 314, 66 Stat. 241.)

CROSS REFERENCES

Definition of the term—
- Ineligible to citizenship, see section 1101(a)(19) of this title.
- Naturalization, see section 1101(a)(23) of this title.
- United States, see section 1101(a)(38) of this title.

Loss of nationality by deserting military, air or naval forces, see section 1481 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1434 of this title; title 50 App. section 455.

§ 1426. Citizenship denied alien relieved of service in armed forces because of alienage; conclusiveness of records

(a) Notwithstanding the provisions of section 405(b) of this Act, 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) The records of the Selective Service System or of the Department of Defense shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

(June 27, 1952, ch. 477, title III, ch. 2, § 315, 66 Stat. 242.)

REFERENCES IN TEXT

Section 405(b) of this Act, referred to in subsec. (a), is classified as a note under section 1101 of this title.

CODIFICATION

"Department of Defense" was substituted for "National Military Establishment" in subsec. (b), on authority of act Aug. 10, 1949, ch. 412, § 12(a), 63 Stat. 591.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Ineligible to citizenship, see section 1101(a)(19) of this title.
United States, see section 1101(a)(38) of this title.
National Security Training Corps, persons liable for training and service, see section 454 of Title 50, App., War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1434 of this title.

§ 1427. Requirements of naturalization

(a) Residence

No person, except as otherwise provided in this subchapter, shall be naturalized unless such petitioner, (1) immediately preceding the date of filing his petition 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 petition has been physically present therein for periods totaling at least half of that time, and who has resided within the State in which the petitioner filed the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the period 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 petition for naturalization, or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, unless the petitioner shall establish to the satisfaction of the court 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 petition 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 court that his absence from the United States for such period has been for such purpose.

(c) Physical presence

The granting of the benefits of subsection (b) of this section shall not relieve the petitioner 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 a petition for naturalization.

(d) Moral character

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

(e) Determination

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

(f) Restrictions

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.

(June 27, 1952, ch. 477, title III, ch. 2, § 316, 66 Stat. 242.)

CROSS REFERENCES

Central Intelligence Agency, see section 403 et seq. of Title 50, War and National Defense.
Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Person of good moral character, see section 1101(f) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.
Proof of qualifications, see section 1446 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1430, 1434, 1438, 1439, 1441, 1446 of this title.

§ 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, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization 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 permanent residence, (2) has at any time thereafter and before filing a petition for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has heretofore 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 in the United States for the purpose of naturalization within the meaning of section 1427(a) of this title, 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 and the naturalization court 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 317, 66 Stat. 243.)

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.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Organization, see section 1101(a)(28) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

§ 1429. Prerequisite to naturalization; burden of proof

Except as otherwise provided in this subchapter, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this chapter. The burden of proof shall be upon such person to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405(b) of this Act, and except as provided in sections 1439 and 1440 of this title no person shall be naturalized 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; and no petition for naturalization shall be finally heard by a naturalization court 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: *Provided,* That the findings of the Attorney General in terminating deportation proceedings or in suspending the deportation of an alien pursuant to the provisions of this chapter, shall not be deemed binding in any way upon the naturalization court with respect to the question of whether such person has established his eligibility for naturalization as required by this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, § 318, 66 Stat. 244; Oct. 24, 1968, Pub. L. 90-633, § 4, 82 Stat. 1344.)

REFERENCES IN TEXT

Section 405(b) of this Act, referred to in the text, is classified as a note under section 1101 of this title.

AMENDMENTS

1968—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.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Entry, see section 1101(a)(13) of this title.
Immigrant visa, see section 1101(a)(16) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1433, 1434, 1439, 1440, 1441 of this title.

§ 1430. Married persons and employees of certain nonprofit organizations

(a) Any person whose spouse is a citizen of the United States 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 petition 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 petition has been living in marital union with the citizen spouse, 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 in which he filed his petition for at least six 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 naturalization court 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 the jurisdiction of the naturalization court or proof thereof 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 petition 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 naturalization court 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 within the jurisdiction of the court, or proof thereof, shall be required.

(d) Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who 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, or within the jurisdiction of the naturalization court shall be required.

(June 27, 1952, ch. 477, title III, ch. 2, § 319, 66 Stat. 244; Aug. 20, 1958, Pub. L. 85-697, § 2, 72 Stat. 687; Dec. 18, 1967, Pub. L. 90-215, § 1(a), 81 Stat. 661; June 29, 1968, Pub. L. 90-369, 82 Stat. 279.)

AMENDMENTS

1968—Subsec. (d). Pub. L. 90-369 added subsec. (d).
1967—Subsec. (c). Pub. L. 90-215 added subsec. (c).
1958—Subsec. (b). Pub. L. 85-697 inserted provision relating to persons performing religious duties.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Residence, see section 1101(a)(33) of this title.
Spouse, see section 1101(a)(35) of this title.
United States, see section 1101(a)(38) of this title.
Unmarried, see section 1101(a)(39) of this title.

§ 1431. Children born outside United States of one alien and one citizen parent; conditions for automatic citizenship

(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 par-

ents 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 under the age of sixteen 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 sixteen years.

(b) Subsection (a) of this section shall not apply to an adopted child.

(June 27, 1952, ch. 477, title III, ch. 2, § 320, 66 Stat. 245.)

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

§ 1432. Children born outside of United States of alien parents; conditions for automatic citizenship

(a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

(1) The naturalization of both parents; or

(2) The naturalization of the surviving parent if one of the parents is deceased; or

(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

(4) Such naturalization takes place while such child is under the age of sixteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of sixteen years.

(b) Subsection (a) of this section shall not apply to an adopted child.

(June 27, 1952, ch. 477, title III, ch. 2, § 321, 66 Stat. 245.)

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101 of this title.

§ 1433. Children born outside United States; naturalization on petition of citizen parent; requirements and exemptions

(a) A child born outside of the United States, one or both of whose parents is at the time of petitioning for the naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if under the age of eighteen years and not otherwise disqualified from becoming a citizen by reason of section 1424, 1425, 1426, or 1429 of this title, and if residing permanently in the United States, with the citizen parent, pursuant to a lawful admission for permanent residence, on the petition of such citizen parent, upon compliance with all the provisions of this subchapter, except that no particular period of residence or physical presence in the United States shall be required. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

(b) Subsection (a) of this section shall not apply to an adopted child.

(June 27, 1952, ch. 477, title III, ch. 2, § 322, 66 Stat. 246.)

CROSS REFERENCES

Definition of the term—
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Person of good moral character, see section 1101(f) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1448 of this title.

§ 1434. Children adopted by citizens

(a) An adopted child may, if not otherwise disqualified from becoming a citizen by reason of section 1424, 1425, 1426, or 1429 of this title, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents, upon compliance with all the provisions of this subchapter, if the adoptive parent or parents are citizens of the United States, and the child—

(1) was lawfully admitted to the United States for permanent residence;

(2) was adopted before attaining the age of sixteen years; and

(3) subsequent to such adoption has resided continuously in the United States in legal custody of the adoptive parent or parents for two years prior to the date of filing such petition

(b) In lieu of the residence and physical presence requirements of section 1427(a) of this title such child shall be required to establish only two years' residence and one year's physical presence in the United States during the two-year period immediately preceding the filing of the petition. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

(c) Any such adopted child (1) one of whose adoptive parents is (A) a citizen of the United States, (B) in the Armed Forces of the United States or 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 service or employment, and (2) who is in the United States at the time of naturalization, and (3) whose citizen adoptive parent declares before the naturalization court in good faith an intention to have such child take up residence within the United States immediately upon the termination of such service or employment abroad of such citizen adoptive parent, 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 the jurisdiction of the naturalization court or proof thereof shall be required, and paragraph (3) of subsection (a) of this section shall not be applicable.

(June 27, 1952, ch. 477, title III, ch. 2, § 323, 66 Stat. 246; Sept. 11, 1957, Pub. L. 85-316, § 11, 71 Stat. 642; Aug. 20, 1958, Pub. L. 85-697, § 1, 72 Stat. 687.)

AMENDMENTS

1958—Subsec. (c). Pub. L. 85-697 inserted provision relating to persons performing religious duties.

1957—Subsec. (c). Pub. L. 85-316 added subsec. (c).

CROSS REFERENCES

Definition of the term—

Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.

Child, as used in this subchapter, see section 1101(c)(1) of this title.

Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.

Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.

Parent, as used in this subchapter, see section 1101(c)(2) of this title.

Person of good moral character, see section 1101(f) of this title.

Residence, see section 1101(a)(33) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1448 of this title.

§ 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 where the petition is filed shall be required;

(2) the petition need not set forth that it is the intention of the petitioner to reside permanently within the United States;

(3) the petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

(4) the petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner stating that the petitioner and the witnesses have appeared before such examiner for examination.

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 naturalization court 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 a petition for naturalization and up to the time of admission to citizenship, and, unless she has resided con-

tinuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her petition 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 a petition 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, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the judge or clerk of a naturalization court.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, or naturalization court, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, or naturalization court, shall be delivered to such woman 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 324, 66 Stat. 246.)

REFERENCES IN TEXT

Section 317(a) and (b) of the Nationality Act of 1940, referred to in subsecs. (a) and (c)(1), was formerly classified to section 717(a) and (b) of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by subsecs. (a) and (c) of this section.

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

Section 1 of act Aug. 16, 1951, as amended by section 402(j) 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 subsequent 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 1448 of this title]. Certified copies of such oath shall be sent by such diplomatic or consular officer or such court to the Department of State and to the Department of Justice. Such person shall have, from and after naturalization under this section, 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 required 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. The illegal or fraudulent procurement of naturalization under this amendment shall be subject to cancellation in the same manner as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title]."

JAPANESE ELECTIONS; NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ELECTIONS

Act July 20, 1954, ch. 553, 68 Stat. 495, 496, provided: "That a person who has lost United States citizenship solely by reason of having voted in any political election or plebiscite held in Japan between September 2, 1945, and April 27, 1952, inclusive, and who has not, subsequent to such voting, committed any act which, had he remained a citizen, would have operated to expatriate him, and is not otherwise disqualified from becoming a citizen by reason of sections 313 or 314, or the third sentence of section 318 of the Immigration and Nationality Act [sections 1424, 1425, 1429 of this title], may be naturalized by taking, prior to two years after the date of the enactment of this Act [July 20, 1954], 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 applicable oath prescribed by section 337 of such Act [section 1448 of this title]. Certified copies of such oath shall be sent by such court or such diplomatic or consular officer to the Department of State and to the Department of Justice. Such oath of allegiance shall be entered in the records of the appropriate naturalization court, embassy, legation, or consulate, and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the naturalization court, embassy, legation or consulate, 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."

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Consular officer, see section 1101(a)(9) of this title.
Ineligible to citizenship, see section 1101(a)(19) of this title.
National, see section 1101(a)(21) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Person of good moral character, see section 1101(f) of this title.
Residence, see section 1101(a)(33) of this title.
Spouse, see section 1101(a)(35) of this title.
United States, see section 1101(a)(38) of this title.
Unmarried, see section 1101(a)(39) of this title.
Former citizens losing citizenship by entering armed forces of foreign countries during World War II, see section 1438 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1449 of this title.

§ 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 petitions 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 325, 66 Stat. 248.)

CROSS REFERENCES

Definition of the term—
National, see section 1101(a)(21) of this title.
Naturalization, see section 1101(a)(23) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

§ 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 petitioning for naturalization under this subchapter.

(June 27, 1952, ch. 477, title III, ch. 2, § 326, 66 Stat. 248.)

CROSS REFERENCES

Definition of the term—
Entry, see section 1101(a)(13) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

§ 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 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 any naturalization court specified in section 1421(a) 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.

(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 herein, 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

(June 27, 1952, ch. 477, title III, ch. 2, § 327, 66 Stat. 248.)

REFERENCES IN TEXT

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

June 27, 1952, and is now covered by subsec. (a) of this section.

CROSS REFERENCES

Definition of the term—
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Person of good moral character, see section 1101(f) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.
Former citizens regaining citizenship, see section 1435 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101 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 three years, 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 petition, in the United States for at least five years, and in the State in which the petition for naturalization is filed for at least six months, and without having been physically present in the United States for any specified period, if such petition is filed while the petitioner is still in the service or within six months after the termination of such service.

(b) Exceptions

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

(1) no residence within the jurisdiction of the court shall be required;

(2) notwithstanding section 1429 of this title insofar as it relates to deportability and section 1447(c) of this title, such petitioner may be naturalized immediately if the petitioner be then actually in the Armed Forces of the United States, and if prior to the filing of the petition, the petitioner and the witnesses shall have appeared before and been examined by a representative of the Service;

(3) the petitioner shall furnish to the Attorney General, prior to the final hearing upon his petition, 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.

(c) When service not continuous

In the case such petitioner's service was not continuous, the petitioner's residence in the United States and State, 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 petition between the periods of petitioner's service in the Armed Forces, shall be alleged in the petition filed under the provisions of subsection (a) of this section, and proved at the final hearing thereon. Such allegation and proof shall also be made as to any period between the termination of petitioner's service and the filing of the petition for naturalization.

(d) Residence requirements

The petitioner 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 petition for naturalization, except that such service within five years immediately preceding the date of filing such petition 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 328, 66 Stat. 249; Oct. 24, 1968, Pub. L. 90-633, § 5, 82 Stat. 1344.)

AMENDMENTS

1968—Subsec. (b)(2). Pub. L. 90-633 inserted reference to section 1429 of this title as it relates to deportability.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Naturalization, see section 1101(a)(23) of this title.
Person of good moral character, see section 1101(f) of this title.
Residence, see section 1101(a)(33) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1429 of this title.

§ 1440. Naturalization through active-duty service in the armed forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities

(a) Requirements

Any person who, while an alien or a noncitizen national of the United States, has served honorably 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, 1939, 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 Excutive 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 or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, 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 statns, 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. No period of service in the Armed Forces shall be made the basis of a petition for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) Exceptions

A person filing a petition 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 shall be required;

(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner;

(4) 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 petitioner served or is serving, which shall state whether the petitioner served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, 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

(5) 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 shall have appeared before and been examined by a representative of the Service.

(c) Revocation

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 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 provided by 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.

(d) Applicability of petitions filed prior to January 1, 1947

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.

(June 27, 1952, ch. 477, title III, ch. 2, § 329, 66 Stat. 250; Sept. 26, 1961, Pub. L. 87-301, § 8, 75 Stat. 654; Oct. 24, 1968, Pub. L. 90-633, §§ 1, 2, 6, 82 Stat. 1343, 1344.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (d), 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.

Section 701 of the Nationality Act of 1940, as amended, referred to in subsec. (d), was formerly classified to section 1101 of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by this section.

AMENDMENTS

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 the provisions of section 1429 of this title as they relate to deportability.

Subsec. (b)(4). Pub. L. 90-633, § 2, added 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.

1961—Subsec. (a). Pub. L. 87-301, § 8(a), inserted "or during a period beginning June 25, 1950, and ending July 1, 1955".

Subsec. (b)(4). Pub. L. 87-301, § 8(b), inserted "or during a period beginning June 25, 1950, and ending July 1, 1955".

NATURALIZATION OF ALIENS ENLISTED IN REGULAR ARMY

Act June 30, 1950, ch. 443, § 4, 64 Stat. 316, as amended June 27, 1952, 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]."

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
National of the United States, see section 1101(a)(22) of this title.
Naturalization, see section 1101(a)(23) of this title.
Residence, see section 1101(a)(33) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1429, 1440e, 1451 of this title.

§§ 1440a to 1440d. Omitted

CODIFICATION

Sections, act June 30, 1953, ch. 162, §§ 1 to 4, 67 Stat. 108, which authorized naturalization of persons who served in the Armed Forces after June 29, 1950 and not later than July 1, 1955, were omitted as obsolete, since the provisions of section 1 of act June 30, 1953, required the petition for naturalization to be filed not later than December 31, 1955. Provisions are now covered by sections 1440 and 1440e of this title.

§ 1440e. Exemption from naturalization fees for aliens naturalized through service during Vietnam hostilities or other subsequent period of military hostilities; report by clerks of courts to Attorney General

Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect a naturalization fee from an alien who has served in the military, air, or naval forces of the United States during a period beginning February 28, 1961, and ending on the 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 who is applying for naturalization during such periods under section 1440 of this title, for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to 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. 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 this subchapter.

(Pub. L. 90-633, § 3, Oct. 24, 1968, 82 Stat. 1344.)

CODIFICATION

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

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

(a)(1) 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 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 a petition for naturalization. Service on vessels described in clause (A) of this subsection 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 subsection may be proved by certificates from the masters of such vessels.

(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.

(June 27, 1952, ch. 477, title III, ch. 2, § 330, 66 Stat. 251.)

REFERENCES IN TEXT

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.

Section 325 of the Nationality Act of 1940, referred to in the text, was formerly classified to section 725(a) of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by subsec. (a)(1) of this section.

CROSS REFERENCES

Definition of the term—
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
Naturalization, see section 1101(a)(23) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

§ 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 petition for naturalization shall be pending at the beginning of the state of war and the petitioner is otherwise entitled to admission to citizenship.

(b) Procedure

An alien embraced within this section shall not have his petition for naturalization 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 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 a petition 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 a petition 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. 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.

(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.

(June 27, 1952, ch. 477, title III, ch. 2, § 331, 66 Stat. 252.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (d), 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.

Section 405(b) of this Act, referred to in subsec. (d), is classified as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Clerk of court, see section 1101(a)(7) of this title.
Naturalization, see section 1101(a)(23) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1440 of this title.

§ 1443. Administration

(a) Rules and regulations governing examination of petitioners; limitation on examination

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 petitioners for naturalization as to their admissibility to citizenship for the purpose of making appropriate recommendations to the naturalization courts. 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. 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.

(h) 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 332, 66 Stat. 252.)

CROSS REFERENCES

Citizenship textbooks, publication and distribution; use of naturalization fees, see section 1457 of this title.
Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Person of good moral character, see section 1101(f) of this title.
Residence, see section 1101(a)(33) of this title.
Service, see section 1101(a)(34) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1457 of this title.

§ 1444. Photographs; number

(a) Three identical photographs of the applicant shall be signed by and furnished by each petitioner for naturalization or citizenship. One of such photographs shall be affixed by the clerk of the court 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 (a) 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 333, 66 Stat. 253.)

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Clerk of court, see section 1101(a)(7) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.

Naturalization, see section 1101(a)(23) of this title.
Service, see section 1101(a)(34) of this title.
Photographic studio for benefit of aliens, see section 1443 of this title.

§ 1445. Petition for naturalization

(a) Evidence and form; verification

An applicant for naturalization shall make and file in the office of the clerk of a naturalization court, in duplicate, a sworn petition in writing, signed by the applicant in the applicant's own handwriting if physically able to write, and duly verified by two witnesses, which petition 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 upon the hearing of such petition.

(b) Who may file

No person shall file a valid petition for naturalization unless (1) he shall have attained the age of eighteen years and (2) he shall have first filed an application therefor at an office of the Service in the form and manner prescribed by the Attorney General. An application for petition for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

(c) When filed

Petitions for naturalization may be made and filed during the term time or vacation of the naturalization court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court.

(d) Substitute filing place

If the applicant for naturalization is prevented by sickness or other disability from presenting himself in the office of the clerk to make the petition required by subsection (a) of this section, such applicant may make such petition at such other place as may be designated by the clerk of court or by such clerk's authorized deputy.

(e) Investigation into reasons for substitute filing place

Before a petition for naturalization may be made outside of the office of the clerk of the court, pursuant to subsection (d) of this section, or before a final hearing on a petition may be held or the oath of allegiance administered outside of open court, pursuant to sections 1447(a) and 1448(c) of this title, the court must satisfy itself that the illness or other disability is sufficiently serious to prevent appearance in the office of the clerk of court and is of a permanent nature, or of a nature which so incapacitates the person as to prevent him from personally appearing in the office of the clerk of court or in court as otherwise required by law.

(f) Declaration of intention

Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe. 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 a petition 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 334, 66 Stat. 254.)

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Clerk of court, see section 1101(a)(7) of this title.
Lawfully admitted for permanent residence, see section 1101(a)(20) of this title.
National of the United States, see section 1101(a)(22) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Residence, see section 1101(a)(33) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.
Record of admission for permanent residence in the case of certain aliens who entered the United States prior to June 28, 1940, see section 1259 of this title.
Records of admission, see section 1230 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1881.

§ 1446. Investigation of petitioners

(a) Waiver

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, an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person petitioning for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his petition for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases 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 preliminary examinations upon petitions for naturalization to any naturalization court and to make recommendations thereon to such court. 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 petitioner for naturalization, to administer oaths, including the oath of the

petitioner for naturalization and the oaths of petitioner's witnesses to the petition for naturalization, and to require by subpena the attendance and testimony of witnesses, including petitioner, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any court exercising naturalization jurisdiction as specified in section 1421 of this title; and any such court may, in the event of neglect or refusal to respond to a subpena 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 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 preliminary examination authorized by this subsection shall be admissible as evidence in any final hearing conducted by a naturalization court designated in section 1421 of this title.

(c) Transmittal of record of preliminary examination

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

(d) Submission of recommendations to court

The recommendation of the employee designated to conduct any such preliminary examination shall be submitted to the court at the hearing upon the petition and shall include a recommendation that the petition be granted, or denied, or continued, with reasons therefor. In any case in which the recommendation of the Attorney General does not agree with that of the employee designated to conduct such preliminary examination, the recommendations of both such employee and the Attorney General shall be submitted to the court at the hearing upon the petition, and the officer of the Service in attendance at such hearing shall, at the request of the court, present both the views of such employee and those of the Attorney General with respect to such petition to the court. The recommendations of such employee and of the Attorney General shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by such employee or the Attorney General, as the case may be. The judge to whom such recommendations are submitted shall, if he approve such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of each such lists shall thereafter be filed permanently of record in such court and the duplicate of each such list shall be sent by the clerk of such court to the Attorney General.

(e) Withdrawal of petition

After the petition for naturalization has been filed in the office of the clerk of court, the petitioner shall not be permitted to withdraw his petition, except with the consent of the Attorney General. In cases where the Attorney General does not consent to withdrawal of the petition, the court shall determine the petition on its merits and enter a final order accordingly. In cases where the petitioner fails to prosecute his petition, the petition shall be decided upon its merits unless the Attorney General moves that the petition be dismissed for lack of prosecution.

(f) Affidavits

As to each period and place of residence in the State in which the petitioner resides at the time of filing the petition, during the entire period of at least six months immediately preceding the date of filing the petition, there shall be included in the petition for naturalization the affidavits of at least two credible witnesses, citizens of the United States, stating that each has personally known the petitioner to have been a resident at such place for such period, and that the petitioner is and during all such periods 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.

(g) Hearing; proof of residence

At the hearing on the petition, residence in the State in which the petitioner resides at the time of filing the petition, for at least six months immediately preceding the date of filing the petition, and the other qualifications required by section 1427(a) of this title during such residence shall be proved by the oral testimony of at least two credible witnesses, citizens of the United States, in addition to the affidavits required by subsection (f) of this section to be included in the petition. At the hearing, residence and physical presence within the United States during the five-year period required by section 1427(a) of this title, but outside the State, or within the State but prior to the six months immediately preceding the date of filing the petition, and the other qualifications required by section 1427(a) of this title during such period at such places, shall be proved either by depositions taken in accordance with subsection (d) of section 1443 of this title, or oral testimony, of at least two such witnesses for each place of residence.

(h) Satisfactory evidence as to good moral character, etc.

Notwithstanding the provisions of subsections (f) and (g) of this section, the requirements of subsection (a) of section 1427 of this title as to the petitioner's residence, good moral character, attachment to the principles of the Constitution of the United States, and disposition toward the good order and happiness of the United States may be established by any evidence satisfactory to the naturalization court in those cases under subsection (b) of section 1427 of this title in which the alien has been absent from the United States because of his employment by or contract with the Government of the United States or an American institution of research, recognized as such by the Attorney General, or employment by an American firm or corporation engaged in whole or in part in the development of foreign trade and com-

merce of the United States or a subsidiary thereof, or employment by a public international organization in which the United States participates.

(i) Transfer of petition; transmittal of certified copy of petition and record.

(1) A petitioner for naturalization who removes from the jurisdiction of the court in which his petition for naturalization is pending may, at any time thereafter, make application to the court for transfer of the petition to a naturalization court exercising jurisdiction over the petitioner's place of residence, or to any other naturalization court if the petition was not required to be filed in a naturalization court exercising jurisdiction over the petitioner's place of residence: *Provided,* That such transfer shall not be made without the consent of the Attorney General, and of the court to which the petition is transferred.

(2) Where transfer of the petition is authorized the clerk of court in which the petition was filed shall forward a certified copy of the petition and the original record in the case to the clerk of court to which the petition is transferred, and proceedings on the petition shall thereafter continue as though the petition had originally been filed in the court to which transferred, except that the court to which the petition is transferred may in its discretion, require the production of two credible United States citizen witnesses to testify as to the petitioner's qualifications for naturalization since the date of such transfer.

(June 27, 1952, ch. 477, title III, ch. 2, § 335, 66 Stat. 255.)

CROSS REFERENCES

Contempts, see section 401 et seq. of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Attorney General, see section 1101(a)(5) of this title.

Clerk of court, see section 1101(a)(7) of this title.

Naturalization, see section 1101(a)(23) of this title.

Naturalization court, see section 1101(a)(24) of this title.

Person of good moral character, see section 1101(f) of this title.

Residence, see section 1101(a)(33) of this title.

Service, see section 1101(a)(34) of this title.

United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1447. Final hearing

(a) Open court; examination under oath

Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the petitioner and the witnesses, except as provided in subsection (b) of this section, shall be examined under oath before the court and in the presence of the court. If the petitioner is prevented by sickness or other disability from being in open court for the final hearing upon a petition for naturalization, such final hearing may be had before a judge or judges of the court at such place as may be designated by the court.

(b) Exceptions

The requirement of subsection (a) of this section for the examination of the petitioner and the witnesses under oath before the court and in the presence of the court shall not apply in any case where an employee designated under section 1446(b) of this title has conducted the preliminary examination authorized by section 1446(b) of this title; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court.

(c) Waiting period after filing of petition; waiver

Except as otherwise specifically provided in this subchapter, no final hearing shall be held on any petition for naturalization nor shall any person be naturalized nor shall any certificate of naturalization be issued by any court within a period of thirty days after the filing of the petition for naturalization. The Attorney General may waive such period in an individual case if he finds that the waiver will be in the public interest.

(d) Appearance of Attorney General

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

(e) Subpena of witnesses

The clerk of court shall, if the petitioner requests it at the time for filing the petition for naturalization, issue a subpena for the witnesses named by such petitioner to appear upon the day set for the final hearing, but in case such witnesses cannot be produced upon the final 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. If it should appear after the petition has been filed that any of the verifying witnesses thereto are not competent, and it further appears that the petitioner has acted in good faith in producing such witnesses found to be incompetent, other witnesses may be substituted in accordance with such regulations.

(f) Change of name of petitioner

It shall be lawful at the time and as a part of the naturalization of any person, for the court, in its discretion, upon the bona fide prayer of the petitioner included in the petition for naturalization of such person, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith.

(June 27, 1952, ch. 477, title III, ch. 2, § 336, 66 Stat. 257; Dec. 5, 1969, Pub. L. 91-136, 83 Stat. 283.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-136 struck out the requirement that the 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.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Clerk of court, see section 1101(a)(7) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1439, 1440, 1445, 1446 of this title; title 18 section 1429.

§ 1448. Oath of renunciation and allegiance

(a) A person who has petitioned for naturalization shall, in order to be and before being admitted to citizenship, take in open court 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 petitioner 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 civilian direction 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 naturalization court 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 clauses (1) to (4) and clauses (5)(B) and (5)(C) of this subsection, and a person who shows by clear and convincing evidence to the satisfaction of the naturalization court that he is opposed to any type of service 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 or 1434 of this title the naturalization court may waive the taking of the oath if in the opinion of the court the child is unable to understand its meaning.

(b) In case the person petitioning for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the petitioner shall in addition to complying with the requirements of subsection (a) of this section, make under oath in open court in the court in which the petition for naturalization is made, an express renunciation of such title or order of nobility, and such renunciation shall be recorded in the court as a part of such proceedings.

(c) If the petitioner is prevented by sickness or other disability from being in open court, the oath required to be taken by subsection (a) of this section may be taken before a judge of the court at such place as may be designated by the court.

(June 27, 1952, ch. 477, title III, ch. 2, § 337, 66 Stat. 258.)

CROSS REFERENCES

Definition of the term—
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
Foreign state, see section 1101(a)(14) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1435, 1438, 1445 of this title.

§ 1449. Certificate of naturalizatiou; contents

A person admitted to citizenship by a naturalization court in conformity with the provisions of this subchapter shall be entitled upon such admission to receive from the clerk of such court a certificate of naturalization, which shall contain substantially the following information: Number of petition for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; title, venue, and location of the naturalization court; statement that the court, having found that the petitioner intends to reside permanently in the United States, except in cases falling within the provisions of section 1435(a) of this title, had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the petitioner be admitted as a citizen of the United States of America; attestation of the clerk of the naturalization court; and seal of the court.

(June 27, 1952, ch. 477, title III, ch. 2, § 338, 66 Stat. 259.)

CROSS REFERENCES

Definition of the term—
Clerk of court, see section 1101(a)(7) of this title.
National, see section 1101(a)(21) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Permanent, see section 1101(a)(31) of this title.
Residence, see section 1101(a)(33) of this title.
Unmarried, see section 1101(a)(39) of this title.

§ 1450. Functions and duties of clerks of naturalization courts

(a) It shall be the duty of the clerk of each and every naturalization court to forward to the Attorney General a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

(b) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such court to citizenship a certificate of naturalization and to forward to the Attorney General within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Attorney General within thirty days after the close of the month in which such certificate was issued.

(c) It shall be the duty of the clerk of each and every naturalization court to report to the Attorney General, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

(d) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General, and shall account to the Attorney General for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

(e) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization.

(June 27, 1952, ch. 477, title III, ch. 2, § 339, 66 Stat. 259.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101(a)(5) of this title.

Clerk of court, see section 1101(a)(7) of this title.

Naturalization, see section 1101(a)(23) of this title.

Naturalization court, see section 1101(a)(24) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1459 of this title.

§ 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 court specified in subsection (a) of section 1421 of this title 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 naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the States or the place where such suit is brought.

(c) Membership in certain organizations; prima facie evidence

If a person who shall have been naturalized after the effective date of this chapter 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) Foreign residence

If a person who shall have been naturalized shall, within five years after such naturalization, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to reside permanently in the United States at the time of filing his petition for 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. The diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with statements of the names of those persons within their respective jurisdictions who have been so naturalized and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to revoke and set aside the order admitting to citizenship and to cancel the certificate of naturalization.

(e) Wife or minor child not affected

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.

(f) 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 on the ground 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 subsections (c) or (d) of this section, or under the provisions of section 1440(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.

(g) 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.

(h) Cancellation of certificate of naturalization

Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate 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. 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. 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.

(i) 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.

(j) Power of court to correct, reopen, alter, modify or vacate judgment or decree

Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 340, 66 Stat. 260; Sept. 3, 1954, ch. 1263, § 18, 68 Stat. 1232; Sept. 26, 1961, Pub. L. 87-301, § 18, 75 Stat. 656.)

REFERENCES IN TEXT

Subsection (a) of section 338 of the Nationality Act of 1940, referred to in subsec. (e), was formerly classified to section 738(a) of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by subsec. (a) of this section.

Section 702 of the Nationality Act of 1940, as amended, referred to in subsec. (i), was formerly classified to section 1002 of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by section 1440 of this title.

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-301, § 18(a), inserted "were illegally procured or" following "that such order and certificate of naturalization".

Subsec. (b). Pub. L. 87-301, § 18(b), inserted "illegally procured or" preceding "procured by concealment".

1954—Subsec. (a). Act Sept. 3, 1954, substituted "United States attorneys" for "United States district attorneys".

EFFECTIVE DATE

Chapter 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.

CROSS REFERENCES

Contempts, see section 401 et seq. of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Attorney General, see section 1101(a)(5) of this title.

Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.

Child, as used in this subchapter, see section 1101(c)(1) of this title.

Clerk of court, see section 1101(a)(7) of this title.

Commissioner, see section 1101(a)(8) of this title.

Consular officer, see section 1101(a)(9) of this title.

Naturalization, see section 1101(a)(23) of this title.

Organization, see section 1101(a)(28) of this title.

Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.

Parent, as used in this subchapter, see section 1101(c)(2) of this title.

Permanent, see section 1101(a)(31) of this title.

Residence, see section 1101(a)(33) of this title.

Spouse, wife or husband, see section 1101(a)(35) of this title.

United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1256, 1440 of this title.

§ 1452. Certificates of citizenship; procedure

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), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (3), (4), (5), or (7) of section 1401(a) of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 558), 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 a petitioner 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 341, 66 Stat. 263.)

REFERENCES IN TEXT

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

Sections 201, 203, and 205, of the Nationality Act, as amended, referred to in the text, were classified to former sections 601, 603, and 605, respectively of this title, and repealed by section 403(a)(42) of act June 27, 1952.

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

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101(a)(5) of this title.

Husband, see section 1101(a)(35) of this title.

Naturalization, see section 1101(a)(23) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101 of this title.

§ 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 heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General if it shall appear to theAttorney 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 342, 66 Stat. 263.)

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.

CROSS REFERENCES

Definition of attorney general, commissioner, and deputy commissioner, see section 1101 of this title.

§ 1454. Documents and copies issued by Attorney General

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(June 27, 1952, ch. 477, title III, ch. 2, § 343, 66 Stat. 263.)

REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (a), was classified to former section 723 of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by section 1438(a) of this title.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Clerk of court, see section 1101(a)(7) of this title.
Foreign state, see section 1101(a)(14) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Unmarried, see section 1101(a)(39) of this title.

§ 1455. Fiscal provisions

(a) The clerk of court shall charge, collect, and account for fees prescribed by the Attorney General pursuant to section 483a of title 31 for the following:

(1) Making, filing, and docketing a petition for naturalization, including the final hearing on such petition, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the naturalization court.

(2) Receiving and filing a declaration of intention, 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 intention 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) The clerk of any naturalization court specified in subsection (a) of section 1421 of this title (except the courts specified in subsection (d) of this section) shall account for and pay over to the Attorney General one-half of all fees up to the sum of $6,000, and all fees in excess of $6,000, collected by any such clerk in naturalization proceedings in any fiscal year.

(d) The clerk of any United States district court (except in the District Court of the Virgin Islands of the United States and in the District Court of Guam) shall account for and pay over to the Attorney General all fees collected by any such clerk in naturalization proceedings: *Provided, however,* 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.

(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Attorney General by such respective 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 prescribed by the Attorney General.

(f) 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.

(g) All fees collected by the Attorney General, and all fees paid over to the Attorney General by clerks of courts under the provisions of this subchapter, shall be deposited by the Attorney General in the Treasury of the United States: *Provided, however,* That all fees received by the Attorney General or by the clerks of the courts 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.

(h) During the time when the United States is at war no clerk of a United States court shall charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing a petition for naturalization or issuing a certificate of naturalization upon admission to 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. A report of all transactions under this subsection shall be made to the Attorney General as in the case of other reports required of clerks of courts by this subchapter.

(i) In addition to the other fees required by this subchapter, the petitioner for naturalization shall, upon the filing of a petition for naturalization, deposit with and pay to the clerk of court a sum of money sufficient to cover the expenses of subpenaing and paying the legal fees of any witnesses for whom such petitioner may request a subpena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner.

(June 27, 1952, ch. 477, title III, ch. 2, § 344, 66 Stat. 264; July 7, 1958, Pub. L. 85-508, § 26, 72 Stat. 351; Oct. 21, 1968, Pub. L. 90-609, § 3, 82 Stat. 1200.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-609 inserted reference to section 483a of Title 31 and substituted provisions making reference to the setting of fees by the Attorney General for provisions establishing fees of $10 and $5 respectively for the covered services.

Subsec. (b). Pub. L. 90-609 struck out provisions setting fixed dollar amounts for specified services to be charged, collected, and accounted for by the Attorney General.

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

1958—Subsec. (d). Pub. L. 85-508 eliminated "in Alaska and" preceding "in the District Court of the Virgin Islands".

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85-508 was dependent upon the admission of Alaska into the Union under section 8(b) of Pub. L. 85-508. Admission was accomplished Jan. 3, 1959 upon 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.

CROSS REFERENCES

Audit of vouchers and accounts of the courts and their clerical and administrative personnel by Director of Administrative Office of the United States Courts, see section 604 of Title 28, Judiciary and Judicial Procedure.

Clerk of each district court to pay into the Treasury all fees, costs and other moneys collected by him except certain naturalization fees, see section 751 of Title 28, Judiciary and Judicial Procedure.

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Clerk of court, see section 1101(a)(7) of this title.
Naturalization, see section 1101(a)(23) of this title.
Naturalization court, see section 1101(a)(24) of this title.
Service, see section 1101(a)(34) of this title.
United States, see section 1101(a)(38) of this title.

§ 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 3202 of Title 39, Postal Service.

§ 1457. Publication and distribution of citizenship texthooks; use of naturalization fees

Authorization is granted for the publication and distribution of the citizenship textbook described in subsection (b) of section 1443 of this title and for the reimbursement of the appropriation 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 publication 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.)

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Naturalization, see section 1101(a)(23) of this title.
Service, see section 1101(a)(34) of this title.

§ 1458. Compilation of naturalization statistics and payment for equipment

The Attorney General is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign-born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation for the enforcement of this chapter by the Service.

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

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.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Attorney General, see section 1101(a)(5) of this title.
Naturalization, see section 1101(a)(23) of this title.
Service, see section 1101(a)(34) of this title.

§ 1459. Admissibility in evidence of statements voluntarily made to officers or employees in the course of their official duties; failure of clerk of court to do duty; penalties

(a) It shall be lawful and admissible as evidence in any proceedings founded under this subchapter, or any of the penal or criminal provisions of any law relating to immigration, naturalization, or citizenship, for any officer or employee of the United States to render testimony as to any statement voluntarily made to such officer or employee in the course of the performance of the official duties of such officer or employee by any defendant at the time or subsequent to the alleged commission of any crime or offense which may tend to show that such defendant did not have or could not have had knowledge of any matter concerning which such defendant is shown to have made affidavit, or oath, or to have been a witness pursuant to such law or laws.

(b) In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 1450(a), (b), or (c) of this title, such clerk of court shall forfeit and pay to the United States the sum of $25 in each and every case in which such violation or omission occurs and the amount of such forfeiture may be recovered by the United States in a civil action against such clerk.

(c) If any clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the Service as provided in subsection (d) of section 1450 of this title, such clerk of court shall be liable to the United States in the sum of $50, to be recovered in a civil action, for each and every such certificate not properly accounted for or returned.

(June 27, 1952, ch. 477, title III, ch. 2, § 348, 66 Stat. 267.)

CROSS REFERENCES

Definition of clerk of court and service, see section 1101 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Civil action, one form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title.

PART III—LOSS OF NATIONALITY

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1101 of this title.

§ 1481. Loss of nationality by native-horn or naturalized citizen; voluntary action; hurden of proof; presumptions

(a) From and after the effective date of this chapter a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by—

(1) obtaining naturalization in a foreign state upon his own application, 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 sec-

tion 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 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 nonquota immigrant under the provisions of section 1101(a)(27)(E) of this title; or

(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof; or

(3) entering, or serving in, the armed forces of a foreign state 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

(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, 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, for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

(5) voting in a political election in a foreign state or participating in an election or plebiscite to determine the sovereignty over foreign territory; or

(6) 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

(7) 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

(8) deserting the military, air, or naval forces of the United States in time of war, if and when he is convicted thereof by court martial and as the result of such conviction is dismissed or dishonorably discharged from the service of such military, air, or naval forces: *Provided,* That, notwithstanding loss of nationality or citizenship under the terms of this chapter or previous laws by reason of desertion committed in time of war, restoration to active duty with such military, air, or naval forces in time of war or the reenlistment or induction of such a person in time of war with permission of competent military, air, or naval authority shall be deemed to have the immediate effect of restoring such nationality or citizenship heretofore or hereafter so lost; or

(9) 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 2385 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) 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.

(c) 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. Except as otherwise provided in subsection (b) of this section, 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.

(June 27, 1952, ch. 477, title III, ch. 3, § 349, 66 Stat. 267; Sept. 3, 1954, ch. 1256, § 2, 68 Stat. 1146; Sept. 26, 1961, Pub. L. 87-301, § 19, 75 Stat. 656; Sept. 14, 1976, Pub. L. 94-412, title V, § 501(a), 90 Stat. 1258.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a), 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.

The proviso "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 nonquota immigrant under the provisions of section 1101(a)(27)(E) of this title" has expired, and ever since the amendment in 1965, section 1101(a)(27) defines "special immigrant" rather than "nonquota immigrant".

AMENDMENTS

1976—Subsec. (a)(10). Pub. L. 94-412 struck out par. (10) which dealt with the expatriation of persons who remained outside of the jurisdiction of the United States in time of war or national emergency to avoid service in the military.

1961—Subsec. (c). Pub. L. 87-301 added subsec. (c).

1954—Subsec. (a)(9). Act Sept. 3, 1954, provided for forfeiture of citizenship of persons advocating the overthrow of the Government by force or violence.

SHORT TITLE

Section 1 of act Sept. 3, 1954, provided that the amendment of subsec. (a)(9) by section 2 of act Sept. 3, 1954, should be popularly known as the "Expatriation Act of 1954".

SAVINGS PROVISION

Amendment by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of amendment, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

RIGHT OF EXPATRIATION

R.S. § 1999 provided that: "Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic."

CROSS REFERENCES

Definition of the term—
- Attorney General, see section 1101(a)(5) of this title.
- Consular officer, see section 1101(a)(9) of this title.
- Foreign state, see section 1101(a)(14) of this title.
- National, see section 1101(a)(21) of this title.
- National of the United States, see section 1101(a)(22) of this title.
- Naturalization, see section 1101(a)(23) of this title.
- Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
- Parent, as used in this subchapter, see section 1101(c)(2) of this title.
- United States, see section 1101(a)(38) of this title.

Treason, sedition and subversive activities, see section 2381 et seq. of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1483 of this title.

§ 1482. Dual nationals; divestiture of nationality

A person who acquired at birth the nationality of the United States and of a foreign state and who has voluntarily sought or claimed benefits of the nationality of any foreign state shall lose his United States nationality by hereafter having a continuous residence for three years in the foreign state of which he is a national by birth at any time after attaining the age of twenty-two years unless he shall—

(1) prior to the expiration of such three-year period, take an oath of allegiance to the United States before a United States diplomatic [1] or consular officer in a manner prescribed by the Secretary of State; and

(2) have his residence outside of the United States solely for one of the reasons set forth in paragraph (1), (2), (4), (5), (6), (7), or (8) of section 1485 of this title, or paragraph (1) or (2) of section 1486 of this title: *Provided, however,* That nothing contained in this section shall deprive any person of his United States nationality if his foreign residence shall begin after he shall have attained the age of sixty years and shall have had his residence in the United States for twenty-five years after having attained the age of eighteen years.

(June 27, 1952, ch. 477, title III, ch. 3, § 350, 66 Stat. 269.)

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.

EXPATRIATION NATURAL AND INHERENT RIGHT; FOREIGN ALLEGIANCE: DISAVOWAL

Provisions preserving the right of expatriation and disavowal of foreign allegiance, see note set out under section 1481 of this title.

CROSS REFERENCES

Definition of the term—
- Consular officer, see section 1101(a)(9) of this title.
- Foreign state, see section 1101(a)(14) of this title.
- National, see section 1101(a)(21) of this title.
- National of the United States, see section 1101(a)(22) of this title.
- Residence, see section 1101(a)(33) of this title.
- United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1487 of this title; title 26 sections 877, 2107, 2501.

§ 1483. Restrictions on expatriation

(a) Except as provided in paragraphs (7), (8), and (9) of section 1481 of this title, no national of the United States can expatriate himself, or be expatriated, under this chapter while within the United States or any of its outlying possessions, but expatriation 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 expatriated himself by the commission, prior to his eighteenth birthday, of any of the acts specified in paragraphs (2), (4), (5), and (6) of section 1481(a) of this title.

(June 27, 1952, ch. 477, title III, ch. 3, § 351, 66 Stat. 269.)

RIGHT OF EXPATRIATION

Provisions preserving the right and disavowal of foreign allegiance, see note under section 1481 of this title.

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[1] So in original. Probably should read "diplomatic".

CROSS REFERENCES

Definition of the term—
National of the United States, see section 1101(a)(22) of this title.
Outlying possessions of the United States, see section 1101(a)(29) of this title.
United States, see section 1101(a)(38) of this title.

§ 1484. Loss of nationality by naturalized national

(a) A person who has become a national by naturalization shall lose his nationality by—

(1) having a continuous residence for three years in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated, except as provided in section 1485 of this title, whether such residence commenced before or after the effective date of this chapter;

(2) having a continuous residence for five years in any other foreign state or states, except as provided in sections 1485 and 1486 of this title, whether such residence commenced before or after the effective date of this chapter.

(b)(1) For the purpose of paragraph (1) of subsection (a) of this section, the time during which the person had his residence abroad solely or principally for a reason or purpose within the scope of any provision of section 1485 of this title shall not be counted in computing quantum of residence.

(2) For the purpose of paragraph (2) of subsection (a) of this section, the time during which the person had his residence abroad solely or principally for a reason or purpose within the scope of any provision of sections 1485 and 1486 of this title shall not be counted in computing quantum of residence.

(June 27, 1952, ch. 477, title III, ch. 3, § 352, 66 Stat. 269.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a), 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.

CROSS REFERENCES

Definition of the term—
Foreign state, see section 1101(a)(14) of this title.
National, see section 1101(a)(21) of this title.
Naturalization, see section 1101(a)(23) of this title.
Residence, see section 1101(a)(33) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1101, 1485, 1486, 1487 of this title.

§ 1485. Inapplicability of section 1484 to certain persons

Section 1484(a) of this title shall have no application to a national who—

(1) has his residence abroad in the employment of the Government of the United States; or

(2) is receiving compensation from the Government of the United States and has his residence abroad on account of disability incurred in its service; or

(3) shall have had his residence in the United States for not less than twenty-five years subsequent to his naturalization and shall have attained the age of sixty years when the foreign residence is established; or

(4) had his residence abroad on October 14, 1940, and temporarily has his residence abroad, or who, thereafter has gone or goes abroad and temporarily has his residence abroad, solely or principally to represent a bona fide American educational, scientific, philanthropic, commercial, financial, or business organization, having its principal office or place of business in the United States, or a bona fide religious organization having an office and representative 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; or

(5) has his residence abroad and is prevented from returning to the United States exclusively (A) by his own ill health; or (B) by the ill health of his parent, spouse, or child who cannot be brought to the United States, whose condition requires his personal care and attendance: *Provided,* That in such case the person having his residence abroad shall, at least every six months, register at the appropriate Foreign Service office and submit evidence satisfactory to the Secretary of State that his case continues to meet the requirements of this subparagraph; or (C) by reason of the death of his parent, spouse, or child: *Provided,* That in the case of the death of such parent, spouse, or child the person having his residence abroad shall return to the United States within six months after the death of such relative; or

(6) has his residence abroad for the purpose of pursuing a full course of study of a specialized character or attending full-time an institution of learning of a grade above that of a preparatory school: *Provided,* That such residence does not exceed five years; or

(7) is the spouse or child of, or has a son or daughter who is, an American citizen, and who has his residence abroad for the purpose of being with his American citizen spouse, parent, or son or daughter who has his residence abroad for one of the objects or considerations specified in paragraph (1), (2), (3), (4), (5), or (6) of this section, or paragraph (2) of section 1486 of this title; or

(8) is the spouse or child of an American national by birth who while under the age of twenty-one years had his residence in the United States for a period or periods totaling ten years, and has his residence abroad for the purpose of being with said spouse or parent; or

(9) was born in the United States or one of its outlying possessions, who originally had American nationality and who, after having lost such nationality through marriage to an alien, reacquired it; or

(10) has, by Act of Congress or by treaty, United States nationality solely by reason of former nationality and birth or residence in an area outside the continental United States: *Provided,* That subsections (b) and (c) of section 404 of the Nationality Act of 1940, as amended, shall not be held to be or to have been applicable to persons defined in this paragraph.

(June 27, 1952, ch. 477, title III, ch. 3, § 353, 66 Stat. 270; Aug. 4, 1959, Pub. L. 86-129, § 1, 73 Stat. 274.)

REFERENCES IN TEXT

Section 404 of the Nationality Act of 1940, referred to in par. (10), was classified to former section 804 of this title, was repealed by section 403(a)(42) of act June 27, 1952, and is now covered by section 1484(a) of this title.

AMENDMENTS

1959—Par. (7). Pub. L. 86-129 included a national who has a son or daughter who is an American citizen.

CROSS REFERENCES

Definition of the term—
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
National, see section 1101(a)(21) of this title.
Naturalization, see section 1101(a)(23) of this title.
Organization, see section 1101(a)(28) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Residence, see section 1101(a)(33) of this title.
Spouse, see section 1101(a)(35) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1482, 1484, 1486 of this title.

§ 1486. Inapplicability of section 1484(a)(2) to certain persons

Section 1484(a)(2) of this title shall have no application to a national—

(1) who is a veteran of the Spanish-American War, World War I, or World War II, or of the Korean hostilities (having served honorably in an active-duty status in the military, air, or naval forces of the United States during a period beginning June 25, 1950, and ending July 1, 1955), and the spouse, children, and dependent parents of such veteran whether such residence in the territory of a foreign state or states commenced before or after the effective date of this chapter: *Provided*, That any such veteran who upon June 27, 1952, has had his residence continuously in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated for three years or more, and who has retained his United States nationality solely by reason of the provisions of section 406(h) of the Nationality Act of 1940, shall not be subject to the provisions or requirements of section 1484(a)(1) of this title: *Provided further*, That the provisions of section 404(c) of the Nationality Act of 1940, as amended, shall not be held to be or to have been applicable to veterans of World War II;

(2) who has established to the satisfaction of the Secretary of State, as evidenced by possession of a valid unexpired United States passport or other valid document issued by the Secretary of State, that his residence is temporarily outside of the United States for the purpose of (A) carrying on a commercial enterprise which in the opinion of the Secretary of State will directly and substantially benefit American trade or commerce; or (B) carrying on scientific research on behalf of an institution accredited by the Secretary of State and engaged in research which in the opinion of the Secretary of State is directly and substantially beneficial to the interests of the United States; or (C) engaging in such work or activities, under such unique or unusual circumstances, as may be determined by the Secretary of State to be directly and substantially beneficial to the interests of the United States;

(3) who is the widow or widower of a citizen of the United States and who has attained the age of sixty years, and who has had a residence outside of the United States and its outlying possessions for a period of not less than ten years during all of which period a marriage relationship has existed with a spouse who has had a residence outside of the United States and its outlying possessions in an occupation or capacity of the type designated in paragraphs (1), (2), (3), (4), or (5)(A) of section 1485 of this title, or paragraphs (1), (2) or (4) of this section;

(4) who has attained the age of sixty years, and has had a residence outside the United States and its outlying possessions for not less than ten years, during all of which period he has been engaged in an occupation of the type designated in paragraphs (1), (2), or (4) of section 1485 of this title, or paragraph (2) of this section, and who is in bona fide retirement from such occupation; or who is the spouse or child of the national described in this paragraph and who has his residence abroad for the purpose of being with such American citizen spouse or parent; or

(5) who shall have had his residence in the United States for not less than fifteen years subsequent to his naturalization and prior to the establishment of his foreign residence; or who prior to attaining the age of twenty-one years, shall have had his residence in the United States for not less than fifteen years subsequent to his lawful admission for permanent residence.

(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.)

REFERENCES IN TEXT

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.

The provisions of sections 406(h) and 404(c) of the Nationality Act of 1940, referred to in par. (1), were formerly classified to sections 806(h) and 804(c), respectively, of this title, were repealed by section 403(a)(42) of act June 27, 1952, and are now covered by par. (1) of this section and section 1484(a) of this title, respectively.

AMENDMENTS

1961—Par. (4). Pub. L. 87-301 included the spouse or child of the national described in this paragraph who has his residence abroad for the purpose of being with such American citizen spouse or parent.

1959—Par. (1). Pub. L. 86-129, § 2, included veterans of Korean hostilities.

Par. (5). Pub. L. 86-129, § 3, substituted "fifteen" for "twenty-five" in the first clause and added the second clause.

CROSS REFERENCES

Definition of the terms—
Child, as used in subchapters I and II of this chapter, see section 1101(b)(1) of this title.
Child, as used in this subchapter, see section 1101(c)(1) of this title.
Foreign state, see section 1101(a)(14) of this title.
National, see section 1101(a)(21) of this title.
National of the United States, see section 1101(a)(22) of this title.
Naturalization, see section 1101(a)(23) of this title.
Outlying possessions of the United States, see section 1101(a)(29) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Passport, see section 1101(a)(30) of this title.
Residence, see section 1101(a)(33) of this title.
Spanish-American War, World War I and World War II, see section 1101(d)(2) of this title.
Spouse, see section 1101(a)(35) of this title.
Veteran, see section 1101(d)(1) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1482, 1484, 1485 of this title.

§ 1487. Loss of American nationality through parents' expatriation; not effective until persons attain age of twenty-five years

A person having United States nationality, who is under the age of twenty-one and whose residence is in a foreign state with or under the legal custody of a parent who hereafter loses United States nationality under section 1482 or 1484 of this title, shall also lose his United States nationality if such person has or acquires the nationality of such foreign state: *Provided,* That, in such case, United States nationality shall not be lost as the result of loss of United States nationality by the parent unless and until the person attains the age of twenty-five years without having established his residence in the United States.

(June 27, 1952, ch. 477, title III, ch. 3, § 355, 66 Stat. 272.)

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.

CROSS REFERENCES

Definition of the term—
Foreign state, see section 1101(a)(14) of this title.
National of the United States, see section 1101(a)(22) of this title.
Parent, as used in subchapters I and II of this chapter, see section 1101(b)(2) of this title.
Parent, as used in this subchapter, see section 1101(c)(2) of this title.
Residence, see section 1101(a)(33) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 sections 877, 2107, 2501.

§ 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.

(June 27, 1952, ch. 477, title III, ch. 3, § 356, 66 Stat. 272.)

CROSS REFERENCES

Definition of the term national, see section 1101 of this title.

§ 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 upon the effective date of this subchapter: *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.

(June 27, 1952, ch. 477, title III, ch. 3, § 357, 66 Stat. 272.)

REFERENCES IN TEXT

The effective date of this subchapter, 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.

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Ineligible to citizenship, see section 1101(a)(19) of this title.
National of the United States, see section 1101(a)(22) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.

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.

(June 27, 1952, ch. 477, title III, ch. 4, § 358, 66 Stat. 272.)

REFERENCES IN TEXT

Chapter IV of the Nationality Act of 1940, as amended, referred to in the text, was classified to former sections 800 to 810 of this title and was repealed by section 403(a)(42) of act June 27, 1952.

CODIFICATION

Section was formerly classified to section 100 of this title.

CROSS REFERENCES

Definition of the term—
Attorney General, see section 1101(a)(5) of this title.
Consular officer, see section 1101(a)(9) of this title.
Foreign state, see section 1101(a)(14) of this title.
National of the United States, see section 1101(a)(22) 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.

CROSS REFERENCES

Definition of the term—
Foreign state, see section 1101(a)(14) of this title.
National of the United States, see section 1101(a)(22) of this title.
United States, see section 1101(a)(38) 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 counection with any exclusion proceeding under the provisions of this chapter or any other act, or (2) is in issue in any such exclusion 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 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 subsection 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 excluded from admission to the United States shall be subject to all the provisions of this chapter relating to aliens seeking admission to the United States.

(June 27, 1952, ch. 477, title III, ch. 4, § 360, 66 Stat. 273.)

CROSS REFERENCES

Definition of the term—
Alien, see section 1101(a)(3) of this title.
Application for admission, see section 1101(a)(4) of this title.
Attorney General, see section 1101(a)(9) of this title.
Consular officer, see section 1101(a)(9) of this title.
National of the United States, see section 1101(a)(22) of this title.
Residence, see section 1101(a)(33) of this title.
United States, see section 1101(a)(38) of this title.
Judicial review of orders of deportation and exclusion, see section 1105a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1105a, 1223 of this title.