

§ 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 in the case of—

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), (K), or (S) of section 1101(a)(15) of this title,

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 1101(a)(15) of this title who came to the United States or acquired such classification in order to receive graduate medical education or training,

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 1101(a)(15) of this title who is subject to the two-year foreign residence requirement of section 1182(e) of this title and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 1101(a)(15) of this title to a classification under subparagraph (A) or (G) of such section, and

(4) an alien admitted as a nonimmigrant visitor without a visa under section 1182(l) of this title or section 1187 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; Dec. 29, 1981, Pub. L. 97-116, § 10, 95 Stat. 1617; Nov. 6, 1986, Pub. L. 99-603, title III, § 313(d), 100 Stat. 3439; Sept. 13, 1994, Pub. L. 103-322, title XIII, § 130003(b)(3), 108 Stat. 2025.)

AMENDMENTS

1994—Par. (1). Pub. L. 103-322, which directed the substitution of “(K), or (S)” for “or (K)” in “Section 248(1) of the Immigration and Naturalization Act”, was executed by making the substitution in par. (1) of this section, which is section 248 of the Immigration and Nationality Act, to reflect the probable intent of Congress.

1986—Par. (4). Pub. L. 99-603 added par. (4).

1981—Pub. L. 97-116 permitted certain exchange visitors who are not subject to a requirement of returning to their home countries for two years, or who have had such requirement waived, to adjust to a visitor or diplomat status, prohibited the adjustment of nonimmigrant status by fiancée or fiancé nonimmigrants, and specifically precluded the change of status with respect to doctors who have entered the United States as exchange visitors for graduate medical training, even if they have received a waiver of the two-year foreign residence requirement.

1961—Pub. L. 87-256 inserted references to paragraph (15)(J) of section 1101(a) of this title in two places.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

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, 1252, 1252b, 1254a of this title.

§ 1259. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to January 1, 1972

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)(3)(E) of this title or 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 January 1, 1972;

(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 ineligible 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; Nov. 6, 1986, Pub. L. 99-603, title II, § 203(a), 100 Stat. 3405; Oct. 24, 1988, Pub. L. 100-525, § 2(j), 102 Stat. 2612; Nov. 29, 1990, Pub. L. 101-649, title VI, § 603(a)(14), 104 Stat. 5083.)

AMENDMENTS

1990—Pub. L. 101-649 substituted “1182(a)(3)(E)” for “1182(a)(33)”.

1988—Pub. L. 100-525 amended Pub. L. 99-603. See 1986 Amendment note below.

1986—Pub. L. 99-603, as amended by Pub. L. 100-525, inserted “under section 1182(a)(33) of this title or” in introductory provisions and substituted “January 1, 1972” for “June 30, 1948” in section heading and in par. (a).

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 1990 AMENDMENT

Amendment by Pub. L. 101-649 applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101-649, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, 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.

APPLICABILITY OF NUMERICAL LIMITATIONS

Section 203(c) of Pub. L. 99-603 provided that: "The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act [8 U.S.C. 1151, 1152] shall not apply to aliens provided lawful permanent resident status under section 249 of that Act [8 U.S.C. 1259]."

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 1252b, 1256, 1444 of this title; title 7 section 2015; title 42 sections 408, 1436a.

§ 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 Commissioner the sum of \$200 for each alien concerning whom such lists are not delivered or such reports are not made as required in the preceding subsections. In the case that any owner, agent, consignee, master, or commanding officer of a vessel shall secure services of an alien crewman described in section 1101(a)(15)(D)(i) of this title to perform longshore work not included in the normal operation and service on board the vessel under section 1288 of this title, the owner, agent, consignee, master, or commanding officer shall pay to the Commissioner the sum of \$5,000, and such fine shall be a lien against the vessel. 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.