

Citizenship (Amendment) Act, 2003

6 of 2004

[07 January 2004]

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Citizenship (Amendment) Act, 2003

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An Act further to amend the Citizenship Act, 1955. BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:--

1. Short Title And Commencement :-

- (1) This Act may be called the Citizenship (Amendment) Act, 2003.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:
Provided that different dates may be appointed for different

provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. Amendment Of Section 2 :-

In section 2 of the Citizenship Act, 1955(57 of 1955) (hereinafter referred to as the principal Act), in sub-section (1),--

(i) for clauses (b) and (c) and the proviso to clause (c), the following clause shall be substituted, namely:--

(b) "illegal migrant" means a foreigner who has entered into India--

(i) without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf; or

(ii) with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period of time;

(ii) after clause (e), the following clause shall be inserted, namely:--

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(ee) "overseas citizen of India" means a person who--

(i) is of Indian origin being a citizen of a specified country, or

(ii) was a citizen of India immediately before becoming a citizen of a specified country,

and is registered as an overseas citizen of India by the Central Government under sub-section (1) of section 7A;;

(iii) after clause (g), the following clause shall be inserted, namely:--

(gg) "specified country" means a country specified in the Fourth Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the said Schedule by way of addition or omission of any entry therein:

Provided further that every notification issued under this clause shall, as soon as may be, after it is made, be laid before each House of Parliament;

3. Substitution Of New Section For Section 3 :-

For section 3 of the principal Act, the following section shall be substituted, namely:--

"3. Citizenship by birth. (1) Except as provided in sub-section (2), every person born in India--

- (a) on or after the 26th day of January, 1950, but before the 1st day of July, 1987;
 - (b) on or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;
 - (c) on or after the commencement of the Citizenship (Amendment) Act, 2003, where-
 - (i) both of his parents are citizens of India; or
 - (ii) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth,shall be a citizen of India by birth.
- (2) A person shall not be a citizen of India by virtue of this section if at the time of his birth-
- (a) either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or
 - (b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy."

4. Amendment Of Section 4 :-

In section 4 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:--

"(1) A person born outside India shall be a citizen of India by descent,--

(a) on or after the 26th day of January, 1950, but before the 10th day of December, 1992, if his father is a citizen of India at the time of his birth; or

(b) on or after the 10th day of December, 1992, if either of his parents is a citizen of India at the time of his birth:

Provided that if the father of a person referred to in clause (a) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless--

(a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) his father is, at the time of his birth, in service under a Government in India:

Provided further that if either of the parents of a person referred to in clause (b) was a citizen of India by descent only, that person

shall not be a citizen of India by virtue of this section, unless--

(a) his birth is registered at an Indian consulate within one year of its occurrence or on or after the 10th day of December, 1992, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) either of his parents is, at the time of his birth, in service under a Government in India:

Provided also that on or after the commencement of the Citizenship (Amendment) Act, 2003, a person shall not be a citizen of India by virtue of this section, unless his birth is registered at an Indian consulate in such form and in such manner, as may be prescribed,-

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(i) within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 2003, whichever is later; or

(ii) with the permission of the Central Government, after the expiry of the said period:

Provided also that no such birth shall be registered unless the parents of such person declare, in such form and in such manner as may be prescribed, that the minor does not hold the passport of another country.

(1A) A minor who is a citizen of India by virtue of this section and is also a citizen of any other country shall cease to be a citizen of India if he does not renounce the citizenship or nationality of another country within six months of attaining full age.

5. Amendment Of Section 5 :-

In section 5 of the principal Act,--

(a) for sub-section (1), the following shall be substituted, namely:-

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"(1) Subject to the provisions of this section and such other conditions and restrictions as may be prescribed, the Central Government may, on an application made in this behalf, register as a citizen of India any person not being an illegal migrant who is not already such citizen by virtue of the Constitution or of any other provision of this Act if he belongs to any of the following categories, namely:--

(a) a person of Indian origin who is ordinarily resident in India for seven years before making an application for registration;

(b) a person of Indian origin who is ordinarily resident in any country or place outside undivided India;

(c) a person who is married to a citizen of India and is ordinarily

resident in India for seven years before making an application for registration;

(d) minor children of persons who are citizens of India;

(e) a person of full age and capacity whose parents are registered as citizens of India under clause (a) of this sub-section or sub-section (1) of section 6;

(f) a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and has been residing in India for one year immediately before making an application for registration;

(g) a person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for two years before making an application for registration,
Explanation 1.--For the purposes of clauses (a) and (c), an applicant shall be deemed to be ordinarily resident in India if--

(i) he has resided in India throughout the period of twelve months immediately before making an application for registration; and

(ii) he has resided in India during the eight years immediately preceding the said period of twelve months for a period of not less than six years.

Explanation 2.--For the purposes of this sub-section, a person shall be deemed to be of Indian origin if he, or either of his parents, was born in undivided India or in such other territory which became part of India after the 15th day of August, 1947.";

(b) after sub-section (5), the following sub-section shall be inserted, namely:--

"(6) If the Central Government is satisfied that circumstances exist which render it necessary to grant exemption from the residential requirement under clause (c) of sub-section (1) to any person or a class of persons, it may, for reasons to be recorded in writing, grant such exemption."

6. Amendment Of Section 6 :-

In section 6 of the principal Act, in sub-section (1), for the words "who is not a citizen of a country specified in the First Schedule", the words "not being an illegal migrant" shall be substituted.

7. Insertion Of Heading And New Sections 7A, 7B, 7C And 7D :-

After section 7 of the principal Act, the following heading and sections shall be inserted, namely:--

OVERSEAS CITIZENSHIP

7A. Registration of overseas citizens.--

(1) The Central Government may, subject to such conditions and restrictions including the condition of reciprocity as may be prescribed, on an application made in this behalf, register any person as an overseas citizen of India if--

(a) that person is of Indian origin of full age and capacity who is a citizen of a specified country; or

(b) that person is of full age and capacity who has obtained the citizenship of a specified country on or after the commencement of the Citizenship (Amendment) Act, 2003 and who was a citizen of India immediately before such commencement; or

(c) that person is a minor of a person mentioned in clause (a) or clause (b).

(2) The person registered as an overseas citizen of India under sub-section (1) shall be an overseas citizen of India as from the date on which he is so registered,

(3) No person who has been deprived of his Indian citizenship under this Act shall be registered as an overseas citizen of India under sub-section (1) except by an order of the Central Government.

Explanation.--For the purposes of this section and sections 7B, 7C and 7D, the expression "person of Indian origin" shall mean a citizen of another country who--

(i) was eligible to become a citizen of India at the time of the commencement of the Constitution;

(ii) belonged to a territory that became part of India after the 15th day of August, 1947; and

(iii) the children and grand-children of a person covered under clauses (i) and (ii), but does not include a person who is or had been at any time a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify.

7B. Conferment of rights on overseas citizens of India.--

(1) Notwithstanding anything contained in any other law for the time being in force, an overseas citizen of India shall be entitled to such rights [other than the rights specified under sub-section (2)] as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) An overseas citizen of India shall not be entitled to the rights conferred on a citizen of India--

(a) under article 16 of the Constitution with regard to equality of

- opportunity in matters of public employment;
- (b) under article 58 of the Constitution for election as President;
 - (c) under article 66 of the Constitution for election of Vice-President;
 - (d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;
 - (e) under article 217 of the Constitution for appointment as a Judge of the High Court;
 - (f) under section 16 of the Representation of the People Act, 1950(43 of 1950) in regard to registration as a voter;
 - (g) under sections 3 and 4 of the Representation of the People Act, 1951(43 of 1951) with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;
 - (h) under sections 5, 5A and 6 of the Representation of the People Act, 1951(43 of 1951) with regard to the eligibility for being a member of the Legislative Assembly or a Legislative Council, as the case may be, of a State;
 - (i) for appointment to public services and posts in connection with the affairs of the Union or of any State except for appointment in such services and posts as the Central Government may by special order in that behalf specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

7C. Renunciation of overseas citizenship.--

(1) If any overseas citizen of India of full age and capacity makes in the prescribed manner a declaration renouncing his overseas citizenship of India, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an overseas citizen of India.

(2) Where a person ceases to be an overseas citizen of India under sub-section (1), every minor child of that person registered as an overseas citizen of India, shall thereupon cease to be an overseas citizen of India.

7D. Cancellation of registration as overseas citizen of India.--

The Central Government may, by order, cancel the registration granted under sub-section (1) of section 7A if it is satisfied that--

(a) the registration as an overseas citizen of India was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the overseas citizen of India has shown disaffection towards the Constitution of India as by law established; or

(c) the overseas citizen of India has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the overseas citizen of India has, within five years after registration under sub-section (1) of section 7A has been sentenced to imprisonment for a term of not less than two years; or

(e) it is necessary so to do in the interest of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public..

8. Amendment Of Section 8 :-

In section 8 of the principal Act,--

(a) in sub-section (1), the words "who is also a citizen or national of another country" shall be omitted;

(b) in the proviso to sub-section (2), after the word "declaration", the words "in the prescribed form and manner" shall be inserted;

(c) sub-section (3) shall be omitted.

9. Amendment Of Section 9 :-

In section 9 of the principal Act, in sub-section (2), for the word "person", the words "citizen of India" shall be substituted.

10. Omission Of Sections 11 And 12 :-

Sections 11 and 12 of the principal Act shall be omitted.

11. Amendment Of Section 14 :-

In section 14 of the principal Act, for the words and figures "sections 5 and 6", the words, figures and letter "sections 5, 6 and 7A" shall be substituted.

12. Insertion Of New Section 14A :-

After section 14 of the principal Act, the following section shall be inserted, namely:--

"14A. Issue of national identity cards. (1) The Central Government may compulsorily register every citizen of India and issue national identity card to him.

(2) The Central Government may maintain a National Register of

Indian Citizens and for that purpose establish a National Registration Authority.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2003., the Registrar General, India, appointed under sub-section (1) of section 3 of the Registration of Births and Deaths Act, 1969(18 of 1969) shall act as the National Registration Authority and he shall function as the Registrar General of Citizen Registration.

(4) The Central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging his functions and responsibilities.

(5) The procedure to be followed in compulsory registration of the citizens of India shall be such as may be prescribed.

13. Insertion New Section 15A :-

After section 15 of the principal Act, the following section shall be inserted, namely:--

"15A. Review. (1) Any person aggrieved by an order made by the Central Government, may, within thirty days from the date of such order, make an application for review of such order:

Provided that the Central Government may entertain an application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time:

Provided further that an application for a review of an order passed in terms of the provisions of section 14A shall be disposed of in the manner provided for in the procedure as may be laid down under clause (ia) of sub-section (2) of section 18.

(2) On receipt of an application under sub-section (1), the Central Government shall, make such order as it deems fit, and the decision of the Central Government on such review shall be final."

14. Amendment Of Section 17 :-

In section 17 of the principal Act,--

(a) for the words "six months", the words "five years" shall be substituted;

(b) for the words "with fine", the words "with fine which may extend to fifty thousand rupees" shall be substituted.

15. Amendment Of Section 18 :-

In section 18 of the principal Act,--

(i) in sub-section (2),--

(a) after clause (a), the following clause shall be inserted, namely:--

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"(aa) the form and manner in which a declaration under sub-section (1) of section 4 shall be made;"

(b) after clause (i), the following clause shall be inserted, namely:--

"(ia) the procedure to be followed in compulsory registration of the citizens of India under sub-section (5) of section 14A;"

(ii) in sub-section (3), the following proviso shall be inserted, namely:--

"Provided that any rule made in respect of a matter specified in clause (ia) of sub-section (2) may provide that a breach thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both."

16. Omission Of First Schedule :-

The First Schedule to the principal Act shall be omitted.

17. Substitution Of Second Schedule By A New Schedule :-

For the Second Schedule to the principal Act, the following Schedule shall be substituted, namely:--

"THE SECOND SCHEDULE

[See sections 5(2) and 6(2)]

OATH OF ALLEGIANCE

I, A/B.....do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India."

18. Amendment Of Third Schedule :-

In the Third Schedule to the principal Act,--

(a) in the opening portion, the words "who is not a citizen of a country specified in the First Schedule" shall be omitted;

(b) in clause (b), for the words "he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government", the words "he undertakes to renounce the citizenship of that country in the event of his application for Indian citizenship

being accepted" shall be substituted;

(c) in clause (d),--

(i) for the words "twelve years", the words "fourteen years" shall be substituted;

(ii) for the words "nine years", the words "eleven years" shall be substituted;

(d) in the proviso, in clause (ii), for the words "thirteen years", the words "fifteen years" shall be substituted.

19. Insertion Of New Fourth Schedule :-

After the Third Schedule to the principal Act, the following Schedule shall be inserted, namely:--

"THE FOURTH SCHEDULE

[See section 2(1)(gg)]

1. Australia.
2. Canada.
3. Finland.
4. France.
5. Greece.
6. Ireland.
7. Israel.
8. Italy.
9. Netherlands.
10. New Zealand.
11. Portugal.
12. Republic of Cyprus.
13. Sweden.
14. Switzerland.
15. United Kingdom.
16. United States of America."