

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653, see section 309(b)(15) of Pub. L. 102-232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

## 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.

## ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

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

## APPLICATION OF 1994 AMENDMENT

Section 102(e) of Pub. L. 103-416, as added by Pub. L. 104-208, div. C, title VI, §671(b)(2), Sept. 30, 1996, 110 Stat. 3009-721, which provided that in applying amendment made by subsection (a), amending this section, to children born before Nov. 14, 1986, any reference in matter inserted by such amendment to "five years, at least two of which" was deemed a reference to "10 years, at least 5 of which", was repealed by Pub. L. 105-38, §1, Aug. 8, 1997, 111 Stat. 1115, effective as if included in the enactment of Pub. L. 103-416.

**§ 1434. Repealed. Pub. L. 95-417, § 7, Oct. 5, 1978, 92 Stat. 918**

Section, acts 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, related to citizenship of children adopted by citizens.

**§ 1435. Former citizens regaining citizenship**

**(a) Requirements**

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

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

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

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the pro-

visions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

**(b) Additional requirements**

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

**(c) Oath of allegiance**

(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 1448 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, 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 Attorney General or the judge or clerk of a court described in section 1421(b) of this title.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, court, or the Attorney General, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, court, or the Attorney General, 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.

**(d) Persons losing citizenship for failure to meet physical presence retention requirement**

(1) A person who was a citizen of the United States at birth and lost such citizenship for fail-

ure to meet the physical presence retention requirements under section 1401(b) of this title (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 1448 of this title be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

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

(June 27, 1952, ch. 477, title III, ch. 2, § 324, 66 Stat. 246; Pub. L. 100-525, § 9(x), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101-649, title IV, § 407(b)(3), (c)(7), (d)(6), Nov. 29, 1990, 104 Stat. 5040-5042; Pub. L. 103-416, title I, § 103(a), Oct. 25, 1994, 108 Stat. 4307.)

#### REFERENCES IN TEXT

Section 317(a) and (b) of the Nationality Act of 1940, referred to in subssecs. (a) and (c)(1), which was classified to section 717(a) and (b) of this title, was repealed by section 403(a)(42) of act June 27, 1952. See subssecs. (a) and (c) of this section.

#### AMENDMENTS

1994—Subsec. (d). Pub. L. 103-416 added subsec. (d).

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

Subsec. (a)(2). Pub. L. 101-649, § 407(c)(7), (d)(6)(A)(ii), substituted references to applicant and application for references to petitioner and petition, and substituted period for semicolon at end.

Subsec. (a)(3), (4). Pub. L. 101-649, § 407(d)(6)(A)(iii), struck out pars. (3) and (4) which related to filing of petition and hearing on petition.

Subsec. (b). Pub. L. 101-649, § 407(c)(7), (d)(6)(B), substituted references to application for references to petition wherever appearing, and “Attorney General” for “naturalization court”.

Subsec. (c)(1). Pub. L. 101-649, § 407(c)(7), substituted “an application” for “a petition”.

Subsec. (c)(2). Pub. L. 101-649, § 407(d)(6)(C)(i), substituted “the Attorney General or the judge or clerk of a court described in section 1421(b) of this title” for “the judge or clerk of a naturalization court”.

Subsec. (c)(3). Pub. L. 101-649, § 407(d)(6)(C)(ii), substituted “court, or the Attorney General” for “or naturalization court” in two places.

1988—Subsec. (a)(4). Pub. L. 100-525 substituted “has” for “and the witnesses have”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 103(b) of Pub. L. 103-416 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Oct. 25, 1994].”

#### ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

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

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

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, 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 sub-

section (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.”

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

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

(June 27, 1952, ch. 477, title III, ch. 2, §325, 66 Stat. 248; Pub. L. 101-649, title IV, §407(c)(8), Nov. 29, 1990, 104 Stat. 5041.)

AMENDMENTS

1990—Pub. L. 101-649 substituted “applications” for “petitions”.

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

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

(June 27, 1952, ch. 477, title III, ch. 2, §326, 66 Stat. 248; Pub. L. 101-649, title IV, §407(c)(9), Nov. 29, 1990, 104 Stat. 5041.)

AMENDMENTS

1990—Pub. L. 101-649 substituted “applying” for “petitioning”.

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

**(a) Requirements; oath; certified copies of oath**

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

ralized by taking before the Attorney General or before a court described in section 1421(b) of this title the oath required by section 1448 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice and by the Attorney General to the Secretary of State.

**(b) Exceptions**

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

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

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

**(c) Status**

Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained 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; Pub. L. 101-649, title IV, §407(d)(7), Nov. 29, 1990, 104 Stat. 5042.)

REFERENCES IN TEXT

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

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-649 substituted “the Attorney General or before a court described in section 1421(b) of this title” for “any naturalization court specified in section 1421(a) of this title” and inserted “and by the Attorney General to the Secretary of State” before period at end.

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