

“(A) where the Secretary of Homeland Security determines that the alternative documentation that is the basis for the waiver of the documentary requirement is sufficient to denote identity and citizenship;

“(B) in the case of an unforeseen emergency in individual cases; or

“(C) in the case of humanitarian or national interest reasons in individual cases.

“(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act [8 U.S.C. 1182(d)(4)(C)] until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.”

[Amendment by Pub. L. 110-161, §545, to section 7209 of Pub. L. 108-458, set out above, was executed to reflect the probable intent of Congress, notwithstanding errors in the directory language.]

EX. ORD. NO. 12172. DELEGATION OF AUTHORITY OF PRESIDENT TO SECRETARY OF STATE AND ATTORNEY GENERAL RESPECTING ENTRY OF IRANIAN ALIENS INTO THE UNITED STATES

Ex. Ord. No. 12172, Nov. 26, 1979, 44 F.R. 67947, as amended by Ex. Ord. No. 12206, Apr. 7, 1980, 45 F.R. 24101, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including the Immigration and Nationality Act, as amended [this chapter], 8 USC 1185 and 3 USC 301, it is hereby ordered as follows:

Section 1-101. Delegation of Authority. The Secretary of State and the Attorney General are hereby designated and empowered to exercise in respect of Iranians the authority conferred upon the President by section 215(a)(1) of the Act of June 27, 1952 (8 USC 1185), to prescribe limitations and exceptions on the rules and regulations governing the entry of aliens into the United States.

Section 1-102. Effective Date. This order is effective immediately.

JIMMY CARTER.

EX. ORD. NO. 13323. ASSIGNMENT OF FUNCTIONS RELATING TO ARRIVALS IN AND DEPARTURES FROM THE UNITED STATES

Ex. Ord. No. 13323, Dec. 30, 2003, 69 F.R. 241, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 215 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1185), and section 301 of title 3, United States Code, and to strengthen the national security of the United States through procedures and systems to manage and control the arrival and departure of persons from the United States, it is hereby ordered as follows:

SECTION 1. *Functions of the Secretary of Homeland Security.* The Secretary of Homeland Security is assigned the functions of the President under section 215(a) of the INA with respect to persons other than citizens of the United States. In exercising these functions, the Secretary of Homeland Security shall not issue, amend, or revoke any rules, regulations, or orders without first obtaining the concurrence of the Secretary of State.

SEC. 2. *Functions of the Secretary of State.* The Secretary of State is assigned the functions of the President under section 215(a) and (b) of the INA with respect to citizens of the United States, including those functions concerning United States passports. In addition, the Secretary may amend or revoke part 46 of title 22, Code of Federal Regulations, which concern persons other than citizens of the United States. In exercising these functions, the Secretary of State shall not issue, amend, or revoke any rules, regulations, or orders without first consulting with the Secretary of Homeland Security.

SEC. 3. *Judicial Review.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

GEORGE W. BUSH.

§ 1186. Transferred

CODIFICATION

Section, act June 27, 1952, ch. 477, title II, ch. 2, §216, as added Nov. 6, 1986, Pub. L. 99-603, title III, §301(c), 100 Stat. 3411, which related to admission of temporary H-2A workers, was renumbered §218 by Pub. L. 100-525, §2(l)(2), Oct. 24, 1988, 102 Stat. 2612, and transferred to section 1188 of this title.

§ 1186a. Conditional permanent resident status for certain alien spouses and sons and daughters

(a) In general

(1) Conditional basis for status

Notwithstanding any other provision of this chapter, an alien spouse (as defined in subsection (h)(1)) and an alien son or daughter (as defined in subsection (h)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

(2) Notice of requirements

(A) At time of obtaining permanent residence

At the time an alien spouse or alien son or daughter obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to such a spouse, son, or daughter respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

(B) At time of required petition

In addition, the Secretary of Homeland Security shall attempt to provide notice to such a spouse, son, or daughter, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsections¹ (c)(1).

(C) Effect of failure to provide notice

The failure of the Secretary of Homeland Security to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such a spouse, son, or daughter.

(b) Termination of status if finding that qualifying marriage improper

(1) In general

In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the Secretary of Homeland Security determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

(A) the qualifying marriage—

¹ So in original. Probably should be “subsection”.