

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

Pub. L. 103-416, title I, §103(b), Oct. 25, 1994, 108 Stat. 4308, 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

Act Aug. 16, 1951, ch. 321, §1, 65 Stat. 191, 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 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."

#### § 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), be naturalized 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), 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.

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

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### § 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 one year, 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 application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

#### (b) Exceptions

A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) no residence within a State or district of the Service in the United States shall be required;

(2) notwithstanding section 1429 of this title insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service;

(3) the applicant shall furnish to the Secretary of Homeland Security, prior to any hearing upon his application, a certified statement from the proper executive department for each period of his service upon which he re-