EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective 30 days after Dec. 12, 1991, see section 102(c) of Pub. L. 102–232, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 not applicable to functions and duties respecting petitions filed before Oct. 1, 1991, see section 408(c) of Pub. L. 101–649, set out as a note under section 1421 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.

§ 1451. Revocation of naturalization

(a) Concealment of material evidence; refusal to testify

It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any district court of the United States in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided*, That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

(b) Notice to party

The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answers to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the States or the place where such suit is brought.

(c) Membership in certain organizations; prima facie evidence

If a person who shall have been naturalized after December 24, 1952 shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 1424 of this title, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(d) Applicability to citizenship through naturalization of parent or spouse

Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsection (c) of this section, or under the provisions of section 1440(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

(e) Citizenship unlawfully procured

When a person shall be convicted under section 1425 of title 18 of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(f) Cancellation of certificate of naturalization

Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. The clerk of court shall transmit a copy of such order and judgment to the Attorney General. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

(g) Applicability to certificates of naturalization and citizenship

The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this subchapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other act.

(h) Power to correct, reopen, alter, modify, or vacate order

Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person.

(June 27, 1952, ch. 477, title III, ch. 2, § 340, 66 Stat. 260; Sept. 3, 1954, ch. 1263, § 18, 68 Stat. 1232; Pub. L. 87–301, § 18, Sept. 26, 1961, 75 Stat. 656; Pub. L. 99–653, § 17, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, § 9(dd), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 101–649, title IV, § 407(d)(18), Nov. 29, 1990, 104 Stat. 5046; Pub. L. 102–232, title III, § 305(k), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 104(b), (c), Oct. 25, 1994, 108 Stat. 4308.)

REFERENCES IN TEXT

Section 702 of the Nationality Act of 1940, as amended, referred to in subsec. (g), which was classified to section 1002 of this title, was repealed by section 403(a)(42) of act June 27, 1952. See section 1440 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–416 redesignated subsec. (e) as (d) and substituted ''subsection (c)'' for ''subsections (c) or (d)'', and struck out former subsec. (d) which related to revocation of naturalization of persons who, within one year of naturalization, have taken permanent residence in country of their nativity or in any other foreign country.

Subsecs. (e) to (i). Pub. L. 103–416, § 104(c)(1), redesignated subsecs. (f) to (i) as (e) to (h), respectively. Former subsec. (e) redesignated (d).

1991—Subsec. (a). Pub. L. 102–232, § 305(k)(1), substituted ''district court'' for ''District Court'' in first sentence.

Subsec. (g). Pub. L. 102–232, § 305(k)(2), substituted ''clerk of court'' for ''clerk of the court'' in second sentence.

1990—Subsec. (a). Pub. L. 101–649, § 407(d)(18)(A), substituted ''in any District Court of the United States'' for ''in any court specified in subsection (a) of section 1421 of this title''.

Subsec. (g). Pub. L. 101–649, § 407(d)(18)(B), (C), amended second sentence generally and struck out third sentence. Prior to amendment, second and third sentences read as follows: ''In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation.''

Subsec. (i). Pub. L. 101–649, § 407(d)(18)(D), substituted ''the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person'' for ''any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment or decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure or statutes governing the jurisdiction of the court to take such action''.

1988—Subsec. (c). Pub. L. 100–525, § 9(dd)(1), substituted ''December 24, 1952'' for ''the effective date of this chapter''.

Subsecs. (e) to (j). Pub. L. 100–525, § 9(dd)(2), (3), redesignated former subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which read as follows: ''The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 338 of the Nationality Act of 1940 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or been available to a wife or minor child of the naturalized person had such naturalization not been revoked: *Provided*, That this subsection shall not apply in any case in which the revocation and setting aside of the order was the result of actual fraud.''

1986—Subsec. (d). Pub. L. 99–653 substituted ''one year'' for ''five years''.

1961—Subsec. (a). Pub. L. 87–301, § 18(a), inserted ''were illegally procured or'' after ''that such order and certificate of naturalization''.

Subsec. (b). Pub. L. 87–301, § 18(b), inserted ''illegally procured or'' before ''procured by concealment''.

1954—Subsec. (a). Act Sept. 3, 1954, substituted ''United States attorneys'' for ''United States district attorneys''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101–649, see section 310(1) of Pub. L. 102–232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 23(f) of Pub. L. 99–653, as added by Pub. L. 100–525, § 8(r), Oct. 24, 1988, 102 Stat. 2619, provided that: ''The amendment made by section 17 [amending this section] shall not apply to individuals who have taken up permanent residence outside the United States before November 14, 1986.''

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.

§ 1452. Certificates of citizenship or U.S. non-citizen national status; procedure

(a) Application to Attorney General for certificate of citizenship; proof; oath of allegiance

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsection (c), (d), (e), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (c), (d), (e), or (g) of section 1401 of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 558), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139), or under the provisions of section 1403 of this title, may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of an applicant for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States.

(b) Application to Secretary of State for certificate of non-citizen national status; proof; oath of allegiance

A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon—

(1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and

(2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this chapter of a petitioner for naturalization,

the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.

(June 27, 1952, ch. 477, title III, ch. 2, § 341, 66 Stat. 263; Pub. L. 97–116, § 18(p), Dec. 29, 1981, 95 Stat. 1621; Pub. L. 99–396, § 16(a), Aug. 27, 1986, 100 Stat. 843; Pub. L. 99–653, § 22, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, § 8(q), Oct. 24, 1988, 102 Stat. 2618; Pub. L. 102–232, title III, § 305(m)(8), Dec. 12, 1991, 105 Stat. 1750; Pub. L. 103–416, title I, § 102(b), Oct. 25, 1994, 108 Stat. 4307.)

REFERENCES IN TEXT

Section 1993 of the Revised Statutes, referred to in subsec. (a), which was classified to section 6 of this title, was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.

The Nationality Act of 1940, referred to in subsec. (a), is act Oct. 14, 1940, ch. 876, 54 Stat. 1137, as amended. Sections 201, 203, and 205 of the Nationality Act of 1940, which were classified to sections 601, 603, and 605, respectively, of this title, were repealed by section 403(a)(42) of act June 27, 1952.

Act May 7, 1934 (48 Stat. 667), referred to in subsec. (a), which was classified to sections 3b and 3c of this title, was omitted from the Code.

Act Aug. 4, 1937, referred to in subsec. (a), which was classified to sections 5d and 5e of this title, was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–416 struck out subsec. (c) which related to application to Attorney General for certificate of citizenship for adopted child.

1991—Subsec. (a). Pub. L. 102–232 substituted ''an applicant'' for ''a petitioner''.

1988—Subsec. (c). Pub. L. 100–525 amended Pub. L. 99–653. See 1986 Amendment note below.

1986—Pub. L. 99–396, § 16(a)(1), inserted reference to certificates of non-citizen national status in section catchline.

Subsecs. (a), (b). Pub. L. 99–396, § 16(a)(2), (3), designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (c). Pub. L. 99–653, as amended by Pub. L. 100–525, added subsec. (c).

1981—Pub. L. 97–116 substituted ''(c), (d), (e), or (g) of section 1401'' for ''(3), (4), (5), or (7) of section 1401(a)''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–416 effective on the first day of the first month beginning more than 120 days after Oct. 25, 1994, see section 102(d) of Pub. L. 103–416, set out as a note under section 1433 of this act.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(m) of Pub. L. 102–232 provided that the amendment made by that section is effective as if included in section 407(d) of the Immigration Act of 1990, Pub. L. 101–649.

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