66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208, § 378(a), inserted at end ''Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 1229a of this title, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.''

Pub. L. 104–208, § 308(e)(1)(H), substituted ''removal'' for ''deportation''.

1994—Subsec. (a). Pub. L. 103–416 struck out first three sentences which read as follows: ''If, at any time within five years after the status of a person has been adjusted under the provisions of section 1254 of this title or under section 19(c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(e)(1)(H) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Section 378(b) of div. C of Pub. L. 104–208 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the title III–A effective date (as defined in section 309(a) of this division [set out as a note under section 1101 of this title]).''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 219(m) of Pub. L. 103–416 provided that the amendment made by that section is effective 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.

REFERENCES TO ORDER OF REMOVAL DEEMED TO INCLUDE ORDER OF EXCLUSION AND DEPORTATION

For purposes of carrying out this chapter, any reference in law to an order of removal is deemed to include a reference to an order of exclusion and deportation or an order of deportation, see section 309(d)(2) of Pub. L. 104–208, set out in an Effective Date of 1996 Amendments note under section 1101 of this title.

## § 1257. Adjustment of status of certain resident aliens to nonimmigrant status; exceptions

(a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15)(A), (E), or (G) of section 1101(a) of this title, if such alien had at the time of admission or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such paragraphs. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) of this section shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15)(A), (E), or (G) of section 1101(a) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 247, 66 Stat. 218; Pub. L. 104–208, div. C, title III, § 308(f)(1)(P), Sept. 30, 1996, 110 Stat. 3009–621.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208 substituted ''time of admission'' for ''time of entry''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, 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.

## § 1258. Change of nonimmigrant classification

(a) The Secretary of Homeland Security may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status and who is not inadmissible under section 1182(a)(9)(B)(i) of this title (or whose inadmissibility under such section is waived under section 1182(a)(9)(B)(v) of this title), except (subject to subsection (b) of this section) in the case of—

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), (K), or (S) of section 1101(a)(15) of this title,

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 1101(a)(15) of this title who came to the United States or acquired such classification in order to receive graduate medical education or training,

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 1101(a)(15) of this title who is subject to the two-year for-

eign residence requirement of section 1182(e) of this title and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 1101(a)(15) of this title to a classification under subparagraph (A) or (G) of such section, and

(4) an alien admitted as a nonimmigrant visitor without a visa under section 1182(*l*) of this title or section 1187 of this title.

(b) The exceptions specified in paragraphs (1) through (4) of subsection (a) of this section shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 1101(a)(15) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 248, 66 Stat. 218; Pub. L. 87–256, § 109(d), Sept. 21, 1961, 75 Stat. 535; Pub. L. 97–116, § 10, Dec. 29, 1981, 95 Stat. 1617; Pub. L. 99–603, title III, § 313(d), Nov. 6, 1986, 100 Stat. 3439; Pub. L. 103–322, title XIII, § 130003(b)(3), Sept. 13, 1994, 108 Stat. 2025; Pub. L. 104–208, div. C, title III, § 301(b)(2), title VI, § 671(a)(2), Sept. 30, 1996, 110 Stat. 3009–578, 3009–721; Pub. L. 109–162, title VIII, § 821(c)(1), Jan. 5, 2006, 119 Stat. 3062.)

AMENDMENTS

2006—Pub. L. 109–162 designated existing provisions as subsec. (a), substituted "Secretary of Homeland Security" for "Attorney General", inserted "(subject to subsection (b) of this section)" after "except" in introductory provisions, and added subsec. (b).

1996—Pub. L. 104–208, § 301(b)(2), in introductory provisions, inserted "and who is not inadmissible under section 1182(a)(9)(B)(i) of this title (or whose inadmissibility under such section is waived under section 1182(a)(9)(B)(v) of this title)" after "maintain that status".

Par. (1). Pub. L. 104–208, § 671(a)(2), made technical amendment to directory language of Pub. L. 103–322, § 130003(b)(3). See 1994 Amendment note below.

1994—Par. (1). Pub. L. 103–322, § 130003(b)(3), as amended by Pub. L. 104–208, § 671(a)(2), substituted "(K), or (S)" for "or (K)".

1986—Par. (4). Pub. L. 99–603 added par. (4).

1981—Pub. L. 97–116 permitted certain exchange visitors who are not subject to a requirement of returning to their home countries for two years, or who have had such requirement waived, to adjust to a visitor or diplomat status, prohibited the adjustment of nonimmigrant status by fiancee or fiance nonimmigrants, and specifically precluded the change of status with respect to doctors who have entered the United States as exchange visitors for graduate medical training, even if they have received a waiver of the two-year foreign residence requirement.

1961—Pub. L. 87–256 inserted references to paragraph (15)(J) of section 1101(a) of this title in two places.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 301(b)(2) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Amendment by section 671(a)(2) of Pub. L. 104–208 effective as if included in the enactment of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103–322, see section 671(a)(7) of Pub. L. 104–208, set out as a 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.

## § 1259. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to January 1, 1972

A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien, as of the date of the approval of his application or, if entry occurred prior to July 1, 1924, as of the date of such entry, if no such record is otherwise available and such alien shall satisfy the Attorney General that he is not inadmissible under section 1182(a)(3)(E) of this title or under section 1182(a) of this title insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and he establishes that he—

(a) entered the United States prior to January 1, 1972;

(b) has had his residence in the United States continuously since such entry;

(c) is a person of good moral character; and

(d) is not ineligible to citizenship and is not deportable under section 1227(a)(4)(B) of this title.

(June 27, 1952, ch. 477, title II, ch. 5, § 249, 66 Stat. 219; Pub. L. 85–616, Aug. 8, 1958, 72 Stat. 546; Pub. L. 89–236, § 19, Oct. 3, 1965, 79 Stat. 920; Pub. L. 99–603, title II, § 203(a), Nov. 6, 1986, 100 Stat. 3405; Pub. L. 100–525, § 2(j), Oct. 24, 1988, 102 Stat. 2612; Pub. L. 101–649, title VI, § 603(a)(14), Nov. 29, 1990, 104 Stat. 5083; Pub. L. 104–132, title IV, § 413(e), Apr. 24, 1996, 110 Stat. 1269; Pub. L. 104–208, div. C, title III, § 308(g)(10)(C), Sept. 30, 1996, 110 Stat. 3009–625.)

AMENDMENTS

1996—Par. (d). Pub. L. 104–208 substituted "section 1227(a)(4)(B)" for "section 1251(a)(4)(B)".

Pub. L. 104–132 inserted "and is not deportable under section 1251(a)(4)(B) of this title" after "ineligible to citizenship".

1990—Pub. L. 101–649 substituted "1182(a)(3)(E)" for "1182(a)(33)".

1988—Pub. L. 100–525 amended Pub. L. 99–603. See 1986 Amendment note below.

1986—Pub. L. 99–603, as amended by Pub. L. 100–525, inserted "under section 1182(a)(33) of this title or" in introductory provisions and substituted "January 1, 1972" for "June 30, 1948" in section heading and in par. (a).

1965—Pub. L. 89–236 substituted "June 30, 1948" for "June 28, 1940".

1958—Pub. L. 85–616 permitted record of lawful admission to be made in the case of aliens who entered the United States prior to June 28, 1940, authorized the record to be made as of the date of the approval of the application for those who entered subsequent to July 1, 1924, and prior to June 28, 1940, and substituted provisions requiring the alien to satisfy the Attorney General that he is not inadmissible under section 1182(a) of this title insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens for provisions which required the alien to satisfy the Attorney General that he was not subject to deportation.