

Bill No. 36 of 2015

THE CITIZENSHIP (AMENDMENT) BILL, 2015

A

BILL

further to amend the Citizenship Act, 1955.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizenship (Amendment) Act, 2015.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 6th day of January, 2015.

57 of 1955.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), for clause (ee), the following clause shall be substituted, namely:—

Amendment
of section 2.

'(ee) "Overseas Citizen of India Cardholder" means a person registered as an Overseas Citizen of India Cardholder by the Central Government under section 7A;'

3. In the principal Act, in section 5,—

Amendment
of section 5.

(i) in sub-section (1),—

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(a) in clause (f), for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;

(b) in clause (g),—

(A) for the words "overseas citizen of India", the words "Overseas Citizen of India Cardholder" shall be substituted;

(B) for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;

(ii) after sub-section (I), the following sub-section shall be inserted, namely:—

"(IA) The Central Government, if it is satisfied that special circumstances exist, may after recording the circumstances in writing, relax the period of twelve months, specified in clauses (f) and (g) and clause (i) of *Explanation 1* of sub-section (I), up to a maximum of thirty days which may be in different breaks."

4. In the principal Act, for sections 7A, 7B, 7C and section 7D, the following sections shall be substituted, namely:—

Substitution of new sections for sections 7A, 7B, 7C and section 7D.

Registration of Overseas Citizen of India Cardholder.

"7A. (I) The Central Government may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, register as an Overseas Citizen of India Cardholder—

(a) any person of full age and capacity,—

(i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after the commencement of the Constitution; or

(ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grand child or a great grand child of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a); or

(c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or

(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:

Provided that for the eligibility for registration as an Overseas Citizen of India Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India:

Provided further that no person, who or either of whose parents or grand parents or great grand parents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder under this sub-section.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing Persons of Indian Origin Cardholders shall be deemed to be Overseas Citizens of India Cardholders.

Explanation.— For the purposes of this sub-section, "Persons of Indian Origin Cardholders" means the persons registered as such under notification number 26011/4/98 F.I., dated the 19th August, 2002, issued by the Central Government in this regard.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that special circumstances exist, after recording the circumstances in writing, register a person as an Overseas Citizen of India Cardholder.

5 7B. (1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Conferment
of rights on
Overseas
Citizen of
India
Cardholder.

(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India—

10 (a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

15 (d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a Judge of the High Court;

43 of 1950. (f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

43 of 1951. 20 (g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

43 of 1951. 25 (h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may, by special order in that behalf, specify.

30 (3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

35 7C. (1) If any Overseas Citizen of India Cardholder of full age and capacity makes in prescribed manner a declaration renouncing the Card registering him as an Overseas Citizen of India Cardholder, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an Overseas Citizen of India Cardholder.

Renunciation
of Overseas
Citizen of
India Card.

40 (2) Where a person ceases to be an Overseas Citizen of India Cardholder under sub-section (1), the spouse of foreign origin of that person, who has obtained Overseas Citizen of India Card under clause (d) of sub-section (1) of section 7A, and every minor child of that person registered as an Overseas Citizen of India Cardholder shall thereupon cease to be an Overseas Citizen of India Cardholder.

7D. The Central Government may, by order, cancel the registration granted under sub-section (1) of section 7A, if it is satisfied that—

45 (a) the registration as an Overseas Citizen of India Cardholder was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the Overseas Citizen of India Cardholder has shown disaffection towards the Constitution, as by law established; or

(c) the Overseas Citizen of India Cardholder has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or

Cancellation
of
registration
as Overseas
Citizen of
India
Cardholder.

been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the Overseas Citizen of India Cardholder has, within five years after registration under sub-section (1) of section 7A, been sentenced to imprisonment for a term of not less than two years; or 5

(e) it is necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public; or

(f) the marriage of an Overseas Citizen of India Cardholder, who has obtained such Card under clause (d) of sub-section (1) of section 7A,— 10

(i) has been dissolved by a competent court of law or otherwise; or

(ii) has not been dissolved but, during the subsistence of such marriage, he has solemnised marriage with any other person."

Amendment of section 18. **5.** In the principal Act, in section 18, in sub-section (2), after clause (ee), the following clauses shall be inserted, namely:— 15

“(eea) the conditions and the manner subject to which a person may be registered as an Overseas Citizen of India Cardholder under sub-section (1) of section 7A;

(eeb) the manner of making declaration for renunciation of Overseas Citizen of India Card under sub-section (1) of section 7C;” 20

Amendment of Third Schedule. **6.** In the principal Act, in the Third Schedule, in clause (c), the following proviso shall be inserted, namely:—

"Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording the circumstances in writing, relax the period of twelve months up to a maximum of thirty days which may be in different breaks." 25

Repeal and savings. **7. (1)** The Citizenship (Amendment) Ordinance, 2015 is hereby repealed. Ord. 1 of 2015.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Citizenship Act, 1955 (the Citizenship Act) provides for the acquisition and determination of Indian citizenship, after the commencement of the Constitution by birth, descent, registration, naturalisation and citizenship by incorporation of territory and for renunciation, termination and deprivation of citizenship under certain circumstances.

2. The Citizenship Act has been amended, from time to time, *inter alia*, making enabling provisions for registration of Overseas Citizen of India Cardholder, conferment of certain rights on such citizens, renunciation of overseas citizenship and cancellation of registration as Overseas Citizen of India Cardholder.

3. The proposed amendments to the Citizenship Act are required due to certain lacunae that were noticed during its implementation and review of provisions in the Citizenship Act. The proposed amendments, *inter alia*, provide for—

(a) amendment of section 5 of the Citizenship Act, so as to,—

(i) substitute the words "has been residing in India for one year" with the words "is ordinarily resident in India for twelve months" in clauses (f) and (g) of sub-section (1);

(ii) substitute the words "overseas citizen of India" with the words "Overseas Citizen of India Cardholder";

(iii) insert new sub-section (1A) to enable the Central Government to relax the period of twelve months specified in clauses (f) and (g) and clause (i) of *Explanation 1* of sub-section (1), up to a maximum of thirty days which may be in different breaks;

(b) substitution of sections 7A, 7B, 7C and 7D of the Citizenship Act to provide for—

(i) registration of Overseas Citizen of India Cardholder and also that the Persons of Indian Origin Cardholders shall be deemed to be Overseas Citizen of India Cardholders;

(ii) conferment of rights on Overseas Citizen of India Cardholder;

(iii) renunciation of Overseas Citizen of India Card;

(iv) cancellation of registration as Overseas Citizen of India Cardholder;

(c) insertion of a proviso to clause (c) of the Third Schedule to the Citizenship Act to empower the Central Government to relax the period of twelve months as resident of India or in the service of a Government in India specified as one of the qualifications for grant of certificate of naturalisation by a period up to a maximum of thirty days which may be in different breaks.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

HARIBHAI PARATHIBHAI CHAUDHARY

The 20th February, 2015.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules to provide for—

(a) conditions and the manner subject to which a person may be registered as Overseas Citizen of India Cardholder;

(b) manner of declaration for renunciation of the Overseas Citizen of India Card.

2. The matters in respect of which rules may be made are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

MEMORANDUM EXPLAINING THE MODIFICATIONS CONTAINED IN THE
CITIZENSHIP (AMENDMENT) BILL, 2015 TO REPLACE THE CITIZENSHIP
(AMENDMENT) ORDINANCE, 2015.

The Citizenship (Amendment) Bill, 2015, which seeks to repeal and replace the Citizenship (Amendment) Ordinance, 2015, proposed to make the following modifications apart from modifications of consequential or drafting nature in the provisions contained in the said Ordinance, namely:—

(1) the words "or either of whose parents or grand-parents or great grand-parents" have been inserted in the second proviso to sub-section (1) of section 7A;

(2) sub-section (3) has been inserted after sub-section (2) of section 7A to provide that "Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that special circumstances exist, after recording the circumstances in writing, register a person as an Overseas Citizen of India Cardholder".

ANNEXURE

EXTRACTS FROM THE CITIZENSHIP ACT, 1955

(57 OF 1955)

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Interpretation. 2. (1) In this Act, unless the context otherwise requires,—

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(ee) "overseas citizen of India" means a person who—

(i) is of Indian origin being a citizen of a specified country, or

(ii) was a citizen of India immediately before becoming a citizen of a specified country,

and is registered as an overseas citizen of India by the Central Government under sub-section (1) of section 7A;

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Citizenship by registration. 5. (1) Subject to the provisions of this section and such other conditions and restrictions as may be prescribed, the Central Government may, on an application made in this behalf, register as a citizen of India any person not being an illegal migrant who is not already such citizen by virtue of the Constitution or of any other provision of this Act if he belongs to any of the following categories, namely:—

* * * * *

(f) a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and has been residing in India for one year immediately before making an application for registration;

(g) a person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for one year before making an application for registration.

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OVERSEAS CITIZENSHIP

Registration of overseas citizens of India. 7A. The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register as an overseas citizen of India—

(a) any person of full age and capacity,—

(i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or

(ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grand-child of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a):

Provided that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an overseas citizen of India.

Conferment of rights on overseas citizens of India. 7B. (1) Notwithstanding anything contained in any other law for the time being in force, an overseas citizen of India shall be entitled to such rights other than the rights specified under sub-section (2) as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) An overseas citizen of India shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election of Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a Judge of the High Court;

43 of 1950.

(f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

43 of 1951.

(g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

43 of 1951.

(h) under sections 5, 5A and 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or a Legislative Council, as the case may be, of a State;

(i) for appointment to public services and posts in connection with the affairs of the Union or of any State except for appointment in such services and posts as the Central Government may by special order in that behalf specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

7C. (1) If any overseas citizen of India of full age and capacity makes in the prescribed manner a declaration renouncing his overseas citizenship of India, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an overseas citizen of India.

Renunciation of overseas citizenship.

(2) Where a person ceases to be an overseas citizen of India under sub-section (1), every minor child of that person registered as an overseas citizen of India, shall thereupon cease to be an overseas citizen of India.

7D. The Central Government may, by order, cancel the registration granted under sub-section (1) of section 7A if it is satisfied that—

Cancellation of registration as overseas citizen of India.

(a) the registration as an overseas citizen of India was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the overseas citizen of India has shown disaffection towards the Constitution of India as by law established; or

(c) the overseas citizen of India has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the overseas citizen of India has, within five years after registration under sub-section (1) of section 7A has been sentenced to imprisonment for a term of not less than two years; or

(e) it is necessary so to do in the interest of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public.

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THE THIRD SCHEDULE

[See section 6 (1)]

QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of a person are:—

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(c) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

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LOK SABHA

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further to amend the Citizenship Act, 1955.

(Shri Haribhai Parathibhai Chaudhary, Minister of State for Home Affairs)