

TO BE INTRODUCED IN THE RAJYA SABHA

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XLVIII of 2011

THE CITIZENSHIP (AMENDMENT) BILL, 2011

A

BILL

further to amend the Citizenship Act, 1955.

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

1. (1) This Act may be called the Citizenship (Amendment) Act, 2011.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

57 of 1955.

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

Amendment of section 2.

‘(ee) “overseas Indian cardholder” means a person registered as an overseas Indian cardholder by the Central Government under section 7A;’

3. In section 5 of the principal Act, in sub-section (1),—

Amendment of section 5.

(a) in clause (f), for the words “has been residing”, the words “is ordinarily resident” shall be substituted;

(b) in clause (g), for the words “has been residing”, the words “is ordinarily resident” shall be substituted;

(c) in *Explanation 1*, after clause (ii), the following proviso shall be inserted, namely:—

“Provided that if the Central Government is satisfied that special circumstances exist, it may after recording such circumstances in writing, relax the period of twelve months specified in clause (i) for a period not exceeding thirty days.”. 5

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

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

Registration of overseas Indian cardholder.

“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 Indian cardholder— 10

(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 15

(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 20

(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) such spouse of a citizen of India who is a citizen of another country where his or her 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: 25

Provided that for the eligibility for registration as an overseas Indian cardholder, such spouse shall be subjected to prior security clearance from a competent authority in India:

Provided further 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 Indian cardholder. 30

Conferment of rights on overseas Indian cardholder.

7B. (1) Notwithstanding anything contained in any other law for the time being in force, an overseas Indian 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. 35

(2) An overseas Indian cardholder 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; 40

(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; 45

(e) under article 217 of the Constitution for appointment as 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 eligibility for being a member of the Legislative Assembly or a Legislative Council, as the case may be, of a State;

10 (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.

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

15 7C. (1) If any overseas Indian cardholder of full age and capacity makes in prescribed manner a declaration renouncing the card registering him as an overseas Indian cardholder, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an overseas Indian cardholder.

Renunciation
of overseas
Indian card.

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

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
Indian
cardholder.

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

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

30 (c) the overseas Indian cardholder 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 Indian cardholder 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

35 (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; or

(f) the marriage of an overseas Indian cardholder, who has obtained such card under clause (d) of section 7A,—

40 (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.”.

5. In the Third Schedule to the principal Act, in clause (c), the following proviso shall be inserted, namely:—

Amendment
of Third
Schedule.

45 “Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording such circumstances in writing, relax such period by a period not exceeding thirty days.”.

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 citizens of India, conferment of certain rights on such citizens, renunciation of overseas citizenship and cancellation of registration as overseas citizen of India.

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

(a) substitution of clause (ee) of section 2 of the Citizenship Act to replace the expression "overseas citizen of India" with the expression "overseas Indian cardholder" and to define the same;

(b) amendment of section 5 of the Citizenship Act so as to bring within its scope the person "who is ordinarily resident" instead of the person "who has been residing" in India for the period specified in clauses (f) and (g) of sub-section (1) of that section;

(c) substitution of sections 7A, 7B and 7C of the Citizenship Act to, *inter alia*, provide for registration of—

(i) persons as "overseas Indian cardholder" instead of registration of "overseas citizen of India";

(ii) 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;

(iii) such spouse of a citizen of India who is a citizen of another country where his or her marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application;

(d) substitution of section 7D of the Citizenship Act to, *inter alia*, provide for cancellation of registration as overseas Indian cardholder if the marriage of an overseas Indian cardholder, who has obtained such card under clause (d) of section 7A,—

(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 or she has solemnised marriage with any other person;

(e) 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 in 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 not exceeding thirty days in special circumstances.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 7th September, 2011.

P. CHIDAMBARAM.

ANNEXURE

EXTRACTS FROM THE CITIZENSHIP ACT, 1955

(57 OF 1955)

* * * * *

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

(a)* * * * *

(ee) "overseas citizen of India" means a person registered as an overseas citizens of India by the Central Government under section 7A;

* * * * *

5. (I) 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:— Citizenship by registration.

(a)* * * * *

(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.

Explanation 1.— For the purposes of clauses (a) and (c), an applicant shall be deemed to be ordinarily resident in India if—

(i) he has resident in India throughout the period of twelve months immediately before making an application for registration; and

(ii) he has resided in India during the eight years immediately preceding the said period of twelve months for a period of not less than six years.

* * * * *

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 citizens of India— Registration of overseas citizens of India.

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

(i) who is citizen of another country, but was a citizen of India as 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 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
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;

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

(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; 43 of 1951.

(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.

Renunciation
of overseas
citizenship.

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.

(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.

Cancellation
or
registration
as overseas
citizen of
India.

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

(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.

*

*

*

*

*

RAJYA SABHA

A
BILL

further to amend the Citizenship Act, 1955.

(Shri P. Chidambaram, Minister of Home Affairs)