

The Citizenship (Amendment) Bill 2016

1. The Context

The Citizenship (amendment) Bill, 2016 was introduced by Minister of Home Affairs, Mr. Rajnath Singh on **19th July 2016 in the Lok Sabha**. The objective of the bill is to make amendments in the existing Citizenship Act, 1955. The existing act provides for acquisition and determination of citizenship.

2. An overview of the Citizenship Act, 1955

The Act outlines different modes of acquiring Indian Citizenship; by birth, by descent, by registration, by naturalization and by incorporation of territory. It also specifies the conditions and restrictions for attaining Indian citizenship, termination of Indian citizenship and deprivation of Indian citizenship. The act has been amended over the years.



2.1 Modes for Acquiring Indian Citizenship

The following section outlines the key features of the different modes for acquiring Indian citizenship:

2.1.1 By Birth

- Born in India on or after 26th January 1950 but prior to 1st July 1987 is considered Indian citizen by birth irrespective of his/her parent's nationality.
- Born in India on or after 1st July 1987 is considered Indian Citizen only when either of his/parents was Indian citizen at the time of his/her birth
- Born after 7th January 2004 is considered Indian citizens if both parents are Indian citizens or one parent is Indian citizen and other not an illegal migrant at the time of his/her birth.

2.1.2 By Descent

- Born outside India on or after 26th Jan 1950 but before December 1992 is Indian citizen if his/her father was a citizen of India at the time of his/her Birth.
- Born outside India post 10th December 1992 is considered Indian citizen if either of his/her parents is Indian citizen at time of his/her birth.

- Born outside India post 7th January 2004 will be considered Indian citizen if his/her birth is registered at an Indian consulate within a year of the DOB or with the permission of the Central Govt. Or either of his/her parents is in service under The Govt. Of India.

2.1.3 By Registration

- Been a resident of India for 7 years, of Indian origin and who or either of whose parents were born in India before independence.
- Indian origin who are residents in any other country outside undivided India
- Person married to an Indian citizen and been a resident in India for seven years before making an application
- Minor children of Indian Citizens
- Person registered as an overseas citizen of India for five years and has been residing in India for “one year”(amended in 2005)

2.1.4 By Naturalization:

Under the provisions of the Third schedule, the central Govt. grants a certificate of naturalization to any foreigner who is not an illegal migrant and has resided in India for an aggregate of 11 years.

2.1.5 By incorporation of territory:

People who are connected/part of a territory that becomes a part of India as per notified in the Official Gazette, those are considered Indian citizens as from the date of the specified order.

2.2 Cancellation of Indian Citizenship

The following section highlights the conditions under which the citizenship is terminated or renounced or cancelled.

2.2.1 Renunciation of Indian citizenship

Any Indian citizen, also a citizen of another country, if voluntarily renounces his citizenship in a prescribed manner; in that case, he/she is no longer Indian citizen.

A minor child of any person (as amended on 1992) who ceases to be an Indian citizen will also be considered to cease Indian citizenship. However, if the minor within one year of attaining full age makes the declaration (as per the amendments made in the form on 3/12/2004), he/she can be considered for Indian Citizenship.

2.2.2 Termination of Indian citizenship

Any citizen who has acquired Indian citizenship and then has voluntarily acquired citizenship of another country between 26th January 1950 to 30th December 1955 will not be considered Indian citizen. The only exception to this is if the citizenship of another country was acquired due to India's engagement in a war, as directed by the Central Government.

2.2.3 Deprivation of the Overseas Indian citizenship

Any **Overseas citizen of India (OCI)** is deprived of the citizenship by an order of the central Government as per the following conditions

- Registration by means of fraud, false representation or concealment of material facts
- Disloyalty or disaffection towards the constitution of India as per law
- During any war in which India is engaged has unlawfully traded or communicated or involved in business in any manner with the enemy in that war.
- Imprisonment in any country within 5 years for a term of 2 years or more after registration or naturalization.
- Resided outside India for a continuous period of 7 years

3. The Citizenship (amendment) Bill, 2016

3.1 Provisions for Illegal Migrants

As per the Act, Illegal migrant means a foreigner who has entered into India without any valid passport or travel documents as authorized or prescribed by or under any law. It also includes people with valid passport or other valid documents but exceeding their stay beyond the permitted period of time. The act prohibits any illegal migrant from acquiring citizenship.

The Citizenship (amendment) Bill, 2016 seeks to amend this act by providing for certain group of people; minority communities namely, **Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Pakistan and Bangladesh to not be considered as illegal migrants** for the following cases:

- i) Exempted from provisions of passport (entry into India) Act, 1920. An act, which mandates foreigners to carry passports
- ii) Exempted from the application of the provisions of the Foreigners Act, 1946, by the Central Government. An act, which regulates the entry and departure of foreigners in India.

3.2 Amendment of Overseas citizen of India (OCI) Cardholder

There are certain conditions under which the Central Government can deprive an overseas citizen of India of their citizenship (refer to section 2.2.3). The Citizenship (amendment) Bill, 2016 amends the act by **adding another condition for depriving the OCI of their citizenship; on violation of any law or provisions of the act that is in force for the time being in the country.**

3.3 Amendment of Third schedule: Acquiring citizenship by Naturalization

As mentioned in the previous section of acquiring citizenship, one of the criteria for the applying for citizenship by naturalization, is the time period for which the person has resided in India or has been in service of Government of India. The act states this time period for qualification to be an aggregate of at least 11 years.

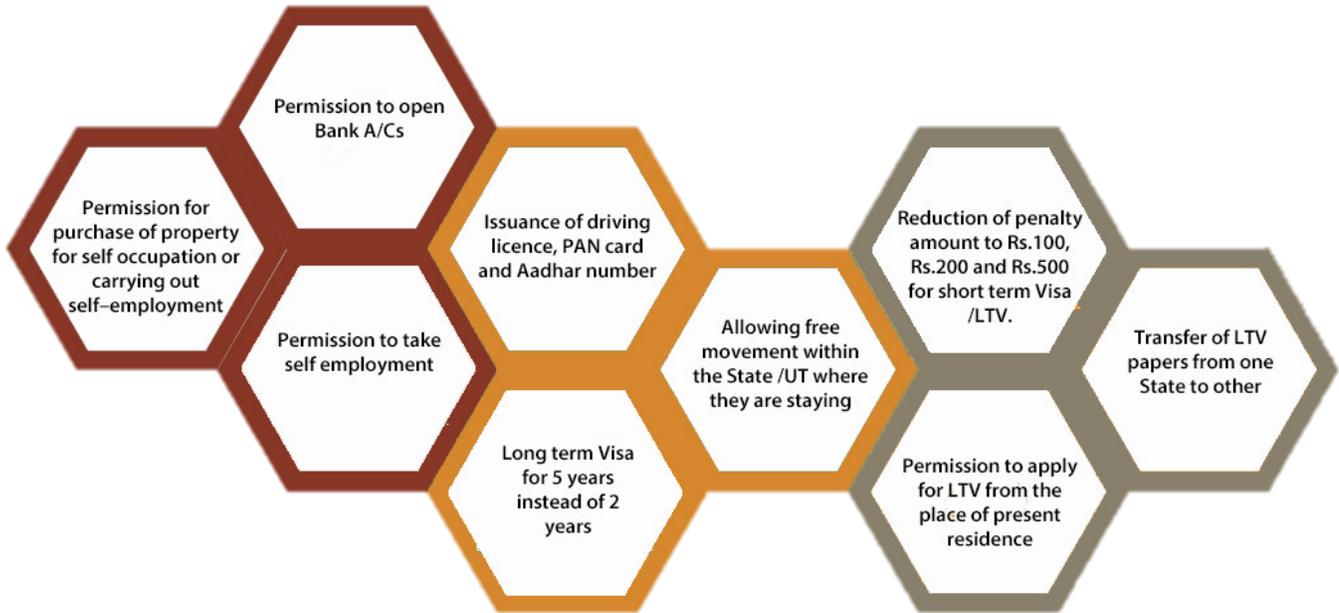
The Citizenship (amendment) Bill, 2016 amends this act by providing an **exception for minority communities, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afganistan, Pakistan and Bangladesh in this qualification criterion by reducing the time period from 11 years to 6 years.**

4. Steps towards Illegal Minorities

The government of India often takes up the issue of illegal immigrants from various countries. There has been increased coordinated patrolling, identification of vulnerable gaps and strengthening of riverine patrolling as measure to control illegal immigration (Lok Sabha Question 1966, 11/05/2016)

The Central Government can deport a foreign national who is staying illegally in India as per the Foreigners act (Section 3(2)(c). Even the State Government and Union Territory Administrations have the same power to deport illegal immigrants under the same act. A revised procedure has been adopted in case of Bangladeshi Immigrants in 2009 (Nov) and then amended in 2011 (Feb). This involves sending the illegal Bangladeshi immigrants back who are intercepted at the border while entering India illegally (Rajya Sabha, Question213, 22/07/2015)

India does not have any provision of awarding refugee status to migrants. Currently, there is no specific law governing the Government's stance for dealing with the refugees. Moreover, India is not signatory to the 1951 UN convention of the status of refugees and the 1967 Protocol. **However, under the provisions in the Citizenship Act, the Government under certain set of instructions can grant Long term Visa (LTV) to migrants.** In the last two years the Central govt. has proposed to extend certain facilities to persons belonging to minority communities of Afghanistan, Bangladesh and Pakistan, namely Hindu, Sikhs, Buddhists, Jains, Parsis and Christians staying on Long Term Visa. This is done mainly to provide them fair opportunities towards a more comfortable livelihood and an ease of movement within the country.



The citizenship (Amendment) Bill 2016 when passed would definitely be of immense benefit to the minorities (as mentioned in the above sections) who fled from Pakistan, Afghanistan and Bangladesh. However there has been some criticism from academicians regarding the bill not being completely inclusive. Mr Suryanarayan , prominent academician stated that instead of listing out non-Muslim minorities in the three countries, the bill could have used “persecuted minorities” (The Hindu, 25th Aug 2016). In other words, the bill should look at not specific minorities but persecuted minorities of all denominations who have made India their home.