

BENDER'S
IMMIGRATION
AND NATIONALITY ACT
PAMPHLET

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Aliens in the United States

hereafter in the United States, who have been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, and hereafter, to apply for registration and fingerprinting within thirty days.

The guardian of any alien now or hereafter in the United States, who is under the provisions of age, (2) has not been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, and hereafter, to apply for the registration and fingerprinting within thirty days. Whenever any alien attains his majority, he shall, within thirty days thereafter, apply for registration and fingerprinting.

on and on the basis of reciprocity with the requirement of fingerprinting any nonimmigrant.

Special Registration of Special

Sections 261 and 262, the Attorney General shall prescribe the forms for the registration and fingerprinting of order-crossing identification cards, and for the registration and fingerprinting of aliens under order of probation or criminal parole within the United States, (4) aliens who have not lawfully admitted to the United States.

Such provisions shall not be applicable to any alien who is admitted under section 101(a)(15)(A) or (15)(B) of such a nonimmigrant status.

Procedure

Sections 261 and 262, the Attorney General shall prescribe the forms for the registration and fingerprinting of order-crossing identification cards, and for the registration and fingerprinting of aliens under order of probation or criminal parole within the United States; (2) the length of time he expects to remain in the United States; (3) the length of time he expects to remain in the United States; (4) the length of time he expects to remain in the United States, if any, of such alien.

Immigration and Nationality Act Amendments of 1990, Pub. L. No. 101-649, 104 Stat. 4978.

(Pub. 466)

(b) Confidential Nature³

All registration and fingerprint records made under the provisions of this title shall be confidential, and shall be made available only (1) pursuant to section 287(f)(2), and (2) for such persons or agencies as may be designated by the Attorney General.

(c) Information Under Oath

Every person required to apply for the registration of himself or another under this title shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this title shall be authorized to administer oaths for such purpose.

(d) Certificate of Alien Registration or Alien Receipt Card

Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this Act shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

(e) Personal Possession of Registration or Receipt Card; Penalties

Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d). Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both.

(f) Authorizing Maintenance of Certain Information on Aliens

Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.

Section 265, 8 U.S.C. 1305 Notices of Change of Address⁴

(a) Notification of Change

Each alien required to be registered under this title who is within the United States shall notify the Attorney General in writing of each change of address and new address within ten days from the date of such change and furnish with such notice such additional information as the Attorney General may require by regulation.

(b) Current Address of Natives of Any One or More Foreign States

The Attorney General may in his discretion, upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this title, to notify the Attorney General

³ As amended by Sec. 503 of the Immigration Act of 1990, Act of Nov. 29, 1990, Pub. L. No. 101-649, 104 Stat. 4978.

⁴ Sec. 265 amended by Sec. 11, Act of Dec. 29, 1981, Pub. L. No. 97-116, 95 Stat. 1161.

(Pub. 466)

of their current addresses and furnish such additional information as the Attorney General may require.

(c) Notice to Parent or Legal Guardian

In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given to such parent or legal guardian.

Section 266, 8 U.S.C. 1306 Penalties

(a) Willful Failure to Register

Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000 or be imprisoned not more than six months, or both.

(b) Failure to Notify Change of Address

Any alien or any parent or legal guardian in the United States of any alien who fails to give written notice to the Attorney General, as required by section 265 of this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$200 or be imprisoned not more than thirty days, or both. Irrespective of whether an alien is convicted and punished as herein provided, any alien who fails to give written notice to the Attorney General, as required by section 265, shall be taken into custody and removed in the manner provided by chapter 4 of this title, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(c) Fraudulent Statements

Any alien or any parent or legal guardian of any alien, who files an application for registration containing statements known by him to be false, or who procures or attempts to procure registration of himself or another person through fraud, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000, or be imprisoned not more than six months, or both; and any alien so convicted shall, upon the warrant of the Attorney General, be taken into custody and be removed in the manner provided in chapter 4 of this title.

(d) Counterfeiting

Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any certificate of alien registration or an alien registration or an alien registration receipt card or any colorable imitation thereof, except when and as authorized under such rules and regulations as may be prescribed by the Attorney General, shall upon conviction be fined not to exceed \$5,000 or be imprisoned not more than five years, or both.

(Pub. L. 101-505)

Section 271, 8 U.S.C.

(a) It shall be the duty of the agents of vessels, aircraft, or other means of transportation than transportation lines in bringing an alien to, or proceeding from, the United States (including an alien crewmember) the landing of such alien is by the Attorney General or immigration officers. Any person who fails to comply with the foregoing shall be liable to the Attorney General of \$1,000 or the proceedings as he shall by vessel or aircraft whose owner or operator is liable in this section, and such vessel or aircraft shall be liable in court.

(b) Proof that the alien was not inspected by the immigration officers shall be a defense in the United States at a time or place.

(c) ² (1) Any owner or operator who establishes to the satisfaction of the Attorney General that he has diligently and reasonably taken such steps as are necessary for the penalty described in this section to prevent the unauthorized entry of such alien shall be liable in court.

(2) (A) At the request of the Attorney General shall inspect any vessel or aircraft before entry into the United States in accordance with subsection (a). The Attorney General shall determine such period of time as the Attorney General determines is satisfactory.

(B) Proof that any person has inspected any facility, or utilized any facility, or utilized any facility, or utilized any facility, shall be prima facie evidence that such person has fulfilled the duty imposed by this subsection).

¹ The amount of the fine was increased by the Immigration Act of 1990, Act of Nov. 29, 1990, section 202, taken after Nov. 29, 1990.

² Subsec. (c) added by Sec. 101 of the Immigration Act of 1990, Act of Nov. 29, 1990.



Code of Federal Regulations

8

Revised as of January 1, 2007

Aliens and Nationality

Containing a codification of documents
of general applicability and future effect

As of January 1, 2007

With Ancillaries

Published by
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A Special Edition of the Federal Register

Contents of the order to use and notice to appearance of change of address

affording the alien any substantive or procedural rights

(1) The alien's names and any known aliases;

(2) The alien's address;

(3) The alien's registration number, with any lead alien registration number with which the alien is associated;

(4) The alien's alleged nationality and citizenship; and

(5) The language that the alien understands.

(d) Address and telephone number. (1)

If the alien's address is not provided on the Order to Show Cause or Notice to Appear, or if the address on the Order to Show Cause or Notice to Appear is incorrect, the alien must provide to the Immigration Court where the charging document has been filed, within five days of service of that document, a written notice of an address and telephone number at which the alien can be contacted. The alien may satisfy this requirement by completing and filing Form EOIR-33.

(2) Within five days of any change of address, the alien must provide written notice of the change of address on Form EOIR-33 to the Immigration Court where the charging document has been filed, or if venue has been changed, to the Immigration Court to which venue has been changed.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995; 62 FR 10332, Mar. 6, 1997]

§ 1003.16 Representation.

(a) The government may be represented in proceedings before an Immigration Judge.

(b) The alien may be represented in proceedings before an Immigration Judge by an attorney or other representative of his or her choice in accordance with 8 CFR part 1292, at no expense to the government.

[52 FR 2936, Jan. 29, 1987, Redesignated at 57 FR 11571, Apr. 6, 1992, as amended at 62 FR 10332, Mar. 6, 1997]

§ 1003.17 Appearances.

(a) In any proceeding before an Immigration Judge in which the alien is represented, the attorney or representative shall file a Notice of Appearance on Form EOIR-28 with the Immigration Court and shall serve a copy of the

Notice of Appearance on the Service as required by 8 CFR 3.32(a). Such Notice of Appearance must be filed and served even if a separate Notice of Appearances has previously been filed with the Service for appearances before the Service.

(b) Withdrawal or substitution of an attorney or representative may be permitted by an Immigration Judge during proceedings only upon oral or written motion submitted without fee.

[57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995; 62 FR 10332, Mar. 6, 1997]

§ 1003.18 Scheduling of cases.

(a) The Immigration Court shall be responsible for scheduling cases and providing notice to the government and the alien of the time, place, and date of hearings.

(b) In removal proceedings pursuant to section 240 of the Act, the Service shall provide in the Notice to Appear, the time, place and date of the initial removal hearing, where practicable. If that information is not contained in the Notice to Appear, the Immigration Court shall be responsible for scheduling the initial removal hearing and providing notice to the government and the alien of the time, place, and date of hearing. In the case of any change or postponement in the time and place of such proceeding, the Immigration Court shall provide written notice to the alien specifying the new time and place of the proceeding and the consequences under section 240(b)(5) of the Act of failing, except under exceptional circumstances as defined in section 240(e)(1) of the Act, to attend such proceeding. No such notice shall be required for an alien not in detention if the alien has failed to provide the address required in section 239(a)(1)(F) of the Act.

[62 FR 10332, Mar. 6, 1997]

§ 1003.19 Custody/bond.

(a) Custody and bond determinations made by the service pursuant to 8 CFR part 1236 may be reviewed by an Immigration Judge pursuant to 8 CFR part 1236.

(b) Application for an initial bond re-determination by a respondent, or his

Order to Show Cause. The I provide the following information to the Executive for Immigration Review: any of these items shall the alien with any sub procedural rights;

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that the alien may be rep- no cost to the government. or other representative au- appear pursuant to 8 CFR

ddress of the Immigration a the Service will file the ow Cause and Notice to Ap-

ement that the alien must Immigration Court having ive control over the Record ag of his or her current ad- telephone number and a hat failure to provide such may result in an in aring in accordance with

ts of the Notice to Appear for eedings. In the Notice to removal proceedings, the ll provide the following ad- e information to the Immi- irt. Failure to provide any ns shall not be construed as

§ 1003.34 Testimony.

Testimony of witnesses appearing at the hearing shall be under oath or affirmation.

[52 FR 2936, Jan. 29, 1987. Redesignated at 57 FR 11571, Apr. 6, 1992]

§ 1003.35 Depositions and subpoenas.

(a) *Depositions.* If an Immigration Judge is satisfied that a witness is not reasonably available at the place of hearing and that said witness' testimony or other evidence is essential, the Immigration Judge may order the taking of deposition either at his or her own instance or upon application of a party. Such order shall designate the official by whom the deposition shall be taken, may prescribe and limit the content, scope, or manner of taking the deposition, and may direct the production of documentary evidence.

(b) *Subpoenas issued subsequent to commencement of proceedings—(1) General.* In any proceeding before an Immigration Judge, other than under 8 CFR part 335, the Immigration Judge shall have exclusive jurisdiction to issue subpoenas requiring the attendance of witnesses or for the production of books, papers and other documentary evidence, or both. An Immigration Judge may issue a subpoena upon his or her own volition or upon application of the Service or the alien.

(2) *Application for subpoena.* A party applying for a subpoena shall be required, as a condition precedent to its issuance, to state in writing or at the proceeding, what he or she expects to prove by such witnesses or documentary evidence, and to show affirmatively that he or she has made diligent effort, without success, to produce the same.

(3) *Issuance of subpoena.* Upon being satisfied that a witness will not appear and testify or produce documentary evidence and that the witness' evidence is essential, the Immigration Judge shall issue a subpoena. The subpoena shall state the title of the proceeding and shall command the person to whom it is directed to attend and to give testimony at a time and place specified. The subpoena may also command the person to whom it is directed to

bring the books, papers, or documents specified in the subpoena.

(4) *Appearance of witness.* If the witness is at a distance of more than 100 miles from the place of the proceeding, the subpoena shall provide for the witness' appearance at the Immigration Court nearest to the witness to respond to oral or written interrogatories, unless there is no objection by any party to the witness' appearance at the proceeding.

(5) *Service.* A subpoena issued under this section may be served by any person over 18 years of age not a party to the case.

(6) *Invoking aid of court.* If a witness neglects or refuses to appear and testify as directed by the subpoena served upon him or her in accordance with the provisions of this section, the Immigration Judge issuing the subpoena shall request the United States Attorney for the district in which the subpoena was issued to report such neglect or refusal to the United States District Court and to request such court to issue an order requiring the witness to appear and testify and to produce the books, papers or documents designated in the subpoena.

[62 FR 10335, Mar. 6, 1997]

§ 1003.36 Record of proceeding.

The Immigration Court shall create and control the Record of Proceeding.

[52 FR 2936, Jan. 29, 1987. Redesignated at 57 FR 11571, Apr. 6, 1992, as amended at 60 FR 34089, June 30, 1995]

§ 1003.37 Decisions.

(a) A decision of the Immigration Judge may be rendered orally or in writing. If the decision is oral, it shall be stated by the Immigration Judge in the presence of the parties and a memorandum summarizing the oral decision shall be served on the parties. If the decision is in writing, it shall be served on the parties by first class mail to the most recent address contained in the Record of Proceeding or by personal service.

(b) A written copy of the decision will not be sent to an alien who has

failed to provide a written record of an address.

[57 FR 11573, Apr. 6, 1992, as amended at 59 FR 1900, Jan. 13, 1994]

§ 1003.38 Appeals.

(a) Decisions of Immigration Judges may be appealed to the Board of Immigration Appeals as authorized by 8 CFR 3.1(b).

(b) The Notice of Appeal to the Board of Immigration Appeals of Decision of Immigration Judge (Form EOIR-26) shall be filed directly with the Board of Immigration Appeals within 30 calendar days after the stating of an Immigration Judge's oral decision or the mailing of an Immigration Judge's written decision. If the final date for filing falls on a Saturday, Sunday, or legal holiday, this appeal time shall be extended to the next business day. A Notice of Appeal (Form EOIR-26) may not be filed by any party who has waived appeal.

(c) The date of filing of the Notice of Appeal (Form EOIR-26) shall be the date the Notice is received by the Board.

(d) A Notice of Appeal (Form EOIR-26) must be accompanied by the appropriate fee or by an Appeal Fee Waiver Request (Form EOIR-26A). If the fee is not paid or the Appeal Fee Waiver Request (Form EOIR-26A) is not filed within the specified time period indicated in paragraph (b) of this section, the appeal will not be deemed properly filed and the decision of the Immigration Judge shall be final to the same extent as though no appeal had been taken.

(e) Within five working days of any change of address, an alien must provide written notice of the change of address on Form EOIR-33 to the Board. Where a party is represented, the representative should also provide to the Board written notice of any change in the representative's business mailing address.

(f) Briefs may be filed by both parties pursuant to 8 CFR 3.3(c).

(g) In any proceeding before the Board wherein the respondent/applicant is represented, the attorney or representative shall file a notice of appearance on the appropriate form.