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## **THE CITIZENSHIP (AMENDMENT) BILL, 2019**

*Prepared by Shri Vinod Kumar, Deputy Director(23035499), Shri G. Ranga Rao, Director (23034772) of Lok Sabha Secretariat under the supervision of Shri R.C. Tiwari, Joint Secretary(23034430) of Lok Sabha Secretariat.*

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## **THE CITIZENSHIP (AMENDMENT) BILL, 2019**

The Citizenship Act, 1955 was enacted to provide for the acquisition and determination of Indian citizenship. On 7th September 2015 and 18<sup>th</sup> July 2016, the Government of India had issued two notifications for amending the Passport (entry into India) Rules, 1950 and the Foreigners Order 1948. Now, the Government of India proposes to introduce the Citizenship (Amendment) Bill, 2019 to further amend the Citizenship Act, 1955. The Citizenship (Amendment) Bill, 2019 provides that certain groups of illegal migrants as per provisions of the Citizenship Act, 1955 can now become eligible for applying for Indian Citizenship. It also proposes to reduce the required period of their residence in India for naturalisation under the Principal Act. Detailed Objects and Reasons of the Bill are at **Annexure**.

**The Salient features of the Amendment Bill, 2019, *inter-alia*, are as follows:**

- i. The Bill *inter-alia* seeks to amend Section 2, Section 7 (d), Section 18 and the Third Schedule of the Citizenship Act, 1955. The Bill also makes provision for insertion of Section 6B in the Principal Act.
- ii. The proposed amendment in Section 2 of the Citizenship Act, 1955 provides that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act.

- iii. The proposed insertion of Section 6B provides for grant a certificate of registration or certificate of naturalization to those covered under the amendment of Section 2. It also provides that from the date of commencement of the Citizenship Amendment Act, 2019, any proceeding pending against a person covered under this section in respect of illegal migration or citizenship shall stand abated on conferment of citizenship to him.
- iv. Provisions of the proposed Section 6B of the Bill shall not apply to tribal areas of Assam, Meghalaya, Mizoram and Tripura as included in the Sixth Schedule of the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873.
- v. In the Third Schedule to the Principal Act, the proviso in Clause(d) is proposed to be inserted to the effect that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as "not less than five years" in place of "not less than eleven years".
- vi. Section 7D of the Citizenship Act, 1955 provides for the cancellation of registration as overseas citizen of India. The new Clause (da) proposed to be inserted after Clause (d) of Section 7D of the Principal Act adds one more category falling within the ambit of cancellation. Now, it proposes to include those Overseas Citizens of India Cardholder who have violated any of the provisions of this Act or provisions of any other law for time being in force as may be specified by the Central Government in the notification published in the Official Gazette.

### **Highlights of the Bill**

The Amendment Bill seeks to amend the Citizenship Act, 1955. A comparative table of the provisions of the Principal Act and the Amendment Bill, 2019 is given below:

<b>Provisions of the Principal Act (57 of 1955)</b>	<b>The Amendments proposed</b>
Section 2 (sub section 1) Clause 'b' deals with defining illegal migrants who are prohibited from acquiring Indian Citizenship.	As per the proposed amendments, a new provision is to be inserted after clause 'b' providing that: Persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh and Pakistan who entered into India on or before 31.12.2014 and who has been exempted by the Government of India from the application of the provisions of the Passport (Entry into India) Act, 1920 or the Foreigners Act, 1946 or any other order made there under shall not be treated as illegal migrants for the purpose of this Act.
Section 6 B - (to be added)	As per the proposed amendments, a new provision is to be inserted after Section '6A' providing that the provisions of the new Section 6B shall not be applicable to Tribal Areas of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner line" notified under The Bengal Eastern Frontier Regulation, 1873.
Section 7D of the Principal Act deals with the cancellation of registration granted to the Overseas Citizens of India.	The amendment seeks to empower the Government of India to cancel the registration as overseas citizen of India in case of violation of the provisions of this Act or any other law for the time being in force after giving adequate opportunity of being heard.

<p>Third schedule of the Principal Act deals with qualifications for naturalisation of a person as Citizen of India.</p>	<p>The Amendment Bill seeks to amend clause 'd' of the Third schedule to reduce period of residence or service of Government in India from 'not less than 11 years' to not less than 'five years' for persons mentioned in the Clause.</p>
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**STATEMENT OF OBJECTS AND REASONS**

“The Citizenship Act, 1955 (57 of 1955) was enacted to provide for the acquisition and determination of Indian citizenship.

2. It is a historical fact that trans-border migration of population has been happening continuously between the territories of India and the areas presently comprised in Pakistan, Afghanistan and Bangladesh. Millions of citizens of undivided India belonging to various faiths were staying in the said areas of Pakistan and Bangladesh when India was partitioned in 1947. The constitutions of Pakistan, Afghanistan and Bangladesh provide for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities have faced persecution on grounds of religion in those countries. Some of them also have fears about such persecution in their day-to-day life where right to practice, profess and propagate their religion has been obstructed and restricted. Many such persons have fled to India to seek shelter and continued to stay in India even if their travel documents have expired or they have incomplete or no documents.

3. Under the existing provisions of the Act, migrants from Hindu, Sikh, Buddhist, Jain, Parsi or Christian communities from Afghanistan, Pakistan or Bangladesh who entered into India without valid travel documents or if the validity of their documents has expired are regarded as illegal migrants and ineligible to apply for Indian citizenship under section 5 or section 6 of the Act.

4. The Central Government exempted the said migrants from the adverse penal consequences of the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946 and rules or orders made thereunder vide notifications, dated 07.09.2015 and dated 18.07.2016. Subsequently, the Central Government also made them eligible for long term visa to stay in India, vide, orders dated 08.01.2016 and 14.09.2016. Now, it is proposed to make the said migrants eligible for Indian Citizenship.

5. The illegal migrants who have entered into India up to the cut of date of 31.12.2014 need a special regime to govern their citizenship matters. For this purpose the Central Government or an authority specified by it, shall grant the certificate of registration or certificate of naturalisation subject to such conditions, restrictions and manner as may be prescribed. Since many of them have entered into India long back, they may be given the citizenship of India from the date of their entry in India if they fulfil conditions for Indian citizenship specified in section 5 or the qualifications for the naturalisation under the provisions of the Third Schedule to the Act.

6. The Bill further seeks to grant immunity to the migrant of the aforesaid Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities so that any proceedings against them regarding in respect of their status of migration or citizenship does not bar them from applying for Indian citizenship. The competent authority, to be prescribed under the Act, shall not take into account any proceedings initiated against such persons regarding their status as illegal migrant or their citizenship matter while considering their application under section 5 or section 6 of the Act, if they fulfil all the conditions for grant of citizenship.

7. Many persons of Indian origin including persons belonging to the said minority communities from the aforesaid countries have been applying for citizenship under section 5 of the Citizenship Act, 1955 but they are unable to produce proof of their Indian origin. Hence, they are forced to apply for citizenship by naturalisation under section 6 of the said Act, which, inter alia, prescribe twelve years residency as a qualification for naturalisation in terms of the Third Schedule to the Act. This denies them many opportunities and advantages that may accrue only to the citizens of India, even though they are likely to stay in India permanently. Therefore, it is proposed to amend the Third Schedule to the Act to make applicants belonging to the said communities from the aforesaid countries eligible for citizenship by naturalisation if they can establish their residency in India for five years instead of the existing eleven years.

8. Presently, there is no specific provision in section 7D of the Act to cancel the registration of Overseas Citizen of India Cardholder who violates any provisions of the Act or any other law for the time being in force. It is also proposed to amend the said section 7D so as to empower the Central Government to cancel registration as Overseas Citizen of India Cardholder in case of violation of any provisions of the Act or any other law for the time being in force.

9. Since there is no specific provision in the Act at present to provide an opportunity of being heard to the Overseas Citizen of India Cardholder before cancellation of the Overseas Citizen of India Card under section 7D, it is proposed to provide the opportunity of being heard to the Overseas Citizen of India Cardholder before the cancellation of the Overseas Citizen of India Card.

10. The Bill further seeks to protect the constitutional guarantee given to indigenous populations of North Eastern States covered under the Sixth Schedule to the Constitution and the statutory protection given to areas covered under "The Inner Line" system of the Bengal Eastern Frontier Regulation, 1873.

11. The Bill seeks to achieve the above objectives.

**NEW DELHI;  
The 4th December, 2019."**

**AMIT SHAH**