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EXPLANATION IN QUESTION AND ANSWER FORM OF THE IMMIGRATION ACT OF OCTOBER 3, 1965

SUBCOMMITTEE NO. 1

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
89TH CONGRESS

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PREFACE BY CHAIRMAN, SUBCOMMITTEE NO. 1

As chairman of the House Subcommittee on Immigration and Nationality which formulated the basic provisions of the new immigration bill signed into law by President Johnson on October 3, 1965, I have prepared 25 questions couched in the nontechnical language of the man in the street who wishes to know more about this law. They are the questions which are being asked and will be asked particularly by those with relatives and friends abroad whom they wish to help come to the United States.

My 25 answers highlight the main provisions of the law and outline the general procedures to be followed in making its provisions operative. It is my hope that this simple guide may save considerable time and no little expense for the interested many who have a need for this information.

EXPLANATION IN QUESTION-AND-ANSWER FORM OF THE IMMIGRATION ACT OF OCTOBER 3, 1965

Question 1. Is the immigration bill which the President signed on October 3, 1965, a general overhaul of the immigration and citizenship laws of the United States?

Answer. No; as the reports of the committees of the House and Senate make clear, the new law is not intended to be a general overhaul of the immigration law. Its principal purpose is to change the basis for selection of immigrants.

Question 2. What has been the basis for selection prior to the new law?

Answer. Each country of the world outside the Western Hemisphere has been assigned a fixed ceiling on the number of immigrants born in that country who could migrate to the United States annually. This system, in effect since 1924, ranges from a high of 65,361 for natives of Great Britain to a minimum of 100 which are authorized for each of about 80 separate areas. The total number authorized under this "National Origins Quota System" is currently 158,561. The average annual immigration under this system in the past decade has been 96,221, the balance of the numbers not being used because of the comparatively low demand from countries with the highest quotas.

Question 3. How many immigrants are authorized annually under the new system?

Answer. Two new ceilings are established. A limit of 170,000 will be set on immigrants who are natives of countries outside the Western Hemisphere. A ceiling of 120,000 will be placed on natives of the Western Hemisphere.

Question 4. Will these numbers be allocated by country?

Answer. No. Within each of the respective ceilings, selection will be made without regard to an applicant's birthplace or nationality. Outside the Western Hemisphere, allocations will be based on a system of preferences established by the new law. To insure that no country receives a disproportionate share, a limitation of 20,000 has been placed on natives of any one country. Within the Western Hemisphere allocations will be made on a "first come first served" basis with no limitations on the number from any one country.

Question 5. Since more than 170,000 persons will be applying to come to the United States each year, how will they be selected?

Answer. The new law establishes a system of preferences: 74 percent (125,800) will be reserved for relatives of U.S. citizens and resident aliens, in varying degrees; 20 percent (34,000) will be assigned to persons with skills and talents needed in the United States; 6 percent (10,200) will be made available to refugees.

Question 6. What are the degrees of relationship and specific percentages authorized for each class of relative?

Answer. The unmarried sons and daughters of citizens over 21 years of age are allocated 20 percent.

The spouses and unmarried sons and daughters of aliens already here as immigrants are allocated 20 percent.

Married sons and daughters of citizens are allocated the next 10 percent of the relative class.

Brothers and sisters of citizens are given a 24-percent allocation.

Question 7. How are the preferences for "skills and talents" defined in the new law?

Answer. A preference of 10 percent is given to prospective immigrants who are members of the professions or who possess exceptional ability in the sciences or the arts. An additional 10 percent is allocated to persons who are capable of performing skilled or unskilled labor of a type found by the Secretary of Labor to be in short supply in the United States.

Question 8. Will all immigration to the United States be within the ceilings mentioned or will there be certain immigrants who are not counted?

Answer. Husbands, wives, unmarried children under the age of 21, and parents of U.S. citizens, are exempted from the numerical ceilings. This provision is in line with the general philosophy of the act that no obstacles be placed in the way of the reunification of the immediate families of the U.S. citizens, who otherwise meet the qualitative tests of the law.

Question 9. What steps must an alien who seeks to migrate to the United States do to accomplish this purpose?

Answer. He must register his intention with a U.S. consulate in the foreign country in which he is located and will thereafter, when a visa becomes available to him, under the particular class to which he is entitled and in accordance with the first come, first served principle of the law, be invited by the consul to make a formal application for a visa. At that time he will be given a complete medical examination and be required to establish his mental and moral qualifications for immigration.

Question 10. Is an alien automatically entitled to apply for a visa by establishing to an American consul abroad that he has the relationship or the skills described in the law?

Answer. No. A petition must be filed with the Immigration and Naturalization Service of the Department of Justice by the citizen or resident alien relative who is sponsoring the alien applicant or by his prospective employer. Only after this petition is approved by the Immigration and Naturalization Service is the consul empowered to consider a visa application under the preference status which has been authorized.

Question 11. What documents must the sponsoring citizen or resident alien submit with his petition?

Answer. If the petitioner is a native born citizen he must submit a certified copy of his civil birth record. If he is a naturalized citizen or is a resident alien, the Immigration and Naturalization Service will verify from its records his statements. Additionally the petitioner must submit the various birth, marriage, death, or divorce certificates described in detail on the reverse of the petition form to establish the actual relationahip between him and the alien applicant for preference classification.

Question 12. What documents must a prospective employer or other sponsor of skilled aliens submit with his petition?

Answer. The petition must describe in detail the work to be performed by the prospective immigrant, including the salary, wage, or other remuneration to be received and must be supported by documents (as described on the reverse of the petition issued by the Department of Labor) attesting to the unavailability of unemployed persons capable of performing the tasks outlined in the petition.

Question 13. What are the refugee provisions of the law?

Answer. The law provides that 6 percent (10,200) of the 170,000 annual limitation shall be available for aliens defined as fugitives from communism or from the Middle East or persons displaced by natural calamities. Such persons will enter the United States conditionally for a period of 2 years at the end of which time, if their conduct and a review of their past history warrants, they will be given permanent residence rights.

Question 14. Since the refugees are a preference class in law must a petition be filed for their admission?

Answer. No. Refugees will be processed abroad by the Immigration and Naturalization Service in the countries where they have been granted temporary haven. Assurances for their housing, employment and followup services will be provided by American voluntary agencies, as in the past.

Question 15. Will aliens who cannot qualify for one of the preferences be eligible for admission as immigrants?

Answer. Yes. Such authorized immigrant visas as are not required to satisfy the demands of the preference classes can be made available to other applicants for admission, strictly in the order in which they are registered on the lists of qualified applicants maintained by the Department of State.

Question 16. Have the qualitative tests for admission been relaxed in any way? May subversives, criminals, drug peddlers, and immoral persons against whom strict safeguards have been written into the law in the past, now be admitted?

Answer. No. None of the provisions of the law relating to the bars against the admission of these undesirables have been changed in any way.

Question 17. Have any new qualitative controls been added to the law?

Answer. Yes. New labor controls have been added to the law to protect American workers and their standards of employment.

Question 18. How will these new labor controls be applied?

Answer. The Secretary of Labor is required, in the case of all worker immigrant classes, to make an affirmative finding that there are no willing and able American workers to fill the particular employment opportunity the immigrant is scheduled to take upon his admission to the United States. The Secretary of Labor is also required to certify that the employment of such alien workers will not adversely affect the wages and working conditions of workers similarly employed in the United States.

Question 19. Who are regarded as worker immigrants under the law?

Answer. All aliens who apply for admission as immigrants from countries outside the Western Hemisphere and who do not qualify under one of the relative preferences or as a refugee are regarded as worker immigrants. Similarly, all aliens who apply for admission as immigrants from the independent republics of the Western Hemisphere except parents, spouses, and children of U.S. citizens and permanent resident aliens, are regarded as worker immigrants.

Question 20. Are there any provisions to take care of persons who are already in the United States but do not have the right to reside here permanently?

Answer. Yes, there are three such provisions in the law, they are called "Registry," "Adjustment of Status," and "Suspension of Deportation."

Question 21. What does "Registry" mean?

Answer. Registry authorizes the Immigration and Naturalization Service to create a record of an alien's lawful admission for permanent residence regardless of the manner of his actual entry or the place of his birth provided he has resided in the United States since June 30, 1948, is a person of good moral character and is not subject to deportation because of criminality or immorality.

Question 22. What is "Adjustment of Status?

Answer. This provision permits aliens in the United States, other than natives of the Western Hemisphere or crewmen, to have their status adjusted to that of permanent resident alien. It benefits only those aliens, who, if abroad would be eligible for immediate issuance of an immigrant visa. The purpose of this provision is to save the very heavy expense which would be involved if such alien was obliged to return to his homeland to obtain the visa to which he is otherwise completely entitled.

Question 23. What is "Suspension of Deportation" and to whom does it apply?

Answer. Suspension or deportation is available to an alien who has been ordered deported from the United States but whose deportation would result in an extreme hardship to him or to his spouse or child. To be eligible the alien must have resided in the United States for at least 7 years (in some few cases 10 years). Natives of Canada, Mexico, and the Caribbean islands generally are ineligible for this privilege as are aliens who entered the United States temporarily under the Mutual Educational and Cultural Exchange Act. As the term indicates, the deportation of an alien under this provision is suspended for a period of 2 years, during which time the Congress has an opportunity to review the case and if Congress does not object, the alien is permitted to become a permanent resident.

Question 24. Are the three benefits which are available to aliens temporarily in the United States granted as a matter of a right which they possess?

Answer. No. These three benefits are not granted as a "right" but are authorized only in the discretion of the Immigration and Naturalization Service acting for the Attorney General, to deserving persons. The law provides that, unless the alien is born in the Western Hemisphere, persons who acquire the status of aliens lawfully admitted for permanent residence are counted within the annual ceilings on immigrants to the same extent as though he had been issued an immigrant visa abroad by an American consul.

Question 25. Will the abolition of the national origins quota system take effect immediately?

Answer. No. The system provided under the new law will not become completely effective until July 1, 1968. However, during the interval, the new law permits the average of 50,000 quota visas which now go unused each year to be redistributed among countries which do not currently have enough quota numbers to satisfy the relative and skilled classes who were born in such countries. The purpose of this 3-year transition period is to reunite families as soon as possible and to start the new system with all countries on an equal footing.

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