

106TH CONGRESS
1ST SESSION

H. R. 849

To provide for adjustment of status for certain nationals of Bangladesh.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1999

Mr. GILMAN introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide for adjustment of status for certain nationals
of Bangladesh.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bangladeshi Adjust-
5 ment Act”.

6 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS**
7 **OF BANGLADESH.**

8 (a) ADJUSTMENT OF STATUS.—

9 (1) IN GENERAL.—The status of any alien de-
10 scribed in subsection (b) shall be adjusted by the At-

1 torney General to that of an alien lawfully admitted
2 for permanent residence, if the alien—

3 (A) applies for such adjustment before
4 July 1, 2001; and

5 (B) is otherwise admissible to the United
6 States for permanent residence, except in deter-
7 mining such admissibility the grounds for inad-
8 missibility specified in paragraphs (4), (5),
9 (6)(A), (7)(A), and (9)(B) of section 212(a) of
10 the Immigration and Nationality Act shall not
11 apply.

12 (2) RELATIONSHIP OF APPLICATION TO CER-
13 TAIN ORDERS.—An alien present in the United
14 States who has been ordered excluded, deported, re-
15 moved, or ordered to depart voluntarily from the
16 United States under any provision of the Immigra-
17 tion and Nationality Act may, notwithstanding such
18 order, apply for adjustment of status under para-
19 graph (1). Such an alien may not be required, as a
20 condition of submitting or granting such application,
21 to file a separate motion to reopen, reconsider, or
22 vacate such order. If the Attorney General grants
23 the application, the Attorney General shall cancel
24 the order. If the Attorney General renders a final
25 administrative decision to deny the application, the

1 order shall be effective and enforceable to the same
2 extent as if the application had not been made.

3 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
4 TUS.—

5 (1) IN GENERAL.—The benefits provided by
6 subsection (a) shall apply to any alien who is a na-
7 tional of Bangladesh and who has been physically
8 present in the United States for a continuous period,
9 beginning not later than July 1, 1989, and ending
10 not earlier than the date the application for adjust-
11 ment under such subsection is filed, except an alien
12 shall not be considered to have failed to maintain
13 continuous physical presence by reason of an ab-
14 sence, or absences, from the United States for any
15 periods in the aggregate not exceeding 180 days.

16 (2) PROOF OF COMMENCEMENT OF CONTINU-
17 OUS PRESENCE.—For purposes of establishing that
18 the period of continuous physical presence referred
19 to in paragraph (1) commenced not later than July
20 1, 1989, an alien—

21 (A) shall demonstrate that the alien, prior
22 to July 1, 1989—

23 (i) performed service, or engaged in a
24 trade or business, within the United States

1 which is evidenced by records maintained
2 by the Commissioner of Social Security; or
3 (ii) applied for any benefit under the
4 Immigration and Nationality Act by means
5 of an application establishing the alien's
6 presence in the United States prior to July
7 1, 1989; or

8 (B) shall make such other demonstration
9 of physical presence as the Attorney General
10 may provide for by regulation.

11 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

12 (1) IN GENERAL.—The Attorney General shall
13 provide by regulation for an alien subject to a final
14 order of deportation or removal to seek a stay of
15 such order based on the filing of an application
16 under subsection (a).

17 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
18 standing any provision of the Immigration and Na-
19 tionality Act, the Attorney General shall not order
20 any alien to be removed from the United States, if
21 the alien is in exclusion, deportation, or removal pro-
22 ceedings under any provision of such Act and has
23 applied for adjustment of status under subsection
24 (a), except where the Attorney General has rendered

1 a final administrative determination to deny the ap-
2 plication.

3 (3) WORK AUTHORIZATION.—The Attorney
4 General may authorize an alien who has applied for
5 adjustment of status under subsection (a) to engage
6 in employment in the United States during the
7 pendency of such application and may provide the
8 alien with an “employment authorized” endorsement
9 or other appropriate document signifying authoriza-
10 tion of employment, except that if such application
11 is pending for a period exceeding 180 days, and has
12 not been denied, the Attorney General shall author-
13 ize such employment.

14 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
15 CHILDREN.—

16 (1) IN GENERAL.—The status of an alien shall
17 be adjusted by the Attorney General to that of an
18 alien lawfully admitted for permanent residence, if—

19 (A) the alien is a national of Bangladesh;

20 (B) the alien is the spouse, child, or un-
21 married son or daughter, of an alien whose sta-
22 tus is adjusted to that of an alien lawfully ad-
23 mitted for permanent residence under sub-
24 section (a), except that in the case of such an
25 unmarried son or daughter, the son or daughter

1 shall be required to establish that they have
2 been physically present in the United States for
3 a continuous period, beginning not later than
4 July 1, 1989, and ending not earlier than the
5 date the application for adjustment under this
6 subsection is filed;

7 (C) the alien applies for such adjustment
8 and is physically present in the United States
9 on the date the application is filed;

10 (D) the alien is otherwise admissible to the
11 United States for permanent residence, except
12 in determining such admissibility the grounds
13 for exclusion specified in paragraphs (4), (5),
14 (6)(A), (7)(A), and (9)(B) of section 212(a) of
15 the Immigration and Nationality Act shall not
16 apply; and

17 (E) applies for such adjustment before
18 July 1, 2001.

19 (2) PROOF OF CONTINUOUS PRESENCE.—For
20 purposes of establishing the period of continuous
21 physical presence referred to in paragraph (1)(B),
22 an alien—

23 (A) shall demonstrate that such period
24 commenced not later than July 1, 1989, in a
25 manner consistent with subsection (b)(2); and

1 (B) shall not be considered to have failed
2 to maintain continuous physical presence by
3 reason of an absence, or absences, from the
4 United States for any period in the aggregate
5 not exceeding 180 days.

6 (e) FEE.—The Attorney General shall impose a fee
7 of \$1,000 on each alien filing an application for adjust-
8 ment of status under this section.

9 (f) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
10 The Attorney General shall provide to applicants for ad-
11 justment of status under subsection (a) the same right to,
12 and procedures for, administrative review as are provided
13 to—

14 (1) applicants for adjustment of status under
15 section 245 of the Immigration and Nationality Act;
16 or

17 (2) aliens subject to removal proceedings under
18 section 240 of such Act.

19 (g) LIMITATION ON JUDICIAL REVIEW.—A deter-
20 mination by the Attorney General as to whether the status
21 of any alien should be adjusted under this section is final
22 and shall not be subject to review by any court.

23 (h) APPLICATION OF IMMIGRATION AND NATIONAL-
24 ITY ACT PROVISIONS.—Except as otherwise specifically
25 provided in this section, the definitions contained in the

1 Immigration and Nationality Act shall apply in the admin-
2 istration of this section. Nothing contained in this section
3 shall be held to repeal, amend, alter, modify, affect, or
4 restrict the powers, duties, functions, or authority of the
5 Attorney General in the administration and enforcement
6 of such Act or any other law relating to immigration, na-
7 tionality, or naturalization. The fact that an alien may be
8 eligible to be granted the status of having been lawfully
9 admitted for permanent residence under this section shall
10 not preclude the alien from seeking such status under any
11 other provision of law for which the alien may be eligible.

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