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Alien Registration Requirements

Section 262 of the Immigration and Nationality Act (INA) requires most aliens (i.e., non-U.S. citizens or nationals) who are age 14 and older and present in the United States for 30 days or more to apply for registration and fingerprinting with immigration authorities. Parents or legal guardians of children under age 14 must ensure they are registered. Section 264 of the INA requires aliens over age 18 to carry issued proof of registration. Failure to comply with these and other registration requirements, codified at 8 U.S.C. §§1301-1306, may subject aliens to misdemeanor penalties and serve as grounds for removal from the United States. By regulation and statute, some categories of aliens are exempted from registration requirements.

Long-standing regulations implementing these requirements did not provide specific registration forms for every category of nonexempted aliens, including those who entered the United States without inspection and were unlawfully present. The U.S. Department of Homeland Security's (DHS's) U.S. Citizenship and Immigration Services (USCIS) recently stated that under these regulations, "a significant number of aliens present in the United States have had no direct way to register and meet their obligation under INA 262."

On March 12, 2025, DHS published an interim final rule (IFR), "Alien Registration Form and Evidence of Registration," effective April 11, 2025. The IFR creates a new, general registration form for certain unregistered aliens to comply with registration and fingerprinting requirements under Section 262. The IFR follows a January 20, 2025, executive order that contains a provision for the "Identification of Unregistered Illegal Aliens." The provision directs DHS to ensure that unregistered aliens comply with Section 262. It also directs agencies to treat alien registration requirements "as a civil and criminal enforcement priority." Despite the seemingly broad reach of Sections 262 and 264, U.S. Department of Justice data show that prosecutions under them have been rare.

Historical Background

The federal government has imposed alien registration requirements of varying scope since the Naturalization Act of 1798. Some requirements have targeted specific groups, such as Chinese nationals in the late 19th and early 20th centuries and "enemy aliens" during World War I.

Current registration requirements have their roots in the Alien Registration Act of 1940. The 1940 act required aliens to be registered and fingerprinted before being issued a visa. Aliens age 14 and older who had remained in the United States for 30 days or longer and had not already been registered were required to apply for registration and be fingerprinted at a U.S. post office or other places

designated by the Commissioner of the former Immigration and Naturalization Service (INS). Parents and guardians had to ensure alien children under 14 were registered. Aliens subject to registration requirements were also required to report address changes to the INS. Failure to comply was punishable by fines and/or imprisonment.

From August 1940 through March 31, 1944, alien registration was recorded on Alien Registration Forms (AR-2s). Since April 1, 1944, Alien Registration Numbers (A-Numbers) have been recorded in Alien Files (A-Files), which are the official files for all immigration and naturalization records.

Following World War II, federal regulations transferred registration functions from post offices to INS and designated them to be completed at U.S. ports of entry through documentation of individuals' immigration statuses. Some aliens, including Canadian visitors, were exempt. In 1952, Congress enacted the INA, which contained registration and fingerprinting provisions that closely resembled the 1940 act.

Legislation and regulatory changes following the INA's enactment narrowed the scope and application of these requirements. After the INA's enactment, federal regulations exempted from registration requirements "Canadian citizens and British subject visitors" and nonimmigrant agricultural workers. A 1957 amendment to the INA authorized the U.S. Departments of State and Justice to waive fingerprinting for any nonimmigrants (i.e., aliens admitted on a temporary basis). Subsequent changes directly or indirectly affected the registration requirements' application to other groups (including those described in the "Exempted and Impacted Populations" section below). According to one scholarly analysis, these and other developments resulted in alien registration requirements rarely being enforced, as "there was no regulatory apparatus in place to register anyone outside of the ordinary process of applying for selected forms of immigration status."

Statutory Authorities and Penalties

The primary statutory authorities for alien registration are found in Sections 261–266 of the INA (8 U.S.C. §§1301–06). Apart from Section 262's registration requirements, Section 264 (8 U.S.C. §1304) requires aliens 18 years and older to carry "any certificate of alien registration or alien registration receipt card issued to him"; failure to do so may result in a fine and/or imprisonment for up to 30 days. Section 265 (8 U.S.C. §1305) requires aliens to notify the federal government within 10 days of any address change.

Section 266 (8 U.S.C. §1306) details other penalties related to alien registration. Aliens who willfully fail or refuse to

apply for registration and fingerprinting may be subject to a fine and/or imprisonment for up to six months. Aliens who fail to give written notice of a change of address may be fined and/or imprisoned for up to 30 days. Failure to comply with Section 266 is also a ground for deportation under Section 237(a)(3)(A) of the INA (8 U.S.C. §1227(a)(3)(A)), unless the alien can show that the failure to give written notice “was reasonably excusable or was not willful.” Aliens who submit fraudulent statements when registering may be subject to misdemeanor penalties, including fine and/or imprisonment for up to six months. They may also be subject to removal under Section 237(a)(3)(B)(i) of the INA (8 U.S.C. §1227(a)(3)(B)(i)) (listing falsifying documents as a ground of deportability). Parents or legal guardians of alien minors subject to registration requirements may face criminal penalties for failing to register them. Counterfeiting registration documents is a felony subject to a fine and/or imprisonment for up to five years.

Exempted and Impacted Populations

Many aliens in the United States already possess prescribed registration forms or evidence of registration under federal regulation and will not need to register under the new process. Aliens who have already registered include those issued immigrant or nonimmigrant visas before their last date of arrival, lawful permanent residents (LPRs), persons who have applied for LPR status (even if their applications were denied), nonimmigrants admitted with an I-94 Arrival/Departure Record (even if the period of admission has expired), persons granted immigration parole (even if the parole has expired), persons issued employment authorization documents, persons with Border Crossing Cards, and those who have been issued a Notice to Appear in immigration court and placed into removal proceedings.

As discussed earlier, under existing statute and regulations certain other groups are exempt or excluded from registration requirements. These include A and G nonimmigrants (ambassadors/diplomats and representatives of international organizations; 8 U.S.C. §1303(b)) who may not have been registered in association with their visa application (8 U.S.C. §1201(b)). DHS has also interpreted registration and fingerprinting requirements to exclude members of the Kickapoo Traditional Tribe of Texas (under P.L. 97-429 §4(d)), and certain American Indians born in Canada (under 8 U.S.C. §1359).

Groups that do not already have evidence of registration and may be subject to the new registration process include the following:

- aliens present in the United States without inspection and admission or parole, who possess no form of registration (e.g., an employment authorization);
- Canadian visitors who arrived at land ports of entry and were not issued Forms I-94 Arrival/Departure Records (Canadian tourists and business visitors are exempted from the I-94 requirement); and
- aliens who turn 14 in the United States (whether previously registered or not).

DHS estimates that 2.2 million-3.2 million individuals may fall into one of these categories.

New Process and Form

The IFR establishes a new registration form (G-325R) and process for aliens subject to the requirement who do not possess evidence of registration. There is no filing fee for Form G-325R or biometrics collection. In the IFR, DHS requested public comments on whether it should charge a \$30 biometric services fee.

Covered persons must create a USCIS online account (each registrant has a separate account) and complete electronically Form G-325R, Biographic Information (Registration). On a website that explains the registration process, USCIS states that it will determine whether the person registering is required to be fingerprinted and schedule aliens required to be fingerprinted for a biometrics appointment at a USCIS Application Support Center.

After filing the registration and fingerprinting (if required), USCIS is to post a notice of registration to the alien’s online account. The recipient may download and print a PDF copy of the notice to serve as evidence of registration. USCIS has not said that it will mail hard copies of the document. Registered individuals must report changes of address in their USCIS online account within 10 days of moving. The requirement to report changes of address applies to all aliens required to be registered (8 U.S.C. §1305(a)), including those who register via the new Form G-325R and those who register by other means.

Related Litigation

Shortly after issuance of the IFR, a group of advocacy organizations brought suit to stop the IFR from going into effect. The plaintiffs allege that the rule imposes new substantive burdens by establishing a “universal” registration system that would newly require “millions of noncitizens to register with the government and carry their papers at all times, on pain of federal criminal prosecution and incarceration.” The plaintiffs claim that the IFR is a legislative rule that should have undergone a notice-and-comment process under the Administrative Procedure Act, and that the IFR is arbitrary and capricious in light of DHS’s alleged failure to explain its departure from long-standing federal practice or consider the impact on affected populations when promulgating the IFR.

On April 10, 2025, a federal district court judge denied the plaintiff’s motion to stay or enjoin the IFR because the plaintiffs failed to show that they had standing to bring suit. On April 24, 2025, the plaintiffs filed a motion for an injunction “to preserve the status quo” while the denial of their motion is being appealed to the U.S. Court of Appeals for the D.C. Circuit (D.C. Circuit). The federal district court judge has not ruled on the motion, and the appeal is pending before the D.C. Circuit. The registration requirement went into effect on April 11, 2025.

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