

TITLE 8 - ALIENS AND NATIONALITY
CHAPTER 12 - IMMIGRATION AND NATIONALITY
SUBCHAPTER I - GENERAL PROVISIONS

§ 1104. Powers and duties of Secretary of State

(a) Powers and duties

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to

- (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas;
- (2) the powers, duties, and functions of the Administrator; and
- (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) Designation and duties of Administrator

The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this chapter which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.

(c) Passport Office, Visa Office, and other offices; directors

Within the Department of State there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) Transfer of duties

The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively.

(e) General Counsel of Visa Office; appointment and duties

There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this chapter.

(June 27, 1952, ch. 477, title I, § 104, 66 Stat. 174; Pub. L. 87-510, § 4(a)(2), June 28, 1962, 76 Stat. 123; Pub. L. 88-426, title III, § 305(43), Aug. 14, 1964, 78 Stat. 428; Pub. L. 95-105, title I, § 109(b)(1), Aug. 17, 1977, 91 Stat. 847; Pub. L. 100-525, § 9(d), Oct. 24, 1988, 102 Stat. 2620; Pub. L. 103-236, title I, § 162(h)(2), Apr. 30, 1994, 108 Stat. 407.)

Amendments

1994—Pub. L. 103–236, § 162(h)(2)(A), struck out “; Bureau of Consular Affairs” after “Secretary of State” in section catchline.

Subsec. (a)(2). Pub. L. 103–236, § 162(h)(2)(B), substituted “the Administrator” for “the Bureau of Consular Affairs”.

Subsec. (b). Pub. L. 103–236, § 162(h)(2)(C), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There is established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.”

Subsec. (c). Pub. L. 103–236, § 162(h)(2)(D), substituted “Department of State” for “Bureau”.

Subsec. (d). Pub. L. 103–236, § 162(h)(2)(E), struck out before period at end “, of the Bureau of Consular Affairs”.

1988—Pub. L. 100–525 substituted “Bureau of Consular Affairs” for “Bureau of Security and Consular Affairs” in section catchline.

1977—Subsec. (a)(2). Pub. L. 95–105, § 109(b)(1)(A), struck out “Security and” after “Bureau of”.

Subsec. (b). Pub. L. 95–105, § 109(b)(1)(B), substituted “Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs” for “Security and Consular Affairs, to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank equal to that of an Assistant Secretary of State” and “Assistant Secretary of State for Consular Affairs” for “administrator” and struck out provision that the administrator shall be appointed by the President by and with the advice and consent of the Senate.

Subsec. (d). Pub. L. 95–105, § 109(b)(1)(C), struck out “Security and” after “Bureau of”.

Subsec. (f). Pub. L. 95–105, § 109(b)(1)(D), struck out subsec. (f) which placed Bureau of Security and Consular Affairs under immediate jurisdiction of Deputy Under Secretary of State for Administration.

1964—Subsec. (b). Pub. L. 88–426 repealed provisions which related to compensation of Administrator. See section 5311 et seq. of Title 5, Government Organization and Employees.

1962—Subsec. (b). Pub. L. 87–510 provided for appointment of Administrator of Bureau of Security and Consular Affairs by President by and with advice and consent of Senate.

Effective Date of 1994 Amendment

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of Title 22, Foreign Relations and Intercourse.

Effective Date of 1964 Amendment

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

Authority of Secretary of State

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Assumption of Duties by Administrator of Bureau of Security and Consular Affairs

Section 109(b)(4) of Pub. L. 95–105 provided that: “The individual holding the position of administrator of the Bureau of Security and Consular Affairs on the date of enactment of this section [Aug. 17, 1977] shall assume the duties of the Assistant Secretary of State for Consular Affairs and shall not be required to be reappointed by reason of the enactment of this section.”

References to Bureau of Security and Consular Affairs or Administrator

Section 109(b)(5) of Pub. L. 95–105 provided that: “Any reference in any law to the Bureau of Security and Consular Affairs or to the administrator of such Bureau shall be deemed to be a reference to the Bureau of Consular Affairs or to the Assistant Secretary of State for Consular Affairs, respectively.”