TITLE 8 - ALIENS AND NATIONALITY
CHAPTER 12 - IMMIGRATION AND NATIONALITY
SUBCHAPTER II - IMMIGRATION
Part V - Adjustment and Change of Status

§ 1258. Change of nonimmigrant classification

(a) The Secretary of Homeland Security may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status and who is not inadmissible under section 1182 (a)(9)(B)(i) of this title (or whose inadmissibility under such section is waived under section 1182 (a)(9)(B)(v) of this title), except (subject to subsection (b) of this section) in the case of—

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), (K), or (S) of section 1101 (a)(15) of this title,

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 1101 (a)(15) of this title who came to the United States or acquired such classification in order to receive graduate medical education or training,

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 1101 (a)(15) of this title who is subject to the two-year foreign residence requirement of section 1182 (e) of this title and has not received a waiver thereof, unless such alien applies to have the alien’s classification changed from classification under subparagraph (J) of section 1101 (a)(15) of this title to a classification under subparagraph (A) or (G) of such section, and

(4) an alien admitted as a nonimmigrant visitor without a visa under section 1182 (l) of this title or section 1187 of this title.

(b) The exceptions specified in paragraphs (1) through (4) of subsection (a) of this section shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 1101 (a)(15) of this title.


Amendments

2006—Pub. L. 109–162 designated existing provisions as subsec. (a), substituted “Secretary of Homeland Security” for “Attorney General”, inserted “(subject to subsection (b) of this section)” after “except” in introductory provisions, and added subsec. (b).

1996—Pub. L. 104–208, § 301(b)(2), in introductory provisions, inserted “and who is not inadmissible under section 1182 (a)(9)(B)(i) of this title (or whose inadmissibility under such section is waived under section 1182 (a)(9)(B)(v) of this title)” after “maintain that status”.


1994—Par. (1). Pub. L. 103–322, § 130003(b)(3), as amended by Pub. L. 104–208, § 671(a)(2), substituted “(K), or (S)” for “or (K)”.


1981—Pub. L. 97–116 permitted certain exchange visitors who are not subject to a requirement of returning to their home countries for two years, or who have had such requirement waived, to adjust to a visitor or diplomat status, prohibited the adjustment of nonimmigrant status by fiancee or fiance nonimmigrants, and specifically precluded the
change of status with respect to doctors who have entered the United States as exchange visitors for graduate medical training, even if they have received a waiver of the two-year foreign residence requirement.

1961—Pub. L. 87–256 inserted references to paragraph (15)(J) of section 1101 (a) of this title in two places.

**Effective Date of 1996 Amendment**

Amendment by section 301(b)(2) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.


**Effective Date of 1981 Amendment**


**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.