

Citizenship: NRIs, OCIs and PIOs

March 17, 2021

The Ministry of Home Affairs issued a notification on March 4 dramatically altering the compact between OCIs and the Indian state. This notification, which is issued under Section 7B of the Citizenship Act, 1955, supersedes three earlier notifications issued on April 11, 2005, January 5, 2007, and January 5, 2009, which laid down the rights of the OCIs.

In news: Only NRI quota seats based on entrance exams for OCI cardholders: MHA

Placing it in syllabus: Law & Policy

Dimensions:

- What are the provisions of the Notification?
- Comparison: NRIs, OCIs and PIOs
- PIO and OCI Merger : Its importance
- What was the confusion which the Notification clarifies?

Content:

What are the provisions of the Notification?

The new notification introduces a series of new restrictions that alter the rights and liberties of OCIs in India.

OCIs can lay claim to “only NRI (Non Resident Indian) quota seats” in educational institutions based on all-India entrance tests such as National Eligibility cum Entrance Test (NEET), Joint Entrance Examination (Mains), Joint Entrance Examination (Advanced) or other such all-India professional tests.

OCI shall be required to obtain a “special permission or a special permit” from the competent authority or the Foreigners Regional Registration Officer (FRR0) or the Indian Mission to

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- Undertake research, Missionary or Tabligh or Mountaineering or Journalistic activities,
- undertake internship in any foreign diplomatic missions or foreign Government organisations in India or employment in any foreign diplomatic missions in India
- visit any place which falls within the Protected or Restricted or prohibited areas as notified by the Central Government or competent authority

The notification now equates OCIs to “**foreign nationals**” in respect of “all other economic, financial and educational fields” for the purposes of the Foreign Exchange Management Act, 2003 . However, past circulars by the Reserve Bank of India under FEMA will hold ground.

Before this, OCIs were equated to Non-Resident Indians rather than “foreign nationals” for the purposes of their economic, financial and educational rights.

Comparison: NRIs, OCIs and PIOs

Non-Resident Indians (NRI), Person of Indian Origin (PIO) and Overseas Citizen of India (OCI) are the three major categories in which the people from India go and live abroad can be categorised.

While NRIs is essentially a term used for Indians that live in another country, PIOs and OCIs are people who want to stay connected and involved with India more closely.

Non-Resident Indians (NRIs):

NRI is a residential status given to a citizen of India with an Indian Passport who resides in a foreign country for the purpose of work/business, or education.

NRIs are still citizens of India.

The eligibility criteria for NRI status is that the person should be an Indian citizen with a valid Indian Passport and should reside outside of India for at least 183 days or more in a financial year (April 1st – March 31st).

Benefits of being an NRI

Being an NRI is only a residential status classified by the Income-Tax of India. An NRI can avail the following benefits from India:

- Banks offer special overseas accounts like RFC/FCNR/NRE/NRO accounts.
- The education system in India allows special reservation quota for NRIs.
- NRIs can vote for elections but you have to be physically present in the polling booth.
- NRI Income earned abroad will not be taxed by the Income-Tax Dept of India.

Limitations of being an NRI

The limitations of being an NRI are as follows:

- NRIs cannot purchase agricultural land.
- NRIs are taxed for the income they earn in India.

Person of Indian Origin (PIOs)

- PIO is an identification status given to whom or whose any of the ancestors was a permanent Indian resident/citizen and who is currently holding valid citizenship and passport of another country.
- The PIO card is issued to a Person of Indian Origin (PIO), who holds a foreign passport and can prove their Indian origin for up to three generations before them.
- For example, if you hold a British passport and your parent or grandparent is an Indian citizen, then you would be eligible to hold a PIO card. This scheme was

launched in the year 1999.

- Citizens of Pakistan, Bangladesh and a few other countries that are specified by the Indian government are not eligible for a PIO card.
- A PIO card had validity for fifteen years.

Benefits of PIO card holder:

PIO card holders had the following benefits:

- A PIO card holder didn't need a visa to visit India.
- The holder also didn't require a student or employment visa to acquire employment or academic opportunities in India.
- The holder was exempted from registering at the foreigner regional registration office (FRRRO) during the duration of stay in India.
- The holder also enjoyed parity with NRIs in concern to economic, financial and educational matters like property transfer or acquisition, holding, disposal, investment, admission of children in educational institutions under general category quota for NRIs.
- Separate immigration counters were provided at all International airports.

Overseas Citizen of India (OCI)

- OCI is an immigration status given to a foreign citizen of Indian origin as an alternative for dual-citizenship which is not allowed by the Indian Constitution
- The Constitution of India does not allow holding Indian citizenship and citizenship of a foreign country simultaneously.
- Based on the recommendation of the High Level committee on Indian Diaspora, the Government of India decided to register Persons of Indian Origin (PIOs) of certain category as has been specified in the **Section 7A of the Citizenship Act, 1955** as Overseas Citizenship of India

(OCI) Cardholder.

- **NOTE:** An OCI cardholder is a foreign national holding a passport of a foreign country and is **not a citizen of India**

Benefits of being a OCI

- Multiple entry, multi-purpose **life long visa** to visit India;
- Exemption from reporting to Police authorities for any length of stay in India; and
- Parity with NRIs in financial, economic and educational fields except in the acquisition of agricultural or plantation properties.
- The OCI cardholders have parity with Indian nationals in the matter of tariffs in air fares in domestic sectors, entry fees for visiting national parks, national monuments and museums in India.
- If one remains an OCI for 5 years, he/she can attain Indian citizenship and then live in India for a period of one year including short breaks.
- Special immigration counters are provided at all international airports in India for OCI card holders.
- An OCI cards holder can open special bank accounts in India just like NRIs and make investments. OCI holders can also buy non-farm property and exercise ownership rights.
- An OCI card allows the person to apply for a driver's license, PAN card or open a bank account in India.
- They get the same economic, financial and educational benefits like NRIs and can also adopt children.

According to Citizenship Act, 1955

- An overseas citizen of India shall be entitled to such rights as the Central Government may, by notification in the Official Gazette, specify.
- However, they're not entitled to the following rights

mentioned in Sec 7B(2)

- Art 16: Equality of opportunity in matters of public employment
- Art 58: Election as President
- Art 66: Election as Vice President
- Art 124: Appointment as Judge of Supreme Court
- Art 217: Appointment as Judge of High Court
- Sec 16 of RPA, 1950: Registration as voter
- Sec 3 & 4 of RPA, 1951: Eligibility for being member of House of People or Council of States
- Sec 5, 5A & 6 of RPA, 1951: Eligibility for being member of Legislative Assembly or Legislative Council for appointment to public services and posts in connection with the affairs of the Union or of any State

PIO and OCI Merger : Its importance

- Merger of PIO cards with OCI cards was announced by the PM in March 2016.
- Merging PIO and OCI will lead to simplification of the rules under a single umbrella.
- It would facilitate visa-free travel to India, rights of residency and participation in business and educational activities in the country.
- This is aimed at simplifying the visa-free entry for people of Indian origin into India.
- The merger of the two cards could make PIO card holders eligible for wider benefits already enjoyed by OCI cardholders.
- Merging of the two cards will also facilitate travel of Indians staying abroad and their participation in various activities in India.

What was the confusion which the latest

Notification clarifies?

According to the government, Overseas Citizen of India (OCI) card holders do not enjoy fundamental rights guaranteed by the Constitution, including the right to freedom of speech and expression.

However, Delhi High Court in 2018 declared that OCI card holders have the right to enjoy the fundamental rights of equality (Art 14) and freedom of speech and expression (Art 19) in the same way as any other Indian citizen. Overseas citizens can exercise fundamental rights guaranteed to natural persons under the constitution.

A judgment of the Karnataka High Court by Justices BV Nagarathna and NS Sanjay Gowda declared that OCI students will be treated as Indian citizens for the purposes of admission to professional courses.

On December 15, 2020, the **High Court of Karnataka directed** that students under the OCI category are to be **considered as “citizens of India” for admission to professional courses** and asked the State government to admit them to undergraduate professional courses, including engineering, medical, and dental, even under the government and institutional quotas, and **not to restrict their admission only under the NRI quota.**

The new notification has tried to rectify these confusions. It puts restrictions on OCIs competing for seats reserved for Indian citizens.

Mould your thought: What are the differences between NRIs and OCIs? How does the latest Ministry of Home affairs notification alter the benefits enjoyed by OCIs?

Approach to the answer:

- Define NRIs and OCIs
- Discuss the differences between them

- Discuss the provisions of new MHA notification
- Mention how this changes the OCI benefits
- Conclusion