

EXPLANATORY MEMORANDUM TO
THE BRITISH NATIONALITY (THE GAMBIA) ORDER 2018
2018 No. 620

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Border, Immigration, Citizenship System and Europe Group of the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order amends the British Nationality Act 1981 so that The Gambia is added to Schedule 3 to that Act, which is a list of “Countries whose citizens are Commonwealth citizens”.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Schedule 3 to the British Nationality Act 1981 lists all those countries whose citizens are regarded as Commonwealth citizens. This instrument is being made in order to amend the list in Schedule 3 to allow citizens of The Gambia to be regarded as Commonwealth citizens under United Kingdom law. The Gambia voluntarily left the commonwealth on 3 October 2013, in consequence of which the British Nationality (The Gambia) Order 2015 removed the reference to The Gambia in Schedule 3. The Gambia was readmitted to the Commonwealth on 8 February 2018.

5. Extent and Territorial Application

- 5.1 This instrument applies to all of the United Kingdom.
- 5.2 It additionally applies to the Islands and all of the British overseas territories (the legislatures of which have not been consulted since they have no competence in matters relating to nationality and citizenship).

6. European Convention on Human Rights

- 6.1 The Minister of State for Immigration has made the following statement regarding Human Rights:

“In my view the provisions of the British Nationality (The Gambia) Order 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 The Commonwealth Heads of Government voted unanimously to allow The Gambia to join the Commonwealth and The Gambia was admitted on 8th February 2018.
- 7.2 Once The Gambia is added to the list of Commonwealth countries in Schedule 3 to the British Nationality Act 1981, its citizens will be regarded as Commonwealth citizens for the purpose of United Kingdom law. This means that Gambian citizens in the UK will, if qualified, have the right to vote in Parliamentary, local and European elections, to stand for election to Parliament and sit in the House of Lords as a peer or bishop. They will also be eligible to hold certain posts, such as judge, magistrate, minister, police constable, member of the armed forces, or civil servant. As Commonwealth citizens they will also be eligible to enter the United Kingdom under the Immigration Rules on an ancestry visa.
- 7.3 Following the commencement of the British Nationality (The Gambia) Order 2015, which removed The Gambia from Schedule 3 of the British Nationality Act 1981, any Gambian nationals with the Right of Abode in the UK lost that status. This Order does not have the effect of reversing this.

Consolidation

- 7.4 There are no plans to consolidate Schedule 3 to the British Nationality Act 1981.

8. Consultation outcome

- 8.1 This change has not been the subject of consultation: it is a consequential amendment following the decision of the Commonwealth Heads of Government Meeting to allow The Gambia's entry to the Commonwealth.

9. Guidance

- 9.1 Home Office guidance will be amended to take account of this change. The change itself will be publicised on the UK Visa's and Immigration section of the Gov.uk website

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is nil.
- 10.2 The impact on the public sector is nil.
- 10.3 An Impact Assessment has not been prepared for this instrument

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 This change is not subject to review.

13. Contact

- 13.1 Queries should be directed to the Home Office as per the 'Contact UKVI' section on the visas and immigration pages of GOV.UK website at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.
- 13.2 Specific written queries relating to this Instrument should be directed to Nationalitypolicy@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of these changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.