

EXPLANATORY MEMORANDUM TO
THE BRITISH NATIONALITY (THE GAMBIA) ORDER 2015

2015 No. 1771

1. This explanatory memorandum has been prepared by 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 removed from Schedule 3 to that Act, which is a list of “Countries whose citizens are Commonwealth citizens”.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Gambia voluntarily left the Commonwealth on 3 October 2013.

4.2 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, so that citizens of The Gambia will no longer be regarded as Commonwealth citizens under United Kingdom law.

5. Territorial Extent and 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

The Minister of State for Borders and Immigration has made the following statement regarding Human Rights:

In my view the provisions of the British Nationality (The Gambia) Order 2014 are compatible with the Convention rights.

7. Policy background

7.1 The Gambia voluntarily withdrew from the Commonwealth on 3 October 2013.

7.2 Once the Gambia is removed from the list of Commonwealth countries in Schedule 3 to the British Nationality Act 1981, its citizens will no longer be regarded as Commonwealth citizens for the purpose of United Kingdom law. This means that Gambian citizens in the UK will not have the right to vote in Parliamentary, local and European elections, to stand for election to Parliament or sit in the House of Lords as a peer or bishop. They will not be eligible to hold certain posts, such as judge, magistrate, minister, police constable, member of the armed forces, or civil servant. They will also no longer be able to enter the United Kingdom under the Immigration Rules on an ancestry visa, or have the right of abode in the UK as a Commonwealth citizen.

- Consolidation

7.3 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 Government of The Gambia to leave the Commonwealth.

9. Guidance

9.1 UKVI guidance will be amended to take account of this change. The change itself will be publicised on 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 small business.

12. Monitoring & review

12.1 This change is not subject to review.

13. Contact

Jane Whitehead at the Nationality Policy team Tel: 0151 213 4442 or email: Jane.Whitehead@homeoffice.gsi.gov.uk for answers to any queries regarding the instrument.