

EXPLANATORY MEMORANDUM TO
THE BRITISH NATIONALITY (MALDIVES) ORDER 2021

2021 No. 523

1. Introduction

- 1.1 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 Republic of Maldives (referred to as “Maldives” in that Act) is added to Schedule 3, which is a list of “Countries whose citizens are Commonwealth citizens”. The Republic of Maldives was readmitted to the Commonwealth on 1 February 2020, having withdrawn in 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is the United Kingdom. It additionally extends to the Isle of Man, the Bailiwick of Jersey, the Bailiwick of Guernsey and the British Overseas Territories (the legislatures of which have not been consulted as nationality and citizenship are reserved matters).
- 4.2 This instrument applies to the whole of the UK, the Isle of Man, the Bailiwick of Jersey, the Bailiwick of Guernsey and the British Overseas Territories (the legislatures of which have not been consulted as nationality and citizenship are reserved matters).

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State for Future Borders and Immigration has made the following statement regarding Human Rights:

“In my view the provisions of the British Nationality (Maldives) Order 2021 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Schedule 3 to the British Nationality Act 1981 lists all those countries whose citizens are regarded as Commonwealth citizens. The Republic of Maldives voluntarily left the Commonwealth on 13 October 2016, in consequence of which the British

Nationality (Maldives) Order 2017 removed the reference to the Maldives at Schedule 3. The Republic of Maldives was readmitted to the Commonwealth on 1 February 2020. This instrument is therefore being made in order to amend the list in Schedule 3 to allow citizens of the Republic of Maldives to be regarded as Commonwealth citizens under United Kingdom law. It also revokes the British Nationality (Maldives) Order 2017.

7. Policy background

What is being done and why

- 7.1 The Commonwealth Heads of Government voted unanimously to allow the Republic of Maldives to join the Commonwealth and the Republic of Maldives was re-admitted on 1 February 2020.
- 7.2 Once the Republic of Maldives is re-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 Maldives citizens in the UK will, if qualified, have the right to vote in Parliamentary and local elections, to stand for election to Parliament and sit in the House of Lords as a Peer or Bishop. They may also be eligible to hold certain posts, including: judge, magistrate, minister, police constable, member of the armed forces or civil servant. Commonwealth citizens are also eligible to enter the United Kingdom under the Immigration Rules on an ancestry visa (<https://www.gov.uk/ancestry-visa>).
- 7.3 Following the commencement of the British Nationality (Maldives) Order 2017, which removed the Republic of Maldives from Schedule 3 to the British Nationality Act 1981, any Maldivian nationals with the Right of Abode in the UK lost that status. This Order does not have the effect of reversing this. The Immigration Act 1971 as amended by section 39(2) of the British Nationality Act 1981 provides that Commonwealth citizens who had right of abode under the 1971 Act on 31 January 1982, and have not ceased to be Commonwealth citizens at any time since then, will retain that right. This means that the readmission of countries to the Commonwealth does not have the effect of reviving any claims to right of abode in the UK.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

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

10. Consultation outcome

- 10.1 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 readmission of the Republic of Maldives to the Commonwealth.

11. Guidance

- 11.1 Home Office guidance (entitled “UK Ancestry” and “Right of Abode”) will be amended to take account of this change. The change itself will be publicised on the UK Visas and Immigration section of the Gov.uk website.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is nil.
- 12.2 The impact on the public sector is nil.
- 12.3 An Impact Assessment has not been prepared for this instrument because the changes are minimal.

13. Regulating small business

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

14. Monitoring & review

- 14.1 This change is not subject to review.

15. Contact

- 15.1 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>.
- 15.2 Specific written queries relating to this Order should be directed to nationalitypolicy@homeoffice.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.
- 15.3 Kristian Armstrong, Border, Immigration, Citizenship System and Europe Group, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.4 Kevin Foster MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.