

# CONSTITUTION OF THE SECOND REPUBLIC OF THE GAMBIA

*Adopted on 8 August 1996, entered into force in January 1997,  
last amended in 2001*

## CHAPTER III : CITIZENSHIP

8 Every person who, immediately before the coming into force of this Constitution, is a citizen of The Gambia, shall, subject to this Constitution

(a) continue to be a citizen of The Gambia;

(b) retain the same status as a citizen by birth, by descent, by registration or by naturalisation, as the case may be, as he or she enjoyed immediately before the coming into force of this Constitution.

### **Birth** (6 of 2001)

9. Every person born in The Gambia after the coming into force of this Constitution shall be presumed to be a citizen of The Gambia by birth if at the time of his or her birth, one of his or her parents is a citizen of The Gambia.

### **Descent**

10 A person born outside The Gambia after the coming into force of this Constitution shall be a citizen of The Gambia by descent if at the time of his or her birth either of his or her parents is a citizen of The Gambia otherwise than by virtue of this section or any comparable provision of any earlier Constitution.

### **Marriage**

11 (1) Any person who-

(a) is married to a citizen of The Gambia and, since the marriage, has been ordinarily resident in The Gambia for a period of not less than seven years; or

(b) has been married to another person who was, during the subsistence of the marriage a citizen of The Gambia and, since the end of the marriage (whether by annulment, divorce or death), has been ordinarily resident in The Gambia for a period of not less than seven years, shall be entitled, upon making application in such manner as may be prescribed by or under an Act or the National Assembly, to be registered as a citizen of The Gambia.

(2) The annulment of a marriage of a person who has been registered as a citizen of The Gambia under this section, or under the provisions of any earlier law for the registration as a citizen of The Gambia of a person on account of marriage, shall not affect that person's status as a citizen of The Gambia.

### **Naturalisation**

12 (1) Any person who has been ordinarily resident in The Gambia for a continuous period of not less than fifteen years and who satisfies the conditions set out in subsection (2) may apply, in such manner as may be prescribed by or under an Act of the National Assembly, to be naturalised as a citizen of The Gambia.

(2) The conditions referred to in subsection (1) are that the applicant-

(a) is of full age and capacity;

(b) is of good character

(c) has clearly shown that, if naturalised, he or she intends to continue permanently to reside in The Gambia;

(d) is capable of supporting himself or herself and his or her dependents.

(3) The Secretary of State shall give reasons for any refusal of an application made under this section.

(4) No person shall be naturalized until he or she has renounced any other citizenship he or she may have take an oath of allegiance to The Gambia.

### **Dual Citizenship** (6 of 2001)

12A. (1) A Citizen of The Gambia who acquires the Citizenship of another Country may, if he or she so desires, retain his or her citizenship of The Gambia

(2) An Act of the National Assembly may make provision for the better implementation of this section.

### **Deprivation**

13. (1) the Secretary of State may apply to the high court for an citizenship order depriving a person who has been registered or has been naturalised as a citizen of The Gambia of his or her citizenship on the grounds that he or she-

(a) has acquired by registration, naturalisation or any voluntary and formal act (other than marriage) the citizenship of any other country.

(b) Has acquired the citizenship of The Gambia by means of fraud, false representation or the concealment of any material fact;  
(c) Has, at any time since acquiring citizenship of The Gambia, voluntarily claimed and exercised in a country other than The Gambia any rights available to him or her under the laws of that country, being rights accorded exclusively to that country's citizens;  
(d) Has within seven years after being registered or naturalised been convicted in any country of an offence involving fraud, dishonesty or moral turpitude.  
and, in the cases referred to in paragraphs (c) and (d), it is not conducive to the public good that he or she should continue to be a citizen of The Gambia.

(2) Before making any application for an order under this section, the Secretary of State shall give notice in writing to the person concerned of the grounds for the application and of his or her right to be heard and to be legally represented at the hearing of the application before the Court.

(3) If the High Court is satisfied that the Secretary of State has established that the person concerned has acted in a manner described in subsection (1) and notified that person, and, in a case referred to in paragraph (c) or (d) of subsection (1) that it is not conducive to the public good that the person concerned should continue to be a citizen of The Gambia, it shall made an order depriving that person his or her citizenship of The Gambia.

(4) Nothing in this or any other provision of this Constitution or any other law shall be construed as depriving, or authorising any person or authority to deprive, any citizen of The Gambia by birth or descent of his or her citizenship of The Gambia whether on account of such citizen holding the citizenship or nationality of some other country or for any other cause.

### **Restoration**

14. A citizen of The Gambia who loses his or her citizenship of The Gambia as a result of the acquisition or profession of the citizenship of some other country shall, on the renunciation of the citizenship of that other country, be entitled to be registered, or if he or she was formerly a citizen by birth or descent, to be officially recognised, as a citizen of The Gambia.

### **Acts of the National Assembly**

15 An act of the National Assembly may make Provision for

- (a) the acquisition of the citizenship of The Gambia by National Assembly persons who are not eligible to become citizens under the provisions of this Chapter;
- (b). the renunciation by any person of his or her citizenship of The Gambia; and
- (c) generally to give effect to the provisions of this Chapter.

### **Interpretation chapter III**

16. (1) in this Chapter, "Secretary of State" means the Secretary of State for the time being responsible for citizenship matters.

(2) For the purposes of this Chapter, a person, born aboard a registered ship or aircraft, aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft is registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the citizenship of a parent of a person at the time of that person's birth, shall, in relation to a person born after the death of that parent, be construed as reference to that parent's citizenship at the time of death.

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### **33. Protection from discrimination**

(1) All persons shall be equal before the law.

(2) Subject to the provisions of subsection (5), no law shall make any provision which is discriminatory either of itself or in its effect.

(3) Subject to the provisions of subsection (5), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or public authority.

(4) In this section, the expression "discrimination" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.

(5) Subsection (2) shall not apply to any law in so far as that law makes provision -

- (a) with respect to persons who are not citizens of The Gambia or to qualifications for citizenship;
  - (b) with respect to the qualifications prescribed by this Constitution for any office;
  - (c) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
  - (d) for the application in the case of members of a particular race or tribe of customary law with respect to any matter in the case of persons who, under that law, are subject to that law.
- (6)** Subsection (3) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (5).
- (7)** The exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by the Constitution or under any other law shall not be enquired into by any court on the grounds that it contravenes the provisions of subsection (3).