

BRITISH OVERSEAS TERRITORIES ACT 2002

EXPLANATORY NOTES

BACKGROUND

3. There are fourteen British overseas territories: Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn Islands, St Helena and Dependencies, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, and the Turks and Caicos Islands.
4. After consultation with these territories, the British Government published in March 1999 a White Paper entitled “Partnership for Progress and Prosperity: Britain and the Overseas Territories” (Cm 4264). This dealt with several aspects of Britain’s relationship with the territories, including the decision that they should be known as “overseas territories” in place of outdated terms such as “dependent territories” or “colonies”. The term “overseas territories” is now in common use both within the territories and as between their governments and the British Government.
5. A key feature of the White Paper is the question of citizenship. Under the British Nationality Act 1981 (“the 1981 Act”) most of the people of the overseas territories have British Dependent Territories citizenship. This status is acquired as a result of a connection with one or more territories (such as birth, adoption, registration or naturalisation there) or by descent. British Dependent Territories citizens (BDTC) do not have the right of abode in the United Kingdom. Most live in the West Indian overseas territories, Bermuda, St Helena, Gibraltar and the Falkland Islands. Some live outside the territories, including BDTC who are former inhabitants of the British Indian Ocean Territory. The Government decided to include these persons in the offer of British citizenship following a judgment in the High Court in November 2000 which upheld their right to return to that territory. The total number of BDTC is around 200,000.
6. Under section 5 of the 1981 Act BDTC from Gibraltar are, upon application, entitled to be registered as British citizens. The British Nationality (Falkland Islands) Act 1983 granted British citizenship to BDTC from the Falkland Islands. Accordingly many BDTC from Gibraltar and the Falklands also possess British citizenship, and as British citizens they have the right of abode in the United Kingdom. Without disturbing these arrangements, the White Paper determined that British citizenship, and with it the right of abode, should be granted to BDTC of most other territories. In accordance with the White Paper, the Act excludes BDTC connected with the Sovereign Base Areas in Cyprus, because of the special position of this territory as a military base.
7. The Act is designed to give effect to these arrangements, by supplementing or amending the 1981 Act so as –
 - (a) to replace references to “dependent territory” with “British overseas territory” and to rename “British Dependent Territories citizenship” as “British overseas territories citizenship”;

*These notes refer to the British Overseas Territories Act 2002
(c.8) which received Royal Assent on 26 February 2002*

- (b) to grant British citizenship to everyone who is a British overseas territories citizen (BOTC) at commencement (except for BOTC of the Sovereign Base Areas);
- (c) to prescribe how a person who becomes a BOTC after commencement can acquire British citizenship by registration;
- (d) to prescribe how, after commencement, a person can acquire British citizenship by virtue of a connection with a British overseas territory (for example, by being born or adopted there).

BOTC who become British citizens will retain their status as BOTC unless they renounce it; and they will be able to renounce British citizenship if they do not want it. This is the position Falkland Islanders already enjoy, and it requires no amendment of the 1981 Act.

8. The Act will extend to the United Kingdom, the Channel Islands and the Isle of Man, and all the overseas territories.