

British Overseas Territories Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Foreign and Commonwealth Office, are published separately as HL Bill 4—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The Baroness Amos has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the British Overseas Territories Bill [HL] are compatible with the Convention rights.

British Overseas Territories Bill [HL]

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B I L L

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Make provision about the name “British overseas territories” and British citizenship so far as relating to the British overseas territories.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Change of names***1 British overseas territories**

- (1) As the territories mentioned in Schedule 6 to the British Nationality Act 1981 (c. 61) are now known as “British overseas territories”—
- (a) in section 50(1) of that Act (definitions), at the appropriate place insert— 5
““British overseas territory” means a territory mentioned in Schedule 6;”,
- (b) for “dependent territory” (or “dependent territories”), wherever occurring in that Act, substitute “British overseas territory” (or “British overseas territories”), and 10
- (c) in the heading to that Schedule, for “British Dependent Territories” substitute “British Overseas Territories”.
- (2) In any other enactment passed or made before the commencement of this section (including an enactment comprised in subordinate legislation), any reference to a dependent territory within the meaning of the British Nationality Act 1981 shall be read as a reference to a British overseas territory. 15
- (3) In the Interpretation Act 1978 (c.30), at the appropriate place in Schedule 1 (list of definitions) insert—
- ““British overseas territory” has the same meaning as in the British Nationality Act 1981;”. 20

2 British overseas territories citizenship

- (1) Pursuant to section 1, British Dependent Territories citizenship is renamed “British overseas territories citizenship”; and a person having that citizenship is a “British overseas territories citizen”.
- (2) Accordingly, in the British Nationality Act 1981 (c. 61)—
- (a) for “British Dependent Territories citizenship”, wherever occurring, substitute “British overseas territories citizenship”, and
 - (b) for “British Dependent Territories citizen” (or “British Dependent Territories citizens”), wherever occurring, substitute “British overseas territories citizen” (or “British overseas territories citizens”).
- (3) In any other enactment passed or made before the commencement of this section (including an enactment comprised in subordinate legislation), any reference to British Dependent Territories citizenship, or a British Dependent Territories citizen, shall be read as a reference to British overseas territories citizenship, or a British overseas territories citizen.

British citizenship

3 Conferral on British overseas territories citizens

- (1) Any person who, immediately before the commencement of this section, is a British overseas territories citizen shall, on the commencement of this section, become a British citizen.
- (2) Subsection (1) does not apply to a person who is a British overseas territories citizen by virtue only of a connection with the Sovereign Base Areas of Akrotiri and Dhekelia.
- (3) A person who is a British citizen by virtue of this section is a British citizen by descent for the purposes of the British Nationality Act 1981 if, and only if—
- (a) he was a British overseas territories citizen by descent immediately before the commencement of this section, and
 - (b) if at that time he was a British citizen as well as a British overseas territories citizen, he was a British citizen by descent.

4 Acquisition by British overseas territories citizens by registration

After section 4 of the British Nationality Act 1981 insert—

“4A Acquisition by registration: further provision for British overseas territories citizens

- (1) If an application is made to register as a British citizen a person who is a British overseas territories citizen, the Secretary of State may if he thinks fit cause the person to be so registered.
- (2) Subsection (1) does not apply in the case of a British overseas territories citizen who—
- (a) is such a citizen by virtue only of a connection with the Sovereign Base Areas of Akrotiri and Dhekelia; or
 - (b) has ceased to be a British citizen as a result of a declaration of renunciation.”

5 Acquisition by reference to the British overseas territories

Schedule 1 (which makes provision about the acquisition of British citizenship by reference to the British overseas territories) has effect.

*Supplementary***6 Repeals**

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The enactments mentioned in Schedule 2 (which include some which are spent or effectively superseded) are repealed to the extent specified there.

7 Short title, commencement and extent

- (1) This Act may be cited as the British Overseas Territories Act 2001.
- (2) The following provisions of this Act are to come into force on such day as the Secretary of State may by order made by statutory instrument appoint—
 - (a) sections 3 to 5 and Schedule 1, and
 - (b) section 6 and Schedule 2, so far as relating to the British Nationality (Falkland Islands) Act 1983 (c. 6).
- (3) An order under subsection (2) may —
 - (a) appoint different days for different purposes, and
 - (b) include such transitional provision as the Secretary of State considers expedient.
- (4) This Act extends to—
 - (a) the United Kingdom,
 - (b) the Channel Islands and the Isle of Man, and
 - (c) the British overseas territories.

SCHEDULES

SCHEDULE 1

Section 5

BRITISH CITIZENSHIP AND THE BRITISH OVERSEAS TERRITORIES

Birth or adoption

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|---|--|----|
| 1 | (1) Section 1 of the British Nationality Act 1981 (c. 61) (acquisition of British citizenship by birth or adoption) is amended as follows. | 5 |
| | (2) In subsection (1) (entitlement of person born in the United Kingdom whose parent is a British citizen or settled in the United Kingdom)– | |
| | (a) after “born in the United Kingdom after commencement” insert “, or in a qualifying territory on or after the appointed day,”, and | 10 |
| | (b) in paragraph (b), after “settled in the United Kingdom” insert “or that territory”. | |
| | (3) In subsection (2) (presumption in relation to infants found abandoned in the United Kingdom)– | |
| | (a) after the first “United Kingdom”, insert “, or on or after the appointed day is found abandoned in a qualifying territory,”, | 15 |
| | (b) in paragraph (a), after “commencement” insert “or in that territory on or after the appointed day”, and | |
| | (c) in paragraph (b), after “United Kingdom”, insert “or that territory”. | |
| | (4) In subsection (5) (as inserted by the Adoption (Intercountry Aspects) Act 1999 (c. 18)) (entitlement of a person adopted pursuant to the order of a court in the United Kingdom), after “United Kingdom” insert “or, on or after the appointed day, any court in a qualifying territory”. | 20 |
| | (5) In relation to any time after the commencement of this Schedule but before the coming into force of section 7 of the Adoption (Intercountry Aspects) Act 1999, in subsection (5) (entitlement pursuant to adoption order made by court in the United Kingdom), for “he” substitute “or where on or after the appointed day such an order is made by any court in a qualifying territory, the minor”. | 25 |

Descent

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|---|---|----|
| 2 | (1) Section 2 of that Act (acquisition by descent) is amended as follows; but nothing in this paragraph affects the operation of that section in relation to persons born before the commencement of this Schedule. | |
| | (2) In subsection (1) (birth outside the United Kingdom)– | |
| | (a) after the first “outside the United Kingdom” insert “and the qualifying territories”, | 35 |

- (b) in paragraph (b), after “outside the United Kingdom” insert “and the qualifying territories” and after “in the United Kingdom” insert “or a qualifying territory”, and
 - (c) in paragraph (c), after “outside the United Kingdom” insert “and the qualifying territories”. 5
- (3) In subsection (2)(a) (Crown service under the government of the United Kingdom), after “United Kingdom” insert “or of a qualifying territory”.
- (4) In subsection (3) (services associated with the government of the United Kingdom)–
 - (a) after the first “United Kingdom” insert “and the qualifying territories”, and 10
 - (b) after the second “United Kingdom” insert “or in a qualifying territory”.

Registration of minors

- 3 (1) Section 3 of that Act (acquisition by registration: minors) is amended as follows; but nothing in this paragraph affects the operation of that section in relation to persons born before the commencement of this Schedule. 15
- (2) In subsection (2) (registration of persons born outside United Kingdom), after “outside the United Kingdom” insert “and the qualifying territories”.
- (3) In subsection (3)(c) (requirements in case of infants)– 20
 - (a) in sub-paragraph (i), after “United Kingdom” insert “or a qualifying territory”, and
 - (b) in sub-paragraph (ii), after “United Kingdom” insert “and the qualifying territories”.
- (4) In subsection (5) (requirements in case of minors)– 25
 - (a) after “outside the United Kingdom” insert “and the qualifying territories”, and
 - (b) in paragraph (b), after “in the United Kingdom” insert “or a qualifying territory” and after “from the United Kingdom” insert “and the qualifying territories”. 30

Commonwealth citizens

- 4 In section 37(1)(a) of that Act (meaning of “Commonwealth citizen”), after “1983” insert “or the British Overseas Territories Act 2001”.

Interpretation

- 5 (1) Section 50 of that Act (interpretation) is amended as follows. 35
- (2) In subsection (1) (list of defined terms), insert at the appropriate places –
 - ““appointed day” means the day appointed by the Secretary of State under section 7 of the British Overseas Territories Act 2001 for the commencement of Schedule 1 to that Act;”, and
 - ““qualifying territory” means a British overseas territory other than the Sovereign Base Areas of Akrotiri and Dhekelia;”. 40
- (3) In subsection (7) (birth aboard ships and aircraft) for the words from “The preceding provisions” to the end substitute –

- “(7A) For the purposes of this Act a person born outside a qualifying territory aboard a ship or aircraft—
- (a) shall be deemed to have been born in that territory if—
- (i) at the time of the birth his father or mother was a British citizen or a British overseas territories citizen; or 5
- (ii) he would, but for this subsection, have been born stateless, 10
- and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but 10
- (b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered. 15
- (7B) For the purposes of this Act a person born outside a British overseas territory, other than a qualifying territory, aboard a ship or aircraft— 20
- (a) shall be deemed to have been born in that territory if—
- (i) at the time of the birth his father or mother was a British overseas territories citizen; or
- (ii) he would, but for this subsection, have been born stateless, 25
- and (in either case) at the time of the birth the ship or aircraft was registered in that territory or was an unregistered ship or aircraft of the government of that territory; but 30
- (b) subject to paragraph (a), is to be regarded as born outside that territory, whoever was the owner of the ship or aircraft at the time, and irrespective of whether or where it was then registered.”
- 6 In section 51(3)(a)(ii) of that Act (“citizen of the United Kingdom and colonies”), after “1983” insert “or the British Overseas Territories Act 2001”. 35

SCHEDULE 2

Section 6

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
British Nationality Act 1981 (c.61)	In section 43(1)(b), “which is for the time being a colony”. In section 50(1), the definition of “dependent territory”.	40
British Nationality (Falkland Islands) Act 1983 (c.6)	Sections 1(2) to (5) and 2.	45