

"Mandated Territories" and "Trust Territories"

1. Meaning of the expression

1.1 Section 32(1) of the BNA 1948 defined "mandated territory" as "a territory administered by the government of any part of His Majesty's dominions in accordance with a mandate from the League of Nations", and defined a "trust territory" as "a territory administered by the government of any part of His Majesty's dominions under the trusteeship system of the United Nations".

1.2 On the other hand, a "UK mandated/trust territory" was one "administered by His Majesty's Government in the United Kingdom".

1.3 Not only was the distinction between mandated territories on the one hand, and trust territories on the other, a distinction of significance in British nationality law, but so was that between UK and non-UK mandated/trust territories.

1.4 In accordance with the Treaty of Versailles (10 January 1920), Germany renounced all its rights and claims in respect of the German colonial territories after World War I. Article 22 of the Covenant of the League of Nations provided that where such territories were not able to proceed independently, more advanced nations would have to be mandated to shoulder the responsibility of government. Mandates were accepted in respect of former German/Turkish territories by the UK, Australia, New Zealand and South Africa.

1.5 However, on 18 April 1946, the League of Nations was succeeded by the United Nations (UN). Under the Charter which established the UN (Cmnd 7015), provision was made:

- for the establishment of international trusteeship agreements (Article 75)
- for the former mandated territories to be brought within the trusteeship system (Article 77)

1.6 The mandated territories which became trust territories are considered below. Provision for the changes of status was made in the UK's Mandated and Trust Territories Act 1947.

1.7 The places which became mandated territories after World War I were as follows:

UK mandated territories

On 17.12.1920 – none

On 20.7.1922

- Cameroons
- Tanganyika
- Togoland

On 29.9.1923

- Palestine
- Transjordan

On 27.9.1924

- Iraq

non-UK mandated territories

On 17.12.1920

- Nauru (administered by Australia see below)
- New Guinea (administered by Australia)
- Solomon Islands (administered by Australia)
- South West Africa (administered by South Africa)
- Western Samoa (administered by New Zealand)

2. Significance of a mandated territory

2.1 British subject status

2.1.1 A mandated territory was "a place where by treaty, capitulation, grant, usage, sufferance, or other lawful means, His Majesty was...exercising jurisdiction over British subjects" (s.2(1), British Nationality and Status of Aliens Act 1943), so persons born there to British subject fathers acquired that status themselves. This was true of all the mandated territories because, although they were outside the Crown's dominions, the Crown exercised extra-territorial jurisdiction over British subjects in all of them.

2.2 BPP status

2.2.1 It would appear from the British Protected Persons Order 1934/499 that only those who "belonged" to the Cameroons, Tanganyika and Togoland were to be regarded as prerogative BPPs. In fact, an appropriate connection with any of the UK mandated territories conferred prerogative BPP status. However, the Cameroons, Tanganyika and Togoland had no internal nationality law, and so in the same way as "an appropriate connection" with a protectorate had to be defined, so the 1934 Order defined such a connection in respect of those territories. A connection with a non-UK mandated territory did not confer BPP status.

2.3 Iraq ceased to be a UK mandated territory on 3 October 1932, when it became an independent sovereign state. Transjordan ceased to be a UK mandated territory on 17 June 1946, when it attained full independence as Jordan. Palestine ceased to be a UK mandated territory on 15 May 1948, when the State of Israel was born.

2.4 All the remaining mandated territories (except South West Africa) became trust territories in 1946/7. This change did not affect the relevance of the territories in British nationality law prior to 1949. In all the territories (including South West Africa, the one remaining mandated territory), the Crown continued to exercise extra-territorial jurisdiction over British subjects, while the territories administered by the UK (now only the Cameroons, Tanganyika and Togoland) were relevant territories for the purposes of the conferment of prerogative BPP status.

2.5 The position on 1 January 1949, when the BNA 1948 commenced, was as follows:

UK trust territories

- Cameroons
- Tanganyika
- Togoland

non-UK trust territories

- Nauru (Australia - the Island of Nauru was officially a joint UK/New Zealand/Australian trust territory, but these countries elected Australia to exercise their joint powers - see Nauru Island Agreement Act 1920, to which the agreement is scheduled)
- New Guinea (Australia)
- Solomon Islands (Australia)
- Western Samoa (New Zealand)

UK mandated territories

- none

non-UK mandated territories

- South West Africa (South Africa)

2.6 With one exception, only the territories which were UK trust territories (and which had been UK mandated territories) were relevant under the British Nationality Act 1948. Only such territories sufficed for the purposes of:

- Section 8 of the 1948 Act (registration as a CUKC)
- Section 12(3) (re-classification of British subjects as CUKCs)
- Schedule 2 (naturalisation)

2.7 The one exception was s.5(1)(a) (acquisition of citizenship by descent). Here it sufficed if the child or father was born in any mandated/trust territory.

2.8 The 1949 Order identified only the UK trust territories as relevant territories for the purposes of the conferment of statutory BPP status. Further, as was true in the case of protectorates, BPP status was retainable, and obtainable, even after a territory had ceased to be a UK trust territory.

3. Chronology

3.1 Changes after commencement of the BNA 1948:

6.3.1957: the TOGOLAND TRUST TERRITORY ceases to be a UK trust territory

1.6.1961: the northern region of the CAMEROONS TRUST TERRITORY ceases to be a UK trust territory

1.10.1961: the southern region of the CAMEROONS TRUST TERRITORY ceases to be a UK trust territory

9.12.1961: TANGANYIKA ceases to be a UK trust territory

1.1.1962: WESTERN SAMOA ceases to be a New Zealand trust territory

1.6.1962: SOUTH WEST AFRICA ceases, for the purposes of British nationality law, to be a South African mandated territory

31.1.1968: NAURU ceases to be an Australian trust territory

16.9.1975: NEW GUINEA and the SOLOMON ISLANDS cease to be Australian trust territories

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