



Home Office

# British overseas territories citizens: by descent and otherwise than by descent

Version 1.0

# Contents

Contents.....	2
About this guidance.....	3
Contacts .....	3
Publication .....	3
Changes from last version of this guidance .....	3
British overseas territories citizenship by descent and otherwise than by descent ....	4
British overseas territories citizens born on or after 1 January 1983.....	5
British overseas territories citizens born before 1 January 1983 .....	6
British Overseas Territories Act 2002.....	8

# About this guidance

This guidance tells nationality caseworkers about which British overseas territories citizens hold that status by descent or otherwise than by descent.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Nationality Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **1.0**
- published for Home Office staff on **14 July 2017**

## Changes from last version of this guidance

This is new guidance.

### Related content

[Contents](#)

# British overseas territories citizenship by descent and otherwise than by descent

This page tells you about British overseas territories citizenship.

As with British citizens, all British overseas territories citizens (BOTC) are so either 'by descent' or 'otherwise than by descent'.

Whether an individual holds BOTC by descent or otherwise than by descent will determine whether they can pass the status on to their children born outside the British overseas territories. It does not affect any other rights or privileges that go with this status.

BOTC by descent cannot normally pass this status on to children born outside of the British overseas territories. The exception to this is where their parent was serving outside of the British overseas territory in Crown service.

BOTC otherwise than by descent automatically pass their citizenship to their children regardless of where they are born.

As a general principle:

- people who are BOTC by birth, adoption, registration or naturalisation in a British overseas territory are BOTC otherwise than by descent
- people who are BOTC by birth or other means outside of the British overseas territories are BOTC by descent

However there are a number of exceptions to both of these generalisations.

BOTC by descent is defined in [section 25\(1\)](#) of the British Nationality Act 1981. Where this doesn't apply, a BOTC must without exception be a BOTC otherwise than by descent.

## Related content

[Contents](#)

## Related external links

Automatic acquisition as a BOTC

# British overseas territories citizens born on or after 1 January 1983

This section tells you which British overseas territories citizens born on or after 1 January 1983 hold that status by descent.

Under [section 25\(1\)](#) of the British Nationality Act 1981, a British overseas territories citizen (BOTC) born on or after 1 January 1983 is a BOTC by descent if they are a BOTC:

- automatically under [section 16\(1\)\(a\)](#)
- by registration under [section 17\(1\)](#) and, at the time of birth, the father or mother was a BOTC
- by registration under [section 17\(2\)](#)
- by registration under [section 21](#)
- by registration under [section 13](#) and immediately before renunciation of BOTC, was a BOTC by descent
- automatically under [paragraph 1 of schedule 2](#)

The reference to father and mother does not include adoptive parents. This means that adopted children registered under [section 17\(1\)](#) of the British Nationality Act, are BOTC otherwise than by descent unless one of their natural parents was a BOTC at the time of their birth.

## Related content

[Contents](#)

# British overseas territories citizens born before 1 January 1983

This section tells you which British overseas territories citizens (BOTC) born before 1 January 1983 hold that status by descent and otherwise than by descent.

[Section 25\(1\) and 25\(2\) of the British Nationality Act 1981](#) must be read together. [Section 25\(1\)](#) lists those BOTC who have that status by descent. [Section 25\(2\)](#) sets out exceptions for certain people born before 1 January 1983.

A BOTC born before 1 January 1983 will be a BOTC by descent if they are a BOTC and they were:

- a citizen of the UK and Colonies (CUKC), under [section 5 of the British Nationality Act 1948](#)
- deemed, or would have been so deemed if male, to be a CUKC by descent only for the proviso to [Section 5\(1\) of the British Nationality Act 1948](#)
- a CUKC who became a British dependent territories citizen on 1 January 1983 under [section 23\(1\)\(c\) of the British Nationality Act 1981](#) only
- a woman, who was a CUKC who became a British dependent territories citizen on 1 January 1983 under [section 23\(1\)\(c\)](#) only, and did so only by reason of marriage to a man who, on 1 January 1983:
  - became a British dependent territories citizen by descent under any of the above bullets
  - would, but for his death, have become a British dependent territories citizen by descent under any of the above bullets
- a BOTC by registration under [section 17\(1\)](#) and, at the time of the birth, their father or mother was a CUKC who became or, but for death, would have become a British dependent territories citizen on 1 January 1983
- a BOTC by registration under [section 20](#) by reason of marriage to a man who, on 1 January 1983:
  - became a British dependent territories citizen by descent
  - would, but for his death have become a British dependent territories citizen by descent
  - would, but for having ceased to be a CUKC as a result of a declaration of renunciation, have become a British dependent territories citizen by descent.
- a BOTC by registration under [section 22 of the British Nationality Act 1981](#), but having ceased to be a CUKC as a result of a declaration of renunciation, would have become a British dependent territories citizen by descent on 1 January 1983 for any of the reasons set out in the first 4 bullets above
- a BOTC by registration under [section 13](#) and immediately before renunciation of British dependent territories citizenship, was a British dependent territories citizen by descent

Under [section 25\(2\)](#), a BOTC born outside the British overseas territories before 1 January 1983 is not a BOTC by descent under [section 25\(1\)](#) for any of the reasons set out in the bullets above if, at the time of their birth, their father was:

- serving outside overseas territories:
  - in Crown service under the government of a British overseas territory
  - in service of any description at any time designated under [section 16\(3\)](#)
- was recruited in a British overseas territory for the service in question

For the purposes of [section 25\(2\)](#) you must remember that:

- the person's father did not have to be a CUKC, or have any form of British nationality
- the person's father did not have to become a British dependent territories citizen on 1 January 1983
- if the person's father was, at the time of birth, in service which was designated after 1 January 1983, the person became a British overseas territories citizen otherwise than by descent only on the date the service was designated, not on 1 January 1983

For example:

A person was born in the UK in 1950, therefore a citizen of the UK and colonies under section 4 of the British Nationality Act 1948. His father was Australian and his mother was a CUKC by birth in Gibraltar. His father was recruited in Gibraltar in 1948 into Crown service under the government of Gibraltar. That person would normally have become on 1 January 1983, a British dependent territories citizen by descent under section 25(1)(d). But, in fact he became a British territories citizen otherwise than by descent under section 25(2) because of his father's Crown service, even though his father was not a British dependent territories citizen.

#### **Related content**

[Contents](#)

# British Overseas Territories Act 2002

The status of persons who became British overseas territories citizens (BOTC) automatically under [section 6\(3\)](#) of the British Overseas Territories Act 2002, through a mother born in the British Indian Ocean territory, is set out in [section 6\(4\)](#) of that act.

A person who became a BOTC under [section 6\(3\)](#) of the 2002 Act is a BOTC by descent.

## Related content

[Contents](#)