

Research Briefing

30 June 2022

By Philip Loft

The UK Overseas Territories and their Governors

Summary

- 1 Population and location
 - 2 How are the UK OTs governed?
 - 3 Summary of the reserved powers of the Governor
 - 4 What powers do Governors have to make and veto laws?
 - 5 Exercising reserved powers
- Appendix 1: Territory constitutions

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Contents

Summary	5
1 Population and location	7
2 How are the UK OTs governed?	9
2.1 Relationship with the Crown	9
2.2 The UK designs their constitutions	10
2.3 How are Governors appointed?	11
3 Summary of the reserved powers of the Governor	13
4 What powers do Governors have to make and veto laws?	17
4.1 Anguilla	17
4.2 Bermuda	19
4.3 British Antarctic Territory	20
4.4 British Indian Ocean Territory (BIOT)	21
4.5 British Virgin Islands	21
4.6 Cayman Islands	22
4.7 Falkland Islands	24
4.8 Gibraltar	24
4.9 Montserrat	25
4.10 Pitcairn Islands	26
4.11 St Helena, Ascension and Tristan da Cunha	27
4.12 South Georgia & The South Sandwich Islands	29
4.13 Sovereign Base Areas of Akrotiri and Dhekelia	30
4.14 Turks and Caicos Islands	30
5 Exercising reserved powers	33
5.1 Anguilla	33
5.2 Bermuda	34
5.3 British Virgin Islands	34

5.4	Cayman Islands	36
5.5	Falklands	37
5.6	Gibraltar	37
5.7	Montserrat	38
5.8	South Georgia & The South Sandwich Islands	38
5.9	Sovereign Base Areas of Akrotiri and Dhekelia	39
5.10	St Helena, Ascension and Trista Da Cunha	39
5.11	Turks and Caicos Islands	40
	Appendix 1: Territory constitutions	42

Summary

This briefing describes the roles and powers of the UK-appointed Governors in each of the UK's 14 Overseas Territories (OTs), and how they interact with Territory Governments.

What are the Overseas Territories?

There are 14 UK OTs across the globe, but only 10 are permanently inhabited by British nationals. The majority of their 260,000 inhabitants are [British citizens](#).

The Territories all have historic links to the UK and with the UK and Crown Dependencies like Jersey [form one undivided realm](#), where the Queen is sovereign. This means they have no separate representation internationally.

Inhabited Territories have elected governments

Each inhabited Territory has its own constitution and parliament or council.

However, they have varying powers and responsibilities. Bermuda and Gibraltar have almost full internal self-government, for example, while in the Pitcairn Islands the Governor remains the primary law-making authority.

What is the typical role of the Governor?

Generally, the smaller a Territory's population, the more law-making power or policy responsibility the Governor (sometimes called the Administrator or Commissioner) wields.

Policy responsibilities

In most OTs, the Governor retains responsibility for external affairs, defence, and internal security (such as the police and judiciary).

In some, such as Anguilla and the Turks and Caicos Islands, the Governor also has responsibility for international financial service regulation. This has been retained by the UK because of the potential security, reputational or financial impact of the Territories on the UK.

These type of "reserve powers" mean the Governor can usually exercise their responsibilities in these fields without reference to the legislature or local government, though they often have to consult with them.

Legislative powers

Governors can have also significant law-making powers. Only three Territory constitutions do not allow the Governor to make laws: Bermuda, Montserrat, and St Helena (though they can in Ascension and Tristan da Cunha, which form part of the same Overseas Territory with St Helena). The UK retains the right to make law for all the Territories.

Other powers

Governors usually chair executive councils, issue pardons, and make grants of crown land.

What does this paper cover?

This paper is divided into five main sections:

- Section 1 describes the population and location of the OTs.
- Section 2 provides a background to UK-OT relations and how they are governed.
- A summary and table on pages 13 to 16 summarises the law-making powers of governors and policy-issues that are reserved to them in each OT. Appendix 1 provides the full sources for the table.
- Section 4 details how Governors can make, amend, and reject laws in each of the Territories, with some examples of their use.
- Section 5 describes how the governors exercise their responsibilities on the topics reserved to them in each Territory with substantial reserved powers. It also provides examples of some recent controversies.

Other briefings on the Overseas Territories

- Lords Library, [Sovereignty since the ceasefire: The Falklands 40 years on](#), June 2022
- Commons Library, [Will the UK impose direct rule in the British Virgin Islands?](#), CBP 9538, May 2022
- Commons Library, [Same-sex marriage in the Overseas Territories](#), April 2022
- Commons Library, [The UK's Overseas Territories and sanctions against Russia](#), CBP 9485, March 2022
- Commons Library, [The UK's Overseas Territories: Climate change and biodiversity](#), CBP 9290, October 2021
- Commons Library, [Coronavirus: UK support to the Overseas Territories](#), CBP 9021, June 2021

1 Population and location

The 14 Overseas Territories (OTs) have a total population of around 260,000 (2019). Four of the territories have no permanent British population. Akrotiri and Dhekelia (Cyprus) has a resident population of 12,000 Cypriots and 4,000 UK service personnel.¹

Pitcairn is estimated to have a population of only fifty people.²

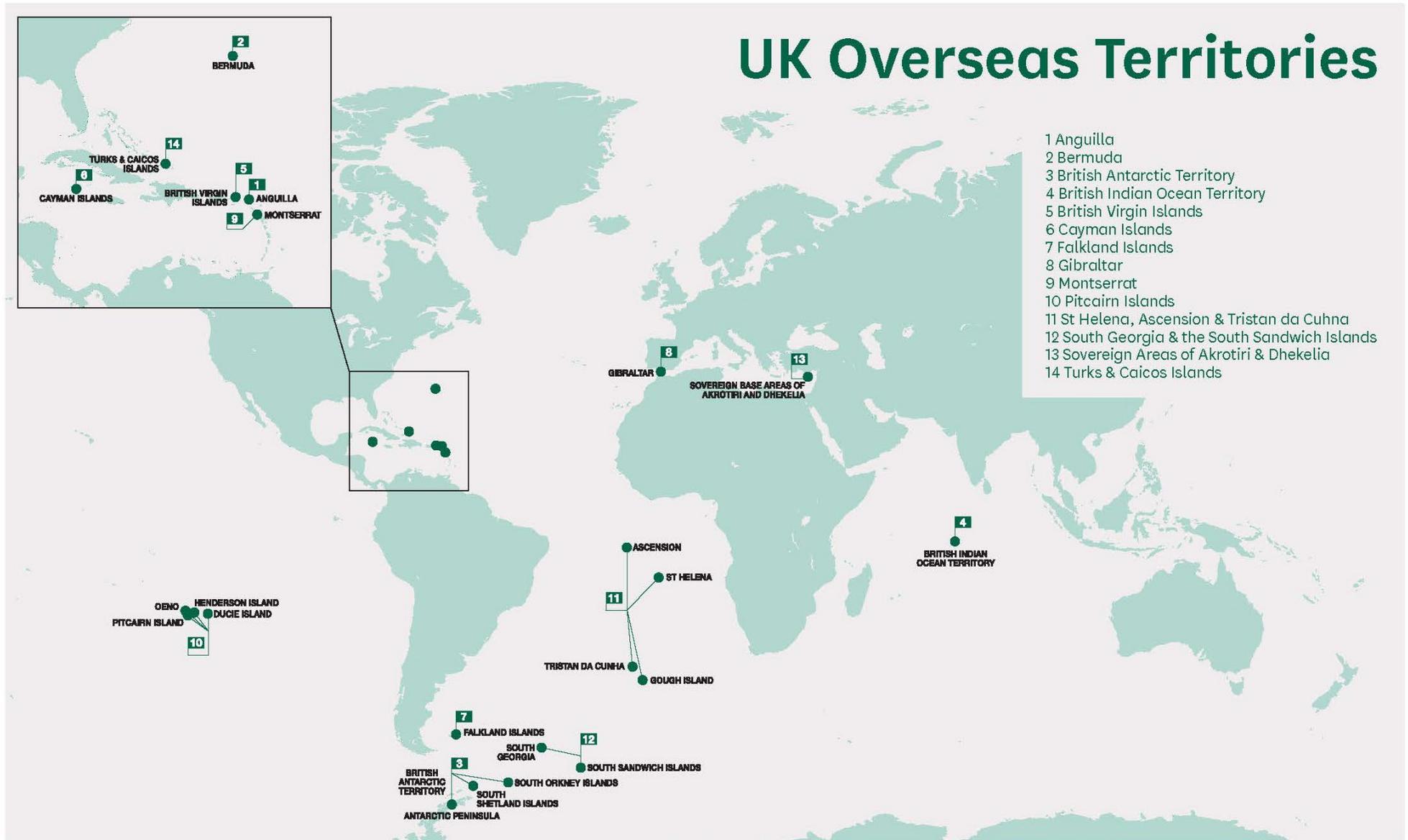
The Overseas Territories: UK Population			
Mediterranean		Pacific and Indian Oceans	
Gibraltar	34,000	British Indian Ocean Territory	No permanent population
Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus)	No permanent UK population	Pitcairn	No UN estimate
Caribbean		South Atlantic	
Anguilla	15,000	British Antarctic Territory	No permanent population
Bermuda	62,000	Falkland Islands	3,000
British Virgin Islands	30,000	South Georgia & the South Sandwich Islands	No permanent population
Cayman Islands	66,000	St Helena, Ascension and Tristan da Cunha	6,000
Montserrat	5,000		
Turks and Caicos Islands	39,000	Estimated total	260,000

Source: United Nations, [World Population Prospects 2019: Total Population-both sexes](#), 2019

Aside from Gibraltar, the Antarctic Territories, and the Sovereign Base Areas in Cyprus, the OTs are all small islands or archipelagos. The following map shows their position.

¹ Strategic Command, [Overseas bases in focus: Cyprus](#), 9 February 2021, accessed 30 June 2022

² Pitcairn Islands Government, [Homepage](#), accessed 30 June 2022



Map adapted from 'Overseas Territories Security, Success and Sustainability', Foreign and Commonwealth Office, June 2012, Cm 8374, 21 November 2012

2

How are the UK OTs governed?

Summary of this section

Each of the Territories has its own constitution and they are administered separately to one another. Unlike the UK, their constitutions are drafted as single laws or instruments.

Generally, the UK is responsible for their defence, security and supporting good governance, while taxation, the environment and other domestic issues are devolved to Territory governments (in the inhabited Territories).

Each inhabited Territory has a UK-appointed Governor, who holds some reserve powers to make law, a Premier/Prime Minister (or similar post), and mostly a single house of parliament (Bermuda is the exception, with a Senate and House of Assembly). Some of the members of these parliaments are appointed. However, the power of local governments, assemblies and officials varies widely between the Territories.

This section provides an outline of the Territory's constitutions and how they are made, and the powers of the UK in the Territories.

2.1

Relationship with the Crown

All the Territories were once part of the British empire and are dependencies of the UK. They were formerly known as colonies, and British crown dependencies. The British Overseas Territories Act 2002 provided their present title.³

The UK, the Overseas Territories and the Crown Dependencies form one undivided Realm. This is separate from the other States of which the Queen is monarch (such as Commonwealth realms like Canada).

This means that the Territories have no separate international representation, including in the Commonwealth.

The relationship allows both the Crown and UK Parliament to legislate for the Territories.⁴

³ [Overseas Territories Act 2002](#), section 1

⁴ I. Hendry and S. Dickson, [British OT law](#), 2018 (PDF), pp23, 24

2.2

The UK designs their constitutions

UK legislative powers

The UK is responsible for the Territory's constitutions. The constitution for each Territory is contained in an Order in Council. Orders in Council are [legal instruments that have the force of law](#), and are made by the Crown through the Privy Council.⁵

For 12 of the 14 Territories, their constitutions are made under powers granted by UK Acts of Parliament. For two, Gibraltar and British Indian Ocean Territory, their constitutions are made under prerogative powers (ie. can be made by the Crown, with the advice of ministers, under common law).

This situation means the UK must consent to most changes to the Territory's constitutions. There are some exceptions—for example, a referendum may be conducted in the Falklands to change the Islands' electoral constituencies.⁶

How are constitutional changes introduced?

In 2012, the UK Government committed to “equipping each territory with a modern constitution” and said it expected their constitutions to continue to evolve. Its principles are for:

Powers [to be] devolved to the elected governments of the Territories to the maximum extent possible consistent with the UK retaining those powers necessary to discharge its sovereign responsibilities.

However, it went onto to say following a decade of constitutional change in many Territories, it was not the time for another round of changes.⁷

Most changes that have occurred have been suggested by OT Governments, with the UK seeking some form of popular consent (such as through a referendum or vote in an Assembly/Parliament) before the changes are introduced.⁸

Recent constitutional changes have included the symbolic renaming of legislative assemblies, the addition of new bills of fundamental rights, and new commissions to improve judicial and financial oversight.

However, the UK has sometimes legislated without the consent of Territory Assemblies. In 2009, the Turks and Caicos saw part of its constitution suspended following a judicial commission of inquiry into alleged corruption.

⁵ Privy Council Office, [Orders in Council](#), accessed 29 March 2022

⁶ I. Hendry and S. Dickson, [British OT law](#), 2018 (PDF), pp15, 19, 30, 31

⁷ Foreign & Commonwealth Office, [The overseas territories](#), Cm 8374, 28 June 2012, p14

⁸ I. Hendry and S. Dickson, [British OT law](#), 2018 (PDF), pp30, 31

The 2011 Constitution of the Islands, which restored ministerial government and an elected House of Assembly, was largely imposed by the UK.⁹

What role does the UK Parliament have in making or amending OT constitutions?

Hendry and Dickson's British Overseas Territories law (2018) notes that the UK Parliament has limited powers to scrutinise the constitutions of the OTs. While those constitutions made under Acts of Parliament must be laid before Parliament, they do not require affirmative resolution in either house.

For some territories, including Saint Helena, Ascension and Tristan da Cunha, Anguilla, the sovereign Cyprus bases areas of Akrotiri and Dhekelia, Gibraltar and the British Indian Ocean Territory, the orders in council granting constitutions do not have to be laid at all.¹⁰

However, since 2002 political arrangements have been in place for most Constitution Orders to be seen in draft by the Foreign Affairs Committee at least 28 sitting days before they are submitted to Her Majesty in Council.¹¹

2.3

How are Governors appointed?

All Governors are appointed by the Crown. They have usually served in the UK civil service/armed forces. In all the inhabited Territories aside from Bermuda, Gibraltar, and the Pitcairn Islands they also preside over meetings of the Cabinet/Executive Council (note Pitcairn has an Island Council rather than executive).

Many deputy Governors are local officials or politicians.

Calls for greater consultation and Government response

Some Territories have called for greater consultation on the appointment of Governors. In evidence to the Commons Foreign Affairs Committee in 1998, 2008 and 2018, representatives from OT legislatures or governments argued that the Territories should be more involved in the selection of Governors, or for candidates beyond the UK civil service to be considered.¹² Reasons for this included the potential to increase trust and improve personal relations.¹³

⁹ I. Hendry and S. Dickson, [British OT law](#), 2018 (PDF), p32

¹⁰ As above, p20

¹¹ Foreign Affairs Committee, [Overseas Territories](#), 18 June 2008, para 29

¹² Foreign Affairs Committee, [Global Britain and the British OTs: Resetting the relationship](#), HC 1464, 2017-19, February 2019, para 13

¹³ Foreign Affairs Committee, [Overseas Territories](#), 2007-8, HC 147, July 2008, paras 83-7

In 1999, the UK Government argued that the involvement of local governments in the appointment of governors would carry “the risk that a Governor's position might be untenable if his or her appointment had not had local support at the selection stage.” It rejected suggestions that Territory governments could comment on specific candidates.¹⁴

In 2019 the UK Government said that it uses civil service recruitment principles to select governors and there is some consultation with Territory Governments on the skills the governor should have:

The FCO [Foreign & Commonwealth Office] uses Civil Service recruitment principles to recruit for Governors and other positions in the Overseas Territories. Governor roles are advertised across Government to all Diplomatic and Home Civil Servants. Other roles in Governors' offices in the OTs are advertised either internally within the FCO or across Government depending on the skill set required.

It is established practice that, early in the recruitment process, the Minister for the Overseas Territories writes to the elected leader(s) of the Territory, seeking views on the particular skills and expertise required of the next Governor.¹⁵

¹⁴ Foreign Affairs Committee, [Overseas Territories](#), 2007-8, HC 147, July 2008, paras 83-7

¹⁵ [FCDO response to the Foreign Affairs Committee report on Global Britain and the British OTs](#), 29 April 2019, para 3

3 Summary of the reserved powers of the Governor

The following table summarises the policy issues which Governors continue to have responsibility, and their power to make, amend and reject laws. These are based on the individual Territory constitutions, listed in Appendix 1. The constitutions often allow the governor to delegate responsibility in some of these areas to a local minister—this is not accounted for in the table.

Note that in all Territories the UK Government and Parliament retain the power to intervene, amend their constitutions, and to create law.

There are six main patterns:

1) The smaller the population, the more power the Governor has

Generally, the smaller a Territory's population, the more law-making power or policy responsibility the Governor (sometimes called the Administrator or Commissioner) wields.

Note in some of these Territories, such as the British Antarctic Territory and the British Indian Ocean Territory, their constitutions do not explicitly state their Commissioners hold responsibly for external affairs, financial affairs, defence, etc. However, they do hold wide executive responsibility and have de-facto control over these affairs.¹⁶

2) Almost all Governors are responsible for external affairs, defence, and foreign policy issues

Almost all governors have reserved powers over external affairs and defence. There are two exceptions to this:

- **Where military officers have a substantial role.** This includes the Falklands and Antarctic Territory (The Administrator of the Sovereign Base Area is also Commander British Forces Cyprus, combining the two roles). Governors must adhere to their advice on defence and security.
- **Where local/regional affairs are devolved.** In the British Virgin Islands and Cayman Islands the Governor should devolve responsibility over the Territory's relationship with regional Caribbean organisations, EU relations and similar issues to the locally elected government.

¹⁶ I. Hendry and S. Dickson, *British Overseas Territories law*, 2018, p228

3) Governors often must consult when using their reserved powers

In most Territories, Governors are required to consult with local governments and/or legislatures when exercising their reserved powers. However, they are mostly not required to follow their advice on these issues.

4) In almost all Territories, Governors can make law

Only three Territories do not allow the Governor to make laws: Bermuda, Montserrat, and St Helena (though they can in Ascension and Tristan da Cunha, which form part of the same Overseas Territory with St Helena).

The table makes a distinction between Territories where the Governor can make law, and those where they can make law for the purposes of good government and order.

In the former, the Governor can make laws, but these generally must have been previously introduced into the local assembly or parliament, limited to the governor's areas of responsibility, or have agreement from the UK or local government (only one of these may apply). In Territories where they can make law for a Territory's good government, their powers are less impeded by these conditions.

5) In all Territories, Governors can reject law

The power to reject laws is common to all Governors. However, in most cases the grounds on which they can do so is limited. These generally include the proposed bill being contrary to the Territory's constitution, being inconsistent with the UK's international obligations, or prejudicing the royal prerogative.

6) The Governor retains power over financial services in four Territories

In Anguilla, Montserrat, St Helena, Ascension and Tristan da Cunha and the Turks and Caicos, the Governor retains power over financial services. This is in addition to the uninhabited Territories and Pitcairn.

This therefore includes some Territories with substantial financial sectors but excludes the British Virgin Islands, Bermuda, and the Cayman Islands.

Montserrat and St Helena, Ascension and Tristan Da Cunha remain eligible for funding from the UK's overseas aid budget (along with Pitcairn). The Turks and Caicos also graduated from financial support in 2003. This may be a reason why the Governor retains additional powers.¹⁷

¹⁷ Department for International Development (DFID), [DFID's work with the Overseas Territories](#), 2012 (PDF), introduction

Summary of Governor’s powers in the UK OTs, as detailed in Territory constitutions

Territory	Permanent British population	Declare state of emergency	Make laws	Reject laws	Laws for “good government” and order	Internal security/ police	Defence	External relations	Offshore Financial services	Shipping	Dispose of Crown land	Grant Pardons
Anguilla	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
Bermuda	✓	✓		✓		✓	✓	✓			✓	✓
British Antarctic Territory		✓	✓	✓	✓						✓	✓
British Indian Ocean Territory		✓	✓	✓	✓						✓	✓
British Virgin Islands	✓	✓	✓	✓		✓	✓	✓ [^]			✓	✓ [*]
Cayman Islands	✓	✓	✓	✓ [□]		✓	✓	✓ [^]			✓	✓ [*]
Falkland Islands	✓	✓	✓	✓		✓	✓ ^o	✓			✓	✓
Gibraltar	✓	✓	✓ [▲]	✓		✓	✓	✓			✓ [*]	✓ [*]
Montserrat	✓	✓		✓		✓	✓	✓	✓		✓	✓ [*]

[^] On certain issues such as tourism and interaction with regional organisations such as the Caribbean Community the Governor should devolve these to the Premier or a Minister.

^{*} In consultation with an Advisory Committee (British Virgin Islands), Ministry of Defence and/or Premier (Gibraltar, for land), Premier (Gibraltar, for pardons), Committee (Montserrat)

[□] Only on issues that are reserved for the Governor

^o But subject to any orders of the Commander British Forces

[▲] In consultation with the UK and Chief Minister of Gibraltar

Notes: The Governor’s powers over financial services, etc, may mean they must consult a cabinet but can act unilaterally if the Governor sees fit.

Power to make laws: The UK has unlimited power to make laws for the Territories. The table shows the powers of the Governors.

The UK Overseas Territories and their Governors

Territory	Permanent British population	Declare state of emergency	Make laws	Reject laws	Laws for “good government” and “order”	Internal security/ police	Defence	External relations	Financial services	Shipping	Dispose of Crown land	Grant Pardons
Pitcairn	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓
St Helena, Ascension Tristan da Cunha [St Helena only]	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓*
South Georgia & the South Sandwich Islands		✓	✓	✓	✓	✓	✓ ^o	✓ ^o			✓	✓
Sovereign Base Areas of Akrotiri and Dhekelia		✓	✓	✓	✓	✓	✓	✓				✓
Turks and Caicos Islands	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓*

Source: See Appendix 1

*In consultation with an advisory council (St Helena) or an advisory council, Premier, and Opposition Leader (Turks and Caicos).

^o In consultation with the Commander of British Forces in the South Atlantic and the Falkland Islands Government

Notes: The Governor’s powers over financial services, etc, may mean they must consult a cabinet but can act unilaterally if the Governor sees fit.

St Helena is the seat of the Governor, who manages external relations. Ascension and Tristan da Cunha have their own Administrators subject to the Governor. These are discussed in the following sections.

Power to make laws: The UK has unlimited power to make laws for the Territories. The table shows the powers of the Governors.

4

What powers do Governors have to make and veto laws?

The UK has unlimited power to legislate

The Foreign Office notes the UK has [unlimited power to legislate for the OTs](#): “As a matter of constitutional law the UK Parliament has unlimited power to legislate for the Territories.”¹⁸

In 2007 the National Audit Office said Governors “in practice rely mainly on their influence skills” to [encourage good governance and risk management](#). It argued that Governors had few levers between influence on one hand and exercising their constitutional powers on the other.¹⁹

4.1

Anguilla

Has a [population of 15,000](#). Situated in the eastern Caribbean.

Making law

The Governor, with the advice and consent of the House of Assembly, may make laws for the peace, good order, and government of Anguilla.²⁰

The Assembly cannot proceed on any proposed bill or amendment which in the opinion of the Assembly’s speaker makes provision for imposing or increasing a tax, for imposing any charge on the revenues or affecting the debt of Anguilla without the recommendation of the Governor.²¹

The Governor, where they consider it “expedient” in the interests of “public order or good faith” can declare a Bill that has failed to pass the Assembly law, with any amendments. The Governor must usually seek permission from a UK Secretary of State but can act without permission if they deem the situation urgent.²²

¹⁸ Foreign & Commonwealth Office, [The Overseas Territories](#), Cm 8374, 28 June 2012, p14

¹⁹ National Audit Office, [Foreign & Commonwealth Office: Managing risk in the Overseas Territories](#), 2007, HC 4, 2007-2008, p26

²⁰ [Anguilla Constitution Order 1982](#), as amended, Chapter V, Section 47

²¹ As above, Chapter V, Section 55

²² As above, Chapter V, Section 56

Amending or rejecting proposed law

A bill cannot become law without the Governor's assent. The Governor can refuse assent or reserve it for a decision by a UK Secretary of State if a Bill appears to them to be:

- Repugnant to, or inconsistent with, the provision of the Constitution; and
- Determines or regulates the privileges, immunities, or powers of the Assembly or of its members

The exception is when they have been authorised by a Secretary of State to give assent.²³ The Governor can also return to the Assembly any Bill with proposed amendments.²⁴

Any law given assent can be disallowed by a UK Secretary of State.²⁵

Using powers to oppose bills in Anguilla

The power to reserve consent to Bills was used in 2010, when the then-Governor of Anguilla [opposed the Assembly's December 2010 budget](#), citing concerns that its expenditure plans were unsustainable. The pausing of the budget allowed the UK Government to introduce reforms in Anguilla and attach conditions to UK funding.²⁶

The then Chief Minister, Herbert Hughes, claimed the measures advocated by the Governor, such as increasing taxes and reducing the public sector workforce, would negatively impact on the population. A final budget was approved in 2011.²⁷

The UK also rejected the 2016 budget, again citing the need for economic reforms. This followed reforms to two domestic banks that had been bailed out and put under the control of the Eastern Caribbean Central Bank.²⁸

Then Minister of State for Overseas Territories, Baroness Anelay, withheld consent until additional conditions were met. These largely concerned improved reporting on financial matters. The budget was approved in 2017.²⁹

²³ [Anguilla Constitution Order 1982](#), as amended, Chapter V, Section 57

²⁴ As above, Chapter V, Section 58

²⁵ As above, Chapter V, Section 59

²⁶ [Letter to the Foreign Affairs Committee from the Minister for the Overseas Territories](#), 3 February 2012

²⁷ Europa World Plus, Anguilla. Europa World is accessible via [Commons Library-log in](#)

²⁸ The Anguillan, [UK Government declines to approve Anguilla's budget](#), 18 January 2016

²⁹ Europa World Plus, Anguilla

4.2

Bermuda

Has a [population of 62,000](#). Situated in the North Atlantic.

Making law

The legislature has the power to make laws for the peace, order, and good government of Bermuda.

The Governor must assent to bills for them to become law.³⁰

Bermuda has a bicameral parliament: The House of Assembly and the Senate. The House of Assembly cannot proceed on any bill relating to taxation, duties, charges, or debts without the permission of the Governor.³¹

If any money bill that is not a taxation bill has passed the Assembly but not the Senate two months after it has been sent there, the Bill can be presented to the Governor for assent.³²

For any other public bills, any legislation that has passed the Assembly in two successive sessions and is rejected by the Senate in both those sessions, the Bill can be presented to the Governor for assent.³³

Amending or rejecting proposed law

The Governor can withhold assent or reserve the bill for a decision of a UK Secretary of State. Unless they have been previously authorised to give assent, they must reserve to the UK any Bills that are judged:

- Inconsistent with any international obligation the UK has.
- Likely to prejudice the royal prerogative.
- To be repugnant or inconsistent with the constitution.
- To affect any of the Governor's reserved responsibilities (police, defence, external security).
- To relate to currency or banking.³⁴

There are no provisions in the 1968 constitution for the Governor to make law. Under the Emergency Powers Act the Governor can make some regulations.³⁵

³⁰ [Bermuda Constitution Order 1968](#), Schedule 2, Section 34 (PDF)

³¹ As above, Schedule 2, Section 36

³² As above, Schedule 2, Section 37

³³ As above, Schedule 2, Section 38

³⁴ As above, Schedule 2, Section 35

³⁵ [Bermuda Emergency Powers Act 1963](#), Sections 2 and 3 (PDF)

4.3

British Antarctic Territory

The Territory has no permanent population.

Making law

The Commissioner may make laws (“ordinances”) for the peace, order, and good government of the Territory.³⁶

However, without instructions from a UK Secretary of State, the Commissioner may not make ordinances which relate to:

1. Divorce of married persons
2. Granting land or money to the Commissioner
3. Currency
4. Banking
5. Differential duties
6. Regulations inconsistent with UK treaty obligations
7. Military
8. Affect the Royal Prerogative or the rights of Crown subjects not residing in the Territory
9. Unequal treatment of any religious or community group
10. Any issue previously disallowed by the UK.³⁷

Amending or rejecting proposed laws

The UK reserves the power to make laws for peace, order, and good government in the Territory.³⁸

³⁶ [British Antarctic Territory Order 1989](#), Section 13

³⁷ As above, Schedule 2

³⁸ As above, Article 20

4.4

British Indian Ocean Territory (BIOT)

The Indian Ocean Territory has no permanent population.³⁹

Making law

The UK-appointed Commissioner may make laws for the peace, order and good government of the Territory.

They may make any provision they deem expedient, aside from those which would be inconsistent with the status of the Territory as a British Overseas Territory, or its constitution.⁴⁰

Amending or rejecting proposed laws

Any law made by the Commissioner can be disallowed by the Crown through a UK Secretary of State. The UK also reserves law-making power for the Territory.⁴¹

4.5

British Virgin Islands

Has a [population of 30,000](#). Situated in the Caribbean.

Making law

The House of Assembly has primary law-making power.⁴²

However, the Governor can declare legislation that has failed to pass the Assembly to be law. They can do this on the grounds of it being considered an urgent necessity to comply with international obligations.

However, the Bill must be properly introduced under normal procedure rules first (meaning it had the support of at least one Assembly member).⁴³

³⁹ For the history of the Territory, see the Library briefing [Dispute over the British Indian Ocean Territory: February 2021 update](#). From 1968 to 1973 the Chagos Archipelago was cleared of its inhabitants in anticipation of a US military base. It was renamed the BIOT and became an OT.

⁴⁰ British Indian Ocean Territory (Constitution) Order 2004, Section 10. Accessed from BIOT Administration, [Laws-The Ordinances](#), accessed 14 June 2022

⁴¹ As above, Sections 11 and 15

⁴² [The Virgin Islands Constitution Order 2007](#), Chapter 5, Article 71

⁴³ As above, Article 81

Amending or rejecting proposed laws

The Governor must assent to bills before they become law. They can assent to it or reserve it for the signification of the Crown, on three grounds:

- Is judged inconsistent with the international obligations of the UK
- Prejudices the Royal Prerogative
- Inconsistent with the constitution.⁴⁴

Any law assented to by the Governor can be disallowed by a UK Secretary of State.⁴⁵

4.6

Cayman Islands

Has the [largest population of the OTs](#), at 66,000. Situated in the Western Caribbean.

Making law

Primary law-making power lies with the legislature.⁴⁶

However, the Governor may assent to laws that have not been introduced into the Legislative Assembly or those that are unlikely to pass. The Governor must consult with the Premier on this point. Bills must relate to the Governor's responsibilities (defence, foreign affairs, etc).⁴⁷

Amending or rejecting proposed laws

A bill cannot become law until the Governor has assented to it. The Governor can refuse assent, either on their own discretion or following an instruction from a UK Secretary of State. The grounds on which the Governor can refuse assent are it:

- a) Being inconsistent with the constitution
- b) Affecting the privileges, immunities and powers of the Legislative Assembly or its members
- c) Being inconsistent with the UK's international obligations
- d) Prejudicing the Royal Prerogative

⁴⁴ [The Virgin Islands Constitution Order 2007](#), Article 79

⁴⁵ As above, Article 80

⁴⁶ [The Cayman Islands Constitution Order 2009](#), section 77 (PDF)

⁴⁷ As above, Section 81

- e) Affecting the Governor's responsibilities
- f) Affecting the integrity of the public services or the court system.⁴⁸

The Governor can also return a bill to the Assembly with proposed amendments.⁴⁹

2020 amendments removed the ability of the Crown through a Secretary of State to disallow any laws assented to by the Governor.⁵⁰

While the UK Parliament and Privy Council can make laws for the Cayman Islands, any draft Act or Order in Council should be brought to the attention of the Cayman Islands Premier for their view on it. However, the UK does not have to consider their opinion.⁵¹

Legalising civil-partnerships in the Cayman Islands

In March 2019, the Chief Justice of the Cayman Islands ruled that same-sex couples had the right to marry in the Territory. The Cayman Islands Government challenged this judgment through the local court system.

In November 2019, the Court of Appeal ruled in favour of the legalization of same-sex civil unions (but not marriage) in the Territory and instructed its Government, or, if necessary, the UK, to amend the Territory's laws to reflect this.⁵²

However, the Cayman Parliament rejected proposed legislation in July 2020, against the orders of the court for the law to be changed.⁵³

In September 2020, the Governor used their reserve powers to approve the legislation without the support of the legislature. This was the first time this power had been invoked since 2000.⁵⁴

In March 2022, the UK Privy Council ruled that the Cayman Islands constitution does not provide the right for same-sex marriage, but equally that the Cayman Parliament could introduce legislation that recognises same-sex marriage.⁵⁵

A judicial review of the Governor's reserved law-making powers began in December 2021 on the Islands, with the initiator arguing that the Governor's

⁴⁸ [The Cayman Islands Constitution Order 2009](#), Section 78 (PDF)

⁴⁹ As above, Section 79

⁵⁰ [The Cayman Islands Constitution \(Amendment\) Order 2020](#), Article 12

⁵¹ As above, Section 126

⁵² Cayman News Service, [UK court denies same-sex marriage appeal](#), 14 March 2022

⁵³ Europa World, Cayman Islands: History

⁵⁴ Cayman Compass, [How the Governor can assent to the Domestic Partnership Bill](#), 11 August 2020; Europa World, Cayman Islands: The constitution

⁵⁵ Cayman Compass, [Privy Council: Cayman Constitution does not provide right for same-sex marriage](#), 14 March 2022

introduction of the civil partnership law was outside the scope of their powers. The Governor was found by a Cayman court to be acting within the scope of their powers in March 2022.⁵⁶

4.7

Falkland Islands

Has a [population of 3,000](#). Situated in the South Atlantic.

Making law

The Governor, with the advice and consent of the Legislative Assembly, may make laws for the good government and order of the Falklands.⁵⁷

The Assembly cannot proceed on legislation relating to money, tax, debts, and public salaries without permission of the Governor.⁵⁸

The Governor must give assent to bills to become law.⁵⁹

If the Governor considers it necessary, a Bill that has failed to pass the Assembly can be declared law, with any amendments they wish. The Governor must inform the Executive Council of their intention and cannot exercise their powers without prior instructions from a UK Secretary of State.⁶⁰

Amending or rejecting proposed laws

The Governor can refuse assent to a law or reserve it to the decision of a UK Secretary of State. If they judge a Bill to be inconsistent with the constitution, they must reserve its assent to a Secretary of State.⁶¹

Any laws to which the Governor has granted assent can be disallowed by the Crown.⁶²

4.8

Gibraltar

Has a [population of 34,000](#). Situated in the Western Mediterranean.

⁵⁶ Cayman Compass, [Grand court rules in favour of governor's use of reserved powers](#), 30 March 2022

⁵⁷ [Falkland Islands Constitution Order 2008](#), Schedule, Chapter IV, Section 37

⁵⁸ As above, Schedule, Chapter IV, Section 51

⁵⁹ As above, Schedule, Chapter IV, Section 52

⁶⁰ As above, Schedule, Chapter IV, Section 55

⁶¹ As above, Schedule, Chapter IV, Section 52

⁶² As above, Schedule, Chapter IV, Section 54

Making law

The Legislature can make laws for the peace, order and good government of Gibraltar, with the Governor's assent needed for Bills.⁶³

The Governor may, if they consider legislation necessary in any of the areas on which they are responsible (external affairs, police, internal security, defence) draft and give assent to a law. However, they must consult with the Chief Minister to establish the Government will not support its introduction or that the Parliament will not support it. The Governor must also seek the prior approval of a Secretary of State.⁶⁴

The Governor must also consent to legislation relating to money, taxes, debts and duties before the Parliament proceeds to consider it.⁶⁵

Amending or rejecting proposed laws

The Governor must assent to bills for them to become law, and can withhold assent or reserve it for a decision of a UK Secretary of State if the Governor judges it:

- To be inconsistent with the Constitution
- “Repugnant” to good government or incompatible with any international legal obligations

The exception is where the UK Government has told the Governor to assent.⁶⁶

The UK Government retains full power to make laws for the peace, order and good government of Gibraltar.⁶⁷

4.9

Montserrat

Montserrat has a population of [around 5,000](#). It is situated in the Caribbean.

Making law

Montserrat's Assembly has primary law-making power, but the Governor must assent to bills before they become law (which they can refuse).⁶⁸

⁶³ [Gibraltar Constitution Order 2006](#), Sections 32 and 33 (PDF)

⁶⁴ As above, Section 34

⁶⁵ As above, Section 35

⁶⁶ As above, Section 33

⁶⁷ As above, Annex 2, Section 8

⁶⁸ [The Montserrat Constitution Order 2010](#), Part IV, Sections 71 and 74

The Assembly cannot proceed on any Bill that relates to public revenue or public funds without the approval of the Cabinet.⁶⁹

Amending or rejecting proposed laws

The Governor may reserve or refuse assent to await instruction of a UK Secretary of State, if they deem the bill:

- To be inconsistent with the UK's international obligations
- To prejudice the Royal Prerogative or the efficiency of the judiciary
- To be inconsistent with the constitution.⁷⁰

Any law assented to by the Governor can be disallowed by the Crown through a UK Secretary of State.⁷¹

The Governor cannot unilaterally make law under Montserrat's constitution. However, the Crown reserves the right, with the advice of the Privy Council, to make laws for Montserrat.⁷²

4.10

Pitcairn Islands

As the Pitcairn Islands has a small population of around 50, the Administrator (the Governor's representative) retains substantial law-making power. It is situated in the Pacific. The UK High Commissioner to New Zealand serves as Governor of the Pitcairn Islands.

Making Law

Following consultation with the Island Council, the Governor may make laws ("Ordinances") for the peace, order and good government in Pitcairn.

The Governor does not have to act in accordance with the advice of the Council. Where they do not, the Council has the right to appeal to a UK Secretary of State. Equally, a UK Secretary of State may instruct the Governor to pass an ordinance without reference to the Island Council.⁷³

The Governor cannot make laws on certain issues without instructions from a UK Secretary of State. This includes laws which:

1. Allow grants of land or money to be made the Governor

⁶⁹ [The Montserrat Constitution Order 2010](#), Part IV, Section 70

⁷⁰ As above, Part IV, Section 74

⁷¹ As above, Part IV, Section 76

⁷² As above, Part X, Section 121

⁷³ [The Pitcairn Islands Constitution Order 2010](#), Schedule 2, Section 37

2. Affect the currency of Pitcairn
3. Appear inconsistent with the international obligations of the UK
4. May prejudice the Royal Prerogative or the rights of Crown subjects not in Pitcairn
5. Include provisions disallowed by the Crown (ie. UK Government).

In exceptional circumstances, the Governor can enact these laws if they deem the situation to be urgent. The only exception is (3).⁷⁴

Amending or rejecting proposed laws

Any law made by the Governor can be disallowed by a UK Secretary of State.⁷⁵

4.11

St Helena, Ascension and Tristan da Cunha

Has a [population of 6,000](#). Situated in the South Atlantic. The three areas form a single Overseas Territory, though have separate constitutional arrangements.

St Helena

Making law

The legislature makes laws for the peace, order and good government of the Territories.⁷⁶

Except on the recommendation of the Governor, the legislature cannot consider Bills which relate to money, taxation, charges, debts, or revenues.⁷⁷

A Bill must receive the assent of the Governor to become law, or the assent of the Crown through a UK Secretary of State.⁷⁸ The Governor may either assent to it, or reserve the Bill for the Crown. Unless authorised in advance by the Crown, the Governor must reserve for signification any Bill they judge to be inconsistent with the partnership values, be repugnant or inconsistent with

⁷⁴ [The Pitcairn Islands Constitution Order 2010](#), Schedule 2, Section 38

⁷⁵ As above, Schedule 2, Section 41

⁷⁶ [St Helena, Ascension and Tristan da Cunha Constitution Order 2009](#), Schedule, Chapter 1, Section 60

⁷⁷ As above, Schedule, Chapter 1, Section 73

⁷⁸ As above, Schedule, Chapter 1, Section 74

the constitution, or regulate the privileges, powers and immunities of the Legislative Council or its members.⁷⁹

The partnership values are detailed in the Constitution, and are: Good faith, the rule of law, good government, sound financial management, impartial administration of justice, public order, complying with international obligations, and maintaining international peace and security.⁸⁰

Amending or rejecting proposed laws

Any law assented to by the Governor can be disallowed by the Crown.⁸¹

The constitution does not provide for the Governor to make law unilaterally.

Ascension

Making law

The Governor, acting after consultation with the Island Council, may make laws for the peace, order and good government of Ascension. They do not have to act in accordance with the Council's views. If they do, any Member of the Council may make representations to a UK Secretary of State.⁸²

Amending or rejecting proposed laws

Any law made by the Governor can be disallowed by a UK Secretary of State.⁸³

Tristan da Cunha

Making law

The Governor, acting after consultation with the Island Council, may make laws for the peace, order and good government of Tristan da Cunha. The Governor does not need to act in accordance with the advice of the Council. If they do, any Member of the Council may make representations to a UK Secretary of State.⁸⁴

⁷⁹ [St Helena, Ascension and Tristan da Cunha Constitution Order 2009](#), Schedule, Chapter 1, Section 74

⁸⁰ As above, Schedule, Chapter 1, Section 2

⁸¹ As above, Schedule, Chapter 1, Section 75

⁸² As above, Schedule, Chapter 2, Section 151

⁸³ As above, Schedule, Chapter 2, Section 152

⁸⁴ As above, Schedule, Chapter 3, Section 216

Amending or rejecting proposed laws

Any law made by the Governor can be disallowed by the Crown through a UK Secretary of State.⁸⁵

4.12

South Georgia & The South Sandwich Islands

The Territory has no permanent British population.

Making law

The UK-appointed Commissioner makes laws in the form of ordinances for the peace, order and good government of the Territories.⁸⁶

There are ten areas the Commissioner may not make laws without permission from a UK Secretary of State:

1. Divorce of married persons
2. Grant of land or money to the Governor
3. Currency
4. Banking
5. Differential duties
6. Laws potentially inconsistent with the UK's international treaty obligations
7. Military
8. The Royal Prerogative or impacting the rights of Crown subjects elsewhere
9. Unequal treatment of any religious or community group
10. Any issue previously disallowed by the UK.⁸⁷

Amending or rejecting proposed laws

Any law made by the Commissioner can be disallowed by the Crown through a Secretary of State. The UK reserves full law-making power for the Territory.⁸⁸

⁸⁵ [St Helena, Ascension and Tristan da Cunha Constitution Order 2009](#), Schedule, Chapter 3, Section 217

⁸⁶ [The South Georgia and South Sandwich Islands Order 1985](#), Section 9 (PDF)

⁸⁷ As above, Section 9(2) (PDF) [Annex to the Order]

⁸⁸ As above, Section 15

4.13 Sovereign Base Areas of Akrotiri and Dhekelia

The Sovereign Base Areas in Cyprus have no permanent British population. However, they have a resident population of 12,000 Cypriots and 4,000 UK personnel.⁸⁹

Making law

The Administrator, who must be a serving officer in the military, can make laws for the peace, order and good government of the Sovereign Base Areas.

This includes powers for the purpose of giving effect to arrangements with authorities in the Republic of Cyprus to allow them to exercise functions in, or in relation to, the Sovereign Base Areas.⁹⁰

However, their powers are limited by the Declaration the UK made when the Republic of Cyprus was created. The same laws should be in place between the Sovereign Base Areas and Cyprus “as far as possible.”⁹¹

Amending or rejecting proposed laws

Any law made by the Administrator may be disallowed by a UK Secretary of State.⁹²

4.14 Turks and Caicos Islands

Has a population of 39,000. Situated in the Western Caribbean.

Making law

The legislature has the primary responsibility of making laws for the peace, order and good governance of the Territory.⁹³ However, it cannot proceed on bills for taxation, duties, revenues and debts without the permission of the Governor.⁹⁴

The Governor must assent to any Bill for it to become law.⁹⁵

The Governor can enact laws if the Cabinet or Assembly are judged unlikely to introduce them. They must consult the Premier to determine whether the

⁸⁹ Gov.UK, [Overseas bases in focus: Cyprus](#), 9 February 2021

⁹⁰ [Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960](#), Section 4 (PDF)

⁹¹ Sovereign Base Areas Administration, [Declarations by HM Government](#), 1960 (PDF)

⁹² [Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960](#), Section 4 (PDF)

⁹³ [Turks and Caicos Islands Constitution Order 2011](#), Schedule 2, Part IV, Section 62

⁹⁴ As above, Schedule 2, Part IV, Section 71

⁹⁵ As above, Schedule 2, Part IV, Section 73

Cabinet would support the introduction of a Bill and whether it would likely to pass the Assembly. The Governor must also seek the approval of a UK Secretary of State. The Governor can justify this decision on four grounds:

- For the purpose of meeting an international obligation
- To ensure compliance with the Statement of Governance principles
- To secure sufficient funds have been appropriated for the operation of House of Assembly committees, the courts, the Attorney General and each institution protecting good governance
- To give effect, potentially with modifications, to recommendations contained in a report of an electoral district boundary commission.⁹⁶

The statement of governance principles was adopted in June 2012. These state all parts of the Turks and Caicos Government must adhere to 18 principles. These include:

- Protecting the environment
- Adhering the rule of law
- Ensuring public appointments occur on the basis of merit,
- The management of public finances in adherence to value for money, affordability and propriety.⁹⁷

Amending or rejecting proposed laws

The Governor can declare they will not assent to a law, either on the basis of their own judgement or following an instruction from a UK Secretary of State. They can reserve assent on six grounds if the law is judged:

- Inconsistent with the constitution
- Inconsistent with the statement of governance principles
- Inconsistent with any international obligation
- Affecting any matter reserved to the Governor
- Affecting the integrity or independence of public services, justice or institutions protecting governance
- Regulating the immunities, privileges and powers of the House of Assembly or its members

⁹⁶ [Turks and Caicos Islands Constitution Order 2011](#), Schedule 2, Part IV, Section 72

⁹⁷ Governor's Office Waterloo Grand Turk, [Statement of governance principles issued to TCI Government](#), 8 May 2013

However, a UK Secretary of State can instruct the Governor to ignore the above.⁹⁸

The Governor can also return a Bill to the House of Assembly with amendments for their consideration.⁹⁹

The UK reserves the right to make laws for peace, order and good government in the Turks and Caicos Islands.¹⁰⁰

⁹⁸ [Turks and Caicos Islands Constitution Order 2011](#), Schedule 2, Part IV, Section 73

⁹⁹ As above, Schedule 2, Part IV, Section 74

¹⁰⁰ As above, Section 14

5 Exercising reserved powers

Most Governors retain power over certain issues, such as defence and external affairs. Some also retain power over international financial services. This section summarises how they exercise these power.

Not all Territories are included here as some have few limits on the exercise of their reserved powers due to having low or no populations.

5.1 Anguilla

The Governor retains powers over defence, external affairs, internal security (including the police) and the appointment of people to public office. The UK says offshore finance is within the Governor's responsibility.¹⁰¹

The Governor is not obliged to consult the Executive Council on any of these issues or follow its advice, with the exception of:

- Keeping them informed when they involve the economic or financial interests of Anguilla (aside from public appointments).
- Consulting with the Premier on internal security, including the police.¹⁰²

In exceptional circumstances, the Governor can act without advice if they judge the matter urgent to public order or to the public interest.¹⁰³

Debate over the issuing of visas

In 2011 the Governor used their powers to act without consent from the legislature to respond to security concerns over the issuing of visas. This drew criticism from the then-Chief Minister (since retitled Premier).

The Governor instructed the then-Minister for Home Affairs, Walcott Richardson, to stop issuing visa waivers. The Governor said that visa waivers were being issued to persons not permitted under Anguillan legislation.¹⁰⁴ Richardson resigned as Minister of Home Affairs in 2013.¹⁰⁵

¹⁰¹ Governor's Office The Valley, [Governor's office](#), accessed 21 June 2022

¹⁰² [The Anguillan Constitution Order 1982](#), Chapter III, Section 28

¹⁰³ As above, Chapter III, Section 29

¹⁰⁴ The Gleaner, [Governor bans minister from issuing visa waivers](#), 13 April 2011

¹⁰⁵ Europa World Plus, Anguilla: History

5.2

Bermuda

The Governor retains responsibility for external affairs, defence, including the armed forces, internal security, and the police.¹⁰⁶

The Governor can act with their discretion on these issues and may, with permission of a Secretary of State, delegate these duties to a Minister.¹⁰⁷

The Governor is not required to consult with the Cabinet on these functions.¹⁰⁸

Debate over establishing an investigatory commission

In 2014, Bermuda's Progressive Labour Party (PLP) criticised the decision of the Governor to refuse to create a commission of inquiry into irregular land purchases dating from the mid-twentieth century. The opposition leader said "democracy has been robbed" from the country and announced a boycott of parliamentary business.¹⁰⁹

At that time, only the Governor had the power to establish inquiries and arrange their funding. The PLP sponsored a successful motion in the Assembly in support of such a commission and demanded the Governor's recall and dissolution of the Assembly.

Both the Governor and the UK Government opposed the demand. The Governor said the decision of the Assembly carried "considerable weight" but argued there was insufficient evidence that the purchases required investigation.¹¹⁰

Legislation was later adopted in 2014 to allow the Premier to establish commissions without approval from the Governor.¹¹¹

5.3

British Virgin Islands

The Governor retains powers over defence, external affairs, internal security, court administration and the terms and conditions of persons holding public office.

¹⁰⁶ [Bermuda Constitution Order 1968](#), Schedule 2, Section 62 (PDF)

¹⁰⁷ As above, Schedule 2, Section 62

¹⁰⁸ As above, Schedule 2, Section 21

¹⁰⁹ Bernews, [Video-PLP call for governor to be recalled](#), 11 July 2014

¹¹⁰ Bernews, [Governor: Concerns "not clear, urgent enough."](#) 10 July 2014

¹¹¹ Europa World Plus, Bermuda

The Governor is responsible for the conduct of the Government on any of these issues. They must keep the Premier “fully informed” on the general conduct of these issues, and the Premier has the right for information on any issue.

The Governor, following consultation with the Premier, may assign to a Cabinet member responsibility for the conduct of any related legislative business in the House of Assembly on the Governor’s behalf.

There are some exceptions to this. The Governor shall delegate to the Premier or a Minister responsibility for certain organisations and duties, including:

- a) the Caribbean Community, the Organisation of Eastern Caribbean States, the Association of Caribbean States, the United Nations Economic Commission for Latin America and the Caribbean, or any other Caribbean regional organisation or institution;
- b) other Caribbean regional affairs relating specifically to issues that are of interest to or affect the Virgin Islands;
- c) the relationship between the Virgin Islands and the United States Virgin Islands in matters of mutual interest;
- d) tourism and tourism-related matters;
- e) taxation and the regulation of finance and financial services; and
- f) European Union matters directly affecting the interests of the Virgin Islands.

However, the BVI Government cannot agree to commence a treaty, make political declarations on foreign affairs without the permission of a Secretary of State, and foreign governments cannot be invited without permission of the Governor.¹¹²

When issuing a pardon, the Governor must consult with an advisory council. However, the Governor does not have to follow the council’s judgement.¹¹³

Recommendation to impose direct rule in the BVI

In April 2022, the findings of a Commission of Inquiry into alleged corruption and mismanagement in the British Virgin Islands (BVI) was published by the Territory’s Governor, John Rankin.

The Commission [said that](#) “almost everywhere” in BVI government the principles of openness, transparency and the rule of law were “ignored.”

¹¹² [The Virgin Islands Constitution Order 2007](#), Chapter 4, Article 60

¹¹³ As above, Chapter 3 Section 43

Among the [Commission's recommendations](#) were for UK direct rule to be imposed for at least two years, with the BVI's local assembly and ministerial government being suspended. The UK-appointed Governor, potentially with a local advisory council, would instead oversee reform.

In June, the UK Government has said it [will not impose direct rule at this time](#). It has instead accepted a proposal of the British Virgin Islands Government for the locally-elected Government to introduce the recommended reforms. The UK retains the right to intervene if it judges sufficient progress is not being made.

The Commons Library briefing [Will the UK impose direct rule in the BVI?](#), May 2022, provides more on UK-BVI relations.

5.4

Cayman Islands

The Governor retains power over defence, external affairs, internal security, and public appointments.

The Governor, following consultation with the Premier, may assign to a Cabinet member responsibility for the conduct of any related legislative business in the Parliament on the Governor's behalf.¹¹⁴

The Governor should consult the Cabinet, except on public appointments, but can act against their advice. The Governor can choose not to consult on the basis of urgency, the matter being too "trivial," or being not in the public interest to do so.¹¹⁵

The Governor has power over appointments in the Police force.¹¹⁶

There are some exceptions to this. The Governor shall delegate to the Premier or a Minister responsibility for certain organisations and duties, including:

- a) the Caribbean Community, the Association of Caribbean States, the United Nations Economic Commission for Latin America and the Caribbean, or any other Caribbean regional organisation or institution;
- b) other Caribbean regional affairs relating specifically to issues that are of interest to or affect the Cayman Islands;
- c) tourism and tourism-related matters;

¹¹⁴ [The Cayman Islands Constitution Order 2009](#), Section 55 (PDF)

¹¹⁵ [The Cayman Islands Constitution \(Amendment\) Order 2020](#), Section 4 (PDF)

¹¹⁶ As above, Section 58B

- d) taxation and the regulation of finance and financial services; and
- e) European Union matters directly affecting the Cayman Islands

However, the Cayman Islands Government cannot agree to commence a treaty, make political declarations on foreign affairs without the permission of a Secretary of State, and foreign governments cannot be invited without permission of the Governor.¹¹⁷

When considering pardons, the Governor should consult an advisory committee, but they do not have to follow their advice.¹¹⁸

5.5 Falklands

The Governor retains responsibility over external affairs, defence, internal security (like the police), administration of justice, auditing, and appointment to the public service.¹¹⁹

The Governor should consult the Executive Council on these issues but can act against their advice. They should report to a UK Secretary of State any reasons for the disagreement.¹²⁰

The Governor must consult with the Commander British Forces relating to any defence or internal security issue (except the police) and must act in accordance with their advice.¹²¹

The Governor is not obliged to consult with the Council if they are acting under instructions from the UK Government, acting on a matter in which they are required to gain the instructions of the Commander British Forces, or if they judge it too unimportant, urgent, or the Crown would consider such consultation to be of material prejudice.¹²²

5.6 Gibraltar

The Governor retains responsibility over external affairs, defence, internal security (including the police) and aspects of public appointments.

¹¹⁷ [The Cayman Islands Constitution Order 2009](#), Schedule 2, Section 55 (PDF)

¹¹⁸ As above, Schedule 2, Section 39 (PDF)

¹¹⁹ [Falkland Islands Constitution Order 2008](#), Schedule, Chapter V, Section 67

¹²⁰ As above, Schedule, Chapter V, Section 66

¹²¹ As above, Schedule, Chapter II, Section 25

¹²² As above, Schedule, Chapter II, Section 66

The Governor shall, “as far as practically possible” consult with the Chief Minister on issues of external affairs,¹²³ and keep them “fully informed” with all the above issues.¹²⁴

The Governor should act with the advice of the Council of Ministers, except when:

- The Governor is exercising power in any of these areas under instruction from the UK
- They are exercising powers conferred upon them by the constitution.¹²⁵

5.7 Montserrat

The Governor retains power over defence, external affairs, international financial services, and internal security.

The Governor is responsible for the conduct of the Government on any of these topics. They must keep the Premier “fully informed” on the general conduct of these issues, and the Premier has the right for information on them.

The Governor, following consultation with the Premier, may assign to a Cabinet member responsibility for the conduct of any related legislative business in the Legislative Assembly on the Governor’s behalf.

The Governor may give directions for the exercise of these functions. They may consult the Cabinet but can decide not to if the Governor considers it not to be in the public interest to do so, that the issues are “too trivial,” or are too urgent. The Governor may act against their advice.¹²⁶

5.8 South Georgia & The South Sandwich Islands

The Commissioner has wide-ranging authority. The Commissioner must consult with others on the issue of defence/security and the Falkland Islands:

- The Commissioner must consult with the Officer Commanding HM Forces in the South Atlantic before exercising any function that relates to defence or internal security (except for the police). They must act in accordance with this advice if the Commander deems it necessary.

¹²³ [Gibraltar Constitution Order 2006](#), Section 47 (PDF)

¹²⁴ As above, Section 49

¹²⁵ As above, Section 50

¹²⁶ [Montserrat Constitution Order 2010](#), Part III, Section 39

- The Commissioner should also consult the Falkland Islands Executive if any matters may affect the Falkland Islands.¹²⁷

5.9 Sovereign Base Areas of Akrotiri and Dhekelia

The Administrator of the Sovereign Base Areas is also Commander of British Forces (Cyprus).

While issues of defence, financial services and other issues are not explicitly mentioned in the Constitution as reserved to the Governor, they in effect exercise executive and legislative authority.¹²⁸

Their roles are limited by the Declaration the UK made when the Republic of Cyprus was created. This includes not to develop the Sovereign Base Areas for anything other than military purposes, implementing the same tax rates as the Republic of Cyprus, and the same laws being in place “as far as possible.”¹²⁹

5.10 St Helena, Ascension and Trista Da Cunha

St Helena

The Governor holds responsibility for defence, external affairs, internal security, including the police, the appointment of public officials, the administration of justice, finance, and shipping.¹³⁰

The Governor may assign to any member of the Executive Council responsibilities for these issues.¹³¹

The Governor should seek the advice of the Council, except when they are acting under instruction from a UK Secretary of State or making public appointments. The Governor is not obliged to act in line with advice given by the council on any of these issues.¹³²

¹²⁷ [The South Georgia and South Sandwich Islands Order 1985](#), Section 5 (PDF)

¹²⁸ Sovereign Base Areas Administration, [The Administration](#), accessed 14 June 2022

¹²⁹ Sovereign Base Areas Administration, [Declarations by HM Government](#), 1960 (PDF)

¹³⁰ [The St Helena, Ascension and Tristan da Cunha Constitution Order 2009](#), Schedule, Chapter 1, Section 44

¹³¹ As above, Schedule, Chapter 1, Section 44

¹³² As above, Schedule, Chapter 1, Section 43

The Governor may issue pardons, following the advice of an advisory committee on the prerogative of mercy.¹³³

Ascension

The Governor holds responsibility for public appointments, pardons and disposal of crown land. They must seek to consult with independent persons or other persons detailed by law before making appointments.¹³⁴

Tristan da Cunha

The Governor holds responsibility for public appointments, pardons and disposal of crown land. They must seek to consult with independent persons or other persons detailed in by law before making appointments.¹³⁵

5.11

Turks and Caicos Islands

The Governor has power over defence, external affairs, international financial services regulation, internal security, and appointment of individuals to public office.

The Governor may assign a member of the cabinet responsibility for the conduct on behalf of the Governor of any business in the House of Assembly on these issues.

The Governor can give directions for the exercise of these functions. Before exercising any of these functions, the Governor should consult the Cabinet. There are some exceptions, such as when the Governor deems this not to be in the public interest, “unimportant,” or too urgent.¹³⁶

The Governor can only issue pardons after consultation with the Mercy Committee (Governor, Attorney General, and four other members), and consult with the Premier and Leader of the Opposition.¹³⁷

Partial suspension of constitution

In 2009, a Governor-appointed Commission of Inquiry concluded there was a [“high probability” of “systematic” corruption](#) on the Islands. This included the misuse of public funds by its local government.¹³⁸

The UK Government accepted the Commission’s recommendation to [suspend part of its constitution for two years](#). This involved removing the local cabinet

and elected legislature and providing the UK-appointed Governor with additional powers over public finances and services.¹³⁹

Elections for a new Assembly restoring local government were held in 2012.¹⁴⁰

The new constitution, agreed in 2011, still provides for additional powers for the Governor to [regulate international financial services and public officials](#).¹⁴¹

The Island's Constitution is seen as containing more reserved powers for the Governor than other OTs, allowing them to act without the consent of the legislature more widely.¹⁴²

In 2018, proposed constitutional reforms were made to the UK Government. These broadly would increase the power of Island officials and decrease the ability of the UK to intervene.

These were rejected by the UK Government on the grounds they may lead to a deterioration in the Islands' governance standards. Further negotiations were planned in 2021 following the formation of a Constitutional Review Committee on the Islands.¹⁴³

¹³³ [The St Helena, Ascension and Tristan da Cunha Constitution Order 2009](#), Schedule, Chapter 1, Section 30

¹³⁴ As above, Schedule, Chapter 2, Section 163

¹³⁵ As above, Schedule, Chapter 3, Section 226

¹³⁶ [Turks and Caicos Islands Constitution Order 2011](#), Schedule 2, Part III, Section 37

¹³⁷ As above, Schedule 2, Part X, Section 127

¹³⁸ Foreign Affairs Committee, [Turks and Caicos Islands](#), 24 March 2010, HC 469, 2009-10, para 6

¹³⁹ HC Deb, [Turks and Caicos Islands: Governance](#), 16 March 2009, cc39WS-40WS

¹⁴⁰ HC Deb, [Turks and Caicos Islands](#), 11 December 2012, c28WS

¹⁴¹ [Turks and Caicos Islands Constitution Order 2011, SI 2011/1681](#), Schedule 2, Paragraph 37

¹⁴² I. Hendry and S. Dickson, [British OT law](#) (PDF), 2018, p33

¹⁴³ Europa World, [Turks and Caicos: History](#), accessed 29 March 2022

Appendix 1: Territory constitutions

Anguilla

Under the [Anguilla Constitution Order 1982](#), amended in [2019](#) and [2020](#), the Governor may:

- Issue pardons: Section 76
- Grant land and property owned by the Crown: Section 75
- Create offices and make appointments: Section 77
- Preside over the Executive Council: Section 33
- Formulate policy on defence, external affairs, internal security, including the police, and appointments to public office: Chapter III Section 28

The Governor says these responsibilities include [international finance services](#).

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Governor may declare a state of emergency.

Bermuda

Under the [Bermuda Constitution Order 1968](#), the Governor can:

- Declare a state of emergency: Schedule 2, Section 14
- Issue pardons: Schedule 2, Section 22
- Grant land and property owned by the Crown: Schedule 2, Section 24
- Formulate policy on external affairs, defence, including armed forces, internal security, and police: Schedule 2, Section 62

The Premier summons and chairs the cabinet (Schedule 2, Sections 65-67).

British Antarctic Territory

Under the [British Antarctic Territory Order 1989](#), the Commissioner may

- Issue pardons: Section 12
- Grant land and property owned by the Crown: Section 16

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Commissioner may declare a state of emergency.

British Indian Ocean Territory

Under the British Indian Ocean Territory (Constitution) Order 2004, the Commissioner may:¹⁴⁴

- Issue pardons: Section 12
- Grant land and property owned by the Crown: Section 14

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Commissioner may declare a state of emergency.

British Virgin Islands

Under the [Virgin Islands Constitution 2007](#), the Governor may:

- Declare a state of emergency: Chapter 2, Article 27
- Issue pardons: Chapter 3, Article 43
- Grant land and property owned by the Crown: Chapter 3, Article 41
- Preside over the Cabinet: Chapter 4, Section 49
- Formulate policy on external affairs, defence, internal security, terms and conditions of those holding public offices, and administration of the courts: Chapter 4, Article 60

Cayman Islands

Under the [Cayman Islands Constitution 2009, as amended](#), the Governor may:

- Declare a state of emergency: Section 21
- Issue pardons: Section 39
- Grant land and property owned by the Crown: Section 38
- Preside over the Cabinet: Section 46
- Formulate policy on defence, external affairs, internal security like the police, appointment of public office-holders: Section 55

¹⁴⁴ Accessed from BIOT Administration, [Laws-The Ordinances](#), accessed 14 June 2022

Falkland Islands

Under the [Falkland Islands Constitution Order 2008](#), the Governor can:

- Issue pardons: Schedule, Chapter V, Paragraph 71
- Grant land and property owned by the Crown: Schedule, Chapter V, Paragraph 73
- Preside over the Executive Council: Schedule, Chapter V, Paragraph 63
- Formulate policy on defence, external affairs, internal security like police, appointment of public office-holders, administration of justice, auditing: Schedule, Chapter V, Paragraph 67

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Governor may declare a state of emergency.

Gibraltar

Under the [Gibraltar Constitution Order 2006](#), the Governor may:

- Issue pardons: Section 76 (with advice from the Chief Minister)
- Grant land and property owned by the Crown: Section 75 (with advice from Chief Minister and, if Ministry of Defence land, with the UK Government and Chief Minister)
- Formulate policy on external affairs, defence, internal security, including the police, and appointment to public offices: Section 47

Under the Governor's [Emergency Powers Act 2017](#) (PDF), the Governor can proclaim a public emergency.

The Premier has the power to summon the Council of Ministers (Section 51).

Montserrat

Under the [Montserrat Constitution Order 2010](#), the Governor may:

- Declare a state of emergency: Part I, Section 18
- Issue pardons: Part II, Section 29
- Grant land and property owned by the Crown: Part II, Section 27
- Preside over the Cabinet: Part II, Section 42
- Formulate policy on defence, external affairs, international financial services, internal security, including the police: Part II, Section 39

Pitcairn Islands

Under the [Pitcairn Constitution Order 2010](#), the Administrator may:

- Issue pardons: Schedule 2, Section 29
- Grant land and property owned by the Crown: Schedule 2, Section 30

The Governor (through their Administrator) retains executive power and law-making power. Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Governor may declare a state of emergency.

The constitution does not detail who presides over the Island Council, though local policy suggests the elected mayor performs this role.¹⁴⁵

St Helena, Ascension and Tristan da Cunha

While they form one Territory, these three areas have their own constitutions.

The [Constitution Order came into force in 2009](#), but was amended in 2021 in order to allow the introduction of a ministerial system of government.

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Governor may declare a state of emergency.

St Helena

The Governor may:

- Issue pardons: Schedule, Chapter 1, Section 29
- Grant land and property owned by the Crown: Schedule, Chapter 1, Section 31
- Preside over the Executive Council: Schedule, Chapter 1, Section 41
- Formulate policy on defence, external affairs, internal security, including police, public appointments, administration of justice, finance, shipping: Schedule, Chapter 1, Section 44

Ascension

- Pardons: Schedule, Chapter 2, Section 144
- Grant land and property owned by the Crown: Schedule, Chapter 2, Section 145
- Responsibilities (undefined, but include general executive authority, public appointments and auditing): Schedule, Chapter 2

¹⁴⁵ [Island Council guiding principles, order & conduct](#) (PDF), December 2021

The constitution does not detail the chair of the Island Council. Council minutes suggest this is performed by the Administrator.¹⁴⁶

Tristan da Cunha

- Pardons: Schedule, Chapter 3, Section 209
- Grant land and property owned by the Crown: Schedule, Chapter 3, Section 210
- Responsibilities (undefined, but include general executive authority, public appointments and auditing): Schedule, Chapter 3

The constitution does not detail the chair of the Island Council. The Administrator serves as President according to the Council's website.¹⁴⁷

South Georgia & The South Sandwich Islands

Under the [South Georgia and South Sandwich Islands Order 1985](#), the Commissioner may:

- Issue pardons: Section 11
- Grant land and property owned by the Crown: Section 14

Like other uninhabited Territories, the Governor retains substantial law-making power and responsibilities. Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Governor may declare a state of emergency.

Sovereign Base Areas of Akrotiri and Dhekelia

Under Section 6 of the [Sovereign Base Areas of Akrotiri and Dhekelia Order 1960 \(PDF\)](#), the Administrator may grant pardons.

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Administrator may declare a state of emergency.

Turks and Caicos Islands

Under the [Turks and Caicos Islands Constitution Order 2011](#), the Governor may:

- Issue pardons: Schedule 2, Part X, Paragraph 127
- Grant land and property owned by the Crown: Schedule 2, Part VIII, Paragraph 108

¹⁴⁶ Ascension Island Government, [Ascension Island Council: Council minutes](#), accessed June 2022

¹⁴⁷ Tristan da Cunha, [21st century Island Council](#), accessed June 2022

- Preside at Cabinet meetings: Schedule 2, Part III, Paragraph 39
- Form policy on defence, external affairs, international financial services, and internal security (including police): Schedule 2, Part III, Paragraph 37

Under the [Emergency Powers \(Overseas Territories\) Order 2017](#), the Governor may declare a state of emergency.

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