FALKLAND ISLANDS STATUS

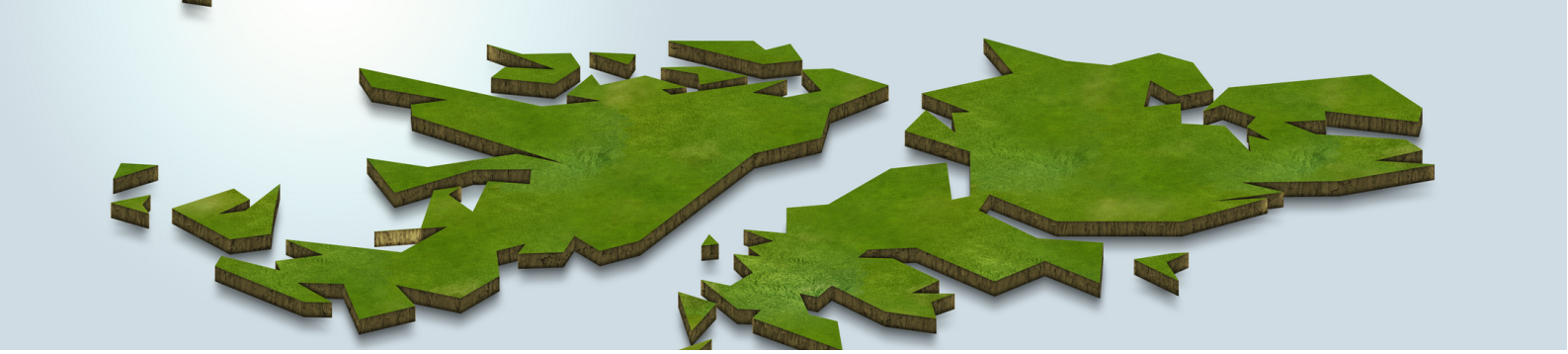
Understanding your Constitution and your Rights

Falkland Islands Constitutional Review 2023

Encouraging Participation

The Constitution is a UK law which applies to the Falkland Islands and provides the main framework for our laws, system of Government etc

Issued by Law & Regulation Directorate for Gilbert House



What is Falkland Islands Status?

- The Constitution applies to everybody. However, the Constitution gives some specific rights only to people who "belong to the Falkland Islands".
- A person who belongs to the Falkland Islands is described in the Constitution as having "Falkland Islands status".
- Section 22(5) of the Constitution sets out who has Falkland Islands status

There are a number of different ways that you can have, or acquire, Falkland Islands status under the Constitution, which are summarised below

Who has Falkland Islands Status?

1. You have Falkland Islands status if you were born outside the Falkland Islands **and** :
you are a citizen (now) **and** when you were born;
your mother or father had Falkland Islands status (**and** *was* born in the Falkland Islands) section 22(5)(e)

2. You have Falkland Islands status, regardless of where you were born, if:

(a) when *you* were born:
(i) *you* were a citizen*; **and**
(ii) *your mother or father* was permanently resident in the Falkland Islands section *22(5)(b) & (c)* or

(b) you are a citizen* (now) **and** when you were born:
your mother or father had Falkland Island status (**and** was permanently resident in the Falkland Islands) section 22(5)(d) or

(c) you have been granted Falkland Islands status under the Falkland Island Status Ordinance 1998 (and has not been revoked) *section 22(5(f)* or

(d) you had Falkland Islands status on 31 December 2008 under certain provisions of the former Constitution section 22(5)(a)

Can a person lose their Falkland Island Status?

Most people who have Falkland Islands status cannot lose or be deprived of it – unless the Constitution were to change in that respect.

However, there are four groups of people who can lose or be deprived of Falkland Islands status:

1. A person who acquired Falkland Islands status on 1 January 2009 by virtue of being spouse, widow or widower of someone with Falkland Islands status will lose that status if:

- the person has status by virtue of being a spouse – and they live apart from their wife or husband and become divorced or legally separated
- the person has status by virtue of being a widow or widower, and they remarry

2. A person who had previously held Falkland Islands status by virtue of being a citizen*, but who no longer holds that citizenship, will have lost that status.

3. A person whose Falkland Islands status was dependent on them being domiciled in the Falkland Islands, but who was no longer domiciled in the Falkland Islands on 31 December 2008, will have lost that status (domicile is about your permanent home).

4. If your Falkland Islands status was granted under the Falkland Island Status Ordinance 1998 it can be revoked under section 5 of the Ordinance if:

- you committed an offence in applying for Falkland Islands status (for example you lied on the application form);
- you have been imprisoned for a period of 12 months or longer since you were granted Falkland Islands status;
- you have been absent from the Falkland Islands for at least wo years and you appear to be no longer ordinarily resident in the Falkland Islands (subject to some exceptions, such as absence to receive medical treatment); or
- you are no longer a British citizen, British Overseas Territories citizen or British Overseas citizen

**'Citizen' generally means a British citizen or a British Overseas Territories citizen or British Overseas citizen (see s22(8))*

What rights relate to Falkland Islands status?

If you have Falkland Islands status, the Constitution:

- allows you to vote in the election of a member of the Legislative Assembly and to stand for election (but only if you meet certain other criteria) section 32;
- limits the restrictions that can be placed on your freedom of movement section 8; and
- allows laws to be made in some circumstances which may treat you more favourably than a person who does not have Falkland Islands status (for example, in connection with employment) section 16

Questions to Consider

Who do you think should have Falkland Islands status automatically under the Constitution?

Should the Constitution set out any requirements for a person to be granted Falkland Islands status, OR should those requirements be decided under a law made by the Legislative Assembly?

Please submit your views on the Constitutional review to the Select Committee by:

contacting any one of your MLAs by calling Gilbert House on 27451;
emailing constitutionalreview@sec.gov.fk;
sending you views by post to Gilbert House, Stanley; or
using the box provided in the Post Office in Stanley

You can ask to make an oral submission at the meeting of 11 August 2023 by e-mailing constitutionalreview@sec.gov.fk or by calling Gilbert House on 27451.

Your written submission should be received by **28 July 2023**
Your request to make an oral submission should be received by **4 August 2023**

For additional information please visit
www.falklands.gov.fk/assembly/the-constitution/select-committee