EXPLANATORY MEMORANDUM TO

THE CHILD ABDUCTION AND CUSTODY (FALKLAND ISLANDS) (AMENDMENT) ORDER 2005

2005 No.244

1. This Explanatory Memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument removes the liability of Parliament to meet expenses incurred by the Falkland Islands by virtue of the Child Abduction and Custody (Falkland Islands) Order 1996 (S.I. 1996/3156) ("the 1996 Order").

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Joint Committee reported the 1996 Order to Parliament for defective drafting in 1997, drawing attention to the improper inclusion of the charging provision in section 26 of the Schedule. The Foreign and Commonwealth Office undertook to revoke section 26 at a suitable opportunity. (JCSI Thirteenth Report, Session 1996-97, paragraph 6 and Appendix V). No other suitable opportunity having arisen, the matter was reviewed with the Falkland Islands Government. The present instrument removes section 26 from the Schedule to the 1996 Order.

4. Legislative Background

4.1 The 1996 Order extends, with modifications, to the Falkland Islands provisions of the Child Abduction and Custody Act 1985 (c. 60), pursuant to section 28 of that Act. The 1985 Act gave effect in United Kingdom law to two international agreements, namely the Convention on the Civil Aspects of International Child Abduction, signed at The Hague on 25th October 1980, and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children, signed at Luxembourg on 20th May 1980. The 1996 Order therefore gave effect to those agreements in Falkland Islands law as well.

4.2 Section 26 of the Schedule to the 1996 Order provides that there shall be paid out of money provided by Parliament any expenses incurred by the Governor of the Falkland Islands by virtue of the Order, and any increase attributable to the Order in the sums so payable under any other Act or Order.

5. Extent

5.1 This instrument applies to the Falkland Islands.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 The Falkland Islands Government have confirmed that local legislation of the Islands charges

the expenses in question to the public funds of the Islands, and that no such expenses have so far been incurred. The present instrument tidies up the 1996 Order by removing Parliament's liability for these expenses, without that liability ever having in fact arisen.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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