EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (CANADA) ORDER 2015

2015 No. [XXXX]

1. This explanatory memorandum has been prepared by HM Revenue & Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

The Order brings into effect arrangements set out in an Exchange of Notes ("the Arrangements") made by the Governments of the United Kingdom and Canada. The Arrangements add extra rules to the provisions on arbitration that were inserted into the Double Taxation Convention by the 2014 protocol (The Double Taxation Relief and International Tax Enforcement (Canada) Order 2014) and further amend the existing arrangements (the "1980 Arrangements") between the two Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains. The 1980 Arrangements are set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Canada) Order 1980, which were previously amended by the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Canada) (No. 2) Order 1980, the Double Taxation Relief (Taxes on Income) (Canada) Order 1985, the Double Taxation Relief (Taxes on Income) (Canada) Order 2003 and the Double Taxation Relief and International Tax Enforcement (Canada) Order 2014. The 1980 Arrangements are governed by the Double Taxation Relief (Taxes on Income) (Canadian Dividends and Interest) Regulations 1980, as amended by the Double Taxation Relief (Taxes on Income) (Canadian Dividends and Interest) (Amendment) Regulations 1987, and the Double Taxation Relief (Taxes on Income) (Canadian Dividends and Interest) (Amendment) Regulations 1996.

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

None.

4. Legislative context

4.1 This Order is being made to give effect in UK legislation to the Arrangements which amend the 1980 Arrangements. The Arrangements are scheduled to the Order, and are thus given domestic legislative effect.

4.2 This Order does not implement EU legislation.

5. Territorial extent and application

This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights:

"In my view the provisions of this draft Order are compatible with the Convention rights".

7. Policy background

- ***What is being done and why***

7.1 The Arrangements add extra rules to the provisions on arbitration that were inserted into the Double Taxation Convention by the 2014 protocol.

7.2 As specified in paragraph 6 of Article 23 of the Double Taxation Convention, as inserted by Article XII of the 2014 protocol, the Exchange of Notes sets out further detailed rules governing the conduct of the arbitration process.

- ***Consolidation***

Not applicable.

8. Consultation outcome

HMRC regularly consults with external interested parties, including business representatives, about the effectiveness of existing arrangements for the avoidance of double taxation and fiscal evasion as well as new needs. The UK's treaty negotiating programme is approved by Ministers and published on the HMRC website.

9. Guidance

9.1 General guidance on the operation of the UK's double taxation agreements can be found on the HMRC website at:
http://www.hmrc.gov.uk/manuals/intmanual/INTM150000.htm

or in the Double Taxation Relief Manual at:
http://www.hmrc.gov.uk/manuals/dtmanual/index.htm.

This Manual will be updated once the Arrangements enter into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that they will henceforth have access to arbitration where the competent authorities of the UK and Canada are unable to resolve a dispute between themselves for the avoidance of double taxation.

10.2 There is no impact on the UK public sector.

10.3 A Tax Information and Impact Note has not been prepared for this Order as it gives effect to a previously announced policy to enact a double taxation agreement.

11. Regulating small business

No special approach for small business is necessary.

12. Monitoring & review

There are no specific plans to review this Statutory Instrument. However, both Governments will keep the Arrangements scheduled to the Order under consideration to ensure that they continue to meet the policy objectives set out above in section 7.

13. Contact

Douglas Rankin at HM Revenue & Customs (tel: 03000 585867/email: douglas.rankin@hmrc.gsi.gov.uk) can answer any questions about the Order.