Draft Order in Council laid before the House of Commons under section 5(2) of the Taxation (International and Other Provisions) Act 2010 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2011 No.

TAXES

The Double Taxation Relief and International Tax Enforcement (Mauritius) Order 2011

Made - - - - [day] [Month] 2011

At the Court at Buckingham Palace, the [date] day of [Month] 2011

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 5(2) of the Taxation (International and Other Provisions) Act 2010(**a**) and section 173(7) of the Finance Act 2006(**b**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010 and section 173(1) to (3) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Mauritius) Order 2011.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Protocol set out in the Schedule to this Order, which vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1981(**c**), have been made with the Government of the Republic of Mauritius;

(b) the arrangements have been made with a view to affording relief from double taxation in relation to income tax, corporation tax, capital gains tax and taxes of a similar character imposed by the laws of the Republic of Mauritius and for the purpose of assisting international tax enforcement; and

(**a**) 2010 c. 8.
(**b**) 2006 c. 25.
(**c**) S.I. 1981/1121, as amended by S.I. 1987/467 and 2003/2620.

(c) it is expedient that those arrangements should have effect.

Name
Clerk of the Privy Council

SCHEDULE

Article 2

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS TO AMEND THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED AT LONDON ON 11 FEBRUARY 1981, AS AMENDED BY THE PROTOCOLS SIGNED AT PORT LOUIS ON 23 OCTOBER 1986 AND 27 MARCH 2003

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Mauritius;

Desiring to conclude a further Protocol to amend the Convention between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at London on 11 February 1981, as amended by the Protocols signed at Port Louis on 23 October 1986 and 27 March 2003 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE 1

Article 28 of the Convention shall be deleted and replaced by the following:

"Article 28

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by Articles 1 and 2.

(2) Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph (1) of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State

authorises such use.

(3) In no case shall the provisions of paragraphs (1) and (2) of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph (3) of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph (3) of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE 2

The Governments of the Contracting States shall notify one another, through diplomatic channels, of the completion of the procedures required by their laws for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall have effect from that date.

ARTICLE 3

This Protocol shall remain in force as long as the Convention remains in force.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Port Louis this 10th day of January 2011.

For the Government of the United Kingdom of Great Britain and Northern Ireland:	**For the Government of the Republic of Mauritius:**
N. H. Leake	*Hon. Pravind Kumar Jugnauth*

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains a Protocol ("the Protocol") which further amends a convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Mauritius for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains ("the Convention"). The Convention was scheduled to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1981 (S.I. 1981/1121) and previously amended by the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1987 (S.I. 1987/467) and the Double Taxation Relief (Taxes on Income) (Mauritius) Order 2003 (S.I. 2003/2620). This Order brings the Protocol into effect.

The Convention aims to eliminate the double taxation of income or gains arising in one country and paid to residents of the other country. It does this by allocating the taxing rights that each country has under its domestic law over the same income and gains, and/or by providing relief from double taxation. It also has specific measures which combat discriminatory tax treatment and provide for assistance in international tax enforcement.

The Protocol continues this approach by updating the exchange of information Article in the Convention to bring it into line with the new international standard for exchange of information as set out in Article 26 of the Model Tax Convention on Income and on Capital published by the Organisation for Economic Cooperation and Development ("OECD").

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the arrangements specified in the Protocol.

The Protocol will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. It will take effect from the date it enters into force.

The date of entry into force will, in due course, be published in the *London*, *Edinburgh* and *Belfast Gazettes*.

In line with government commitments, 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.

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