EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (MONTSERRAT) ORDER 2011

2011 No. [XXXX]

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the Instrument

2.1 The Order brings into effect an arrangement between the Governments of the United Kingdom and Montserrat ("the New Arrangement"), which amends the existing Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion between the two Governments made in 1947 ("the 1947 Arrangement").

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

3.1 None.

4. Legislative Context

4.1 The Order is being made to give effect in UK legislation to the New Arrangement.

4.2 The Order does not implement EU legislation.

5. Territorial Extent and Application

5.1 The Order extends to all of the United Kingdom.

6. European Convention on Human Rights

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

"In my view the provisions of the Double Taxation Relief and International Tax Enforcement (Montserrat) Order 2011 are compatible with the Convention rights."

7. Policy background

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

7.1 The New Arrangement makes some changes to the 1947 Arrangement between the UK and Montserrat following negotiation between the two Governments. In particular, it updates the exchange of information provisions in the 1947 Arrangement 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").

7.2 It also amends the provisions on the taxation of pensions (other than government service pensions) and introduces a 'mutual agreement procedure' to allow the Governments to consult on the interpretation and application of the 1947 Arrangement. These changes are also consistent with the OECD Model Tax Convention.

- ***Consolidation***

7.3 Not applicable

8. Consultation outcome

8.1 HMRC regularly consults with external stakeholders, including business representatives, about the effectiveness of existing arrangements for the avoidance of double taxation and fiscal evasion as well as new needs. The annual treaty negotiating programme is agreed with Ministers and published on the HMRC web site.

9. Guidance

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

9.2 There is also more detailed guidance on the existing UK-Montserrat Arrangement at:
http://www.hmrc.gov.uk/manuals/dtmanual/DT13400+.htm
This will be updated once the amendments made in the Arrangement enter into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the UK public sector. HMRC already operates the terms of many other similar arrangements currently in force.

10.3 An impact assessment has not been prepared for this Order.

11. Regulating small business

11.1 None of the provisions of the Arrangement affects the taxation of small business.

12 Monitoring & review

12.1 Both the UK Government and the Government of Montserrat will keep the Arrangement contained in the Schedule to the Order under review to ensure that they meet the policy objectives set out above in section 7.

13. Contact

Jeff Worrell at HM Revenue & Customs (Tel: 020 7147 2723/Email: jeff.worrell@hmrc.gsi.gov.uk) can answer any queries regarding the Order.