EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF (MAURITIUS) ORDER 2018

2018 No. [XXXX]

1. Introduction

1.1 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

2.1 The Order brings into effect arrangements ("the Arrangements") set out in a Protocol made by the Government of the United Kingdom and the Government of the Republic of Mauritius ("the Protocol") to amend the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains Signed on 11 February 1981 ("the Agreement") set out in the Schedule to the Order.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

4.1 The Order is being made to give effect in UK legislation to the Arrangements. The Arrangements are scheduled to the Order, and are thus given domestic legislative effect. The Order does not implement EU legislation.

5. Extent and Territorial Application

5.1 This Order applies to all of the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury, Mel Stride has made the following statement regarding Human Rights:

"In my view the provisions of the Double Taxation Relief (Mauritius) Order 2018 are compatible with the Convention rights".

7. Policy background

What is being done and why

7.1 The Protocol updates the dividends article of the 1981 Agreement following negotiations between the two Governments. The change will allow dividends paid by

property investment vehicles to be taxed in the country in which they are resident, but at a rate restricted to 15 per cent.

7.2 In general, the amendments made to the 1981 Arrangements by the Protocol are consistent with the approach adopted in the Organisation for Economic Cooperation and Development's ("OECD") Model Tax Convention on Income and on Capital.

Consolidation

7.3 Not applicable.

8. Consultation outcome

8.1 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 treaty negotiating programme is agreed with Ministers and published on the HMRC pages of the Gov.UK website.

9. Guidance

9.1 General guidance on the operation of the UK's double taxation agreements can be found on the HMRC pages of the Gov.UK website at:

https://www.gov.uk/hmrc-internal-manuals/international-manual/intm150000

or in the Double Taxation Relief Manual at:

https://www.gov.uk/hmrc-internal-manuals/double-taxation-relief

The Manuals will be updated once the Arrangements enter into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. The provisions of the Protocol do not introduce new tax burdens; rather, they provide relief from tax and thus are of benefit to business both large and small. Taxpayers may have to make a claim to HMRC or other state's fiscal authority in order to benefit from the Arrangements.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been produced as DTAs impose no obligations on taxpayers; rather they give UK residents relief from foreign tax in prescribed circumstances. They also provide relief from UK tax for non-residents in a comparable situation.

11. Regulating small business

11.1 The legislation applies only to activities that are undertaken by small businesses if they have used the arrangements to artificially reduce their tax burden. No special approach to small businesses is therefore necessary.

12. Monitoring & review

12.1 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

13.1 Lee Harley at HM Revenue and Customs Telephone: 03000 585755 or email: lee.harley@hmrc.gsi.gov.uk can answer any queries regarding the instrument.