EXPLANATORY MEMORANDUM TO

THE TURKS AND CAICOS ISLANDS (FINANCE) ORDER 2017

2017 No. 317

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument abolishes the office of Chief Financial Officer in the Turks and Caicos Islands and confers on the Governor powers to ensure that reasonable funding is provided for specified matters, including those for which the Governor has a special responsibility under the constitution, upholding the rule of law and judicial independence, and ensuring compliance with international obligations to which the Turks and Caicos Islands are subject. The position of a Financial Adviser is also created by this instrument to support the Governor in the exercise of his or her functions relating to the finances of the Turks and Caicos Islands Government.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is only required to be laid before Parliament after being made and is not subject to any further procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument, like the Turks and Caicos Islands Constitution Order 2011 (S.I. 2011/1681)("the 2011 Constitution Order"), is made under the West Indies Act 1962 and the royal prerogative.

4.2 Section 7 of the 2011 Constitution Order, which provided for the continuation of the office of Chief Financial Officer, is being revoked by this instrument. This instrument also repeals an Ordinance made by the Turks and Caicos Islands House of Assembly.

4.3 In 2002, the Chairman of the Foreign Affairs Committee and the Foreign Secretary agreed that, where appropriate, draft Orders in Council that amend the constitutions of the British overseas territories would be shown to the Committee for information, if possible, at least 28 sitting days before they were made. The Committee has considered and has made no comment on or objections to this instrument.

5. Extent and Territorial Application

5.1 This instrument extends to the Turks and Caicos Islands.

5.2 This instrument applies to the Turks and Caicos Islands.

6. European Convention on Human Rights

6.1 As the instrument is only required to be laid before Parliament after being made and is not subject to any further procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Section 7 of the 2011 Constitution Order, which made provision for the continuation of the office of Chief Financial Officer to support the Turks and Caicos Islands Government in the exercise of their financial functions, provided that the abolition of this office would require the prior approval of a Secretary of State.

7.2 In recognition of the progress that the Turks and Caicos Islands has made to restore TCI's public finances from a point of near bankruptcy to a healthy surplus and delivery of strong economic growth, the United Kingdom does not consider that there is a continuing need for the office of the Chief Financial Officer. This instrument therefore revokes the relevant provision of the Turks and Caicos Islands Constitution Order 2011 and repeals the associated Ordinance made by the Turks and Caicos Islands House of Assembly.

7.3 The United Kingdom does, however, consider it important to ensure that the Governor has the power to ensure that reasonable funding is provided for certain matters for which he or she has constitutional responsibility. In particular, this includes: ensuring the effective conduct of the business of the Government with respect to defence, external affairs, the regulation of international financial services, internal security and the public service; upholding the rule of law and judicial independence; securing compliance with an international obligation to which the Turks and Caicos Islands is subject; ensuring compliance with the Statement of Governance Principles; ensuring the effective operation of certain institutions protecting good governance; and giving effect to any Electoral District Boundary Commission recommendations. The instrument further provides for the appointment of a financial adviser to provide assistance to the Governor in the exercise of his or her powers relating to the finances of the Turks and Caicos Islands Government.

Consolidation

7.4 The instrument does not involve consolidation.

8. Consultation outcome

8.1 The Turks and Caicos Island Government was fully consulted in the preparation of the instrument and is content.

9. Guidance

9.1 No guidance has been prepared.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies in the United Kingdom.

10.2 There is no impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses in the UK.

12. Monitoring & review

12.1 The operation of the legislation will be kept under review by the Foreign and Commonwealth Office, in consultation with the Turks and Caicos Islands.

13. Contact

13.1 Greg Reisman at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 0207 0082553 or email: Greg.Reisman@fco.gov.uk.