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

DRAFT STATUTORY INSTRUMENTS

2018 No. XXXX

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX

The Double Taxation Relief (Mauritius) Order 2018

Made - - - - [date] [Month] 2018

At the Court at Buckingham Palace, the [date] day of [Month] 2018

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(**1**) 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, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief (Mauritius) Order 2018.

Double taxation agreement 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(**2**), have been made with the Government of the Republic of Mauritius;

(**1**) 2010 c. 8.
(**2**) S.I. 1981/1121 amended by 1987/467, 2003/2620 and 2011/2442.

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

(c) it is expedient that the 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, 27 MARCH 2003 AND 10 JANUARY 2011

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, 27 March 2003 and 10 January 2011 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

Article 10 (Dividends) of the Convention shall be deleted and replaced by the following new article:

"ARTICLE 10

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State;

(a) except as provided in sub-paragraph (b), such dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident;

(b) where dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 of this Convention by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax, the tax charged by the Contracting State of which the company paying the dividends is a resident shall not exceed 15 per cent of the gross amount of the dividends other than where the beneficial owner of the dividends is a pension scheme established in the other Contracting State, in which case the exemption provided in sub-paragraph (a) shall apply.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as any other item which is treated as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

(4) The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

(6) The term "pension scheme" means any scheme or other arrangement which:

a) is generally exempt from income taxation; and

(b) operates to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements."

ARTICLE II

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 the date of signature of this Protocol.

ARTICLE III

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

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Port Louis on this 28th day of February 2018 in the English language.

For the Government of the United Kingdom of Great Britain and Northern Ireland:	For the Government of the Republic of Mauritius:
Keith Allan	*Dharam Dev Manraj, G.O.S.K*

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains a Protocol (“the Protocol”) which amends a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Mauritius dealing with the avoidance of double taxation and the prevention of fiscal evasion (“the Agreement”) with respect to taxes on income and capital gains. This Order brings the Protocol into effect.

The Agreement was scheduled to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1981 (S.I. 1981/1121).

The Agreement 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 dividing 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.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of 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 and will take effect from the date that it was signed.

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

A Tax Information and Impact Note has not been produced for the Order as it gives effect to a double taxation agreement. Double taxation agreements impose no obligations on taxpayers, rather they seek to eliminate double taxation and fiscal evasion.