

EXPLANATORY MEMORANDUM TO
THE OVERSEAS TERRITORIES (CONSTITUTIONAL MODIFICATIONS) ORDER
2020

2020 No. 780

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 purpose of the Overseas Territories (Constitutional Modifications) Order 2020 (“the Order”) is to modify the constitutions of the Falkland Islands and St Helena, Ascension and Tristan da Cunha to enable virtual meetings of the legislative bodies of the Falkland Islands and St Helena to take place.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is not subject to parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the Falkland Islands and St Helena, Ascension and Tristan da Cunha.
- 4.2 The territorial application of this instrument is the Falkland Islands and St Helena, Ascension and Tristan da Cunha.

5. European Convention on Human Rights

- 5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

- 6.1 The Falkland Islands Constitution Order 2008 (SI 2008 No. 2846) contains the Constitution of the Falkland Islands in the Schedule to that Order and it includes provisions setting out how its Legislative Assembly shall be established and what its powers and procedures are. The St Helena, Ascension and Tristan da Cunha Constitution Order 2009 (SI 2009 No. 1751) contains the Constitution of St Helena, Ascension and Tristan da Cunha in the Schedule to that Order and it includes provisions setting out how the Legislative Council of St Helena shall be established and what its powers and procedures are. The Order modifies the constitutions of the Falkland Islands and St Helena, Ascension and Tristan da Cunha to ensure that virtual

meetings of the legislative bodies of the Falkland Islands and St Helena may take place.

7. Policy background

What is being done and why?

- 7.1 The Order ensures that virtual meetings of the legislative bodies of the Falkland Islands and St Helena may take place. It has become necessary to do this in light of steps which are being taken, or may be taken, in order to tackle the coronavirus crisis. There is the potential for the legislative bodies being unable to establish a quorum in the event that their members are unable to attend meetings physically. This could occur where members are either sick, self-isolating, or shielding due to being in a vulnerable category of persons, for example.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Order does not involve consolidation.

10. Consultation outcome

- 10.1 The governments of Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, South Georgia and the South Sandwich Islands, St Helena, Ascension and Tristan da Cunha, Turks and Caicos Islands, and Virgin Islands were consulted in the preparation of the Order. The draft Order was shared with the Governors/Commissioners and Attorneys General of those British overseas territories and comments invited. A number of substantive replies were received including questions which the Foreign and Commonwealth Office addressed in writing and those explanations as to how the Order would operate were accepted. No other substantive responses or concerns were raised following the consultation.

11. Guidance

- 11.1 No guidance has been prepared for the Order because it makes only minor amendments to the constitutions of the Falkland Islands and St Helena, Ascension and Tristan da Cunha to ensure that virtual meetings of the legislative bodies of the Falkland Islands and St Helena may take place.

12. Impact

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no impact on the United Kingdom public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because it has no impact on business, charities or voluntary bodies or the United Kingdom public sector.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans to monitor or review the Order given that it makes only minor amendments to the constitutions of the Falkland Islands and St Helena, Ascension and Tristan da Cunha.

15. Contact

15.1 Janice Moore at the Foreign and Commonwealth Office (Telephone: 020 7008 8829 or email: janice.moore@fco.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Adam Pile, Deputy Director for Overseas Territories Directorate, at the Foreign and Commonwealth Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Sugg and Minister Morton at the Foreign and Commonwealth Office can confirm that this Explanatory Memorandum meets the required standard.