# EXPLANATORY MEMORANDUM TO

# THE ANTI-AVOIDANCE INFORMATION NOTICES (RESOLUTION OF DISPUTES AS TO PRIVILEGE) REGULATIONS 2026

## 2026 No. 560

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

## 2. Declaration

2.1 Dan Tomlinson MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Kathryn Robertson, Deputy Director for Counter Avoidance Policy, at HMRC confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Stuart Watt at HMRC can be contacted by email at the following address with any queries regarding the instrument: stuart.watt@hmrc.gov.uk

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 Anti-Avoidance Information Notices (AAIN) are statutory information-gathering notices that HMRC may issue to persons connected with the promotion or facilitation of tax avoidance arrangements, requiring them to provide information and documents relevant to HMRC's compliance function.

4.2 This instrument makes provision for the resolution of disputes between HMRC and recipients of Anti-Avoidance Information Notices where there is a disagreement as to whether information requested by HMRC is protected by legal professional privilege.

4.3 Where a recipient of an Anti-Avoidance Information Notice considers that information requested is protected by legal professional privilege, these Regulations establish a statutory process for identifying the information in dispute and resolving disagreements between HMRC and the recipient. The process enables disputes to be resolved either by agreement or, where necessary, by determination of the tribunal, while treating the recipient as having complied with the notice in respect of information in dispute during the period the dispute remains unresolved.

4.4 Where a dispute arises as to whether any information requested by an Anti-Avoidance Information Notice is protected by legal professional privilege, the procedure applies only in relation to the information in dispute. Any information required by the notice which is not in dispute must still be provided in accordance with the deadline specified in the information notice.

4.5 Where a dispute is referred to the tribunal, the Regulations provide that the tribunal may resolve the dispute by confirming whether, and to what extent, the information in dispute is privileged.

***Where does the legislation extend to, and apply?***

4.6 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

## 5. Policy Context

***What is being done and why?***

5.1 Anti-Avoidance Information Notices are a new information-gathering power introduced to support HMRC's work in tackling tax avoidance. They allow HMRC to require information and documents from persons connected with the promotion or facilitation of tax avoidance arrangements, in order to monitor compliance with Anti-Avoidance legislation and to consider whether enforcement action may be required.

5.2 Legal professional privilege is preserved within the AAIN regime, and information that is protected by privilege cannot be required to be provided. However, disputes may arise between HMRC and recipients of an AAIN as to whether particular information is protected by legal professional privilege. Prior to these Regulations, there was no AAIN-specific statutory procedure governing how such disputes should be identified and resolved.

5.3 This instrument establishes a clear and proportionate statutory framework for resolving disputes relating to claims of legal professional privilege in the context of Anti-Avoidance Information Notices. The policy intention is to provide certainty for both HMRC and notice recipients, ensure consistent handling of disputes, and allow HMRC's compliance activity to proceed effectively while maintaining full protection for legal professional privilege.

***What was the previous policy, how is this different?***

5.4 Before the introduction of Anti-Avoidance Information Notices, there was no dedicated information-gathering regime targeted at persons connected with the promotion or facilitation of tax avoidance arrangements. As a result, there was no policy framework specifically addressing how disputes concerning legal professional privilege should be resolved in that context.

5.5 The introduction of Anti-Avoidance Information Notices created a new compliance tool with a defined statutory purpose and scope. In developing that regime, the Government considered it appropriate to set out, from the outset, a bespoke statutory procedure to govern how disputes relating to claims of legal professional privilege are to be handled. This approach differs from the previous position by providing a clear, transparent and consistent process tailored to the AAIN regime, rather than relying on informal resolution or non-statutory guidance

5.6 These Regulations therefore complete the AAIN framework by setting out how disputes about legal professional privilege are to be identified and resolved, while continuing to ensure that established protections for privilege are fully maintained.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Section 186 of the Finance Act 2026 provides that information protected by legal professional privilege is excluded from the scope of Anti-Avoidance Information Notices and confers a power on the Commissioners for HMRC to make regulations about resolving disputes as to privilege. This instrument provides the procedural framework for resolving such disputes.

6.2 These Regulations are made under section 186(5) of the Finance Act 2026, which is the first use of the power. The Regulations specify the procedure to be followed where HMRC and a recipient disagree as to whether information requested is privileged.

***Why was this approach taken to change the law?***

6.3 Parliament has conferred regulation-making powers in section 186(5) of the Finance Act 2026, so these changes are appropriately made by secondary legislation. A statutory dispute resolution framework is required to ensure that claims of legal professional privilege are handled fairly and consistently, while enabling HMRC to exercise the information-gathering powers conferred by primary legislation.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 The policy underpinning Anti-Avoidance Information Notices, including the preservation of legal professional privilege and the provision for disputes concerning privilege to be resolved through regulations, was consulted on as part of the development of the Finance Bill which became the Finance Act 2026. This included consultation with representative bodies and stakeholders with an interest in tax administration and legal professional privilege.

7.2 No separate public consultation has been undertaken on these Regulations. This is because the instrument is procedural in nature and gives effect to a regulation-making power already provided for in primary legislation, without introducing a new policy or extending the scope of the Anti-Avoidance Information Notice power.

7.3 HMRC undertook an informal engagement with stakeholders on the operation of the dispute resolution process between 1 May and 10 May 2026, alongside the development of guidance. This engagement focused on the practical operation of the regulations and did not involve consultation on new policy.

## 8. Applicable Guidance

8.1 HMRC will publish guidance on the use of Anti-Avoidance Information Notices which will reflect the dispute resolution process introduced by these Regulations. The guidance will explain how claims to legal professional privilege may be made and how disputes are to be identified and resolved in practice.

8.2 The guidance will be published on GOV.UK later in 2026, following internal HMRC clearance and approval.

## Part Two: Impact and the Better Regulation Framework

### 9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument was published on 26 November 2025[1] alongside the Budget and remains an accurate summary of the impacts that apply to this instrument.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument does not extend the scope of information that may be required and only affects how disputes regarding privilege are resolved.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because only a small number of disputes (less than 10 per year) are expected to arise and be referred to the tribunal.

### 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is through HMRC's ongoing oversight of the Anti-Avoidance Information Notice regime.

10.2 As this instrument is not made by a Minister of the Crown, no review clause is required.

[1] Tax Information and Impact Note: https://www.gov.uk/government/publications/tackling-promoters-of-marketed-tax-avoidance/closing-in-on-promoters-of-marketed-tax-avoidance-schemes

## Part Three: Statements and Matters of Particular Interest to Parliament

### 11. Matters of special interest to Parliament

11.1 This instrument is the first use of the power contained at section 186(5) of the Finance Act 2026.

### 12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

### 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").