EXPLANATORY MEMORANDUM TO

THE COURT AND TRIBUNAL FEES (MISCELLANEOUS AMENDMENTS) (CHANGE OF COMING INTO FORCE) ORDER 2026

2026 No. 665

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

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

2. Declaration

2.1 Minister Sackman, Minister of State at the Ministry of Justice at confirms that this Explanatory Memorandum meets the required standard.

2.2 Rawfiah Choudry, Deputy Director for Tribunals, Fees and Irregular Migration, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alice Harrison at the Ministry of Justice email: mojfeespolicy@justice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will amend the coming into force date of a separate statutory instrument that is being laid simultaneously: The Court and Tribunal Fees (Miscellaneous Amendments) Order 2026. It changes the coming into force date from 6 July to 13 July.

Where does the legislation extend to, and apply?

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

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, and Scotland. However, the majority of the amendments made in this instrument apply to fees in the Courts and Tribunals in England and Wales. Only amendments to the First-tier Tribunal (Gambling) Fees Order 2010 apply to Scotland and amendments to The First-tier Tribunal (Property Chamber) Fees Order apply only to England.

5. Policy Context

What is being done and why?

5.1 This instrument amends The Court and Tribunal Fees (Miscellaneous Amendments) Order 2026. That instrument makes a series of changes to the court and tribunal fees payable in HM Courts and Tribunals Service. The purpose of the changes in that instrument is to strengthen cost recovery, improve consistency in how and where fees are charged, and maintain fair access to justice for all. A full explanation of these changes can be found in the Explanatory Memorandum that accompanies that instrument.

5.2 This instrument changes the coming into force date in article 1(2) of the Court and Tribunal Fees (Miscellaneous Amendments) Order 2026 from 6 July to 13 July. This is in order to ensure that Parliament, stakeholders and the public have at least 21 days to review the amendments and prepare for the changes before they come into force.

6. Legislative and Legal Context

6.1 The legislative power to set court and tribunal fees in the Fees Orders affected by this SI is the same for the Court and Tribunal Fees (Miscellaneous Amendments) Order 2026. It can be found in section 133(4) of the Senior Courts Act 1981, section 92(1) and (2) of the Courts Act 2003, section 42(1)(a) and (b) and (2) of the Tribunals, Courts and Enforcement Act 2007, section 54(1) of the Mental Capacity Act 2005, section 180(1) of the Anti-Social Behaviour, Crime and Policing Act 2014 and sections 414(1)(a) and 415(1)(a) and (1A) of the Insolvency Act 1986. Fees which are set using these powers cannot be set above the cost of service and are subject to the negative procedure as per section 133(5) of the Senior Courts Act 1981, section 108(5) of the Courts Act 2003, section 65(2) of the Mental Capacity Act 2005, and section 414(5) and (6) of the Insolvency Act 1986.

6.2 In respect of fees under section 42 of the Tribunals, Courts and Enforcement Act 2007, the negative procedure applies under section 49(5), (6)(c) and (7) unless an Order is made under powers in section 42(3) (power to specify an added tribunal) or under section 42(1)(a) to (d) if the Order provides for fees to be payable in respect of things for which fees have never been payable; neither of those circumstances applies in respect of this Order.

6.3 For fees set above their cost (enhanced fees) section 180(8) of the Anti-Social Behaviour, Crime and Policing Act 2014 allows the negative procedure to be used. where a fee is only being adjusted to reflect “changes in the value of money”.

7. Consultation

Summary of consultation outcome and methodology

7.1 Court and tribunal fees may only be increased following consultation with the senior judiciary. The Lord Chancellor has a statutory duty to consult with the senior judiciary when proposing to increase court and tribunal fees as prescribed in section 92(5) of the Courts Act 2003, section 42(5) of the Tribunal Courts and Enforcement Act 2007 and the section 54(3) of the Mental Capacity Act 2005. We consulted with the relevant judiciary, who had no specific comments on the measures outlined in this instrument, nor the planned implementation date for these changes.

8. Applicable Guidance

8.1 There is no applicable guidance for this SI. Accompanying guidance setting out the changes introduced by The Court and Tribunal Fees (Miscellaneous Amendments) Order 2026, which this instrument amends, will be made available by His Majesty's Courts and Tribunals Service by July 2026 on GOV.UK.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 This instrument does not require an Impact Assessment.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on businesses, charities or voluntary bodies.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There is no monitoring and review required for this legislation. The approach to monitoring and review for The Court and Tribunal Fees (Miscellaneous Amendments) Order 2026, which this instrument amends, is set out in the Explanatory Memorandum for that instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The instrument as made is not laid in accordance with the convention that a statutory instrument following the negative procedure be laid a minimum of 21 days before it comes into force. The Department apologises for this breach of convention, but to do otherwise would negate the purpose of this SI. This instrument will amend the coming into force date of the Court and Tribunal Fees (Miscellaneous Amendments) Order 2026, which is due to come into force on 6 July. The Deputy Prime Minister and Minister of State for Courts and Legal Services decided to allow further consideration of the package of fee changes and their commencement date. This briefly delays the laying of this SI and the implementation of those fee increases. The purpose of this SI is to ensure that, despite this delay in laying, Parliament, the public and stakeholders have the full 21 day period to consider the amendments in the Court and Tribunal Fees (Miscellaneous Amendments) Order 2026 before they come into force.

11.2 The Department apologises as well for laying this further instrument to amend the Court and Tribunal Fees (Miscellaneous Amendments) Order 2026, before it comes into force, recognising that this is not best practice; but we consider this to be necessary for the reasons above.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, a statement is not 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").