EXPLANATORY MEMORANDUM TO

THE COURT AND TRIBUNAL FEES (MISCELLANEOUS AMENDMENTS) ORDER 2026

2026 No. 642

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 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 Lisa Levy 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 take forward a series of changes to the court and tribunal fees payable in HM Courts and Tribunals Service. The purpose of the changes is to strengthen cost recovery, improve consistency in how and where fees are charged, and maintain fair access to justice for all.

4.2 Firstly, the instrument will increase 197 court and tribunal fees by inflation, reflecting backdated changes in the Consumer Price Index (CPI). The majority of the fees will be increased by 2.6% to reflect the change to the CPI between March 2024 and March 2025 when fees were last increased, with a small number of fees increased by an average of c.34.3% to reflect backdated inflation, taking into account when the fee was last increased (rounded to the nearest pound). These changes are explained in more detail at paragraphs 5.4- 5.9

4.3 Secondly, the instrument will introduce an exemption to any court fee payable by a local authority in respect of an application to the family court under Section 10B of the Children Act 1989, as inserted by Section 18 of the Victims and Prisoners Act 2024 (more commonly known as 'Jade's Law'). This change will be in force from the date the provisions in the Act are commenced. These changes are explained in more detail at paragraphs 5.10- 5.13.

4.4 Thirdly, the instrument will increase the probate application fee from £300 to £526 to align it more closely with its estimated cost[1]. It will also amend the fee for copies of probate documents, creating a separate, lower fee for copies that are requested at the

[1] The application fee for a grant of probate, together with the fee for five copies requested accompanying a grant, recovers the full cost of the service at £536

same time as making an application for a grant of probate, to ensure that the fee does not over-recover the estimated cost of the service. These changes are explained in more detail at paragraphs 5.14 – 5.19.

4.5 Fourthly, the instrument will make amendments to fees in the First-tier Tribunal (Property Chamber) Fees Order 2013 by increasing 80 existing fees in the Residential Property Division of the Property Chamber to strengthen cost recovery. These changes are the second of four expected tranches of amendments that make up a wider programme of reform to the Property Chamber fees framework which will strengthen cost recovery and fairness and consistency over where and how fees are charged while protecting access to justice. The remaining tranches are expected to be implemented over the next year. These changes are explained in more detail at paragraphs 5.20 – 5.22.

4.6 Finally, the instrument will reduce four fees to the actual cost of the service. This is to ensure there is no over recovery of costs. These changes are explained in more detail at paragraphs 5.23 – 5.26.

4.7 This instrument makes amendments to fees in the following orders and regulations:

- Civil Proceedings Fees Order 2008 (S.I. 2008/1053)
- Family Proceedings Fees Order 2008 (S.I. 2008/1054)
- Magistrates' Courts Fees Order 2008 (S.I. 2008/1052)
- Upper Tribunal (Lands Chamber) Fees Order 2009 (S.I. 2009/1114)
- First-tier Tribunal (Gambling) Fees Order 2010 (S.I. 2010/42)
- Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011 (S.1. 2011/2344)
- Non-Contentious Probate Fees Order 2004 (S.I. 2004/3120)
- Court of Protection Fees Order 2007 (S.I. 2007/1745)
- First-tier Tribunal (Immigration and Asylum Chamber) Fees Order (S.I. 2011/ 2841)
- First-tier Tribunal (Property Chamber) Fees Order 2013 (S.I. 2013/1179)
- Enrolment of Deeds (Fees) Regulations 1994 (S.I. 1994/601)

Where does the legislation extend to, and apply?

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

4.9 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 The Lord Chancellor has a duty to ensure that the courts and tribunals service is adequately resourced.[2] To support this duty, the Lord Chancellor is authorised to prescribe fees under the powers listed below in paragraph 6.1. In doing so, the Lord Chancellor has regard to the principles outlined in Chapter 6 of HM Treasury's

[2] Reflected in the Lord Chancellor's oath, see section 17 Constitutional Reform Act 2005 (c. 4).

'Managing Public Money' (including the principle that fees should reflect the cost of providing a service) and to the need to ensure that access to justice is not denied.

5.2 To balance both these principles, fees are set on a case-by-case basis. Some fees are set well below their actual cost to achieve a more appropriate balance between these two principles and ensure that access to justice is not frustrated. Others are set to cost and some fees, known as 'enhanced fees', are set above the cost of the service. These fees help to subsidise the wider system.

5.3 In 2024/25, income from fees accounted for £830 million of the £2.7 billion that it cost to run His Majesty's Courts and Tribunals Service (HMCTS), with the shortfall funded by the taxpayer.

Inflation -based increases to selected court and tribunal fees

5.4 The Ministry of Justice has a history of increasing court and tribunal fees by inflation[3] to minimise the cost to the taxpayer and ensure that fees are better aligned with their underlying service costs. Fees were last increased by 3.2% in May 2025 to reflect the change to CPI between March 2023 and March 2024. Inflation-based increases are applied consistently from the March of the proceeding financial year. For this instrument, the majority of fees are being increased by rates based on the CPI change between March 2024 and March 2025, which is appropriate as it reflects the annual change since they were last increased. The 2024–25 period is also used because the fee calculations are based on overheads reported in the published accounts for that year.

5.5 To ensure that fees are better aligned with their underlying costs, whilst also keeping fees affordable for users in light of increases to the cost of living, this instrument will implement inflation-based increases to 197 court fees, the majority of which will be increased by 2.6% to reflect the change in CPI between March 2024 and March 2025. The increased fees will be rounded to the nearest pound, resulting in slight variations in the percentage increase. This means that some of the new fee values equate to a lower than 2.6% increase and some have increased by more than 2.6% (but no more than 4.8%).

5.6 27 fees will be increased on average by c.34.3% which is equivalent to an increase of £6.19. This cumulative increase stems from backdated inflation and accounts for when these fees were last increased (ranging from a starting point of March 1994 to May 2024). These fees were not previously included in inflation-based increases due to rounding, or due to updating the policy criteria. Generally, fees are rounded to the nearest £1 for ease of administration and simplicity for court users.

5.7 The fees included as part of this instrument were chosen after a thorough analysis of their underlying cost. They include both 'enhanced' fees (fees set under the Lord Chancellor's power in section 180 Anti-social Behaviour, Crime and Policing Act 2014 to prescribe a fee which is intended to exceed its underlying cost) and 'non enhanced' fees (fees which are not set under the s. 180 power, and which may therefore not recover more than their underlying cost to provide the service).

5.8 In addition to reviewing fees by reference to their cost, we also assessed each fee against a set of exclusion criteria to determine whether it was suitable for an inflation-based increase. Fees were excluded where a 2.6% increase would produce little or no practical change after rounding, where they were structured as banded or percentage-based fees, or where an increase would risk over-recovery. Considerations of proportionality and access to justice were also taken into account. Of the 300 fees, 103 have been excluded from these increases for the reasons stated above.

5.9 The inflation-based increases to the selected court and tribunal fees are estimated to generate additional income of £8.5m million in 2026/27 and £11.3 million per annum

[3] https://www.ons.gov.uk/economy/inflationandpriceindices – The rate of inflation is the change in prices for goods and services over time. Measures of inflation and prices include consumer price inflation, producer price inflation and the House Price Index.

from 2027/28 for the Department, though this will vary depending on service demand. This funding will be used to support HMCTS to continue to deliver its services effectively, improve service delivery, and reduce the overall cost to the taxpayer.

Exemption to local authorities applying under Jade's Law

5.10 Section 18 of the Victims and Prisoners Act 2024 ('Jade's Law') is expected to come into force later this year. This Act inserts new provisions 10A and 10B into the Children's Act 1989that will require the Crown Court to make a prohibited steps order (PSO), restricting a parent's exercise of parental responsibility where they have been sentenced for the murder or voluntary manslaughter of the other parent of their child(ren).

5.11 After the PSO is made in the Crown Court, the relevant local authority as defined by section 10B(7) of the Children Act 1989 (the Act), will be under a duty under 10B(2) of the Act to apply to the relevant family court to review this PSO. The family court will assess whether to uphold the order, or vary or discharge the PSO, along with whether any other relevant order should be made.

5.12 This instrument introduces an exemption to Local Authorities with regard to any court fee in relation to an application made or by reference to section 10B of the Act.

5.13 This measure recognises the additional statutory responsibilities placed on local authorities by Jade's Law and supports it effective implementation.

Probate Fees

5.14 Probate is the legal process of validating a will and officially recognising it as the deceased's final testament. To administer the estate of someone who has died, a personal representative must apply for a grant of probate, which is a formal request to the court for the legal authority to administer the estate in accordance with the will, or letters of administration if there is no will.

5.15 This instrument will increase fee 1 of the Non-Contentious Probate Fees Order 2004, the fee associated with making an application for a grant of probate. This fee is applicable to applications where the assessed value of the estate exceeds £5000 and also applies to applications to 'reseal' a grant, which is when grants of probate issued in another jurisdiction are re-issued for validity in England and Wales.

5.16 This fee is currently set at £300, though it costs HMCTS more to administer. This instrument therefore increases the fee to £526, to achieve a greater level of cost recovery. This ensures better alignment with HM Treasury's guidance, Managing Public Money, which outlines the principles that need to be met when managing taxpayer money and includes guidance on setting fees for public services. The general principle is that fees should be set to recover the cost of the activity. Based on current levels of demand, increasing the fee to £526 is estimated to raise £42m in 2026/27 and £57m per annum from 2027/28. This fee will be considered for an inflation-based increase in the next iteration of this exercise, likely to be 2027.

5.17 HMCTS also provides a service which allows users to obtain copies of probate documents within the Principal Registry of the Family Division, district registries and any sub-registries attached. Individuals can use this service to search for records and order copies of documents (such as probate grants and wills) for specific, named individuals in several ways. Where probate has already been granted, they can either request copies using the online "Find a Will" service where probate has already been issued or contact HMCTS to acquire a sealed and certified copy of a probate document. Alternatively, when an individual is applying for probate, they can request additional copies of the grant of probate at the same time.

5.18 Since November 2025, the fee has been £16 (Fee 8(a) of Non- Contentious Probate Fees Order) for all routes. However, as requests for copies of documents accompanying an application for a grant of probate require less administrative resource, it has been

identified that the estimated cost of providing these copies is lower than the cost of providing copies of documents in any other case. Therefore, there is a risk that the current £16 fee is over-recovering the cost for copies of documents that are requested at the same time as a probate application is made. As this fee is prescribed under section 92 of the Courts Act 2003, and section 42 of the Tribunals, Courts and Enforcement Act 2007 the Lord Chancellor may not charge fees in excess of a reasonable predictive estimate of the cost to HMCTS of the activity for which the fee is charged.

5.19 To ensure that fees for copies of probate documents requested accompanying a probate application do not over-recover their cost whilst also making sure that the Find a Will service continues to be set to full cost recovery, this SI will introduce a new separate lower charge of £2 for these copy requests. This will apply for each copy of a probate document that is requested accompanying a probate application, and copies requested in any other case will continue to be charged at £16.

Property Fees

5.20 This instrument implements two changes to the fees framework in the Property Chamber. The first restates all fees by reference to their originating legislation, broken down into six categories. These six categories are – 1) Leasehold Enfranchisement, 2) Leasehold Management, 3) Residential Property Matters, 4) Rents, 5) Park and Mobile Homes, and 6) Other specified provisions. The second change increases fees for 80 application types largely relating to the leasehold enfranchisement, leasehold management, residential property and park and mobile homes categories.

5.21 For the 80 application types where fees are being increased, they are rising from £114 for an application and £227 for a hearing to £200 for an application and £300 for a hearing. The remaining application types will not have their fees changed. This includes fees to determine a pitch fee on a park site, owing to access to justice considerations. These fees will be considered for an inflation-based increase in the next iteration of this exercise, likely to be 2027.

5.22 This is the second instrument amending fees in the Property Chamber in the last few months. The first[4] was implemented on May 1st and brought in fees for new application routes created by the Renters' Rights Act. These instruments form part of a wider reform to the fees framework which will align the majority of applications in the Property Chamber to one of three tiers based on their access to justice considerations. The Ministry intends to make two more instruments to complete these reforms, which are being staggered to manage the implementation within HM Courts and Tribunals Service.

Reduce four fees to cost

5.23 In 2024 the Ministry of Justice finalised a revised costing methodology. This methodology is used to assess the costs to HMCTS for providing court and tribunal services.

5.24 This instrument will reduce 4 fees to the cost of the service provided by HMCTS. This decision follows the Ministry of Justice's recent internal review of the fee structure against its costing methodology. These regular reviews ensure that fees are set at levels that do not over recover the cost of administering the service. Changes to processes and the way services are delivered can have an impact on a fee's underlying service costs.

5.25 The fees to be reduced are prescribed under section 92 of the Courts Act 2003, and section 42 of the Tribunals, Courts and Enforcement Act 2007 which grant the Lord Chancellor the power to prescribe court and tribunal fees. However, under these powers the Lord Chancellor may not charge fees in excess of a reasonable predictive estimate of the cost to HMCTS of the activity for which the fee is charged. As such we consider it appropriate to revisit the value of the fees identified.

[4] https://www.legislation.gov.uk/ukdsi/2026/9780348281453

5.26 The four fees to be reduced are set out below:

Family Proceedings Fees Order 2008			
Description	*SI reference*	*Current fee*	*New fee*
Determination of Costs – where the party filling the request is legally aided	9.1	£94	£74
Upper Tribunal (Lands Chamber) Fees Order 2009			
Description	*SI reference*	*Current fee*	*New fee*
Interlocutory or consent order under Rule 50	7	£165	£162
Order without a hearing (Rule 46) – Section 84 (e) Land of Property Act 1925 – discharge/ modify a restrictive covenant	11b	£166	£161
Engrossing Mins of Order – Section 84 (e) Land of Property Act 1925 – discharge/ modify a restrictive covenant	11d	£41	£40

6. Legislative and Legal Context

6.1 The legislative power to set court and tribunal fees in the Fees Orders affected by this SI 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, and have worked with them to ensure the changes are operable.

7.2 No public consultation was conducted for this instrument. However, the principle of a routine approach to updating court and tribunal fees by reference to inflation and HMCTS costs was established following a public consultation[5] held in 2024.

8. Applicable Guidance

8.1 Accompanying guidance setting out the changes introduced by this instrument 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 A full Impact Assessment regarding the increase in the application fee for a grant of probate has been submitted with this Explanatory Memorandum and will be published alongside it on the legislation.gov.uk website.

9.2 A full Impact Assessment addressing inflation-based increases to court and tribunal fees was previously submitted to accompany the Court and Tribunal Fees (Miscellaneous Amendments) Order 2024, published alongside the Explanatory Memorandum on the legislation.gov.uk website. Given that the methodology used to inflate fees in the previous instrument is the same as the one used in this instrument, we will not be publishing a new Impact Assessment.

9.3 For all other measures in this instrument a full Impact Assessment has not been prepared as the financial impact of the measures are minimal. Under the Better Regulation Framework, a full impact assessment for these measures is not required.

9.4 Regarding the measures outlined in this instrument, due regard has been given to responsibilities under the Public Sector Equality duty, as set out in section 149 of the Equality Act 2010. This includes the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations between those with protected characteristics and those without.

9.5 None of the measures in this instrument are considered to result in direct discrimination against any group, as the measures apply in the same way to all applicants, regardless of their protected characteristics. Each measure is a proportionate means of achieving the legitimate policy objective of recovering costs of the services provided by the tribunal to its users.

9.6 Court and tribunal fees can result in indirect discrimination if they are more likely to be payable by certain groups with protected characteristics. Increasing the probate application fee is more likely to have a disproportionate impact on those over the age of 55 and those who are married or in a civil partnership. Further details regarding the impact of the fee increase for grant of probate applications on those with protected

[5] https://www.gov.uk/government/consultations/implementing-increases-to-selected-court-and-tribunal-fees/outcome/consultation-response-implementing-increases-to-selected-court-and-tribunal-fees

characteristics are set out in the full Impact Assessment which will accompany this instrument.

Impact on businesses, charities and voluntary bodies

9.7 The measures in the SI are not classed as a regulatory provision under the Government's Better regulation Framework. There is no, or no significant, impact on business, charities or voluntary bodies created by these measures.

9.8 There is no, or no significant impact on the public sector because all fee payers will be equally affected by this instrument.

9.9 The measures are expected to have a positive net impact, generating estimated additional income for HMCTS of approximately £51m in 26/27 and approximately £68m in subsequent years, this will contribute to the costs of administering applications.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to review fees routinely to ensure that they are set at levels that recover the cost of administering the service, whilst also ensuring that fees remain affordable and are not a barrier to justice. The underlying costs of activities for which fees are charged will be reviewed on a yearly basis to identify whether fees are required to be amended.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Minister Sackman has made the following statement: "In my view the provisions of The Court and Tribunal Fees (Miscellaneous Amendments) Order 2026 have no net cost to business".

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 be laid a minimum of 21 days before it comes into force. The Department apologises for this breach of convention. 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 and implementation of this instrument. As a result, the SI has not been laid in time to provide 21 days before the majority of amendments come into force on 6 July. To mitigate this, the Department is laying another SI (The Court and Tribunal Fees (Miscellaneous Amendments) (Change of coming into force) Order 2026), which will amend the coming into force date of this SI to 13 July. This will ensure that Parliament, the public and stakeholders have the full 21 day period to consider the changes before they come into force.

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").