EXPLANATORY MEMORANDUM TO

THE DIGITAL MARKETS, COMPETITION AND CONSUMERS ACT 2024 (ALTERNATIVE DISPUTE RESOLUTION) (FEES) REGULATIONS 2026

2026 No. 290

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Kate Dearden, Minister for Employment Rights and Consumer Protection at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Tony Thomas, Deputy Director for Consumer Policy, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jason Cole at the Department for Business and Trade can be contacted by email at the following address with any queries regarding the instrument: jason.cole@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do? Chapter 4, Part 4 of the Digital Markets, Competition and Consumers Act 2024 ("the 2024 Act") introduces a mandatory accreditation framework for providers of alternative dispute resolution ("ADR") for consumer contracts disputes. The intention of mandating accreditation of ADR providers is to strengthen the ADR framework in the UK.

4.2 This instrument makes provisions about fees ADR providers are required to provide to the Chartered Trading Standards Institute ("the CTSI") in relation to the accreditation, variation and maintenance of accreditation of ADR providers.

4.3 Section 300(1) of the 2024 Act refers to three categories of ADR-related fees:

- Applications for initial accreditation under s. 296(1) of the 2024 Act and Regulation 3 of this instrument. This fee is charged to prospective ADR providers, who have applied for initial accreditation under section 296(1) (application for accreditation) of the 2024 Act. Processing an application for accreditation involves a review of the information provided as part of the application procedure under section 296(6) of the 2024 Act and assessment as to whether the applicant meets the criteria in section 301 and Schedule 26 (accreditation criteria) of the 2024 Act.
- Variations of accreditation under s. 296(5) of the 2024 Act and Regulation 4 of this instrument. This may involve, for example, requests for changes to the ADR scope or type of ADR that the ADR provider may provide or changes to any conditions attached to its accreditation.

- Maintenance of accreditation under s. 299(1) of the 2024 Act and Regulation 5 of this instrument. This fee is charged to accredited ADR providers for their continued accreditation. The CTSI will assess whether the relevant ADR provider continues to meet the criteria in section 301 and Schedule 26 of the 2024 Act.

4.4 For applications for initial accreditation, fees are set at £6,151. This represents the average number of hours at a rate of £118.75 per hour an initial accreditation process takes based on the work CTSI undertakes to process and determine an application against the criteria in section 301 and Schedule 26 of the 2024 Act.

4.5 The work involves assessment and review of the application and supporting evidence against the accreditation criteria, compliance checks of developed processes and procedures, regular engagement through the process, and final confirmation of accreditation, including submission of case file to CTSI auditors for a compliance check.

4.6 The fee for variation of accreditation is £950. This represents the average number of hours at a rate of £118.75 per hour a variation of accreditation application request will take based on the work CTSI undertakes to determine the application.

4.7 This fee is charged to ADR providers to cover the cost of the CTSI to administer and determine the request. This may involve, for example, requests for changes to the ADR scope or type of ADR that the ADR provider may provide or changes to any conditions attached to its accreditation.

4.8 For maintenance of accreditation, fees are set at £1,318 This represents the average number of hours at a rate of £118.75 per hour maintenance of accreditation checks take based on the work CTSI undertakes to determine continued compliance with the criteria in section 301 and Schedule 26 of the 2024 Act.

4.9 The work may involve a combination of in person and virtual engagement to monitor and ascertain continued compliance with the accreditation criteria, gathering of information, compiling and issuing reports post audit and follow-up engagement if changes or improvements are required to comply with the requirements.

4.10 The maintenance fee is payable, for the first time, within a month of the end of a six-month period following accreditation. Fees are then paid within a month of the end of every subsequent six-month period.

4.11 The instrument is part of a group of instruments that implement Chapter 4, Part 4 of the 2024 Act replacing the voluntary Alternative Dispute Resolution ("ADR") accreditation framework in the UK and introducing a mandatory accreditation framework for ADR providers for consumer contract disputes:

- The Digital Markets, Competition and Consumers Act 2024 (Commencement No. 3 and Transitional Provisions) Regulations 2026, which will bring into force Chapter 4 Part 4 of the 2024 Act and make transitional provisions.
- The Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Conferral of Functions) Regulations 2026, which confers certain functions to the CTSI to operationalise the mandatory accreditation requirement for ADR providers for consumer contracts disputes.
- The Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Information) Regulations 2026, which makes provisions for information to be provided by accredited ADR providers, former accredited ADR providers and exempt ADR providers to the relevant authority and consumers.

- The Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Consequential Amendments) Regulations 2026 which makes consequential amendments in relation to Chapter 4 Part 4 of the 2024 Act coming into force.
- The Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Fees) Regulations 2026 ("this instrument").

Where does the legislation extend to, and apply?

4.12 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England, Wales, Scotland and Northern Ireland.

4.13 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why? ADR provides consumers the ability to resolve a dispute with a trader in a quick and cost-effective way, outside of courts and by an impartial third party. The 2024 Act repeals the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 ("the 2015 Regulations") and replaces it with the provisions in Chapter 4 Part 4 of the 2024 Act that, amongst others, introduces a revised fees regime to enable the CTSI to recover the costs it incurs in considering and determining initial applications for accreditation, applications for variation of accreditation and activities in relation to ensuring ADR providers continue to meet their accreditation obligations. This instrument is made under section 300 of the 2024 Act, which allows the Secretary of State, by regulations, to set fees for applications for accreditation and for variation of accreditation and periodic fees for maintaining accreditation.

What was the previous policy, how is this different?

5.2 The provisions on fees payable by ADR providers under the voluntary scheme are set out in regulation 15 of the 2015 Regulations, which provides for fees to be calculated at a 'daily rate' of £750 per 8 hour day, pro-rated in respect of any period less than a day, for activities in relation to accreditation of ADR providers, monitoring their performance and assessment of their ongoing suitability to offer ADR services.

5.3 These fees cover the costs incurred by or on behalf of the Secretary of State in evaluating an application made under regulation 9 (application to become an ADR entity) and periodic fees, in respect of costs incurred by or on behalf of the Secretary of State in carrying out the functions under regulations 10 covering maintenance of a public facing list of ADR entities, and 12, covering ongoing assessment of ADR providers to assess whether they continue to meet their accreditation obligations and requirements.

5.4 The approach of this instrument differs from that of the 2015 Regulations in that it provides set fees for accreditation and maintenance of accreditation and specifies variation of accreditation as an activity for which a fee applies.

5.5 The fees have been calculated based on the average number of hours at a rate of £118.75 per hour each function takes the CTSI to discharge.

5.6 For the purpose of setting the fees, the 'daily rate' of £750 per 8 hour day in the 2015 Regulations has increased to £950 per 8 hour day (in hourly terms, £118.75 per hour).

5.7 This rise in costs to discharge ADR functions has been calculated in line with inflationary rises and other cost rises for businesses to be an increase of 26.7% from the 2015 figures, when the 2015 Regulations were introduced.

5.8 This increase reflects the fact that rates have not risen since 2015 and have been significantly eroded since then given the impact of rising costs.

5.9 The intention of this revised fees regime is to ensure that the fees are set at levels commensurate, over a reasonable course of time, with the costs of CTSI performing the relevant ADR functions, that these are predictable for the ADR providers that will pay them and provide cost recovery for CTSI, allowing them to deliver the quality and rigour of service expected under the new ADR regime.

6. Legislative and Legal Context

How has the law changed? The 2015 Regulations implemented the Alternative Dispute Resolution Directive (2013/11/EU) (the "ADR Directive"). The aim of the ADR Directive was the following: "*ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedure.* The overall objective of the new ADR regime (Chapter 4 Part 4 of the 2024 Act) remains; however, a key change is that ADR accreditation will be mandatory (rather than voluntary) for providers of ADR services in consumer contract disputes. The 2015 Regulations will be repealed by virtue of section 309 (Schedule 27) of the 2024 Act on commencement of Chapter 4 Part 4 of the 2024 Act.

6.2 The provisions in relation to fees payable by applicant for accreditation in regulation 15(1)(a) and (2) of the 2015 Regulations are replaced by regulation 3 of this instrument. The model for calculating fees at a set rate and in respect of the work undertaken to assess the application has been replaced by a set fee.

6.3 The provisions in relation to periodic fees in regulation 15(1)(b) and (2) are replaced by regulation 5 of this instrument. Again, the model for calculating fees has been replaced by set fees. Pursuant to section 300(2)(c) of the 2024 Act, regulation 5 of this instrument also provides the times at which periodic fees are payable. Periodic fees are payable on a six-monthly basis from commencement of accreditation. The fee is payable, for the first time, within a month of the end of a six-month period following accreditation. Fees are then paid within a month of the end of every subsequent six-month period.

6.4 There is no equivalent in the 2015 Regulations to regulation 4 of this instrument. This is because the 2024 Act introduces a mechanism for accredited ADR providers to apply for a variation of accreditation under section 296(4); a process that does not exist under the 2015 Regulations regime. Regulation 4 sets out the fee which must accompany the application for variation pursuant to section 296(5) of the 2024 Act.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes as section 300 of the 2024 Act sets out the enabling power to make regulations about fees.

7. Consultation

Summary of consultation outcome and methodologyThe policy of supporting consumers enforcing their rights independently, including by improving the quality and oversight

of ADR services, was consulted on publicly. The Government response to that consultation was published in Reforming competition and consumer policy.[1]

7.2 In its response, the Government signalled its intention to improve the quality and consistency of ADR services in consumer markets, to further increase business and consumer confidence in ADR. This includes strengthening the accreditation process ADR providers must comply with and clearer, standardised reporting and information obligations to improve accountability and transparency and ensure both businesses and consumers have access to informative and timely information to enable monitoring and evaluation of the scope, provision and quality of ADR carried out in the UK.

7.3 The Government has not publicly consulted on this instrument because it implements the policy previously consulted on.

8. Applicable Guidance

8.1 This instrument does not implement or require guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it does not impose significant costs or impacts upon compliant businesses. The impact of mandatory ADR accreditation was considered in the impact assessment for the 2024 Act.[2]

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument does not impose regulatory obligations, require familiarisation or otherwise cause costs to be incurred. Impacts on non-compliant businesses do not fall to be considered.

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 they are generally outside the scope of this policy.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation? The Government has no specific plans to conduct a post-implementation review of this instrument or the reforms to which it relates, but will continue to monitor and evaluate the operation of the system of ADR accreditation under the 2024 Act, and monitor and evaluate the provision and quality of ADR carried out in the UK through quarterly and annual reports the relevant authority is required to provide to the Secretary of State of the Department for Business and Trade.

10.2 Monitoring and evaluation of the provision and quality of ADR includes ongoing review of the efficacy of the fees regime, covering fair recovery of costs by CTSI, the

[1] https://www.gov.uk/government/consultations/reforming-competition-and-consumer-policy
[2] https://publications.parliament.uk/pa/bills/cbill/58-03/0294/ImpactAssessmentSummary.pdf and https://assets.publishing.service.gov.uk/media/60f67285e90e0764cfc22a5d/rccp-alternative-dispute-resolution-ia.pdf

level of fees charged to ADR providers and balance between these to ensure provision and quality are maintained.

10.3 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kate Dearden, Minister for Employment Rights and Consumer Protection has made the following statement: “Having regard to the economic impact of the Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Fees) Regulations 2026 a statutory review clause would be disproportionate and is therefore not required.”

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

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"). It does however relate to the withdrawal of the United Kingdom from the European Union because Chapter 4 Part 4 of the 2024 Act repeals and replaces the 2015 Regulations which implemented the ADR Directive and have been retained in UK law as EU-derived domestic legislation under section 2 of the European Union (Withdrawal) Act 2018 subject to amendment by regulation 9 of the Consumer Protection (Amendment etc) (EU Exit) Regulations 2018 (S.I. 2018/1326).