EXPLANATORY MEMORANDUM TO

THE CLEAN AIR ZONES CENTRAL SERVICES (FEES) (ENGLAND) (AMENDMENT) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Transport 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 Keir Mather MP, Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation) at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

2.2 Jennifer Raynor, SCS Deputy Director for the Environment and Adaptation Strategy Team, at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lucy Stone at the Department for Transport can be contacted by email at the following address with any queries regarding the instrument: Lucy.Stone@dft.gov.uk. Alternatively, the department can be contacted by telephone: 0300 330 3000

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Clean Air Zones Central Services (Fees) (England) Regulations 2020 (the "2020 Regulations") to:

4.1.1 Enable the Secretary of State to continue to charge local authorities in England a fee for using the Clean Air Zones Central Services ("CAZ Central Services") up until the end of 31 March 2031; and

4.1.2 Increase the fee charged to local authorities from £2 to £4 for each charge processed through the CAZ Central Services website as a step towards full cost recovery.

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 England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 A Clean Air Zone ("CAZ") is an area where targeted action is taken to improve air quality. The CAZ Central Services are national infrastructure services that include a digital service (including the ability to make payments online) and technical and customer contact support.

5.2 Local authority charging schemes are made using powers in Part 3 of the Transport Act 2000. These powers have been utilised by local authorities to create charging arrangements in relation to vehicle owners who drive into or within a CAZ, if they are driving a vehicle that does not meet the particular emissions standard for their vehicle type in that zone.

5.3 Under the 2020 Regulations, a fee of £2 is payable by local authorities to the Secretary of State for each charge on a vehicle user which is processed through the CAZ Central Services website. The 2020 Regulations provide that such fee is payable in respect of payments processed up to 31 March 2027 (the date by which it was estimated that all local authorities with a CAZ would have achieved compliance with air quality requirements and exited the service).

5.4 These Regulations increase the fee that is payable by a local authority to the Secretary of State from £2 to £4 for each payment processed. Increasing the fee to £4 brings it closer to providing a full cost recovery for the Secretary of State, whilst still providing a subsidy.

5.5 Analysis now indicates that some local areas may not achieve compliance with relevant air quality standards until the early 2030s, making it necessary for government to provide the CAZ Service for longer and continue to be able to charge a fee where a local authority uses the service.

What was the previous policy, how is this different?

5.6 CAZ Central Services include a website that allows motorists to check whether a charge applies to them under a charging scheme when their vehicle is driven in a CAZ and, if so, make payment. Where charging local authorities use the CAZ Central Services, Regulation 3 of the 2020 Regulations imposes a fee on the local authority to the Secretary of State of £2 per processed payment made by a motorist through the CAZ Central Services and makes provision for its collection. The power for the Secretary of State to charge a fee under the 2020 Regulations applies until 31 March 2027.

5.7 The proposed amendments to the Regulations 2020 will:

5.7.1 extend the period during which a local authority will be required to pay the fee under Regulation 3 of the 2020 Regulations until 31 March 2031; and

5.7.2 increase the fee to £4.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2020 Regulations were made to implement measures to support compliance with air quality standards set out in the Air Quality Standards Regulations 2010, which transposed Directive 2008/50/EC.

6.2 The 2020 Regulations were made using section 56 of the Finance Act 1973. which allowed Government Departments to make regulations requiring the payment of fees or other charges for providing services or facilities in pursuance of an international agreement or arrangement or EU obligation. The 2020 Regulations were made on the basis that the services provided were to assist the UK in meeting its EU obligation to comply with air quality limits.

6.3 Since the 2020 Regulations were made, section 56 of the Finance Act 1973 has been amended to remove the ability to make regulations requiring payment of a fee or other charge for a service in pursuance of an EU obligation. This amendment was made by the European Union (Withdrawal) Act 2018 ("the 2018 Act") and took effect on 31 December 2020 ("IP completion day"). It is therefore no longer possible to use the power in section 56 of the Finance Act 1973 to amend the 2020 Regulations.

6.4 These Regulations have been made using the Secretary of State's power under Part 2 of Schedule 4 to the Act 2018 to make regulations modifying the amount of any fees or charges and otherwise alter such fees and charges. This power applies where the statutory instrument was made under section 56 of the Finance Act 1973 and forms part of assimilated law. The 2020 Regulations were made in advance of IP completion day and therefore fall within the definition of EU-derived domestic legislation at section 2 of the 2018 Act and are assimilated law as per section 6(7) of the 2018 Act, which includes anything forming part of domestic law by virtue of section 2 of the 2018 Act on or after IP completion day.

6.5 Regulation 3(3) of the 2020 Regulations is amended so that the fee payable for using the CAZ Central Services is increased from £2 to £4 per payment processed.

6.6 Regulation 3(2)(b) of the 2020 Regulations is amended to extend the period during which the fee is payable by local authorities from 31 March 2027 to 31 March 2031.

Why was this approach taken to change the law?

6.7 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no statutory requirement to consult on this statutory instrument. As required, HM Treasury has consented to the making of this instrument.

8. Applicable Guidance

8.1 The Department will not be issuing guidance as the changes made to legislation concern only fees, which local authorities are familiar with.

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 no impact, or no significant impact, on business is foreseen. Government does not expect Local Authorities to pass the fee increase onto motorists.

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is that the instrument requires local authorities who choose to use the CAZ Central Services to pay fees. The impact on the public sector is funded under the New Burdens Doctrine (i.e. the principle that all new financial burdens placed on local authorities by a department must be properly assessed and fully funded by the relevant department). Fees to be paid by local authorities to use the CAZ Central Services can be funded using revenues collected through the CAZ.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to keep it under review. If there are local authorities that are not compliant by 2031, we will have provision to extend the end date if appropriate.

10.2 The instrument does not include a statutory review clause as it is exempt under section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

11.1 Since the 2020 Regulations came into effect, costs, revenue streams and CAZ end dates are now better understood, making it timely to review fee levels so that the Secretary of State can recover a higher proportion of the associated costs of running the CAZ Central Services. Although the fee increase exceeds the prevailing rate of inflation, the revised fee is designed to move the charge closer to full cost recovery, in line with the principles of paragraph 6.2 of HM Treasury's *Managing Public Money*.

12. European Convention on Human Rights

12.1 Keir Mather the Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation) has made the following statement regarding Human Rights:
"In my view the provisions of the Clean Air Zones Central Services (Fees) (England) (Amendment) Regulations 2026 are compatible with the Convention rights".

13. The Relevant European Union Acts

13.1 This instrument is made under paragraph 7(1) and 7(2) of Schedule 4 of the 2018 Act and therefore relates to the withdrawal of the United Kingdom from the European Union. As explained in paragraphs 6.1 to 6.4 of this Explanatory Memorandum, this instrument relates to the withdrawal of the UK from the EU insofar as it is using powers under the 2018 Act to amend assimilated law. Keir Mather, the Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation) has made, below, the relevant statements under the 2018 Act.

13.2 The Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation), Keir Mather has made the following statement regarding use of legislative powers in the 2018 Act:

"In my view the Clean Air Zones Central Services (Fees) (England) Regulations 2026 does no more than is appropriate".

13.3 This is the case because this instrument is only being used to the extent necessary to achieve policy aims, as set out in paragraphs 5.4 and 5.5 of this Explanatory Memorandum.

13.4 The Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation), Keir Mather has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

13.5 These are: to increase cost recovery and to extend the time during which the Secretary of State can charge the fee to local authorities, as set out in paragraphs 5.4 and 5.5 of this Explanatory Memorandum.

13.6 The Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation), Keir Mather has made the following statement:

"The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts".

13.7 The Parliamentary Under-Secretary of State (Minister for Aviation, Maritime and Decarbonisation), Keir Mather has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the draft instrument, I, Keir Mather have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010".