EXPLANATORY MEMORANDUM TO

THE DIGITAL MARKETS, COMPETITION AND CONSUMERS ACT 2024 (ALTERNATIVE DISPUTE RESOLUTION) (CONFERRAL OF FUNCTIONS) (INFORMATION) AND (FEES) (AMENDMENT) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

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

2. Declaration

2.1 Kate Dearden, Minister for the Future of Work at the Department for Business, Innovation, Science 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, Innovation, Science and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jason Cole at the Department for Business, Innovation, Science 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?

4.1 The primary purpose of the Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Conferral of Functions) (Information) and (Fees) (Amendment) Regulations 2026 "this instrument", as set out in regulation 2, is to confer certain functions on the Civil Aviation Authority ("the CAA") to enable them to accredit and monitor Alternative Dispute Resolution ("ADR") services for consumer contract disputes in the civil aviation sector under Chapter 4 Part 4 of the Digital Markets, Competition and Consumers Act 2024 ("the 2024 Act").

4.2 The Chartered Trading Standards Institute ("the CTSI") have already been appointed as a competent authority by the Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Conferral of Functions) Regulations 2026 (S.I. 2026/259) ("ADR Functions Regulations"), which confers certain functions on the CTSI to operationalise the mandatory accreditation requirement for ADR providers for consumer contracts disputes in non-regulated sectors. This instrument confers the functions on the CAA in the consumer aviation sector.

4.3 In particular, the instrument confers on the CAA the functions set out below:

- Applications for accreditation or variation of accreditation. The CAA is required to request core contact and operational information from applicants for ADR

accreditation and publish on its website the procedure for applications for accreditation and variation of accreditation.

- Determination of applications for accreditation or variation of accreditation.
- Revocation or suspension of accreditation. The CAA is required to seek information on outstanding ADR matters, and to inform the Secretary of State of any ADR provider considered to meet one or more of the conditions which may lead to a decision to revoke or suspend accreditation.
- Approval of ADR provider's provisions for charging fees to consumers. The instrument also requires the CAA to seek and consider information about the proposed fee and give notice to the accredited ADR provider of its whether to approve fees provisions.
- Receiving fees payable by accredited ADR providers.
- Giving enforcement notices to ADR providers. Before publishing information about enforcement notices given, the CAA is required to consider the benefit of publishing enforcement notices relating to widespread issues or issues of public interest.
- Giving ADR information directions to ADR providers.
- Disclosure of ADR information. The CAA to publish on its website core contact and operational information for accredited ADR providers and provide reports to the public on request.

4.4 The secondary purpose, as set out in regulation 3, is to amend the Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Information) Regulations 2026 (S.I. 2026/293) ("ADR Information Regulations") to deal with JCSI concerns over incomplete drafting in the ADR Information SI. The Committee has asked the Department to clarify how members of the public are able to access information and reports that are published for the benefit of the public.

4.5 The Department has taken this opportunity to replace regulations 3(3)(b) and 4(4)(b) to deal with the issues that have been identified by the Committee.

4.6 The tertiary purpose, as set out in regulation 4, is to exclude the CAA from the Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Fees) Regulations 2026 (S.I. 2026/290) ("ADR Fees Regulations") which will be confined to the CTSI. This is because the CAA will be able to recover fees, in respect of their activity as a competent authority for the ADR of consumer contracts in the area of civil aviation, using their existing fee charging powers which are set out in section 11 of the Civil Aviation Act 1982.

4.7 The powers used to make this instrument are set out in sections 300(1), 303(1)(c) and (5)(a) and (b), 307(1) to (3) and 337(1) of the 2024 Act.

4.8 Only the amendment of the ADR Conferral of Functions SI requires the use of the affirmative resolution procedure. The other two SIs may be amended using the negative resolution procedure.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 ADR provides consumers with the ability to resolve a dispute with a trader in a quick and cost-effective way, outside of courts and by reference to an impartial third party. The 2024 Act repealed the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 ("the 2015 Regulations") and replaced them with the provisions set out in Chapter 4 Part 4 of the 2024 Act which introduce a mandatory accreditation framework for ADR providers for consumer contracts disputes. The intention of mandating accreditation of ADR providers is to strengthen the ADR framework in the UK on behalf of consumers.

5.2 Section 307 of the 2024 Act allows certain ADR functions to be conferred on the CAA. This means that the CAA will be the single body responsible for managing the provision of ADR in consumer contract disputes in the civil aviation sector, including the functions of accreditation, monitoring and reporting on the operation and effectiveness of ADR provision. This includes upholding the standards of ADR provision in the civil aviation sector in the UK through powers to compel or sanction ADR providers to improve performance in the event they do not meet their obligations.

5.3 The decision to confer these functions on the CAA has been taken in recognition of their authority, track record and expertise in this area, including their longstanding and constructive relationships with ADR providers in the civil aviation sector. The policy intent of conferring these functions on the CAA is that it gives them greater scope to develop and improve the ADR landscape, managing it for the long term, leveraging their experience and knowledge to help ensure the ADR landscape remains agile and keeps pace with emerging best practice and expectations of consumer and business users.

What was the previous policy, how is this different?

5.4 Section 307 of the 2024 Act allows the Secretary of State to confer the relevant ADR functions on another person. This is in recognition that the regulatory landscape, including regulated sectors and regulators can and will change over time and the need to ensure the statute book is kept up to date to reflect these changes.

5.5 Previously, this power was used to confer certain functions on the CTSI to operationalise the mandatory accreditation framework for providers of alternative dispute resolution ("ADR") services for consumer contract disputes.

5.6 The CAA was appointed as competent authority in 2015 under the 2015 regulations. This instrument uses the power granted by Section 307 of the 2024 Act to confer competent authority functions on the CAA to enable them to accredit and monitor ADR services for consumer contract disputes in the civil aviation sector under Chapter 4 Part 4 of the 2024 Act.

6. Legislative and Legal Context

How has the law changed?

6.1 The draft Regulations make three minor amendments to three SIs, which were made in 2026, and dealt with ADR Functions Information and Fees in the consumer context.

6.2 Regulation 2 of this instrument amends the ADR Functions Regulations, to appoint the CAA as the competent authority in respect of those areas for which the CAA has

regulatory responsibility or oversight under any enactment. This is on the basis that the CAA has been the competent authority for those areas under the 2015 ADR Regulations.

6.3 Regulation 4 of this instrument amends the ADR Fees Regulations to exclude the CAA from the regulations. This is because it is intended that the CAA will use their existing fee charging powers, which are set out in section 11 of the Civil Aviation Act 1982, to recover their fees for acting as competent authority.

6.4 Regulations 3 and 4 of the ADR Information Regulations required an ADR provider and former ADR provider to publish certain information on their website. Regulation 3 of the draft Regulations amends regulations 3 and 4 of the ADR Information Regulations to require an ADR provider and former ADR provider to provide a copy of the information in writing to a consumer if requested to do so. This amendment takes account of the JCSI's criticism of regulations 3 and 4 in their original form which asked the Department to explain "how consumers without access to the internet can access the report; and how consumers can access the report if the accredited ADR provider does not have a website."

6.5 The expectation was that the majority of accredited ADR providers and former accredited ADR providers would have an up-to-date website on which they would publish their reports.

6.5.1 However, in the light of the Committee's comments, the Department has amended regulations 3(3)(b) and 4(4)(b).

Why was this approach taken to change the law?

6.6 This is the only possible approach to make the necessary changes as section 307 of the 2024 Act sets out the enabling power to confer the relevant ADR functions on the CAA by regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 The 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 for ADR providers.

7.3 The Government has not publicly consulted on this instrument because it implements the policy previously consulted on. Further consultation is considered to be unnecessary since the amendments are minor/technical.

8. Applicable Guidance

8.1 This instrument does not implement or require guidance. However, the CAA will set out guidance on how it intends to perform its duties with regard to ADR in the civil aviation sector in due course.

[1] https://www.gov.uk/government/consultations/reforming-competition-and-consumer-policy/outcome/reforming-competition-and-consumer-policy-government-response

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.

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?

10.1 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 this instrument requires the CAA to provide.

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 Kate Dearden, Minister for the Future of Work has made the following statement: "Having regard to the economic impact of Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Conferral of Functions) (Information) and (Fees) (Amendment) Regulations 2026 a statutory review clause would be disproportionate, and is therefore not required."

[2] https://assets.publishing.service.gov.uk/media/655f29624d0864000dd039b0/digital-markets-competition-and-consumers-bill-annex-4-impact-assessment-wider-summary.pdf

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 The Minister for the Future of Work has made the following statement regarding Human Rights: "In my view the provisions of the Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Conferral of Functions) (Information) and (Fees) (Amendment) Regulations 2026 are compatible with the Convention rights."

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").