EXPLANATORY MEMORANDUM TO

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

2026 No. [XXXX]

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?

4.1 This instrument confers certain functions on the Chartered Trading Standards Institute ("the CTSI") to operationalise the mandatory accreditation framework for providers of alternative dispute resolution ("ADR") services for consumer contract disputes in Chapter 4 Part 4 of the Digital Markets, Competition and Consumers Act 2024 ("the 2024 Act"). In particular, the instrument confers on the CTSI the functions set out below and makes provision in relation to those functions:

- Approval of ADR provider's provisions for charging fees to consumers. The instrument also requires the CTSI to seek and consider information about the proposed fee, and give notice to the accredited ADR provider of its whether to approve fees provisions.
- Applications for accreditation or variation of accreditation. The CTSI 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 CTSI 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.

- Receiving fees payable by accredited ADR providers.
- Giving enforcement notices to ADR providers. Before publishing information about enforcement notices given, the CTSI 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 CTSI to publish on its website core contact and operational information for accredited ADR providers and exempt ADR providers.

4.2 The instrument also requires the CTSI to prepare quarterly and annual reports for the Secretary of State of the Department for Business and Trade. Annual reports must be published on the CTSI's website. The reports contain information and metrics on the performance of the CTSI, ADR providers, and the ADR landscape in the UK to ensure accountability and transparency.

4.3 This instrument is part of a group of instruments that implement Chapter 4, Part 4 of the 2024 Act, replacing the voluntary ADR accreditation framework in the UK and introducing a mandatory accreditation framework for ADR providers for consumer contracts 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) (Consequential Amendments) Regulations 2026, which makes consequential amendments to existing legislation mainly to ensure the functioning of Chapter 4 Part 4 of the 2024 Act.
- The Digital Markets, Competition and Consumers Act 2024 (Alternative Dispute Resolution) (Conferral of Functions) Regulations 2026 (this instrument).

4.4 Further secondary legislation will be introduced to make provisions for information to be provided by ADR providers to the CTSI and consumers and for fees payable for application, variation and maintenance of accreditation.

Where does the legislation extend to, and apply?

4.5 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.

4.6 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?

5.1 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 introduces 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.

5.2 Section 307 of the 2024 Act allows certain ADR functions to be conferred on another person, here the CTSI. This means that the CTSI is the single body responsible for managing the provision of ADR in consumer contract disputes in non-regulated sectors, including the functions of accreditation, monitoring and reporting on the operation and effectiveness of ADR provision. This includes upholding the standards of ADR providers 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 CTSI has been taken in recognition of the CTSI's authority, track record and expertise in this area, including their longstanding and constructive relationships with ADR providers. The policy intent of conferring these functions on the CTSI 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.

5.4 The conferral of these functions on the CTSI is complemented by reporting requirements to enable the Secretary of State to maintain oversight of the operation of the system of accreditation and the provision and quality of ADR carried out in the UK.

What was the previous policy, how is this different?

5.5 The CTSI was contracted to perform the relevant functions of the voluntary ADR accreditation system under the 2015 Regulations on behalf of the Secretary of State. Chapter 4 Part 4 of the 2024 Act repeals the voluntary system and replaces it with a mandatory accreditation framework. The relevant functions are now conferred on the CTSI under secondary legislation.

6. Legislative and Legal Context

How has the law changed?

6.1 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 section 309 (Schedule 27) of the 2024 Act on commencement of Chapter 4 Part 4 of the 2024 Act.

6.2 The Secretary of State is the competent authority in respect of the relevant ADR functions under the 2015 Regulations, save for where regulation 8 (Schedule 1) set out other persons which are competent authorities, and the bodies or areas in respect of which a competent authority exercises its functions. Similarly, the relevant ADR functions under Chapter 4 Part 4 of the 2024 Act are vested on the Secretary of State. Section 307 of the 2024 Act allows the Secretary of State to confer the relevant ADR functions on another person. There is no equivalent provision under the 2015 Regulations. Finally, section 295 (Schedule 25) of the 2024 Act identifies "exempt ADR providers" and "exempt redress schemes" to avoid duplication or conflict between the relevant regulatory regimes.

Why was this approach taken to change the law?

6.3 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 CTSI 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.

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.

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

[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

monitor and evaluate the provision and quality of ADR carried out in the UK through quarterly and annual reports this instrument requires the CTSI 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 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) (Conferral of Functions) 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 The Minister for Employment Rights and Consumer Protection 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) 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"). 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).