EXPLANATORY MEMORANDUM TO

THE MINISTERIAL AND OTHER SALARIES ACT 1975 (AMENDMENT) ORDER 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Cabinet Office 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 The Rt Hon Nick Thomas-Symonds MP, Paymaster General and Minister for the Cabinet Office at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Kate Bennett, Deputy Director of Propriety and Ethics at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Propriety and Ethics Team at the Cabinet Office can be contacted with any queries regarding the instrument: mosaorder@cabinetoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Ministerial and Other Salaries Act 1975 (MOSA) sets out the ministerial offices where a salary is payable and provides for the amount of any salary payable in respect of those offices, and Leaders and Whips of the Opposition, and Speakers of the House of Commons and House of Lords. The formula for calculating salary increases, introduced in 1997 by the Ministerial and other Salaries Act 1997, has been misapplied since its implementation. During the financial year 2023/24, the Cabinet Office identified that the formula has been misapplied. Since the introduction of the formula in 1997, the salaries of Permanent Secretaries appear to have been often excluded from the calculation, despite the legislation not permitting such exclusion. This Order resets the level of ministerial and other office holders' salaries and changes the statutory formula which determines salary increases each financial year.

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 the United Kingdom.

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

5. Policy Context

What is being done and why?

5.1 MOSA governs the remuneration of ministers and a number of other office-holders. In 1997, the Act was amended by the Ministerial and other Salaries Act 1997 to establish a formula for annual pay increases. This formula dictates that the salaries of ministers and certain other office-holders should be adjusted each year in accordance with the average percentage by which the mid-points of the Senior Civil Service pay bands, having effect from 1st April of the period concerned, have increased compared with the previous 1st April.

5.2 Since the introduction of the statutory formula in 1997, ministers and many of the other office-holders have routinely opted to waive their entitlement to increases in pay dictated by it. Ministerial pay - with the exception of Lords' pay in 2019 - has not risen since 2008, and claimed salaries remain frozen today. The other office-holders have each made a personal decision each year whether or not to waive their entitled salary.

5.3 During the financial year 2023/24, the Cabinet Office identified that the formula has been misapplied. Since the introduction of the formula in 1997, the salaries of Permanent Secretaries appear to have been often excluded from the calculation, despite the legislation not permitting such exclusion.

5.4 The Cabinet Office is therefore making this Order in Council to ensure the law aligns with the policy. This Order in Council makes two changes. It resets salary levels for ministers and office-holders to provide a new starting point from which to apply any uplifts in the future. It also amends the statutory formula which determines the salary increases ministers and other office holders are entitled to each year to exclude the permanent secretary payband from the calculation, as was previously recommended by the Senior Salaries Reviews Body, who originally proposed the introduction of the formula. The reset salaries will have effect from 1 April 2026. The formula for the year beginning 1 April 2026 will also have effect from 1 April 2026 in line with the longstanding position whereby salaries are adjusted following the SCS pay settlements (which are usually settled between May and August) and backdated to 1 April.

5.5 For the year beginning 1 April 2026, the formula applied will be the higher of:

5.5.1 the percentage calculated using the new formula (i.e. excluding permanent secretaries), and,

5.5.2 the percentage calculated using the old formula (i.e. including permanent secretaries).

5.6 This is a transitional measure to ensure no minister or other office-holder will be disadvantaged by the retrospective effect of the Order. The updated formula will then have effect from 1 April 2027.

5.7 The Order applies to Ministers of the Crown and the following office holders:

5.7.1 Opposition Leader of the House of Commons

5.7.2 Opposition Leader of the House of Lords

5.7.3 Speaker of the House of Commons

5.7.4 Speaker of the House of Lords

5.7.5 Chief Opposition Whip in the House of Commons

5.7.6 Chief Opposition Whip in the House of Lords

5.7.7 2x Assistant Opposition Whips in the House of Commons

What was the previous policy, how is this different?

5.8 This Order in Council does not change the policy, rather it aligns the law with the policy by correcting the formula so that in future, permanent secretary pay is excluded from the calculation, in line with the longstanding policy. The reset entitled salary amounts have been calculated by applying the existing statutory formula correctly (i.e. including the Permanent Secretary pay band in the calculation) each year since the discrepancy was noticed, i.e. since the 2022/23 published salaries. The Prime Minister's decision to maintain the ministerial salary freeze means that the actual take-home pay for ministers will remain unchanged as they continue to take the claimed salary rather than the salary they are entitled to in law. The eight other office-holders will continue to choose whether to waive their salary entitlement under law and take a reduced salary or to take their entitled salary.

5.9 Entitled salaries for 2026/27 will be calculated once the senior civil service pay settlements are finalised in 2026, including the Permanent Secretary settlement. The formula applied will be the higher of: the percentage calculated using the new formula (i.e. excluding permanent secretaries), and, the percentage calculated using the old formula (i.e including permanent secretaries). This is a transitional measure to ensure no minister or other office-holder will be disadvantaged by the retrospective effect of the Order. The Order in Council does not change the number of salaries available for ministers and office-holders.

6. Legislative and Legal Context

How has the law changed?

6.1 The Order in Council has changed the salary amounts which will have effect from the beginning of 1st April 2026. The Order has updated the formula to calculate salary increases which has effect for the period of 12 months beginning with 1st April 2026 and each successive period of 12 months. For the year beginning 1st April 2026, the formula applied will be the higher of: the percentage calculated using the new formula (i.e. excluding permanent secretaries), and, the percentage calculated using the old formula (i.e including permanent secretaries).

Why was this approach taken to change the law?

6.2 As the law has been misapplied since 1997, it is no longer feasible to determine exactly what ministerial and other office-holder salary entitlements should be. The government needs to reset the salaries to ensure that ministerial and other office holder salary entitlements are certain, and the formula needs to be changed to ensure that they remain accurate and proportionate in the future. It also formalises the policy approach that has been applied in practice for over two decades.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation was not undertaken as this Order in Council represents a technical change to address a misapplication in the law.

8. Applicable Guidance

8.1 No guidance will be provided.

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 there is no impact on private sector business or charities, and there is no significant public sector impact as the order only determines salaries for ministers and a select number of other office holders.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies because the order only determines salaries for ministers and a select number of other office holders.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is minimal. The impact would be felt by each ministerial department should the Prime Minister allow ministers to accept their entitled salary, rather than maintain the current freeze. The Consolidated Fund will be impacted, as the other office holders' salaries are paid out of the fund and it is a personal decision for each office-holder whether to take their entitled pay.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to review the instrument during this current Parliament.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Articles 3 to 6 of the Order in Council will have retrospective effect from the beginning of 1st April 2026. Articles 3 to 5 of the Order will set out the new ministerial and other office holder salaries payable under section 1 of the 1975 Act, and this will slightly increase the entitled salaries of ministers and other office-holders, in line with annual pay increases for the Senior Civil Service since 2022/23. The salaries as set out in articles 3 to 5 of the Order have been calculated using the formula which includes the permanent secretary payband, as per the legislation before the Order in Council is made. For the year beginning with 1st April 2026, the formula applied will be the higher of: the percentage calculated using the new formula (i.e. excluding permanent secretaries), and, the percentage calculated using the old formula (i.e including permanent secretaries); as such Article 6 will apply retrospectively to 1 April 2026.

11.2 A separate policy position is in place for ministerial salaries which have not risen since 2008 (with the exception of Lords ministers' salaries which were exceptionally uplifted in 2019) and this remains the case. However, the relevant office holders have not had the pay increases they are entitled to since 1 April 2023, which was the start of the financial year when the misapplication was identified by the government. Articles 3, 4, 5 and 6 of the Order will therefore apply retrospectively to the relevant office holders since 1 April 2026. The government will also be recompensing relevant office-holders any money owed dating back to 1 April 2023.

12. European Convention on Human Rights

12.1 The Minister for the Cabinet Office has made the following statement regarding Human Rights:
"In my view the provisions of THE MINISTERIAL AND OTHER SALARIES ACT 1975 (AMENDMENT) ORDER 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").