EXPLANATORY MEMORANDUM TO

THE ENTERPRISE ACT 2002 (PART 9 RESTRICTIONS ON DISCLOSURE OF INFORMATION) (SPECIFICATION) ORDER 2026

2026 No. 670

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister McCluskey, Parliamentary Under Secretary of State (Minister for Energy Consumers) at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Simon Masterson, Director, Fuel, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Luna Hayduk at the Department for Energy Security and Net Zero can be contacted by email at the following address with any queries regarding the instrument: roadfuelprices@energysecurity.gov.uk. Alternatively, by telephone: 07927579762.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Part 9 of the Enterprise Act 2002 ("the 2002 Act") restricts the disclosure by a public authority of information which it has obtained under certain Parts of the 2002 Act or other specified legislation ("specified information").

4.2 This Order specifies, for the purposes of sections 238(1)(c) and 241(3)(c) of the 2002 Act, the Motor Fuel Price (Open Data) Regulations 2025 ("the Motor Fuel Price Regulations"). As a result, information obtained by a public authority in connection with the exercise of functions under those Motor Fuel Price Regulations becomes "specified information" under Part 9 of the 2002 Act. In addition, specified information which is otherwise restricted from being disclosed by Part 9 of the 2002 Act may, in accordance with that Part, be disclosed by public authorities to any other person for the purpose of facilitating the exercise by that person of any function conferred on them under or by virtue of the Motor Fuel Price Regulations.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

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

5. Policy Context

Fuel Finder Enforcement

5.1 Part 9 of the 2002 Act reflects the Government strategy of widening and harmonising the gateways through which information can be disclosed in the UK and overseas and at the same time introduces appropriate safeguards in respect of permitted disclosures of information.

5.2 The Motor Fuel Price Regulations came into force on 2 February 2026 and provides the statutory framework for the Fuel Finder scheme. Fuel Finder is a statutory open data scheme requiring persons who sell motor fuel for retail purposes from a petrol filling station (PFSs) in the United Kingdom to register and report changes to fuel prices within 30 minutes of those changes occurring.

5.3 Timely and accurate price data is essential to the effective operation of the Fuel Finder scheme and ensuring that consumers can make informed decisions when purchasing motor fuel. Enforcement powers are therefore necessary to support compliance with the reporting requirements and to address instances where a PFS fails to meet its statutory obligations.

5.4 The Competition and Markets Authority ("CMA") is the designated enforcement authority for the scheme. Where the CMA has reasonable grounds to suspect a breach of the Motor Fuel Price Regulations, it may exercise its investigatory powers to obtain information necessary to assess the nature and extent of any non-compliance. Where appropriate, the CMA may issue a compliance notice requiring a PFS to comply with a requirement imposed by or under the Motor Fuel Price Regulations and has powers to impose financial penalties.

5.5 This instrument will mean that information obtained by a public authority (principally the CMA) in connection with the exercise of functions under the Motor Fuel Price Regulations becomes "specified information" under Part 9 of the 2002 Act.

5.6 Bringing information gathered by the CMA through its enforcement functions within the scope of "specified information" under Part 9 of the 2002 Act, recognises the fact that the CMA may obtain potentially sensitive commercial information when exercising those functions, and the confidentiality of parties' information is an important consideration for those who participate in a CMA case. The CMA may still use information for the purposes of facilitating the exercise of any of its statutory functions, but the framework in Part 9 provides appropriate safeguards regarding the disclosure of that information to external parties. This provides businesses with certainty as to how their information will be treated. It will also create consistency with the CMA's handling of information obtained under its other statutory functions, including its road fuel monitoring function under Part 5, Chapter 1 of the Digital Markets, Competition and Consumer Act 2024, and means that the usual confidentiality and disclosure safeguards, and CMA considerations, also apply to information obtained under the Motor Fuel Price Regulations.

5.7 This instrument will not affect the protection of specified information provided by the 2002 Act, which only permits the disclosure of specified information in accordance with the provisions of Part 9 of the 2002 Act.

What was the previous policy, how is this different?

5.8 Prior to the introduction of the Motor Fuel Price Regulations, the CMA used its non-compulsory information gathering powers under the 2002 Act to gather information on a voluntary basis from businesses. The protections in Part 9 of the 2002 Act

applied to the information gathered in this way, and businesses could ultimately choose not to provide information if they had concerns.

5.9 The CMA now has compulsory information gathering powers under the Motor Fuel Price Regulations, but in contrast to its other functions and the previous voluntary scheme, prior to this instrument, information obtained by the CMA in connection with its functions under the Motor Fuel Price Regulations does not fall within scope of Part 9 of the 2002 Act. This creates inconsistency with the CMA's handling of information obtained under its other statutory functions (and the previous voluntary scheme), resulting in information being treated differently across its regimes.

5.10 General duties of confidentiality still apply and the CMA, as a public authority, cannot freely release confidential or commercially sensitive information. Information disclosure is subject to the usual statutory restrictions, including under the Freedom of Information Act 2000 and the relevant exemptions apply. However, this requires the CMA to apply different considerations when handling and disclosing information across its statutory functions.

5.11 This instrument brings the Motor Fuel Price Regulations within scope of Part 9 of the 2002 Act, providing consistency and certainty with the treatment of information obtained by the CMA under its statutory functions.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 237 of the 2002 Act prohibits the disclosure of specified information (as defined in section 238) about an individual or business, except in accordance with Part 9 of the 2002 Act. Under section 238, specified information is information which comes to a public authority in connection with the exercise of any functions it has under or by virtue of Parts 1, 3, 4, 6 or 7 of the 2002 Act, an enactment specified in Schedule 14 or subordinate legislation specified by the Secretary of State by order. In practice, this prohibition principally applies to the CMA.

6.2 Section 241(3)(c) provides that a public authority may disclose specified information to another person for the purpose of facilitating the exercise by that person of any function under subordinate legislation specified by order for the purposes of that subsection.

6.3 This instrument specifies subordinate legislation, the Motor Fuel Price Regulations, for the purposes of sections 238(1)(c) and 241(3)(c) of the 2002 Act.

Why was this approach taken to change the law?

6.4 The approach was taken to ensure that information obtained by the CMA in the exercise of its enforcement functions under the Motor Fuel Price Regulations 2025is subject to a clear and consistent statutory framework governing the handling and disclosure of information.

6.5 This approach avoids the need to create a standalone or bespoke disclosure regime for Fuel Finder, reducing complexity and ensuring consistency with the CMA's wider statutory duties. It provides clarity for the CMA when handling information obtained under the scheme, while maintaining appropriate protections for commercially sensitive information.

7. Consultation

7.1 No consultation was prepared for this instrument.

7.2 Informal consultation was undertaken with the CMA to understand the requirements of this instrument and potential impacts of not implementing.

8. Applicable Guidance

8.1 No guidance has been prepared for this instrument because this instrument does not amend the way Part 9 of the 2002 Act operates.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument as it has no impact on the costs of businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument does not create any new regulatory requirements or obligations. An Impact Assessment relating to the Fuel Finder scheme was published online in October 2025: www.legislation.gov.uk/uksi/2025/1356/impacts

10. Monitoring and review

10.1 This instrument does not include a monitoring or review provision.

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").