EXPLANATORY MEMORANDUM TO

THE FINANCIAL PENALTIES (HOUSING OFFENCES AND BREACH OF BANNING ORDERS) REGULATIONS 2026

2026 No. 319

1. Introduction

1.1 This Explanatory Memorandum has been prepared by Ministry of Housing, Communities and Local Government (MHCLG) 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 Matthew Pennycook MP, Minister of State for Housing and Planning at MHCLG, confirms that this Explanatory Memorandum meets the required standard.

2.2 Stephanie Kvam, Deputy Director for the Private Rented Sector at MHCLG confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Patrick Owen at the Ministry of Housing, Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: prsguidance@communities.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This legislation means that those committing certain housing offences under the Housing Act 2004 and the offence of breaching a banning order under the Housing and Planning Act 2016 can receive a maximum civil penalty of £40,000 rather than £30,000.

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 The Renters' Rights Act (RRA) reforms renting in England by abolishing section 21 'no fault' evictions and replacing assured shorthold tenancies with assured periodic tenancies (rolling tenancies with no fixed end date). This change ends fixed-term assured tenancies and strengthens tenant security, enabling renters to challenge poor practice and unfair rent increases without the risk of retaliatory eviction.

5.2 This instrument amends the Housing Act 2004 and the Housing and Planning Act 2016, by increasing the maximum civil penalty for applicable offences from £30,000 to £40,000. The offences to which this applies to under the Housing Act 2004 are: failure to comply with an improvement notice (section 30); offences in relation to licensing of Houses in Multiple Occupation (section 72); offences in relation to licensing of other houses (section 95); contravention of an overcrowding notice (section 139); and failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234). The offence to which this maximum civil penalty applies to under the Housing and Planning Act 2016 is a breach of a banning order (section 21).

5.3 The current maximum level of civil penalties has remained unchanged since April 2017, in relation to the Housing Act 2004, and April 2018, for the Housing and Planning Act 2016. The government is concerned that it no longer provides a sufficient deterrent for those who disregard the rules.

5.4 Raising the maximum level reflects changes in the value of money and helps ensure penalties act as a more effective disincentive for non-compliance. Adjusting the £30,000 civil penalty maximum for inflation, measured by Consumer Price Inflation in Housing (CPIH) since these measures came into force, to October 2025, provides a figure of £40,209 in relation to Housing Act 2004 offences and £39,669 in relation to the Housing and Planning Act 2016 offence. We consider that setting the new maximum penalty at £40,000 for all these offences represents sensible rounding.

5.5 A maximum civil penalty of £40,000 aligns with maximum penalties for offences under the RRA, the Protection from Eviction Act 1977 and Housing Act 1988, as amended by the RRA.

What was the previous policy, how is this different?

5.6 Previously, the maximum civil penalty for certain offences under the Housing Act 2004 and breaching a banning order under the Housing and Planning Act 2016 was £30,000. This has now increased to a maximum civil penalty of £40,000, thereby strengthening deterrence for non-compliance.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 249A, subsection (8) of the Housing Act 2004, and section 23, subsection (9) of the Housing and Planning Act 2016 provides that the Secretary of State may by regulations amend the maximum financial penalty for relevant offences in these respective Acts to reflect changes in the value of money. The law has now changed in that a person or persons, breaking the law within the Housing Act 2004 and the Housing and Planning Act 2016 can now face a maximum civil penalty of £40,000. This increase is to reflect the changes in the value of money since these provisions first came into force. For offences committed before the new penalty level came into force, the previous maximum fine level of £30,000 still applies.

Why was this approach taken to change the law?

6.2 Using the power in the primary legislation, through section 249A, subsection (8) Housing Act 2004 and section 23, subsection (9) Housing and Planning Act 2016 respectively, to increase maximum penalty levels, was considered the most appropriate way to make this change.

6.3 To note, this instrument forms part of the following package of statutory instruments, which were also laid or published alongside this instrument with a commencement date of 1 May 2026:

6.3.1 The Assured Tenancies (Private Rented Sector) (Prescribed Forms and Transitional Provisions) (England) Regulations 2026

6.3.2 The Assured Tenancies (Private Rented Sector) (Written Statement of Terms etc and Information Sheet) (England) Regulations 2026

6.3.3 The Housing Act 1988 (Assured Tenancies) (Definition of Legal Representative) (England) Regulations 2026

6.3.4 The Renters' Rights Act 2025 (Consequential Amendments) and Tenancies (Miscellaneous Amendments) (England) Regulations 2026

6.3.5 The Student Accommodation (Miscellaneous Provisions) (England) Regulations 2026

6.4 Collectively, these instruments constitute the first phase of implementation of the Renters' Rights Act (RRA). The sequencing and rationale for this approach is detailed in the implementation roadmap for the RRA[1], which was published on 13 November 2025.

6.5 The government will make commencement regulations shortly before 1 May 2026 to ensure the first phase is implemented fully on that date.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no requirement to consult on these regulations. We do not intend to undertake a consultation as increasing maximum penalty levels in line with inflation is not in itself controversial. The law applies to England only, so there is no need to consult with devolved governments.

8. Applicable Guidance

8.1 Draft guidance on setting civil penalties for offences covered by these regulations has been published on GOV.UK.[2]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been produced for this instrument as this policy only affects businesses and individuals who break the law. A full assessment of the reforms introduced by the RRA was produced in the Impact Assessment.[3]

Impact on businesses, charities and voluntary bodies

9.2 The impact on business and individual landlords is that those who break the law will on average face higher civil penalties.

[1] https://www.gov.uk/government/publications/renters-rights-act-2025-implementation-roadmap
[2] https://www.gov.uk/government/publications/civil-penalties-under-the-renters-rights-act-2025-and-other-housing-legislation/civil-penalties-under-the-renters-rights-act-2025-and-other-housing-legislation
[3] https://www.gov.uk/government/publications/renters-rights-bill-impact-assessment

9.3 As the vast majority of landlords have fewer than 50 employees and a turnover of less than £10 million, they would be considered as a small and/or micro business (SMB). Government has not exempted SMBs as this would undermine the policy intent of this instrument and the wider aims of the RRA.

9.4 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the government has undertaken an extensive communications programme in advance of the measures coming into force, including preparing extensive guidance to support landlords and letting agents to support compliance.

9.5 No material impact on charities or voluntary bodies is expected.

9.6 The impact on the public sector is that local housing authorities imposing these penalties will, on average, receive increased revenue. This will have a beneficial effect on their enforcement capabilities and in turn could increase tenants' wellbeing through increased housing standards.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 We will monitor this legislation as part of our evaluation of the impact of our private rented sector reform programme and the Renters' Rights Act. This will assess how effectively we have met the government's aim to deliver a fairer, more secure and higher quality private rented sector.

10.2 This evaluation will make use of data collected through interviews, surveys and focus groups with tenants, landlords, letting agents, third sector organisations, delivery partners, and government officials. We will also use data from surveys such as the English Housing Survey and the English Private Landlord Survey data.

10.3 We will also collect data from local authorities on the number of civil penalties issued for offences where the maximum penalty is increased by this instrument.

10.4 Reports will be prepared two and five years after the implementation date of 1 May 2026.

10.5 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Matthew Pennycook, has made the following statement:

"It would be inappropriate to include a statutory review clause as the government has already committed to an ongoing review of the impacts of the Renters' Rights Act, with plans to publish evaluation findings two and five years after the implementation date of 1 May 2026."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The power to amend the maximum financial penalties for certain housing offences and breach of banning orders is provided for in Section 249A (8) of the Housing Act 2004 and section 23 (9) of the Housing and Planning Act 2016. The maximum financial penalty of £40,000, was calculated by using published inflation figures based on the Consumer Price Inflation in Housing (CPIH) for October 2025 and was rounded for consistency across both Acts.

12. European Convention on Human Rights

12.1 The Minister of State for Housing and Planning has made the following statement regarding Human Rights:

"In my view, the provisions of the Financial Penalties (Housing Offences and Breach of Banning Orders) 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”).