EXPLANATORY MEMORANDUM TO

THE FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL (CHAMBERS) (AMENDMENT NO. 2) ORDER 2026

2026 No. 1083

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Sarah Sackman, Minister of State for Courts and Legal Services at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Rawfiah Choudry, Deputy Director for Tribunals, Fees and Irregular Migration Policy at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Asmita Majumder at the Ministry of Justice can be contacted by email at the following address with any queries regarding this instrument: asmita.majumder@justice.gov.uk

Part One: Explanation, and context, of the Instruments

4. Overview of the Instruments

What does the legislation do?

4.1 The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No. 2) Order 2026 ("the 2026 Order") amends the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 ("the 2010 Order") to reallocate cases under Schedule 3B to the Social Security Administration Act 1992 to the Tax Chamber of the First-tier Tribunal ("the Tax Chamber"). Currently, under article 6(c) of the 2010 Order, such appeals are allocated to the Social Entitlement Chamber of the First-tier Tribunal ("the SEC").

Where does the legislation extend to, and apply?

4.2 The territorial extent of the 2026 Order (that is, the jurisdiction(s) in which the instrument forms part of the law) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of the 2026 Order (that is, where the instrument produces a practical effect) is the same as the application of the instrument to which the 2026 Order relates. The amendments that effect the Tax Chamber and the SEC apply to proceedings in England and Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 Part 1 of Schedule 3 to the Public Authorities (Fraud, Error and Recovery) Act 2025 inserted a new Schedule 3B to the Social Security Administration Act 1992 which

provides the Secretary of State for Work and Pensions with powers to tackle benefit fraud and error.

5.2 Under Schedule 3B, the Department for Work and Pensions ("DWP") may issue an eligibility verification notice ("EVN"), requiring a bank or financial institution to provide specified information for the purpose of verifying a claimant's benefit entitlement and identifying incorrect payments. Where the recipient of an EVN fails to comply with the notice or provides inaccurate information in response, the DWP may issue a penalty notice imposing a monetary penalty. Part 4 of Schedule 3B provides the recipient a right of appeal to the First-tier Tribunal against the issue of an EVN or a penalty notice.

5.3 The 2026 Order reallocates this new jurisdiction to the Tax Chamber, reflecting its expertise in appeals concerning information-gathering and compliance powers. Although functions under Schedule 3B relate to the benefit system, proceedings under it do not concern an individual's entitlement to benefits, which would ordinarily be heard by the SEC. Rather, they concern the DWP's powers to obtain information from banks and other financial institutions and to enforce compliance with those requirements. These powers are analogous to His Majesty's Revenue and Customs information-gathering powers under Schedule 23 to the Finance Act 2011, appeals against which are heard in the Tax Chamber.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 7 of the Tribunals, Courts and Enforcement Act 2007 provides that the Lord Chancellor may, with the concurrence of the Senior President of Tribunals, organise the First-tier Tribunal and Upper Tribunal into Chambers and specify the allocation of functions between these Chambers. The 2010 Order has been made in exercise of that power, and it specifies the functions that are allocated to each of the Chambers of the First-tier Tribunal and the Upper Tribunal.

6.2 The 2026 Order amends article 7 (functions of the Tax Chamber) of the 2010 Order, to include proceedings against the exercise of functions by the Secretary of State under Schedule 3B to the Social Security Administration Act 1992. A consequential amendment is made to article 6 (functions of the Social Entitlement Chamber) of the 2010 Order, to ensure that these proceedings are no longer a function of the SEC.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcomes

7.1 In accordance with section 7(9) of the Tribunals, Courts and Enforcement Act 2007, the Lord Chancellor with the concurrence of the Senior President of the Tribunals, can allocate specific functions between the different chambers of the First-tier Tribunal and Upper Tribunal.

7.2 Ministry of Justice officials, on behalf of the Lord Chancellor, have consulted the Senior President of Tribunals, who agrees with this allocation. In addition, views have been obtained from the DWP and Chamber Presidents of the Tax Chamber and the SEC, all of whom are supportive of the changes made by the 2026 Order.

8. Applicable Guidance

8.1 His Majesty's Courts and Tribunals Service produces guidance for each Tribunal jurisdiction which is issued to parties at key stages of the appeals process and is available here[1].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument as its impact is expected to be minimal and well below the threshold of £5 million per annum at which an assessment must be prepared.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Ministry of Justice continually keeps the functions of the Tribunals and its constituent Chambers under review.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 There are no matters of special interest to Parliament.

12. European Convention on Human Rights

12.1 This instrument is subject to the negative resolution 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").

[1] https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about