EXPLANATORY MEMORANDUM TO

THE HOUSING ACT 1988 (ASSURED TENANCIES) (DEFINITION OF LEGAL REPRESENTATIVE) (ENGLAND) REGULATIONS 2026

2026 No. 321

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government (MHCLG) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook MP, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

2.2 Ross McInnes, Deputy Director for the Private Rented Sector at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 James Kelly 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 The instrument further defines the qualifying individuals who will fall under the definition of "legal representative" in section 16M, for the purposes of exempting these individuals from enforcement under new breaches and offences contained within new sections 16D to 16L, and Schedule 2ZA of the Housing Act 1988.

4.2 This instrument adds into that definition individuals carrying on a legal activity (within the meaning of the Legal Services Act 2007) in the course of a business who are not an authorised person for the purposes of a reserved legal activity under that Act, but who are also involved in the provision of legal advice to those subject to the Housing Act 1988. These include employees or managers of authorised persons, registered foreign lawyers and lawyers authorised to practise in Scotland and Northern Ireland.

4.3 This exemption is necessary to uphold the integrity of the legal profession and ensure fair application of Renters' Rights Act 2025 (RRA) enforcement provisions, ensuring that they do not duplicate existing regulatory oversight.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 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 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 The RRA also introduces a new enforcement framework aimed at improving standards and accountability in the private rented sector. The RRA inserts new sections 16D to 16M and Schedule 2ZA into the Housing Act 1988. These provisions establish enforcement powers for local authorities to take action against 'relevant persons' which includes landlords and those acting on their behalf where breaches of tenancy-related obligations occur. Enabling local authorities to enforce against those acting on a landlord's behalf is important, as it ensures that landlords cannot circumvent enforcement by having someone else commit a breach or offence on their behalf – for example, a letting agent, a friend, or relative.

5.3 Without legislative provision to exempt legal representatives from enforcement, legal professionals could be subject to dual enforcement, both by their professional regulatory bodies and by local authorities, for the same conduct. Section 17 of the RRA 2025 sets out a definition of "legal representative" for the purpose of the enforcement provisions in the same Act, which aligns with the definition in the Legal Services Act 2007. This definition covers only legal representatives who are qualified in England, however. Section 17 also enables the Secretary of State to expand the definition of 'legal representative' in regulations.

5.4 The definition of "legal representatives" in the Legal Services Act 2007 is not designed to operate as a comprehensive definition for everyone who may legitimately provide legal services to landlords. Instead, it is intended primarily to regulate reserved legal activities as well as whether an individual is an authorised person for those activities.

5.5 As a result, relying solely on the Legal Services Act 2007 definition would be inadequate to cover all of the legal representatives who might reasonably provide services to landlords operating in England.

What was the previous policy, how is this different?

5.6 The RRA introduces a new tenancy system for renting in England This places new requirements and prohibitions on landlords and those acting, or purporting to act, on their behalf. In order to enable the effective enforcement of this new system, the RRA creates new breaches and offences, which local authorities can enforce against if a relevant person commits one or more of these. The need to exempt legal representatives from local authority enforcement of these breaches and offences has arisen because of this new enforcement regime.

6. Legislative and Legal Context

How has the law changed?

6.1 The RRA introduced a statutory framework for enforcement against landlords and letting agents who fail to comply with tenancy obligations, particularly under new sections 16D to 16M and Schedule 2ZA to the Housing Act 1988. The RRA exempts legal representatives from the duties and obligations and includes a definition of legal representative. This instrument expands the scope of this definition to ensure all relevant individuals are covered by the exemption.

6.2 This instrument expands the list of relevant legal representatives to include employees and managers of persons authorised to carry out a reserved legal activity under the Legal Services Act 2007, registered foreign lawyers, Scottish registered foreign lawyers, Scottish solicitors, Scottish advocates, Northern Irish solicitors, Northern Irish barristers, registered European lawyers and registered Swiss lawyers undertaking an adaptation period.

6.3 This instrument forms part of a package of secondary legislation intended to support the implementation of the RRA.

Why was this approach taken to change the law?

6.4 A free-standing instrument was considered the most appropriate legislative vehicle to deliver the necessary changes for the purposes of the RRA. The definition of legal representative for the purpose of this exemption is defined in law, so this is the only possible way to expand this definition.

6.5 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:

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

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

6.5.3 The Financial Penalties (Housing Offences and Breach of Banning Orders) Regulations 2026

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

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

6.6 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.

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

[1] https://www.gov.uk/government/publications/renters-rights-act-2025-implementation-roadmap

7. Consultation

Summary of consultation outcome and methodology

7.1 We have engaged closely with officials in the relevant devolved administrations. The input of these stakeholders ensured maximum accuracy of definitions of legal representatives registered in devolved territories. No concerns were raised about the implementation of this instrument. No public consultation was undertaken for this instrument, as it makes technical provision to give effect to policy agreed during the passage of the primary legislation.

8. Applicable Guidance

8.1 Enforcement guidance for local housing authorities has been published on GOV.UK. This refers to the exemption of legal representatives from the relevant RRA enforcement measures.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 There is no additional impact on business, charities or voluntary bodies because this instrument merely ensures consistency with changes to be introduced by the RRA. A full assessment of the reforms introduced by the RRA was produced in the RRA Impact Assessment.[2]

Impact on businesses, charities and voluntary bodies

9.2 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.

9.3 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

9.4 There is no, or no significant, impact on the public sector beyond the need for local authorities to consider whether an individual falls under the definition of "legal representative" before deciding whether to take enforcement action against them under the RRA.

9.5 We expect no significant impact on charities and the voluntary sector.

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 RRA. 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

[2] https://www.gov.uk/government/publications/renters-rights-bill-impact-assessment

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

10.4 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 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").