EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT (STRUCTURAL CHANGES) (FINANCE) (AMENDMENT) REGULATIONS 2026

2026 No. 406

1. Introduction

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

2. Declaration

2.1 Alison McGovern, Minister for Local Government and Homelessness at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Michelle Warbis, Deputy Director for Local Taxation and Pensions at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

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

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The council tax second homes premium allows councils to charge an additional 100% on second homes in their area, but they must made a formal decision to do so at least one year in advance of charging it for the first time. This ensures that taxpayers have adequate notice of the potential impact on their bill. This instrument ensures that councils undergoing structural or boundary changes must still give that one-year notice before introducing a premium if it had never been implemented by a predecessor council prior to the reorganisation. This will ensure that taxpayers in these areas will receive the same notice of the introduction of the premium as taxpayers in other areas.

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 only.

5. Policy Context

What is being done and why?

5.1 Since 1 April 2025 billing authorities – who administer the council tax system in England - have been able to charge a council tax premium of up to 100% on a dwelling which is substantially furnished and has no resident ('the second homes premium').[1] Billing authorities must make a formal determination in order to charge the premium. 211 out of 296 billing authorities chose to introduce a second homes premium in their area in 2025-26.[2]

5.2 Section 11C(3) of the Local Government Finance Act 1992 ("the 1992 Act") requires that a billing authority's first determination to charge the second homes premium must be made at least one year before the beginning of the financial year to which it relates. This provision ensures that taxpayers are given at least 12 months' notice before the premium is first charged in the billing authority's area.

5.3 Councils established as a result of restructuring or boundary change may inherit predecessor council areas (such as those of former shire district councils) where the second homes premium has never been introduced. Section 11C(3) of the 1992 Act does not explicitly state that where a new council introduces the second homes premium for the first time in those areas it must make the necessary determination at least one year before the beginning of the financial year to which it relates.

5.4 The Government wishes to clarify this matter so that the underlying intention of the primary legislation is maintained and that taxpayers in these areas being charged the premium for the first time are treated in the same way as taxpayers who have already be subject to the premium.

5.5 These regulations are of general application, although in the first instance they will apply to local government reorganisation in Surrey, for which an Order was made on 9 March 2026 and came into force on the same day.[3] Shadow councils for East Surrey and West Surrey will be elected on 7 May 2026, will take office on 11 May 2026, and will be able to make decisions on council tax in advance of becoming the billing authorities for their respective areas on 1 April 2027.

5.6 The regulations will not affect the ability of current billing authorities to make a second homes premium determination prior to restructuring or boundary changes, nor will they affect the ability of the successor council to change the level of the second home premium where it is already being charged in their area.

What was the previous policy, how is this different?

5.7 The instrument does not implement any change to policy. It clarifies that following a structural or boundary change, a billing authority wishing to introduce the second homes premium in an area for the first time must make a determination to do so at least one year before the financial year to which it relates. This will ensure that existing policy continues to apply to taxpayers in these areas.

[1] Billing authorities are district councils, London borough councils, the Common Council of the City of London and the Council of the Isles of Scilly.

[2] https://www.gov.uk/government/statistics/council-taxbase-2025-in-england/local-authority-council-taxbase-in-england-2025#empty-and-second-homes

[3] The Surrey (Structural Changes) Order 2026 [SI 2026/264.

6. Legislative and Legal Context

How has the law changed?

6.1 Part 1 of the 1992 Act concerns council tax in England and Wales. Billing authorities are required to levy and collect council tax in respect of dwellings situated in their areas (see section 1(1) and (2) of the 1992 Act). Section 11C(1) of the 1992 Act enables billing authorities to determine that the council tax payable on a dwelling in its area or part of its area which is substantially furnished and has no resident is increased by up to 100%.

6.2 Section 11C(3) of the 1992 Act requires that a billing authority's first determination must be made at least one year before the beginning of the financial year to which it relates. Section 11C(3) does not explicitly provide for a situation where a successor council area includes the areas of predecessor councils which had never introduced the premium.

6.3 Part 1 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") provides for the making of local government structural and boundary changes in England. Orders under section 7 of that Act provide for the restructuring of an area in which there are two tiers of local government and the establishment of single tier local government (which may be a county council or a district council) in that area. Orders under section 10 provide for boundary changes to local government areas at the same tier, for example the merger of neighbouring unitary councils.

6.4 Section 14 of the 2007 Act enables the Secretary of State, by regulations of general application, to make incidental, consequential, transitional and supplementary provision to give full effect to a section 7 or section 10 order. The Local Government (Structural Changes) (Finance) Regulations 2008 ("the 2008 regulations") were made using this power and relate to the exercise of finance functions under the Local Government Finance Act 1988 and the Local Government Finance Act 1992 by local authorities.[4]

6.5 Regulation 9 of the 2008 Regulations provides for continuity of functions so that anything done by a predecessor council in relation to Part 1 of the 1992 Act is to be treated as if done by the successor council. This instrument amends regulation 9 to clarify that where the area of a successor council includes the area of a predecessor council which had not made a determination under section 11C(1) of the 1992 Act, its first determination in relation to that predecessor area must be made at least one year before the financial year to which it applies.

Why was this approach taken to change the law?

6.6 The 1992 Act does not explicitly provide for situations where a successor council is introducing the second homes premium in an area where it has never previously been charged. The Government wishes to clarify this matter to ensure that all council tax payers are treated in a consistent way. Regulations made using the powers in section 14 of the 2007 Act are the established mechanism for making transitional provision in cases of local government structural or boundary changes.

[4] S.I. 2008/3022

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument, which ensures that primary legislation and existing policy apply to successor councils, has not been subject to specific consultation. Billing authorities were informed of the Government's intention to make these regulations on 18 February 2026. The Ministry has not received any representations about this from the sector.[5]

8. Applicable Guidance

8.1 The Ministry of Housing, Communities and Local Government will write to councils setting out the detail of the changes made by the regulations.

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 it amends a local taxation regime and amendments to any tax are excluded from the definition of a regulatory provision.[6]

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is minimal. Billing authorities will take account of the instrument when considering whether to implement the second homes premium in their area following a structural of boundary change.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument makes transitional provision to enable the effective implementation of structural and boundary changes to local government, and the consistent treatment of council tax payers, and will not be monitored.

10.2 The instrument does not include a statutory review clause under section 28 of the Small Business, Enterprise and Employment Act 2015 because it does not make regulatory provision in relation to a qualifying activity carried out by businesses, charities, or voluntary bodies.

[5] Council tax information letter 2/2026: Carers disregard, local council tax support schemes and other matters - GOV.UK

[6] Definition of Regulatory Provision, Better Regulation Framework, Guidance, September 2023. See Better Regulation Framework - GOV.UK

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").