EXPLANATORY MEMORANDUM TO

THE SUPREME COURT FEES (AMENDMENT) ORDER 2026

2026 No. 241 (L. 4)

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 Minister Sackman, Minister of State 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 Chloe Upton at the Ministry of Justice email: mojfeespolicy@justice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument increases fees in the UK Supreme Court to reflect backdated changes in the Consumer Price Index (CPI). Fees will be increased by 5.9% (rounded down to the nearest £5) to reflect the change in CPI between March 2023 and March 2025 from when fees were last increased.

4.2 This instrument makes amendments to fees in the Supreme Court Fees Order 2024 (S.I. 2024/148).

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

What is being done and why?

5.1 Although the UK Supreme Court is independent of the Ministry of Justice, the Lord Chancellor has a statutory duty to ensure that the Supreme Court has the accommodation and resources necessary to carry out its functions effectively, as prescribed under section 50(1) of the Constitutional Reform Act 2005. To fulfil this duty, the Lord Chancellor can, with the agreement of the Treasury, prescribe fees in the UK Supreme Court under section 52(1) of the Constitutional Reform Act 2005. In

setting fees, the Lord Chancellor must have due regard to the principle that access to the courts must not be denied.

5.2 In 2024/25, income from UK Supreme Court fees accounted for around £1.2 million of its total income of c.£8.9 million, against c.£15.4 million in operational costs, with most of the total income coming from contributions of HM Treasury, His Majesty's Courts and Tribunals Service, the Scottish Government, and the Northern Ireland Courts and Tribunals Service.

5.3 Fees in the UK Supreme Court were last increased in April 2024 by 40%, to account for historical changes in the Consumer Price Index (CPI) from April 2011 to March 2023, the first time that fees had been increased since 2011. At the time that these changes were made, it was publicly consulted upon and agreed that UK Supreme Court fees would be increased every two years to account for changes in CPI inflation. This was agreed to support the resourcing of the UK Supreme Court through contributions from its users to avoid greater levels of subsidisation and public funds and the taxpayer as well as aligning with the rest of the courts and tribunals system, where inflation-based adjustments to fees are routine.

5.4 This instrument increases fees to account for historic inflation changes in CPI from the date of the last inflation-based changes to fees. This covers a period from March 2023 to March 2025 and represents a 5.9% increase to fees (rounded down to the nearest £5). This increase is in accordance with the underlying policy intention to set fees at levels that support cost recovery, without impeding access to justice for users of the Court. This increase is estimated to generate an additional £42,000 in fee income per annum (net of fee remissions), which will support the resourcing of the UK Supreme Court to continue to deliver its services effectively.

What was the previous policy, how is this different?

5.5 UK Supreme Court fees were last amended according to changes in CPI in April 2024, by the Supreme Court Fees Order 2024 (S.I. 2024/148). This was the first time that UK Supreme Court fees had been increased since 2011, and represented changes in CPI from April 2011 to March 2023, which equated to 40%. This increase was implemented in April 2024 after a public consultation was undertaken, where it was agreed that inflation-based increases to UK Supreme Court fees would be made every two years.

5.6 This instrument implements an increase to fees of 5.9% to reflect changes in CPI from March 2023 to March 2025.

6. Legislative and Legal Context

How has the law changed?

6.1 The Lord Chancellor has the power to prescribe court fees for proceedings in the UK Supreme Court under section 52 of the Constitutional Reform Act 2005. Fees set under this power cannot be set above the underlying cost of the service provided ("non-enhanced fees"). Statutory instruments that exercise this power to set fees in the Supreme Court are subject to the negative procedure, in accordance with section 144(6) of the Constitutional Reform Act 2005.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 The Lord Chancellor has a statutory duty under section 52(5) and (6) of the Constitutional Reform Act 2005 to consult with certain members of the senior judiciary and key organisations in the legal sector about any changes to fees payable in the UK Supreme Court. The Ministry of Justice consulted with the senior judiciary and key bodies, and have received no comment on the subject matter of this instrument.

8. Applicable Guidance

8.1 Relevant guidance setting out the changes introduced by this instrument will be made available by the Supreme Court by April 2026.

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 the financial impact of the measures is minimal. Given that the measures outlined in this instrument maintain the real-terms value of fees and are not expected to have a significant impact on the private, voluntary, or public sectors; under the Better Regulation Framework, a full impact assessment for this instrument is not required.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant impact on business, charities or voluntary bodies as the net financial impact of the fee increases only reflect changes in the value of money over time, therefore do not impose any additional economic burden on businesses, charities, or voluntary bodies.

9.3 The legislation does not have a significant impact on small or micro businesses given that fee increases are modest, and as above, only represent changes in the value of money over time.

9.4 There is no, or no significant, impact on the public sector because as stated above, the increases to fees in the Supreme Court do not impose any additional economic burden given that changes only reflect changes in the value of money over time.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to establish regular inflation-based increases to UK Supreme Court fees which refer to changes in CPI, every two years.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Minister Sackman has made the following statement: “In my view the provisions of the Supreme Court Fees (Amendment) Order 2026 have no net cost to business”.

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 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”).