

# STANDARD FORM OF EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION AND DOCUMENTS

5933/19  
COM(2019) 64 final

## PROPOSAL FOR A COUNCIL REGULATION ON MEASURES CONCERNING THE IMPLEMENTATION AND FINANCING OF THE GENERAL BUDGET OF THE UNION IN 2019 IN RELATION TO THE WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION

Submitted by HM Treasury on

4 March 2019

### SUBJECT MATTER

1. The Commission has proposed a draft regulation on the implementation and financing of the EU budget in 2019 if the UK left without an agreement. It is part of a wider programme of no-deal contingency measures proposed by the Commission.
2. After withdrawal, the United Kingdom ('UK') and entities established in the UK ('UK entities') may cease to be eligible to receive funding under EU spending programmes. This proposal provides for the possibility to maintain the eligibility of the UK and UK entities to continue to participate in EU programmes from withdrawal, up to the end of 2019. This would be subject to the UK making contributions in relation to the 2019 budget.<sup>1</sup>
3. The UK would be required to confirm at the latest on 18 April 2019, in writing to the Commission, that it will continue to pay contributions as per the EU budget for 2019 adopted by the European Parliament in December 2018. The amount owed would be equal to the amount listed in the adopted EU budget for 2019, less contributions made prior to withdrawal, paid on an adjusted schedule of equal monthly payments.
4. A further requirement of the proposal is for the UK to confirm it will continue to accept the controls and audits which cover the entire period of the programmes and actions in accordance with the applicable rules of the EU.
5. The proposal is without prejudice to negotiating an agreement with the UK on a financial settlement covering the entirety of mutual obligations between the UK and the EU. If no agreement is reached before January 2020, then the situation would be the same as that described in paragraphs 1 and 2. The Commission states that "in any event the Union and the United Kingdom would need to honour their respective obligations resulting from the whole period of the United Kingdom membership in the Union".

### SCRUTINY HISTORY

6. The Department for Exiting the European Union (DExEU) submitted:

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<sup>1</sup> [http://europa.eu/rapid/press-release\\_IP-19-743\\_en.htm](http://europa.eu/rapid/press-release_IP-19-743_en.htm)

- a. Explanatory Memorandum 11169/18: Communication from the Commission on Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019 on 23 August 2018. The Lords European Scrutiny Committee retained the file under scrutiny. The Commons European Scrutiny Committee cleared the file from scrutiny on 17 October 2018.
  - b. Explanatory Memorandum 14272/18: Communication from the Commission on Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan on 19 December 2018. The Lords European Union Committee and the Commons European Scrutiny Committee have both retained the file under scrutiny.
  - c. Explanatory Memorandum 15775/18: Communication from the Commission: Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: Implementing the Commission's Contingency Action Plan on 17 January 2019. The Commons European Scrutiny Committee cleared the file from scrutiny on 23 January 2019. The Lords European Scrutiny Committee retained the file under scrutiny.
7. The Department for Business, Energy and Industrial Strategy (BEIS) submitted Explanatory Memorandum 15847/18: Proposal for a Regulation of the European Parliament and of the Council in order to allow for the continuation of the territorial cooperation programmes PEACE IV (Ireland-United Kingdom) and United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) in the context of the withdrawal of the United Kingdom from the European Union on 18 January 2019. The Lords European Union Committee and the Commons European Scrutiny Committee have both retained the file under scrutiny.
  8. The Department for Education submitted Explanatory Memorandum 5892/19: Proposal for a Regulation of the European Parliament and of the Council laying down provisions for the continuation of ongoing learning mobility activities under the Erasmus+ programme in the context of the withdrawal of the United Kingdom of Great Britain and Northern Ireland ("United Kingdom") from the European Union on 18 February 2019.

## **MINISTERIAL RESPONSIBILITY**

9. The Chancellor of the Exchequer has responsibility for United Kingdom policy on European Union monetary and economic issues. The Foreign and Commonwealth Secretary and Secretary of State for Exiting the EU are responsible for overall United Kingdom policy towards the European Union.

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

10. The EU budget is a reserved matter under the UK's devolution settlements. However, the devolved administrations have an interest in the EU budget and have been consulted in the preparation of this EM.

## **LEGAL AND PROCEDURAL ISSUES**

- i. Legal basis
11. Article 352 of the Treaty for the Functioning of the European Union and Article 203 of the Euratom Treaty allow the EU to adopt appropriate measure if actions by the EU should prove necessary, within the framework of the policies, to attain one of the objectives set out in the Treaties, if the Treaties have not provided the necessary powers.
12. The Commission state that this proposal is necessary to implement the EU's budget of 2019. The Treaties do not currently allow for such transitory measures.
- ii. European Parliament Procedure
13. Consent procedure.
- iii. Voting procedure
14. Unanimity.
- iv. Impact on United Kingdom Law
15. Not applicable. This regulation comes into force the day following UK exit.
- v. Application to Gibraltar
16. Not applicable.
- vi. Fundamental rights analysis
17. Not applicable.

## **APPLICATION TO THE EUROPEAN ECONOMIC AREA**

18. Not applicable.

## **SUBSIDIARITY**

19. No issues of subsidiarity arise.

## **POLICY IMPLICATIONS**

20. On 23 June 2016, the EU referendum was held, and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29 March 2017 to begin the process of exit.
21. The Joint Report of 8 December 2017<sup>2</sup> on progress during phase 1 of negotiations sets out the principles regarding the UK's rights and obligations in respect of the

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<sup>2</sup> <https://www.gov.uk/government/publications/joint-report-on-progress-during-phase-1-of-negotiations-under-article-50-teu-on-the-uks-orderly-withdrawal-from-the-eu>

EU budget following its withdrawal, agreed in the context of wider Article 50 negotiations.

22. These principles were reflected in the Withdrawal Agreement, agreed as a fair financial settlement between the UK and the EU, honouring commitments made on both sides during our period of membership.
23. In early November 2018, the Prime Minister set out the details of the draft Withdrawal Agreement, to ensure a smooth and orderly departure when the UK leaves the European Union on 29 March 2019. The Government also agreed at the same time the broad terms of the UK and the EU's future relationship as set out in the Political Declaration.
24. On 15 January 2019 Parliament voted against this agreement. The Government has listened to the concerns raised and our priority remains to continue working with parliamentarians and our European partners to secure a deal that results in a smooth and orderly departure, which would make this proposed regulation unnecessary.
25. However, the Government continues to act responsibly and prepare for all eventualities, as we have been doing for the past two years. The Government has already guaranteed funding for certain EU funded projects agreed before the end of 2020, to provide certainty to UK beneficiaries. This ensures that UK organisations, such as charities, businesses and universities, will continue to receive funding over a project's lifetime if they successfully bid into EU-funded programmes before the end of 2020, even in the event of a no-deal.
26. While the Withdrawal Agreement will not apply if the UK left the EU without a deal, the Government has always been clear that the UK has obligations to the EU, and the EU obligations to the UK, that will survive the UK's withdrawal – and that these would need to be resolved. The UK is a nation that honours its obligations, and we will honour the commitments we made during our membership. The Government is currently analysing the Commission proposal on this basis.

## **CONSULTATION**

27. No consultation has been carried out or is planned.

## **IMPACT ASSESSMENT**

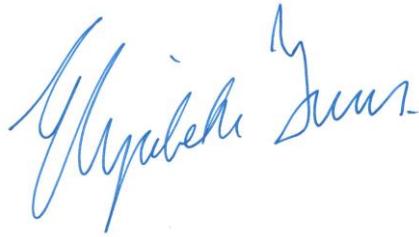
28. No impact assessment was carried out. No future impact assessment is planned.

## **FINANCIAL IMPLICATIONS**

29. In a no-deal scenario, the UK and UK beneficiaries would be eligible to receive funds under EU programmes in 2019, if the UK was to confirm at the latest on 18 April 2019 in writing to the Commission that it will continue to pay contributions relating to the EU budget for 2019 as adopted by the European Parliament in December 2018.

## TIMETABLE

30. Under Article 352 of the Treaty for the Functioning of the European Union, this proposal must be agreed at COREPER prior to being passed to the European Parliament. Under the current timetable, agreement will be sought at COREPER on 6 March. The European Parliament will hold a Plenary vote on the proposal on 3/4 April before a Council (unanimity) vote on 8 April.
31. The UK deadline for written response is 18 April.

A handwritten signature in blue ink, appearing to read 'Elizabeth Truss', is centered on the page.

**RT HON ELIZABETH TRUSS MP  
CHIEF SECRETARY TO THE TREASURY**