

EXPLANATORY MEMORANDUM TO

THE PEACE PLUS PROGRAMME (NORTHERN IRELAND) REGULATIONS 2023

2023 No. 477

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 The UK committed to provide more than £730 million¹ to PEACE PLUS, the new EU cross-border programme that will fund activities and projects that promote peace and reconciliation and contribute to the cross-border economic and territorial development of Northern Ireland and the Border Region of Ireland (the “Programme”). The UK’s contribution represents almost 75% of the Programme budget, which together with funding from Ireland and the EU, bring the fund up to almost £1 billion². The Special EU Programmes Body (SEUPB) is the body responsible for implementing the Programme as it has been for predecessor programmes.
- 2.2 As the UK is no longer a member of the European Union but committed to fund the Programme, the Financing Agreement between the United Kingdom of Great Britain and Northern Ireland, Ireland and the European Commission on the PEACE PLUS Programme 2021-2027 (the “Financing Agreement”) was negotiated to govern the implementation of the Programme and make the funding available, including the contribution from the UK Government, to the SEUPB to manage and distribute to beneficiaries of the Programme [Para 6.2 - 6.4].
- 2.3 This instrument amends the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (the “1999 Order”) to ensure the SEUPB - as a legal entity created under the Order - complies with certain EU instruments and the terms of the Financing Agreement when exercising its functions in relation to the Programme [Para 6.1 and 7.4-7]. Provision must be made because the relevant EU instruments will not form part of domestic law automatically given the UK is not a member state. The amendments made by these Regulations require the SEUPB to comply with those instruments only insofar as relevant to, and only for the duration of, the Programme [Para 6.4]. This instrument also makes provision to confer upon the Department of Finance Northern Ireland certain functions as set out in the Financing Agreement [Para 6.1 and 7.8-9].

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

¹ Calculated from €851.803.416.

² Calculated from €1.144.897.065.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Northern Ireland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The 1999 Order makes provision for the six cross-border implementation bodies envisaged by the Belfast (Good Friday) Agreement 1998 and established under the Implementation Bodies Agreement. The SEUPB is one of those cross-border implementation bodies and the managing authority for PEACE programmes (a type of European territorial cooperation programme or “ETC programmes”) including PEACE PLUS. As a cross-border implementation body, the SEUPB is sponsored by the Department of Finance Northern Ireland (DoFNI) and the Department for Public Expenditure National Development Plan Delivery and Reform (Ireland). This means that those two departments oversee the SEUPB and its implementation of the Programme in Northern Ireland and Ireland, respectively. The functions of the SEUPB would have previously been supplemented and/or underpinned by directly applicable EU law (applicable both in the UK and in Ireland) which regulated the administration of ETC programmes generally, including the Programme’s predecessors.
- 6.2 As the UK is no longer a member state, the Financing Agreement was negotiated with the European Commission and Ireland as a standalone treaty to govern the implementation of the Programme and the UK Government’s funding contribution to the European Commission, who will, along with their contribution and the contribution from Ireland, make this funding available for the SEUPB to manage and distribute to beneficiaries in Northern Ireland and the Border Region of Ireland.
- 6.3 The Financing Agreement can be found [here](#) and, as an international treaty to which Part 2 of the Constitutional Reform and Governance Act 2010 (CRAG) applies, was presented on 24 March 2023 to go through the scrutiny process by Parliament under that Act before it can be formally ratified and brought into force. It defines the funding contributions from each of the parties and manages the detail of how the UK’s funding contribution will be paid. It also addresses the implementation of the Programme and details the functions of the SEUPB and related bodies, and makes provision for different eventualities over the course of the Programme.
- 6.4 The Financing Agreement also obliges the UK and Ireland to implement the Programme in accordance with a limited number of EU regulations (which apply to all ETC programmes), insofar as relevant and appropriate. The EU regulations will not automatically form part of UK law (be directly applicable), unlike the position for EU member states. This instrument ensures that the duration of the SEUPB’s requirement to comply with the relevant EU instruments is linked to the lifespan of the Programme and the Financing Agreement. These requirements will apply from the point of entry into force of the Agreement until 1 July 2032, being the long-stop date

upon which the Agreement will expire if the Programme has not already concluded by this date.

7. Policy background

What is being done and why?

- 7.1 PEACE PLUS will deliver projects and activities that significantly impact upon peace, reconciliation and prosperity in Northern Ireland and the border region of Ireland. The SEUPB historically administered predecessor programmes in both Northern Ireland and the border region of Ireland, and previously those functions would have been underpinned by directly applicable EU law (applicable in both the United Kingdom and Ireland). This instrument is required to allow the Programme to be managed as before, but where the management of predecessor programmes would have been subject to directly applicable EU law in Northern Ireland, this instrument allows the SEUPB and DoFNI to implement the Programme under the terms and conditions of the Financing Agreement.
- 7.2 This instrument is required to ensure the UK is meeting its international obligations set out in the Financing Agreement; namely for the SEUPB to comply with the Financing Agreement including relevant EU instruments when implementing the Programme, and conferring new functions upon the DoFNI created by the Financing Agreement.

New Article 14A, inserted by regulation 2: Implementation of PEACE PLUS by the SEUPB

- 7.3 New article 14A requires the SEUPB to comply with the Financing Agreement itself, and establishes the SEUPB as the ‘managing authority’ and the ‘accounting function’ for the Programme and the functions of these as set out in the Financing Agreement. It also places obligations on the SEUPB to include the relevant requirements to be included in grant agreements (the contract between the SEUPB and beneficiaries of the Programme which contain conditions for funding) as set out in the Financing Agreement.
- 7.4 The Financing Agreement obliges the UK to implement PEACE PLUS in accordance with the EU instruments set out in Part 1 of new Schedule 4A to be inserted into the 1999 Order (the so-called “basic acts”). This instrument makes provision for the SEUPB to exercise its functions in relation to the Programme in compliance with those basic acts including future amendments or replacements of those basic acts. This is because the references to the basic acts in the Financing Agreement are also ambulatory.
- 7.5 As per the Financing Agreement, the EU instruments the SEUPB will be under a duty to comply with include those implementing or delegated EU instruments which have already been adopted by the European Commission under enabling provisions in the basic acts and are relevant to the implementation of the Programme which are set out in Part 2 of new Schedule 4A. The SEUPB must also comply with other implementing or delegated instruments which may be adopted in future under those enabling provisions and which may be relevant to PEACE PLUS.
- 7.6 The Financing Agreement also contains a number of significant safeguards relevant to the requirement to implement the Programme in accordance with any future amendments to relevant EU law. There is a consultation provision where the UK must be notified if the EU has adopted an act which corrects, amends, replaces or

supplements a provision in a basic act which gives the UK an opportunity to consider if further action is required. Further action could take the form of a proposal for an amendment to the Financing Agreement, which if agreed by the other Parties and depending on how the amendment was to be made, could require it to undergo parliamentary scrutiny, in accordance with Part 2 of the Constitutional Reform and Governance Act 2010 (CRA). There are also mechanisms to manage suspension of the Financing Agreement, dispute resolution and termination, most notably giving any Party (including the UK) the right to unilaterally terminate the Agreement without the need to provide justification.

Regulation 3 – Duties of the Northern Ireland Department of Finance in relation to PEACE PLUS

7.7 Regulation 3 places obligations on the DoFNI which has two functions under the Financing Agreement: the “national authority” and the UK’s representative on the “group of auditors”.

7.8 The national authority is a new entity in relation to the Programme (it is only necessary in cases where an EU cross-border programme involves a third country), as is the “group of auditors”. Prior to the UK’s exit from the European Union, there would have been a single audit authority for the entire Programme; but EU law restricts the function of the audit authority to member states. To ensure representation from the United Kingdom, there is a “group of auditors” which assists the audit authority which will be the DoFNI.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is not being made to address a deficiency in retained EU law but relates to the withdrawal of the United Kingdom from the European Union because it is being made under section 8c of the European Union (Withdrawal) Act 2018. The Programme is a matter related to the Northern Ireland Protocol, including because it is a form of cooperation in relation to which there are general obligations under Article 11 of the Protocol.

9. Consolidation

9.1 There is no consolidation done by this instrument.

10. Consultation outcome

10.1 The Government has considered and reflected engagement with interested stakeholders, including the Northern Ireland Civil Service.

11. Guidance

11.1 The Northern Ireland Office does not consider it necessary to issue any guidance specifically in relation to this instrument.

12. Impact

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

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

12.3 A full Impact Assessment has not been prepared for this instrument because this instrument is making provision for the SEUPB and DoFNI to continue, as before, to implement the Programme, as in predecessor programmes.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There is no specific monitoring or review provision with this legislation. However, the UK Government is a Party to the Financing Agreement and, as such, will be able to review the duties on the SEUPB and DoFNI under this instrument on an ongoing basis. The application of this instrument is also limited to the duration of the Programme and has a long-stop date. Duties on the SEUPB and DoFNI under this instrument will apply from the point of entry into force of the Financing Agreement until 1 July 2032, being the long-stop date upon which the Financing Agreement will expire if the Programme has not already concluded by this date.

15. Contact

15.1 Ms Abbie Lea-O'Mahoney at the Northern Ireland Office Telephone: 07554996415 or email: Abbie.Lea-O'Mahoney@nio.gov.uk can be contacted with any queries regarding the instrument.

15.2 Mr Ciarán Hayes, Deputy Director for PEACE PLUS funding, at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister of State for Northern Ireland, Steve Baker MP at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.