



Cabinet Office

# **Democratic consent process on the application of Articles 5-10 Windsor Framework**

Explanatory materials provided for  
Members of the Legislative Assembly

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# THE CONSENT VOTE PROCESS

## What is the Consent Vote?

1. The Democratic Consent Vote process ('the Consent Vote') is a mechanism within the UK-EU Withdrawal Agreement, under Article 18 of the Windsor Framework, which provides Members of the Legislative Assembly (MLAs) in Northern Ireland with the opportunity to consider whether Articles 5-10 of the Windsor Framework concerning the application of EU law to the trade in goods should continue to apply.
2. This is the first Consent Vote and comes four years after the UK/EU Withdrawal Agreement came into force, in accordance with the law and the Government's commitments in the Unilateral Declaration on Consent. The precise outcome following the vote, and the interval before any next consent vote, depends on the result - see paragraph 11.

## Why is the Consent Vote happening?

3. The consent vote is a requirement of Article 18 of the Windsor Framework in international law; and through domestic law via changes made by the Government to the Northern Ireland Act 1998.<sup>1</sup>

## What is being voted on?

4. The vote concerns specifically whether Articles 5-10 of the Windsor Framework collectively should continue to apply. The arrangements made under these provisions are the arrangements concerning the trade in goods put in place to meet the Framework's objectives to avoid a hard border on the island of Ireland, safeguard the Good Friday Agreement in all its dimensions, and protect Northern Ireland's place in the United Kingdom and its internal market. The articles are as follows:

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<sup>1</sup> Schedule 6A, Northern Ireland Act 1998

Article	Summary
<b>5: Customs, movement of goods</b>	Sets the process for the movements of goods, including those at risk of moving to the EU.
<b>6: Protection of the UK internal market</b>	Enshrines that no provision in the Windsor Framework prevents the UK from ensuring unfettered access for goods moving from NI to other parts of the UK.
<b>7: Technical regulations, assessments, registrations, certificates, approvals and authorisations</b>	Concerns the placing of goods on the market, including the recognition of technical regulations, and related matters, to ensure that goods can circulate in the UK internal market and the EU single market.
<b>8: VAT and excise</b>	Ensures the smooth operation of the VAT and excise regimes in NI with the UK internal market and the EU single market, where that concerns goods.
<b>9: Single electricity market</b>	Facilitates the operation of the Single Electricity Market on the island of Ireland by providing for the generation, transmission, distribution, and supply of electricity, trading in wholesale electricity and cross-border exchanges.
<b>10: State aid</b>	Ensures that the subsidies regime in Northern Ireland reflects its dual market access, where this affects trade between Northern Ireland and the EU.

- The outcome of the vote concerns Articles 5-10 of the Windsor Framework. It does not concern other aspects of the Windsor Framework, such as the provisions concerning the rights of individuals or the Common Travel Area.

### How does the vote work?

- The Democratic Consent Vote process began on 31 October 2024 - when the Secretary of State for Northern Ireland notified the Speaker of the Assembly and the First and deputy First Minister of Northern Ireland of the start of the process.
- Following this notification, the First Minister and deputy First Minister became entitled to jointly table a motion for a consent vote in the Assembly.

Exclusivity was conferred on them to table the motion under the law for the first month of the voting period (between 1-30 November 2024). During that period, no other MLA was entitled to table the motion.

8. That period having expired, any MLA may now do so. Once such a motion is tabled, a duty falls on the Secretary of State for Northern Ireland to provide explanatory materials on the vote (which this publication comprises). Should the motion not have been tabled and a vote not have occurred by 16 December, then the Assembly must sit on 17 December to hold a vote.
9. For the purposes of legal certainty, the law prescribes the exact text of the motion that must be tabled for it to be valid, which will in practice be understood as meaning Articles 5-10 of the Windsor Framework. The text prescribed by law is:
  - *“That Articles 5 to 10 of the Protocol on Ireland/Northern Ireland to the EU withdrawal agreement should continue to apply during the new continuation period (within the meaning of Schedule 6A to the Northern Ireland Act 1998).”*
10. Following the vote, the Speaker of the Assembly will write to the Secretary of State for Northern Ireland to inform them of the outcome of the vote. This marks the end of the voting process.

## What are the outcomes of the vote?

11. A clear legal basis is provided for the Assembly to make its decision under Schedule 6A of the Northern Ireland Act 1998 and Article 18 of the Windsor Framework. The outcome depends on the specific nature of the vote and whether cross-community support<sup>2</sup> is obtained:

- a) **A majority of present MLAs vote in favour of the motion, which passes with cross-community support:** this would affirm the continued operation of Articles 5-10 of the Framework. The next consent vote would take place in 8 years' time (**2032**).
- b) **A majority of present MLAs vote in favour of the motion, which passes with a simple majority (i.e. without cross community support):** this would also affirm the continued operation of Articles 5-10 of the Framework. But it would have two separate outcomes reflecting that cross-community support had not been secured. The first is that the next consent vote would take place in 4 years' time (**2028**), not 8 years' time. The second is that the UK Government will fall under a duty to commission an Independent Review into the functioning of the Windsor Framework in line with the Unilateral Declaration on Consent and Schedule 6A of the Northern Ireland Act 1998, to be commissioned within one month of the vote.
- c) **A majority of present MLAs vote against the motion:** as this would constitute a vote to cease the application of Articles 5-10 of the Windsor Framework, those provisions, along with any provisions derived from these articles, would cease to apply two years after the end of the Democratic Consent Vote process (**2027**). In that event, the Withdrawal Agreement Joint Committee (the joint UK-EU forum that governs the Withdrawal Agreement) would make recommendations to both the UK and EU on necessary measures to be taken. Before doing so the Joint Committee may also seek an opinion from institutions created by the Good Friday Agreement.

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<sup>2</sup> Cross community support is defined as a majority of the MLAs present and voting, including a majority of the unionist and nationalist designations present and voting or 60% of MLAs present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

# VIEW OF THE GOVERNMENT

## Overview

12. The Consent Vote on Articles 5-10 of the Windsor Framework is a matter for Members of the Legislative Assembly to table, consider and decide upon. The Government, however, considers that the Windsor Framework, combined with the protections for the UK's internal market to which the Government is committed, represents the right - as well as the only available and credible - basis for supporting stability and certainty for Northern Ireland and for businesses and traders in particular.
13. The Government remains committed to giving effect to the Framework. It is also committed to doing so in a way that supports the lives and livelihoods of people and businesses, consistent with Northern Ireland's integral place in the United Kingdom and its internal market. Where issues arise with the practical operation of the Windsor Framework, we are committed to working with business, public authorities and political leaders to seek to address them. We have demonstrated already the ability of the Windsor Framework to facilitate the sensible resolution of complex issues where those arise. This includes resolving practical issues such as ensuring certainty of supply of dental amalgam for practitioners in Northern Ireland, whilst meeting the Government's longer-term international commitments to its phase out.
14. The Windsor Framework is necessarily a compromise, to meet the unique circumstances of Northern Ireland - and the importance to its people and businesses of access both to the UK internal market and to the EU market. That is why the Government is clear in its aim to ensure that these arrangements continue to work practically, and command the broadest possible confidence of communities in Northern Ireland.
15. The Windsor Framework arrangements, together with the steps taken in domestic law following the commitments being made in the *Safeguarding the Union* command paper, provide the basis for supporting trade in line with Northern Ireland's place in the UK internal market and its particular circumstances. They address practical issues that were the basis of concerns under the previous Northern Ireland Protocol. And they do so consistently with the United Kingdom's international obligations, which the Parliament of the United Kingdom then endorsed and gave effect to in domestic law.

16. For those reasons, it is the Government's view that the Windsor Framework represented a considerable step forward over the original arrangements in the Northern Ireland Protocol and the difficulties they presented. The Government is clear that further improvements in these areas could also be facilitated through a closer relationship with the European Union. The Government does not believe that there are alternative or unilateral arrangements available for managing the unique circumstances of Northern Ireland subsequent to the UK's departure from the EU.
17. Regardless of the outcome of the Democratic Consent Vote, the Government will only support sustainable arrangements for Northern Ireland which protect Northern Ireland's place in the Union, and are compliant with the Good Friday Agreement as well as our other international obligations.

### **Effects on businesses and consumers**

18. The Government's view, and what we consider to be the longstanding view of people and businesses across Northern Ireland, is that it is important for economic life to maintain access for Northern Ireland to the EU's single market while remaining an integral part of the UK's internal market. While the UK's internal market is Northern Ireland's largest trading relationship, the benefits of its access to the EU's single market are manifest, and many aspects of economic activity, including those businesses with integrated supply chains across the island of Ireland, rely on that access. Articles 5-10 of the Windsor Framework provide the legal basis for the arrangements that facilitate these opportunities for businesses and traders, and offer certainty in the long term as they have been negotiated and agreed between the UK and EU.
19. UK companies are actively taking advantage of the benefits and facilitations under the Windsor Framework, with over 9,000 businesses authorised to move goods under the UK Internal Market Scheme and more than 1200 operators registered for the Northern Ireland Retail Movement Scheme (NIRMS). These schemes remove unnecessary bureaucracy and support the smooth flow of trade. And when the UK internal market system is fully implemented in the new year, the arrangements for businesses will be simplified still further.



20. The facilitations for agrifood and SPS under the Windsor Framework have also resolved specific and acute practical issues experienced under the old Protocol. They enabled the lifting of the old ban on seed potatoes - where we have seen over 1,500 tonnes of goods being moved from GB to NI since October 2023 - and the ban on other products such as chilled meats; as well as an increasing number of high-risk plants. 16 species of plants are now able to move in 2024, including most recently wild privet and small and large-leaved linden. The Government is continuing to support businesses so that these arrangements operate as smoothly as possible.
21. Articles 5-10 of the Windsor Framework are also the basis for other important facilitations that smooth the flow of trade. This includes the settlement on human medicines, which is on course to take effect from January 2025 and will enable them to be licensed for use across the UK with a single pack: ensuring around 2,900 medicines will be available in Northern Ireland that otherwise may have become only obtainable in Great Britain. They have unlocked agreements with the EU on tariff rate quotas, enabling NI businesses to import steel under new, beneficial tariff rate quotas and to take advantage of UK Free Trade Agreements in respect of agri-food. Meanwhile, businesses who are moving goods that do not enter the EU are benefiting from the Duty Reimbursement Scheme, which was introduced in June 2023, and from increased allowances under the Customs Duty Waiver Scheme following its expansion in January 2024.
22. More broadly, Articles 5-10 of the Windsor Framework facilitate important and beneficial improvements on taxation and state aid, and the operation of the Single Electricity Market. They enable Northern Ireland to benefit from the same VAT rates and duty structures as elsewhere in the UK, such as the recent reduction of draught duty that was announced by the Chancellor of the Exchequer in the October 2024 Budget as part of measures to support brewers, pubs and distillers. And they have addressed the burdensome subsidy control reporting arrangements under the old Northern Ireland Protocol.
23. The Government believes that the current arrangements provide businesses with confidence of a durable and permanent basis on which to operate, essential in a context where many businesses plan their operations, activities and investments months and years in advance. As such, it is the Government's strong view that stability and prosperity in Northern Ireland is

best served through the continued application of Articles 5-10 of the Windsor Framework.

## **The future of the Windsor Framework**

24. The Government is committed to working with businesses and traders as it takes forward the implementation of the Windsor Framework, to ensure that those arrangements work well and support the good operation of the UK internal market.
25. More broadly, the Government has also set out its commitment to resetting relations with the EU and negotiating new agreements which can tear down unnecessary barriers to trade for businesses in the UK trading with the EU. This priority is likely to further smooth flows of trade.
26. In the Government's view, only the Windsor Framework arrangements in place under Articles 5-10 provide a credible basis to pursue those negotiations whilst also respecting Northern Ireland's unique circumstances and its place in the UK's internal market. The Government is committed to engaging fully with business, civic society and political leaders in Northern Ireland as that work continues.