
EXPLANATORY NOTE

(This note is not part of the Regulations)

Article 18 of the Protocol on Ireland/Northern Ireland to the Agreement on the withdrawal of the United Kingdom from the European Union makes provision for consent to be provided by the Northern Ireland Assembly to the continued application of Articles 5 to 10 of that Protocol. Consent must be given every 4 or 8 years depending whether it is given on a simple majority or cross-community basis.

These Regulations make provision for that democratic consent process. They do so by inserting a new Schedule 6A in the Northern Ireland Act 1998 (c. 47). Part 3 of that Schedule makes provision for the process that will apply in circumstances where there is a functioning Northern Ireland Executive. Part 4 makes provision for the process that will apply in circumstances where there is not a functioning Executive in place. This is consistent with the undertaking made by the United Kingdom Government in its declaration concerning the operation of the “Democratic consent in Northern Ireland” provision of the Protocol made on 17 October 2019 (“unilateral Declaration”).

Where consent is given on a simple majority rather than cross-community basis, then Part 6 of new Schedule 6A requires the Secretary of State to commission an independent review into the functioning of the Protocol and the implications of any decision to continue or terminate alignment on social, economic and political life in Northern Ireland. Again, this is consistent with the undertakings made by the Government in the unilateral Declaration.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.