



Northern Ireland
Assembly

The Democratic Consent Mechanism

Article 18 of the Windsor Framework contains the ‘democratic consent mechanism’. This is a vote by the Northern Ireland Assembly on whether Articles 5 to 10 of the Windsor Framework should continue to apply. These are the parts of the Framework under which Northern Ireland applies regulations relating to the EU single market. The legislative basis for the democratic consent mechanism is a regulation made in December 2020.

The first vote is to be held before the end of 2024 (four years after the end of the transition period). The motion on the continuation of Articles 5 to 10 should be proposed by the First Minister and deputy First Minister. If this does not happen, the motion can be tabled by any Member of the Legislative Assembly.

If the Assembly votes against the motion, Articles 5 to 10 shall stop applying after two years. Exactly what would happen in this case is uncertain: the EU-UK Joint Committee will make recommendations to the EU and UK “on the necessary measures, taking into account the obligations of the parties to the 1998 Agreement. Before doing so, the Joint Committee may seek an opinion from institutions created by the 1998 Agreement.”

If the motion is passed by a majority of MLAs, the next vote will be held 4 years later. If the motion is passed by a majority of MLAs and has cross-community support, the next vote will be held 8 years later.

If the motion is passed only with a simple majority (i.e. without cross-community support), the UK Government has stated it will commission an independent review into the Windsor Framework and its implications.

The other articles in the Windsor Framework will remain in force regardless of the outcome of the democratic consent vote. These include provisions on rights of individuals, and the Common Travel Area.

Cross-community support

Cross-community support is defined in the Northern Ireland Act 1998 as:

- a) the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or
- b) the support of 60% of the members voting, 40% of the designated Nationalists voting and 40% of the designated Unionists voting.

Independent review

The independent review will make recommendations to the UK Government, including on “any new arrangements it believes could command cross-community support.” The Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024, in effect since 20 February 2024, place in law certain requirements for the review, for example, it must be raised in the Joint Committee.

The Government has also stated it would will appoint an Independent Monitoring Panel (IMP) for the Windsor Framework, which would support the work of the independent review.

Alternative Process

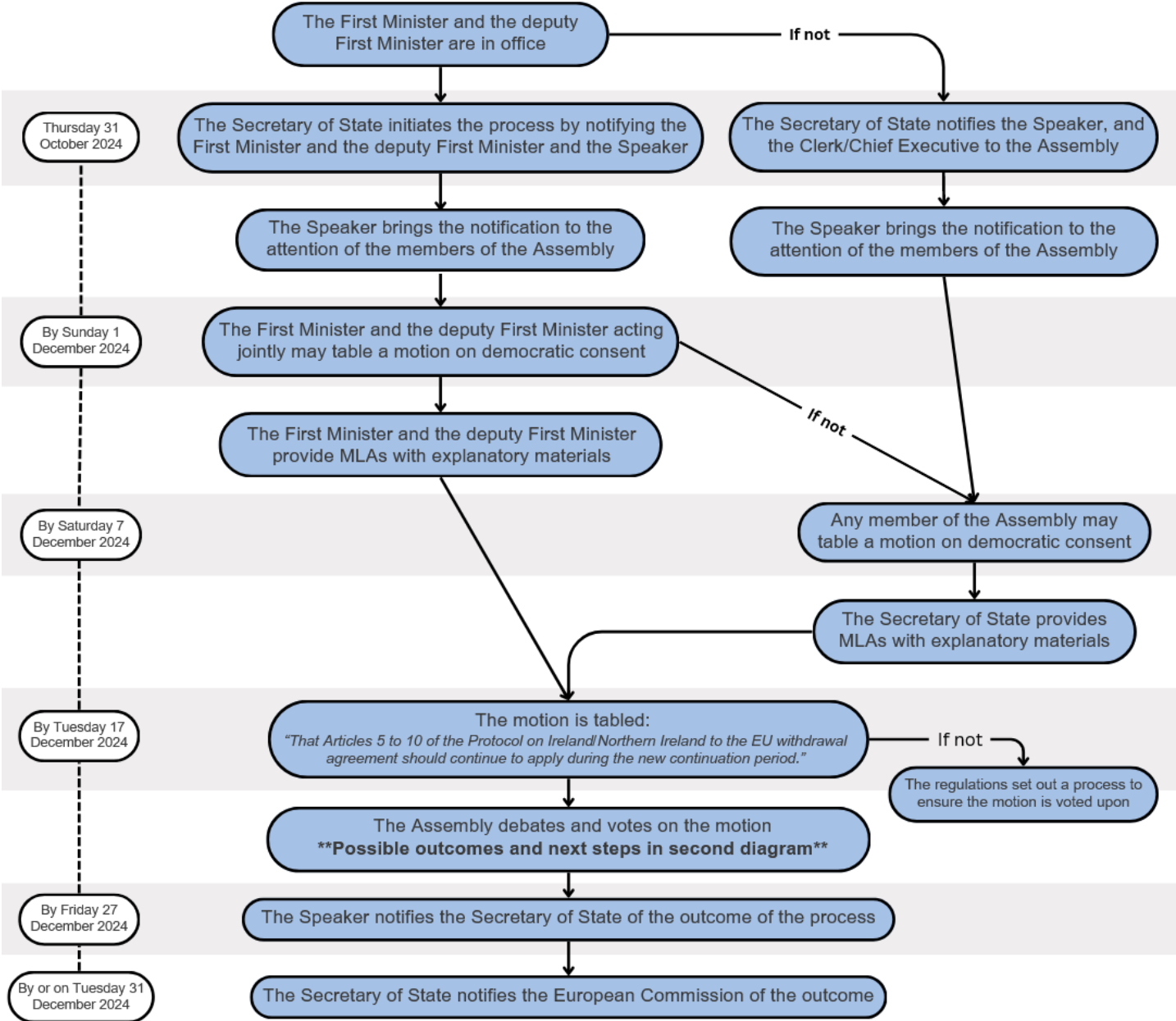
The Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations 2020, which give legal effect to the consent mechanism, provide for an alternative process. This would apply if the offices of First Minister and deputy First Minister are vacant at the start of the democratic consent process.

If the Assembly has not elected a Speaker, it must elect an interim Speaker by a simple majority. The interim Speaker would only hold office to enable the Assembly to consider the consent motion.

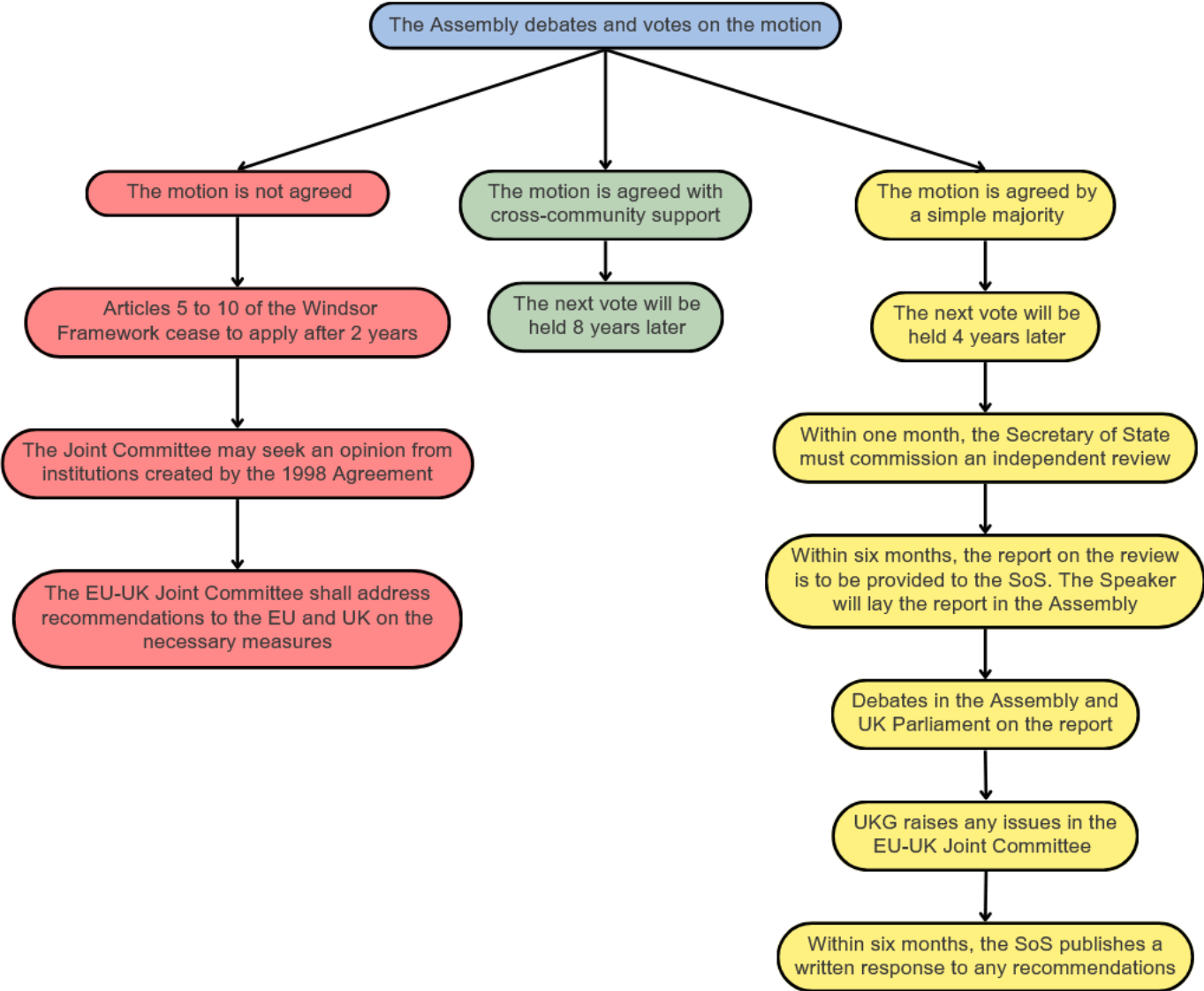
The flowcharts overleaf set out the main steps and possible outcomes of the democratic consent process.

The Democratic Consent Mechanism process

These flowcharts summarise the process for the democratic consent vote. They should be read in conjunction with the relevant legislation and documents. The dates relate to the first democratic consent vote in 2024 and are set out in the Explanatory Memorandum for the Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations 2020.



Possible outcomes of the Democratic Consent Mechanism



Further reading and references

- [The Protocol on Ireland/Northern Ireland \(Democratic Consent Process\) \(EU Exit\) Regulations 2020](#)
- [The Protocol on Ireland/Northern Ireland \(now called the Windsor Framework\) Article 18 \(page 14\)](#)
- [UK Government declaration on the operation of the democratic consent provision](#)
- [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024](#)
- [Safeguarding the Union Command Paper \(page 45\)](#)
- [NI Assembly 'Brexit and Beyond' – Democratic Consent Mechanism explainer](#)
- [Queen's University Professor David Phinnemore on the process of arriving at the democratic consent mechanism and discussion of some potential scenarios](#)
- [NI Assembly Research Service on the Democratic Consent Mechanism](#)
- [House of Lords Library briefing on the Democratic Consent Regulations](#)