

Position of the Government on the terminability of the Protocol on Ireland/Northern Ireland to the Agreement on Withdrawal of the United Kingdom from the European Union

The Government's legal position on the question of terminability of the Protocol on Ireland/Northern Ireland is set out below. This has been endorsed by the Attorney General.

Article 18 of the Protocol provides for a process by which democratic consent in Northern Ireland must be obtained to the continued application of Articles 5 to 10 of the Protocol after an initial period ending four years after the end of the transition period. The mechanism for obtaining democratic consent is set out in the unilateral declaration referred to in paragraph 2 of Article 18.

Article 18 plainly makes the continuation of the application of Articles 5 to 10 of the Protocol conditional upon the obtaining of consent by the mechanism described in the Unilateral Declaration.

There are no grounds for supposing that the EU would have any legal basis to assert that Articles 5 to 10 of the Protocol should continue to apply absent that consent or that the EU would possess a veto over the right of members of the Northern Ireland Legislative Assembly to withhold consent to the continued application of those provisions.

17th October 2019