



An Coimisiún Reifrinn
Referendum Commission

OCTOBER

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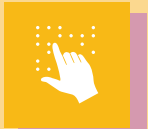
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VOTE

The independent guide
to the **referendum on blasphemy**

This publication is available in **Braille**, on **CD** and in **large text format** through NCBI. It is also available in **Irish Sign Language** on the websites of the Irish Deaf Society (www.irishdeafociety.ie) and DeafHear (www.deafhear.ie).



The Referendum Commission

The Referendum Commission is an independent body set up under the Referendum Act 1998. Its role is to provide **neutral and accurate information** to the public in advance of a referendum on a proposal to amend the Constitution.

The Commission members are:

Ms Justice Isobel Kennedy
Chairperson

Mr Seamus McCarthy
Comptroller and Auditor General

Mr Peter Tyndall
Ombudsman

Mr Peter Finnegan
Clerk of Dáil Éireann

Mr Martin Groves
Clerk of Seanad Éireann

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Introduction



On 26 October 2018, you will be asked to vote on a proposal to change the Constitution of Ireland in relation to the issue of blasphemy. You will also have the opportunity to vote in a presidential election on the same day.

At present, the Constitution says that publishing or saying something blasphemous is an offence punishable under law. Blasphemy is currently a criminal offence.

The referendum will decide if the Constitution should continue to say that publishing or saying something blasphemous is a criminal offence.

If the referendum is passed, the Oireachtas will be able to change the law so that blasphemy is no longer a criminal offence.

In this guide we explain what is being proposed, and what the effects of a Yes and No vote would be. More detailed information is available at our website www.refcom.ie.

The Constitution is important. It is the fundamental law of our State. It is your Constitution and only you have the power to change it. How you vote is for you to decide. The Referendum Commission urges you to inform yourself about the proposed change to the Constitution and to use your vote. If you do not vote, other people will make the decision. This guide does not argue for a Yes vote or a No vote, but we do strongly encourage you to vote.

A handwritten signature in black ink that reads "Isobel Kennedy".

Isobel Kennedy
Chairperson
Referendum Commission

The present legal position in relation to blasphemy

Laws are made by the Oireachtas. The Oireachtas consists of the Dáil, the Seanad and the President.

Laws made by the Oireachtas must comply with the Constitution. The Constitution sets out the basic law of the State. Laws, if challenged, may be reviewed by the courts. The courts may declare a law invalid if it conflicts with the Constitution. The Constitution can only be altered by the people in a referendum.

The Constitution says that citizens have the right to freely express their convictions and opinions. However, there are certain restrictions on this right. For example, the Constitution says that the publication or utterance of something blasphemous must be a criminal offence.

Publication generally means a statement in written or permanent form. Utterance generally means a spoken word or statement.

The Constitution does not itself define blasphemy. The legal definition of blasphemy is contained in the Defamation Act 2009.

That Act says that a person publishes or utters something blasphemous if they

- **publish or say something that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion, and**
- **intend to cause that outrage.**

Under the 2009 Act, where a person is accused of the criminal offence of publishing or saying something blasphemous, it is a defence if they can prove that a reasonable person would find genuine literary, artistic, political, scientific or academic value in what they published or said.

If convicted of this offence, a person may be fined up to €25,000. There is no prison sentence for this offence.

The proposed change

Article 40.6.1° of the Constitution says:

The State guarantees liberty for the exercise of the following rights, subject to public order and morality:-

- i The right of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of **blasphemous,** seditious, or indecent matter is an offence which shall be punishable in accordance with law.

The proposal in the referendum is to remove this word

YES

The legal effect of a YES vote

If a majority votes Yes, then the Constitution will no longer require that publishing or saying something blasphemous is a criminal offence.

A Yes vote would therefore allow the Oireachtas to change the law so that blasphemy is no longer a criminal offence.

NO

The legal effect of a NO vote

If a majority votes No, then the present Article 40.6.1° will remain unchanged.

The Constitution would therefore continue to require that publishing or saying something blasphemous is a criminal offence.

Polling Day

The referendum will be held on Friday 26 October 2018.

Voting in the presidential election will take place on the same day.

Polling stations will open from 7am to 10pm.

You can check if you are registered at

checktheregister.ie

Your Polling Station

Before polling day, you should receive a polling card in the post telling you at which polling station you should vote. If you don't receive a polling card, you can still vote if you are registered.

Bring Identification

You don't need to have your polling card with you when you go to vote. However **you should bring some valid form of personal identification** such as a passport, a driving licence, a public services card, or an employee or student identity card with a photograph. Other forms

of identification are also acceptable, such as a credit card or a birth certificate, as long as you also have another document which confirms your address in the constituency.

You might not be asked for proof of identity, but if asked for it you need to show it.

Ballot papers

On polling day, voters will be given two ballot papers: **a green ballot paper for the referendum**, and a white ballot paper for the presidential election. You can see a sample referendum ballot paper on the next page.

You will be voting on whether or not to approve the proposal to amend the Constitution contained in the Thirty-seventh Amendment to the Constitution Bill.

You vote in the referendum by marking 'X' in the 'Yes' box or 'X' in the 'No' box, depending on how you want to vote. Mark only one box, or your vote will not count. Do not mark any other part of the ballot paper.

Remember that voting in the presidential election uses a different system, so read the instructions for voting on each ballot paper carefully.

An bhfuil tú ag toiliú leis an togra chun an Bunreacht a leasú atá sa Bhille thíosluaite?

Do you approve of the proposal to amend the Constitution contained in the undermentioned Bill?

An Bille um an Seachtú Leasú is Tríocha ar an mBunreacht (Cion a aisghairm arb éard é ní diamhaslach a fhoilsiú nó a aithris), 2018

Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Bill 2018

Ná cuir marc **ach san aon chearnóg amháin**

Place a mark in **one square only**

Má thoilíonn tú, cuir X sa chearnóg seo

If you **approve**, mark X in this square

	Tá Yes
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Mura dtoilíonn tú, cuir X sa chearnóg seo

If you do **not approve**, mark X in this square

	Níl No
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Páipéar Ballóide Samplach

Sample Ballot Paper