



**25TH
MAY
2018**

YOUR VOTE MEANS EVERYTHING

**THE INDEPENDENT GUIDE TO THE REFERENDUM
ON THE REGULATION OF TERMINATION OF PREGNANCY**



**An Coimisiún Reifrinn
Referendum Commission**

The Referendum Commission

The Referendum Commission is an independent body set up under the Referendum Act 1998. Its role is to provide accurate and neutral 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 (*the Comptroller and Auditor General*)
- › Mr Peter Tyndall (*the Ombudsman*)
- › Mr Peter Finnegan (*the Clerk of Dáil Éireann*)
- › Mr Martin Groves (*the Clerk of Seanad Éireann*)

The Referendum Commission

18 Lower Leeson Street, Dublin 2, Ireland.

Telephone: 01 639 5695

LoCall: 1890 270 970

Email: refcom@refcom.ie

Website: www.refcom2018.ie

 [@RefCom_ie](https://twitter.com/RefCom_ie)

 facebook.com/referendumcommission



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This publication can be downloaded from our website www.refcom2018.ie. It 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.irishdeafsociety.ie) and DeafHear (www.deafhear.ie).

Introduction

On Friday 25th May 2018, you will be asked to vote on a proposal to change the Constitution of Ireland. The proposed change to the Constitution concerns the regulation of termination of pregnancy.

Article 40.3.3 of the Constitution, as interpreted by the Supreme Court, means that it is lawful for a pregnancy to be terminated only where the pregnancy poses a real and substantial risk to the life of the mother. This includes a risk of suicide.

The proposal on 25th May is to delete Article 40.3.3 of the Constitution and to insert in its place that

“Provision may be made by law for the regulation of termination of pregnancy.”

Laws are made by the Oireachtas. You are not being asked in this referendum to vote on any particular law relating to the termination of pregnancy.

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.

In this guide, we explain the current law, we describe the proposed change, and we explain the legal effect of a Yes vote and the legal effect of a No vote. More detailed information is available on our website **www.refcom2018.ie**.

This guide does not argue for a Yes vote or a No vote, but we do strongly encourage you to vote.



Isobel Kennedy
Chairperson
Referendum Commission



The present legal position in Ireland in relation to termination of pregnancy

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 be altered only by the people in a referendum.

The present legal position in Ireland in relation to the termination of pregnancy results from provisions in the Constitution, court decisions interpreting those provisions, and laws passed by the Oireachtas.

ARTICLE 40.3.3 was inserted into the Constitution as a result of a referendum in 1983. The Article says that the unborn has a right to life and that the mother has an equal right to life. The Supreme Court has recently held that this is the only constitutional right of the unborn.

> **IN 1992**, the Article was interpreted by the Supreme Court in a case known as “the X case”. The Court found that the Article means that termination of pregnancy is permitted only when there is a real and substantial risk to the life of the mother, including a risk of suicide.

> **IN 1992**, two additions to Article 40.3.3 were made by referendums. These made clear that the Article does not limit freedom to travel and does not limit the freedom to obtain or make available information about services that are

lawfully available in other States, subject to conditions as may be laid down by law.

> **IN 1995**, the Oireachtas passed a law which regulates the provision of information about termination of pregnancy outside the State.

> **IN 2013**, the Oireachtas passed the *Protection of Life During Pregnancy Act*. It regulates termination of pregnancy where there is a real and substantial risk to the life of the woman.

The present legal position is therefore that it is lawful for a pregnancy to be terminated only where it poses a real and substantial risk to the life of the mother, including a risk of suicide. This is determined in accordance with the 2013 Act. Otherwise, it is a criminal offence to intentionally destroy unborn human life.

The proposed **change:**

On 25th May 2018 you are being asked whether or not to delete the present Article 40.3.3 of the Constitution and replace it with a new Article.

The **PRESENT** Article 40.3.3

The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

This subsection shall not limit freedom to travel between the State and another state.

This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.



The **PROPOSED** new Article 40.3.3

Provision may be made by law for the regulation of termination of pregnancy.



The legal effect of a **YES** vote

If a majority votes Yes, this will allow the Oireachtas to pass laws regulating the termination of pregnancy. These laws need not limit the availability of termination to circumstances where there is a real and substantial risk to the life of the mother. Any law may be changed by the Oireachtas. If challenged, any law may be declared invalid by the courts if it conflicts with the Constitution.

If a majority votes Yes, the current law, including the law on travel and information, will remain in place unless and until it is changed by new law or is declared invalid by the courts.



The legal effect of a **NO** vote

If a majority votes No, then the present Article 40.3.3 will remain in place unchanged. Laws may be passed to provide for the termination of pregnancy only where there is a real and substantial risk to the life of the mother including the risk of suicide. Any law may be changed by the Oireachtas. If challenged, any law may be declared invalid by the courts if it conflicts with the Constitution.

The constitutional provisions on freedom to travel and information will remain as they are now.

How to vote

Polling stations will open **from 7am to 10pm on 25th May**

Before polling day, **you should receive a polling card in the post** telling you at which polling station you should cast your vote. If you don't receive a polling card, you are still entitled to vote so long as you are on the electoral register. You can check this at **checktheregister.ie**.

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, an employee identity

card with a photograph, a student identity card with a photograph, a travel document with your name and photograph, or a bank, savings or credit union book containing your address in the constituency. It is also acceptable to show a cheque book, a cheque card, a credit card, a birth certificate or a marriage certificate, as long as you also have another document which confirms your address in the constituency. You may not be asked for proof of identity, but if asked for it you need to show it.

You can see a sample ballot paper on the next page.

You will be voting on whether or not to approve the Thirty-sixth Amendment to the Constitution Bill.

You vote by marking an 'X' in the 'Yes' box or '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.

**SAMPLE
BALLOT PAPER**



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 Séú Leasú is Tríocha ar an mBunreacht, 2018

Thirty-sixth Amendment of the Constitution 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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