

**Polling Day:
Wednesday
November 25**

**The Government
advocate
a "YES" vote
in all three
referendums**

The Referendums on The Right to Life, Travel and Information

Key Questions and Answers

**An
information publication
from the Government**

On Wednesday the 25th of November, the people will be asked to vote on three referendums.

The result of these referendums will decide whether Article 40.3.3° of the Constitution is to be amended, in relation to three separate issues — the Right to Life, Travel and Information.

The Government have taken a balanced and considered approach to what everyone agrees is an extremely difficult problem. They recognise the genuineness and the depth of people's feelings and concerns about the whole subject — whether from a pro-life or pro-choice or other point of view. They are putting these referendums to the people only after many months of very careful thought.

The Government's objective is to do what is right in the public interest, motivated by deep concern for the right to life of women and also fully committed to the protection of the right to life of the unborn. There is no human right more fundamental or more important than the right to life.

The purpose of this booklet is to set out the facts as seen by the Government on the issues in these referendums. The Government advocate a "yes" vote in all three cases.

Why these referendums?

The need for these referendums follows mainly from the Supreme Court decision earlier this year in the *X* case.

That decision established that, under the existing Constitution, the possibility of suicide by the expectant mother is acceptable as a ground for terminating a pregnancy. *It is clear that this was unacceptable to very many people.*

The Supreme Court also decided that, under the existing Constitution, an injunction can be given to restrain a woman from travelling abroad for an abortion if there is *not* a real and substantial risk to her life. *It is also clear that this was unacceptable to very many people.*

Previous court decisions had laid down that disseminating such information about abortion is unlawful. Following the *X* case, it would be lawful in cases where there is a real and substantial risk to the life of the expectant mother — but only in those cases. The European Court of Human Rights has recently found the present restrictions to be in breach of the European Convention on Human Rights. This will also be resolved by the amendment.

If all these referendums are passed by the people, what effect will they have?

The "Right to Life" amendment will:

- Leave undisturbed the existing affirmation in Article 40.3.3° of the Constitution of the right to life of the unborn, with due regard to the equal right to life of the mother.
- Allow pregnancy to be terminated if that is necessary to save the life of the mother and thus ensure a pregnant woman's entitlement to all the treatment she needs.
- Remove a risk of suicide as an acceptable ground for terminating a pregnancy.

The "Travel" amendment will:

- Ensure that no woman can be prevented under Article 40.3.3° from exercising her freedom to travel abroad.

The "Information" amendment will:

- Enshrine in the Constitution the right to receive and impart information about services lawfully available abroad, *subject to conditions that will be laid down by law.*
- Permit non-directive counselling of pregnant women, but not abortion referral.

If the referendums pass, how will Article 40.3.3° of the Constitution then read?

The existing Article 40.3.3° (which will remain unchanged):

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.

To be added if the "Right to Life" amendment is passed:

It shall be unlawful to terminate the life of an unborn unless such termination is necessary to save the life, as distinct from the health, of the mother where there is an illness or disorder of the mother giving rise to a real and substantial risk to her life, not being a risk of self-destruction.

To be added if the "Travel" amendment is passed:

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

To be added if the "Information" amendment is passed:

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 "RIGHT TO LIFE" AMENDMENT

Will the Right to Life amendment "open the door" to abortion?

No.

Most emphatically, it is not an abortion amendment.

Far from making the law on abortion more permissive (as some people have wrongly suggested), the amendment will have exactly the opposite effect.

It will prohibit abortion in circumstances where it is now permissible as a result of the Supreme Court decision, without disturbing *existing medical practice* and without putting mothers' lives at risk in any way.

The amendment arises from a woman's entitlement to protection where there is a risk to her life, and it enshrines that protection.

The amendment should satisfy the concerns of all those who wish the law of the land to protect the life of the unborn in Ireland.

Why does the Government wish to remove a risk of suicide as a ground for termination of pregnancy?

Because accepting a risk of suicide as a ground for termination would carry the danger of opening the way to wide-scale abortion.

That danger is real, because there is considerable room for subjective judgement in assessing whether a risk of suicide exists.

Apart from threatened suicide, does this amendment leave any situation in which an expectant mother would be denied treatment necessary to save her life?

No, none at all.

All treatments necessary to save the life of an expectant mother will be allowed. Her entitlement to have her right to life vindicated will be fully safeguarded.

Why is the phrase "as distinct from the health" included in the amendment?

This is intended to ensure that the termination of the life of the unborn will be permitted *only* where this is necessary to save *the life* of the expectant mother. Deletion of the phrase would make it possible to terminate the life of the unborn where there is no risk to life. In other countries "risk of damage to health" is the ground which has led to wide-scale abortion.

But could this phrase "as distinct from the health" ever result in a pregnant woman being denied medical treatment to protect her health?

No.

Current medical practice is not affected and will ensure that women's health is fully protected.

Must the risk to the life of the pregnant woman be immediate, in order for the protection of this amendment to apply?

No.

The amendment does not require an *immediate* risk to life. This is in line with the Supreme Court's judgement. The Court found

that the risk to the mother's life need not be immediate, and specifically rejected an argument to the contrary.

The words "necessary to save the life" mean that a pregnancy could be terminated if the doctors were able to form the view that, even after childbirth and recovery of the mother from it, other treatment for whatever she was suffering from would be ineffective to save her life.

Why did the Government not accept the wording suggested by the Pro-Life Campaign?

Because of the importance which the Government attach to the need to protect the life of the mother.

The Pro-Life Campaign's wording would have restricted the possibility of termination to situations where it is the "indirect" side-effect of treatment necessary to save the mother's life.

Unlike the Pro-Life Campaign, the Government believe that there are life-threatening conditions which would not have been covered by the Pro-Life Campaign's wording, where the need to take action involving termination of the pregnancy may have to be considered.

The Government's view is that such life-threatening situations do sometimes occur. They are rare conditions, but the Government believes that they cannot be ignored when framing a constitutional amendment.

Could not all this be dealt with by legislation rather than by changing the Constitution?

No, because legislation on its own could not remove a risk of suicide as a ground for termination. Legislation could only work within the framework of the Supreme Court judgement, which recognised a risk of suicide as a ground.

Only a Constitutional amendment can remove a risk of suicide as a ground for termination, and remove the possibility that at some future date the grounds for abortion could be widened.

The Government believe that it is proper for the people to decide whether or not they wish to remove a risk of suicide as a ground for termination.

But if the amendment is defeated, will it not have to be decided by legislation anyway?

If the amendment is defeated, there will certainly have to be legislation — but that legislation will not be able to do what the Constitutional amendment will do.

As already pointed out, legislation could only work within the framework of the Supreme Court judgement — which recognised a risk of suicide as a ground.

If the amendment is passed, should legislation then be introduced to supplement it?

The Government believe that because the test proposed in the amendment is a straightforward one, it should not give rise to difficulty in practice.

The Government therefore believe at this stage that supplementary legislation will not be needed.

THE "TRAVEL" AMENDMENT

What will this amendment do?

It will ensure that Article 40.3.3° cannot be used to prevent a woman from exercising her freedom to travel abroad.

Is this not likely to be covered anyway by EC law?

The amendment is designed to put exercise of the right to travel beyond any doubt, and to make it clear that it cannot be restricted by Article 40.3.3° of the Constitution.

The amendment will also ensure freedom to travel to *all* countries, not just to other parts of the EC.

THE "INFORMATION" AMENDMENT

What will this amendment do?

It will enshrine in the Constitution that Article 40.3.3° cannot be used to limit the freedom to receive and impart information, subject to such conditions as may be laid down by law.

What will it permit and not permit?

The amendment would permit non-directive counselling but not abortion referral.

What conditions will be laid down by law?

The Government have said that the legislation will permit a doctor or an advice agency to give a pregnant woman information on abortion services available elsewhere, provided that counselling is also given on all of the alternative options open to her. It will not be permitted to promote abortion, or to encourage the woman to select it in preference to the other options, or to provide an abortion referral service.

The legislation will also permit general factual material concerning abortion to be published in the media as long as it does not seek to promote abortion. However, such material will not be permitted on billboards, wall-posters or leaflets delivered to homes.