



## **1. What does 'repeal' mean?**

'Repeal' is the word we use for removing a part of a law. When we say 'repeal' we mean removing the part of our constitution that bans a pregnant person from having control over their own body and from having an abortion.

## **2. What is the 8<sup>th</sup> Amendment?**

The 8<sup>th</sup> Amendment is what we call Article 40.3.3 of the Constitution of Ireland. It says that there is an equal right to life for a 'mother' and an 'unborn'. This means that only in cases where the mother will die because of her pregnancy can she have an abortion. Article 40.3.3 is called 'the 8<sup>th</sup> Amendment' because it was the eighth change to be made to the constitution. It was put into the constitution by referendum in 1983. It was put in to try and prevent people from having abortions.

## **3. Why do we need a referendum?**

Our constitution is the foundation of our legal system. All other legal rules are built on this foundation. All our laws have to agree with the constitution. The constitution can only be changed by the people. It cannot be changed by Parliament or the courts on their own. If we want to change or remove part of the constitution, we have to ask and get the approval of the people. The process of asking for people's approval to change the constitution is called a referendum.

Because the 8<sup>th</sup> Amendment is so restrictive, we cannot change the laws we have without removing it from the constitution or changing it in some way. We cannot allow a person who is pregnant because of rape or incest have an abortion. We cannot allow a person whose baby will die before or shortly after birth have an abortion. We cannot allow a person whose pregnancy will make her seriously ill have an abortion. We cannot allow a feeling, thinking pregnant person to make her own decisions about her pregnancy. If we want to change the law and remove the roadblocks allowing people to make these decisions, we need to remove the 8th Amendment.

#### **4. What will we be voting for in May?**

On May 25<sup>th</sup>, we will be asked if we want to remove the words of Article 40.3.3 and replace them with 'Provision may be made by law for the regulation of termination of pregnancies.' This means that politicians will be allowed to make laws about abortion in the same way that all laws are made. A yes vote is a vote for change.

#### **5. What is the law currently?**

Right now, you can only have an abortion legally if your life is at risk because of your pregnancy. This was what the Supreme Court decided in The X case in 1992 (Attorney General v X [1992] 1 IR 1). If your life is at risk because you are suicidal, you are entitled to an abortion. In 2013 we introduced the Protection of Life During Pregnancy Act which says when an abortion can take place. A pregnant person whose life is at risk must be examined by two doctors to ensure that her life is at risk. A pregnant person who is suicidal must be assessed by two psychiatrists and one doctor before she is allowed an abortion. A person is guilty of a crime and can be imprisoned for up to 14 years if they have an abortion in Ireland illegally. This includes women who buy abortion pills on the internet and take them in Ireland. Women who travel to England or any other country are not guilty of a crime. No person has ever gone to prison in the Republic of Ireland for having an illegal abortion under the laws we have now.

#### **6. What will happen if we repeal?**

If we vote Yes on May 25<sup>th</sup>, our politicians will be free to bring in new laws to allow women and people who can get pregnant to control their own bodies. A Citizens' Assembly and a Joint Oireachtas Committee discussed the 8<sup>th</sup> Amendment and possible changes to the law. After this politicians from all parties and none have proposed new laws that will be brought in if we repeal the 8<sup>th</sup> Amendment.

#### **7. What will happen if we don't repeal?**

If we do not repeal the 8<sup>th</sup> Amendment, abortion remains illegal here unless there is a risk that the mother will die because of her pregnancy. People who are pregnant because of rape or incest, or whose babies are likely to die before birth or soon after will not be

allowed to have an abortion. Abortion pills ordered online will continue to be illegal and if someone is caught using them, they may still be imprisoned for 14 years. Women will still be forced to travel for abortions. Women who cannot travel, such as asylum seekers, poorer people, younger people, people in poor health, or people without a passport will be forced to stay pregnant if they cannot access abortion pills.

## **8. What will the changes to the law look like?**

The new laws will allow people to have an abortion up to 12 weeks of pregnancy. A pregnant person who requests an abortion from her GP will have to wait 72 hours before she can have one. The new laws will also make sure that pregnant people who are at risk of death or who face a serious risk to their health because of being pregnant will be able to have an abortion when they need it. People whose babies will die before or soon after they are born (commonly called Fatal Foetal Abnormality), will also be able to get an abortion when they need it and chose to have it. No one will be forced to have an abortion.

## **9. Why is 12 weeks the time allowed to have an abortion on request?**

There are two main reasons for allowing people to have an abortion up to 12 weeks of pregnancy. First, for rape victims, it is hugely traumatic and upsetting to have to prove that you were raped in order to get an abortion. Allowing a person who is pregnant because of rape to have an abortion without having to justify, prove or explain her circumstances is the best way to minimise the trauma she may experience.

Secondly, in most European countries, abortion is available on request up to 12 weeks. When an abortion happens this early in pregnancy, it can be done using abortion pills (such as those already being ordered online illegally by many Irish women). These pills are totally safe and mean that the person doesn't have to have surgery to have an abortion. People could take these pills in private, at home and with their doctor's supervision.

## **10. Are there other countries that have similar laws to our current laws?**

Irish laws are some of the most restrictive laws in Europe. There are no other countries that ban abortion in all cases but death in their constitutions. In Europe, only Malta has more strict laws than Ireland. In Malta, abortion is completely illegal, even if the mother will die because she is pregnant. Countries such as El Salvador and Nicaragua also ban abortion in all circumstances. The UN has said that laws criminalising women who have abortions, and denying access to safe and accessible abortion can violate women's rights.

## **11. Will our new laws be more liberal than the abortion laws in Britain?**

No. In Britain, people can access abortion for 24 weeks' pregnancy in cases where staying pregnant would be more risky for a woman's health than ending the pregnancy. Two doctors have to agree that these conditions have been met in order for an abortion to be legal under the Abortion Act 1967. Modern, medically supervised abortions are very safe. Carrying a pregnancy to term is usually more dangerous than not being pregnant. In Britain, in practice this means that any person can access abortion on request up to 24 weeks of pregnancy, though the majority of abortions take place well before then. The proposed new Irish laws would only permit access on request up to 12 weeks.

After 24 weeks, the law in England only allows a person to access an abortion where her life is at risk, where the foetus would be born with severe disabilities or where continuing the pregnancy would cause a grave permanent injury to the pregnant person's health. There is no time limit where an abortion is carried out for these reasons under English law. The proposed Irish law is different for two reasons. First, Irish law will not permit doctors to terminate a pregnancy because the foetus will be born with a disability. Second, except in emergencies, or where the foetus has been diagnosed with a fatal foetal abnormality, Irish law would place a time limit on abortion, even where the woman's life or health was at risk. If the baby is capable of surviving outside the womb, Irish doctors would be required by law to deliver it early, and provide the baby with the same care that is given to any other

premature baby.

## **12. No one has ever been put in prison for having an abortion – why do we need to change the law?**

While no one in Ireland has ever gone to prison under the current law, a woman has been prosecuted in Belfast for ordering an abortion pill online and taking it. Many women in Ireland order abortion pills over the internet. Although abortion pills are safe, they should be taken under supervision from a doctor. If an Irish woman takes an abortion pill at home alone and she is worried that something has gone wrong, she may be afraid to contact a doctor because she has broken the law. Women are scared of facing a 14 year prison sentence so they will not go to their doctors to seek help. Doctors who do help women to have an abortion in Ireland would also face 14 years in prison.

## **13. Will the new legislation be gender neutral or inclusive of trans/non-binary people?**

The proposed new law is not written in gender neutral words.

## **14. Can't people give up children for adoption as an alternative to abortion?**

Certainly, we have laws in Ireland that allow people to give children up for adoption. This will not change if we change our abortion laws. However, forcing someone who does not want to be pregnant to remain pregnant is a violation of human rights. While many pregnant people who chose to give their child up for adoption may do so, not everyone wants to make this choice. For women who have been raped, who have poor health or who do not wish to go through with a pregnancy that they do not want, this is not a compassionate option. For people whose baby cannot survive outside the womb or who will die shortly after they are born, they very often wanted to have their baby. Adoption is neither possible nor suitable for them.

## **15. Doesn't repealing the 8<sup>th</sup> mean that unborn babies will have no rights?**

No. If the 8<sup>th</sup> Amendment is repealed 'the unborn' will no longer have constitutional rights. However, the proposed new law imposes restrictions on accessing abortion. Time limits, waiting periods and limiting the circumstances where abortion is allowed after 12 weeks will be included in the new law in order to protect foetal life.