

Check Against Delivery

Explanation of wording on draft Ballot 1

by Chairperson, Justice Mary Laffoy,

22 April 2017

I will now return to explain draft Ballot 1. As outlined earlier, there will not be roundtable discussions on this ballot paper as it is relatively straightforward. However, members will have the opportunity to ask questions to the panel on the podium about the proposed wording.

The text of the draft Ballot 1 is on the screen behind me.

The ballot paper firstly provides a brief explanatory text which contextualises our work. It explains that the role as laid down for us by the Oireachtas has mandated us to consider the Eighth Amendment. The Eighth Amendment inserted article 40.3.3. into the Constitution. The Thirteenth and Fourteenth amendments added clauses in relation to the right to travel and the right to information. As such it is more accurate to discuss Article 40.3.3, rather than the Eighth Amendment in isolation.

Thus in this and any subsequent ballots we will be referring to Article 40.3.3.

The full text of Article 40.3.3. is provided on the ballot paper for clarity.

Ballot 1 is our basic starting point – does the Assembly want to retain Article 40.3.3° in full, or not?

Here the word “retain” is used to demonstrate we are starting from the status quo: what the law is.

The purpose of this ballot is to establish whether you, the citizens, wish to change the status quo in some shape or form.

The members have two options before them here.

Option 1

Option 1 is to retain article 40.3.3 in full.

If the members decide that they wish Article 40.3.3° to be retained in full, there will be no further ballots or voting. That would be the recommendation of the Assembly on this topic.

Option 2

Option 2 is that article 40.3.3 should not be retained in full.

If they vote in this way, the Assembly will have mandated that they wish to change the current constitutional position in some way. Therefore, if the members decide that they do not wish Article 40.3.3° to be retained in full, we will proceed to a second draft ballot paper. To be clear, if the Oireachtas was to act on this option, a constitutional referendum would be required

Once the members have voted on this ballot the results will be reported on. The agenda provides that this will take place at 12.05pm.

Presentation of Results

Members have been provided with a note on the voting procedures to be used over the course of the weekend and this has been put up on the website for the wider public.

There are two specific aspects of this document which I would now like to draw your attention to.

The first is in relation to how the results will be presented. A sample results sheet for this ballot is provided on the screen behind me. You will see that the count will provide some key information.

Firstly, it will specify the number of citizens eligible to vote. We have [INSERT NUMBER] number of members in attendance this weekend and thus this is the figure we will most likely see here for each ballot.

Secondly, it will specify the number of citizens who voted. In theory this figure should be the same as the first, but there may be reason why a discrepancy might arise, for example if a citizen decides not to cast his or her vote.

Thirdly, you will see the results of the ballot presented in both absolute terms and in percentage terms. Both figures are provided for transparency and clarity. Where there is more than one option on the ballot this will obviously be represented here too.

Spoiled Vote

The note also specifies how we will deal with spoiled votes. I will describe here how we will deal with spoiled votes in all possible scenarios, including those which are not directly relevant to this Ballot.

In formulating our rules in relation to voting, we've had regard to the principles applied in national elections. There a vote which does not express a clear preference or which expresses multiple preferences, where only one is sought, is a spoiled vote.

For the purposes of voting at the Citizens' Assembly these rules apply, and a spoiled vote arises in the following circumstances:

1. Where the voter does not mark any option for one or more questions.

For the avoidance of doubt, a voter who has specifically marked the "Prefer not to state an opinion" will not fall into this category, because in such a case, the intention of the voter is clear. However, if a voter does not mark any option for one or more questions, it is not clear whether the voter did not wish to express a preference or whether they simply overlooked that particular question. Therefore a ballot or part of a ballot which does not contain one mark should be counted as a spoiled vote for that particular question. That would not affect the validity of other questions on the same ballot paper.

2. A ballot will also be considered as spoiled if the voter marks more than one option in a single question. In this case it is again not possible to determine the intention of the voter, so the vote should be treated as invalid.

That completes the description of the ballot and the arrangements for voting.

Next steps

I will now take questions from the floor on draft ballot paper 1.

I am joined by the lawyers on the Expert Advisory Group.

Dr. Oran Doyle is Head of the School of Law in Trinity College Dublin. Deirdre Madden Professor of Law at University College Cork and Rachael Walsh is Assistant Professor at the School of Law in Trinity College Dublin

They will assist in responding to your questions and comments concerning the wording of draft ballot paper 1.