

Check Against Delivery

Explanation of Wording on Draft Ballot 4B

by Chairperson, Justice Mary Laffoy,

23 April 2017

If Required

Good morning everyone and welcome back to what is our last meeting day on the Eighth Amendment of the Constitution.

This weekend we are agreeing the recommendations which will form the basis of the Assembly's final report on this topic for the Houses of the Oireachtas.

Yesterday, the Citizens' Assembly voted on three ballots. As previously outlined, the ballot paper has, by necessity, more than one question. As demonstrated yesterday, the draft ballot paper is quite a complex document. It is sequential in nature, meaning that ballots are dependent on the outcome of earlier ballots.

In ballot 1, the Assembly voted by a majority that Article 40.3.3° should not be retained in full.

In ballot 2, the Assembly voted by a majority that Article 40.3.3° should be replaced or amended.

In ballot 3, the Assembly decided that Article 40.3.3° should be replaced with a constitutional provision that explicitly authorises the Oireachtas to legislate to address both termination of pregnancy and any rights of the unborn.

We will now proceed to draft ballot 4B.

Again, this draft ballot paper has been prepared by myself and the secretariat in close consultation with the Expert Advisory Group, with the input of the Steering Group. The text is displayed on screen.

The top of the paper outlines how we have reached this ballot. In ballot 3, the Assembly voted by a majority to amend the Constitution to explicitly authorise the Oireachtas to legislate.

This ballot will provide the recommendations of the Citizens' Assembly to the Oireachtas about what should be included in legislation. Specifically it will provide recommendations about the reasons, if any, for which termination of pregnancy should be lawful in Ireland, as well as any gestational limits that should apply.

The suggested wording of the draft ballot paper seeks the recommendations of the Citizens' Assembly on eight reasons listed on the left-hand side of the table. Numbers 1-7 list possible reasons for which termination of pregnancy could be lawful in Ireland, while number 8 provides for lawful termination of pregnancy without the requirement of any specific reason for termination.

The reasons, in order, are:

1. Real and substantial risk to the life of the woman;
2. Real and substantial risk to the life of the woman by suicide.

These first two reasons represent the current law as contained in the Protection of Life During Pregnancy Act 2013.

3. Serious risk to the physical health of the woman;
4. Serious risk to the mental health of the woman;
5. Pregnancy as a result of rape;
6. The unborn child has a foetal abnormality that is likely to result in death before or shortly after birth;
7. The unborn child has a significant foetal abnormality that is not likely to result in death before or shortly after birth;
8. Available on request (no restriction as to reasons).

On the right-hand side of the table is where you will indicate your recommendation or your preference to state no opinion by marking an "X" opposite each reason.

Linked to these reasons, there are five columns which allow you to make recommendations on *when* (if ever) termination of pregnancy should be lawful for the various reasons set out on the left-hand side of the table.

The choices presented in these columns are:

- never for this reason;
- B1. up to 12 weeks gestation only;
- B2. up to 22 weeks gestation only; and
- B3. with no restriction as to gestational age.

Column C is to prefer not to state an opinion. Once again this is included on the ballot paper to accommodate members who may not wish to express a view on change on all or any of the reasons for which it might be provide that termination is lawful.

Members should only select one of these options. While it is conceivable that there may be more than one option which reflects your point of view, it should be noted that any ballot paper with a mark in more than one column for a particular reason will be considered to be a spoiled vote and therefore will not be counted.

Reporting of Results

I want to briefly describe how the results of this ballot would be presented. I do this for clarity and also to aid comprehension as to the implication of your vote. Given the nature of the ballot and the number of questions being asked, reporting will be necessarily more complex.

A sample results sheet for this ballot is provided on the screen behind me.

Once again it will specify the number of citizens eligible to vote, and the number of citizens who voted.

Effectively, eight separate recommendations are being made on this ballot paper. You will be casting a separate, individual vote on each of the eight reasons listed.

Each one of the reasons will be reported on separately when I announce the results later.

A further point which must be made clear. As you will see, the columns have also been alphabetised.

- The first column, *never for this reason*, is listed A;
- the middle three, *up to 12 weeks gestation only*, *up to 22 weeks gestation only*, and *with no restriction as to gestational age*, are listed B1, B2 and B3; and
- the last, *prefer not to state an opinion*, is listed C.

The middle three have been grouped in order to facilitate reporting of the results of the voting. Each option listed under B permits the termination of pregnancy up to certain, if any, gestational limits. As such these will be added together in the initial reporting, because collectively they represent all votes cast as to gestational limits on the termination of pregnancy or no gestational limit. In reporting, the votes cast in each option listed under B, will then be broken down to show how the citizens have voted in relation to gestational limits, or none.

Once again, I want to make clear how the majority vote of the Assembly will be determined here. Full details of this are once again provided in the note circulated in advance on the voting procedure and this is available online.

In relation to this ballot a majority for each individual recommendation will be determined in the initial reporting by reference to the votes cast for recommendations A and recommendations B1, B2 and B3 combined.

If in respect of any of the 8 reasons there is equality of voting on recommendations B1, B2 and B3, I as Chair will have the casting vote as provided for in the Resolution of the Oireachtas.

The slide now on screen depicts how this will be displayed.

That concludes the description of Ballot 4B.

Next Steps

We will now go into private session to allow the members to discuss the draft ballot paper amongst themselves in roundtable format.

We will resume at 10.30 for a feedback and questions and answers session.

Following the Roundtable discussion

I will now take questions from the floor on draft ballot paper 4B.

I am joined once again by the lawyers on the Expert Advisory Group: Dr Oran Doyle, Professor Deirdre Madden and Dr Rachael Walsh. To assist with any medical questions, Dr Elizabeth Dunn from the Expert Advisory Group is also present. As our second obstetrician on the Expert Advisory Group, Dr Declan Keane, was unavailable to attend today Dr Dunn is joined by Dr Adrienne Foran.

As you will recall, Dr Foran presented to us at our second weekend considering the Eighth Amendment. Dr Foran is a neonatal consultant at the Rotunda and Children's University Hospital, Temple Street.

The panel will assist in responding to your questions and comments concerning the wording of the draft ballot 4B.