

Date Printed: 04/21/2009

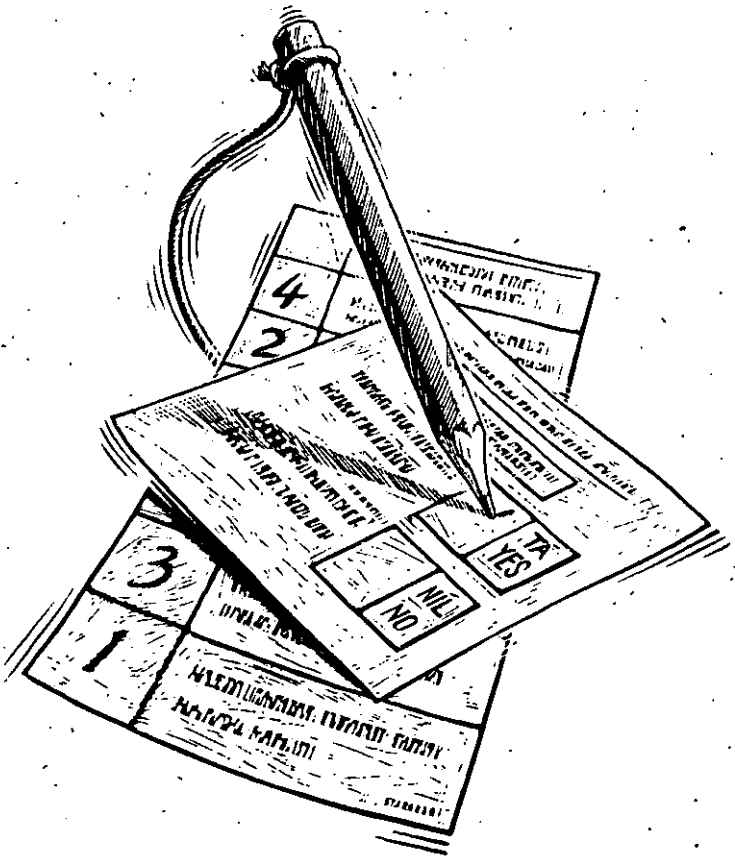
---

JTS Box Number: IFES\_65  
Tab Number: 14  
Document Title: The referendum in Ireland  
Document Date: 1994  
Document Country: Ireland  
Document Language: English  
IFES ID: CE00858



\* 3 C 0 C 8 5 A 1 - 8 C 3 5 - 4 9 4 1 - 8 9 5 8 - 6 0 6 7 9 4 F 0 9 C B 4 \*

# The Referendum in Ireland



## **1. Amendment of the Constitution**

The Constitution of Ireland (Bunreacht na hÉireann) was approved by the people at a plebiscite held on 1st July, 1937 and came into operation on 1st January, 1938. During a transitional period of 3 years the Constitution could be amended by ordinary legislation and two Constitution Amendment Acts were enacted during this period. Since the expiry of the transitional period, the Constitution may be amended only with the approval of the people at a referendum.

The Constitution has been amended following a referendum on 11 occasions. The subject matters were as follows:

- accession to the European Communities (1972)
- voting age (1972)
- recognition of specified religions (1972)
- adoption (1979)
- university representation in the Seanad (Senate or Upper House of Parliament) (1979)
- right to life of the unborn (1983)
- voting right at Dáil (Lower House of Parliament) elections (1984)
- Single European Act (1987)
- Treaty on European Union (1992)
- right to travel (1992)
- right of information (1992)

Five proposals to amend the Constitution were rejected at a referendum. The subjects were:

- voting system (1959)
- formation of constituencies (1968)
- voting system (1968)
- dissolution of marriage (1986)
- right to life (1992)

## **2. Procedure at a constitutional referendum**

A proposal to amend the Constitution must be introduced in the Dáil as a Bill. When the Bill has been passed by both Houses of the Oireachtas

(Parliament), it must be submitted to the people for approval at a referendum. If a majority of the votes cast at the referendum are in favour of the proposal, the Bill is signed by the President and the Constitution is amended accordingly.

### **3. Conduct of a referendum**

When the Oireachtas has passed a Bill containing a proposal to amend the Constitution, the Minister for the Environment appoints the polling day and the hours of polling at the referendum. He also appoints a referendum returning officer who is responsible for the overall conduct of the referendum. The referendum is conducted by reference to the same constituencies as for Dáil elections and the returning officers for Dáil elections are the local returning officers for the referendum. The local returning officers appoint staff, provide equipment and make all necessary arrangements for conducting the poll in each constituency. They report the result of the poll to the referendum returning officer, who publishes a provisional referendum certificate stating the overall result. If the provisional certificate is not questioned by way of referendum petition to the High Court, within the time allowed by law, the certificate becomes final. If the Bill has been approved by the people, the President signs the Bill and the Constitution is amended accordingly.

### **4. Who can vote**

Every citizen of Ireland who is at least 18 years of age and whose name is entered in the register of electors is entitled to vote at a referendum. There are approximately 2.6 million persons on the register of electors entitled to vote at referenda.

A register of electors is compiled each year by the county council or city corporation. A draft register is published on 1st November and is displayed for public inspection in public libraries, post offices and other public buildings. Claims for correction to the draft may be made up to 25th November. Claims are adjudicated on by the county registrar who is a legally qualified court officer. An appeal may be made to the Circuit Court against a county registrar's decision. The register of electors comes into force on 15th February. Eligible persons not included in the published register may apply for inclusion in a supplement to the register.

Members of the Garda Síochána (police force), Defence Forces and civil servants (and their spouses) attached to Irish missions abroad may vote by post. Electors with physical disabilities may apply to have their names entered on the special voters list and vote at home. A ballot paper is delivered to them at their residence by a special presiding officer, accompanied by a member of the Garda Síochána. Electors with physical disabilities, who have difficulty in gaining access to their local polling station, may be authorised to vote at a more accessible station in the constituency. Otherwise, electors vote in person at their local polling station.

### **5. The poll**

Polling day is appointed by order of the Minister for the Environment and must be between thirty and ninety days after the making of the order. This order also fixes the period for voting. At least twelve hours within the period between 8am and 10.30pm must be allowed for voting.

The polling stations are the same as for a Dáil election and each elector is sent a polling information card indicating his or her number on the register of electors, the date of the poll and the place where he/she is entitled to vote. The polling card also contains a formal statement prescribed by the Oireachtas regarding the subject matter of the referendum. This explanatory statement is also displayed at each polling station. The law requires that the Bill containing a proposal to amend the Constitution must be made available at post offices for free inspection and for purchase at a nominal price.

At each polling station the poll is taken by a presiding officer, assisted by a poll clerk. Personation agents, appointed by members of the Oireachtas, attend at polling stations to assist in the prevention of electoral offences.

## **6. Voting**

Voting is by secret ballot. The form of ballot paper is prescribed by law and contains brief instructions on the correct manner of voting. The ballot paper shows the title of the Bill proposing to amend the Constitution and asks whether or not the elector approves of the proposal. The voter marks an "X" in either the "yes" box or the "no" box on the ballot paper. The voter folds the ballot paper to conceal how it has been marked and places it in a sealed ballot box. A person may vote only once at the referendum.

Persons with a visual impairment or physical disability who cannot vote without help may be assisted by the presiding officer or by a companion. Persons with reading or writing difficulties who cannot vote without help may be assisted by the presiding officer.

The presiding officer may order the arrest of any person suspected of committing an electoral offence.

## **7. The count**

On the day following the poll, the local returning officer opens the ballot boxes at a counting centre in each constituency, counts the votes for and against the proposal and reports the result to the referendum returning officer. The counting is observed by persons appointed for this purpose by members of the Oireachtas.

## **8. Result of the referendum**

The result of the counting of the votes in each constituency is reported to the referendum returning officer. Based on these reports, he/she draws up a provisional referendum certificate stating the overall result of the voting and indicating whether or not the proposal has been approved. The provisional certificate is published in *Iris Oifigiúil* (the Official Gazette). Within 7 days after formal publication, any elector may apply to the High Court for leave to present a petition questioning the provisional certificate. If no petition is presented, the certificate becomes final and, if it shows that the majority of the votes cast were in favour of the proposal, the relevant Bill is signed by the President and the Constitution is amended accordingly.

## **9. "Ordinary referendum"**

The Constitution also provides for a referendum on a proposal other than a proposal to amend the Constitution (referred to in law as an "ordinary referendum"). An ordinary referendum may take place when the President, on receipt of a joint petition from a majority of the members of the Seanad and not less than one third of the members of the Dáil, and following consultation with the Council of State, decides that a Bill contains a proposal of such national importance that the will of the people thereon ought to be ascertained before the measure becomes law. The Government may then decide to hold a referendum on the proposal or to hold a general election. The procedure at an ordinary referendum is similar to that in relation to a constitutional referendum except that the proposal is held to have been vetoed by the people if the majority of the votes are cast against the proposal and such votes represent at least one-third of the presidential electors on the register of electors. No ordinary referendum has been held up to the present.

## **10. Law relating to the referendum**

The law relating to the referendum is contained in Articles 46 and 47 of the Constitution of Ireland (IR£1.30), the Electoral Act, 1992 (IR£ 13.35) and the Referendum Act, 1994. The results of previous referenda are set out in "Referenda in Ireland", (IR£1.80). These publications may be obtained from the Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

## **11. Other leaflets**

Other leaflets available in this series are as follows:

How the President is elected

How the Dáil (Lower House of Parliament) is elected

European Parliament: How Ireland's representatives are elected

How the Seanad (Senate or Upper House of Parliament) is elected

The Register of Electors

Information for Voters with Disabilities.

