

Together  
*for*  
**Yes.**



Position Paper  
**General Scheme of a Bill to Regulate  
Termination of Pregnancy**

## Position on General Scheme of a Bill to Regulate Termination of Pregnancy Head 7: Early Pregnancy (12 Weeks)

---

The Government General Scheme published on 27 March 2018 proposes a period in early pregnancy up to 12 weeks when a woman or girl will be able to access abortion services without giving an indication as to reason<sup>1</sup>. The policy rationale behind this proposal follows extensive legal and medical evidence given to the Citizens' Assembly<sup>2</sup> and the Joint Oireachtas Committee on the Eighth Amendment<sup>3</sup> in 2017.

Strict regulations would accompany this proposal should it be presented to the Oireachtas by Government following a removal of the 8th Amendment:

- An appropriate medical practitioner must certify that the pregnancy has not exceeded 12 weeks.
- 72 hours must elapse between certification and the termination being carried out<sup>4</sup>.

Additionally, beyond the first trimester, the General Scheme provides that terminations will only be available in exceptional circumstances – on the grounds of risk of serious harm to the health or life of the woman, in emergency situations or in cases of fatal foetal abnormality<sup>5</sup>.

In effect, the government proposes a regulated abortion framework if the 8th Amendment is removed from the Constitution. These proposals would ensure that women and girls have appropriate medical care and support, counselling and post-abortion care, including access to contraception.

Together for Yes considers that these are workable and reasonable proposals to allow women and girls to access the abortion services which they need, in a safe and regulated medical environment within the Irish health system.

### When do Irish women have abortions?

---

The vast majority of women who have abortions do so before 12 weeks. But the requirement to travel abroad means that women from Ireland access abortion later than UK residents. In 2016, 69% of women who gave Republic of Ireland addresses to clinics accessed abortion care between 3–9 weeks' gestation, compared to 81% of women resident in the UK<sup>6</sup>. The requirement on Irish women and girls to travel for abortions results in Irish women and girls making decisions under pressure, without the advice of a healthcare provider and having later abortions.

## What is the background to the early pregnancy (12 weeks) proposal?

---

Reporting in June 2017, the Citizens' Assembly recommended that the 8th Amendment should be removed from the Constitution and made further recommendations about what should be included in any legislation to follow. Specifically, 64% of the Members recommended that the termination of pregnancy without restriction should be lawful. Of the Members who voted on that Ballot, the majority recommended that the termination of pregnancy without restriction should be lawful up to 12 weeks' gestation age<sup>7</sup>.

In December 2017, the Joint Oireachtas Committee (JOC) also recommended that the law should be amended to permit termination of pregnancy with "no restriction as to reason" (with a gestational limit of 12 weeks) if that is provided through a GP-led service delivered in a clinical context<sup>8</sup>.

## What will this proposal mean for women and girls who experience rape?

---

The JOC came to the view that allowing abortion in the first 12 weeks of pregnancy is the most compassionate, reasonable and straightforward way to support women and girls who need to end a pregnancy that resulted from rape. This view was primarily formed due to the Committee's consideration of the "complexities inherent in legislating for the termination of pregnancy for reasons of rape or other sexual assault"<sup>9</sup>.

The inclusion of a specific 'rape ground' in legislation is not a compassionate or workable means of supporting women and girls in these circumstances because it is not possible to "prove" rape occurred through a medical examination. The JOC heard from Dr Maeve Eogan of the Rotunda Hospital Sexual Assault Treatment Unit (SATU) that, even in the context of intimate examination by trained personnel, there is no physical finding that conclusively demonstrates that unwanted sexual contact has occurred<sup>10</sup>.

The Dublin Rape Crisis Centre told the JOC that a requirement to disclose experience of rape would mean a woman has to convince someone that her story justifies access to support<sup>11</sup>. That person then has the power to make a decision about that rape and grant or withhold access to services. Furthermore, the requirement to disclose what she has experienced in order to access abortion may re-traumatise the woman at a particularly vulnerable time, or prevent her from seeking care at all.

This proposal would provide a woman or girl a short period in early pregnancy when she can access a termination. At present, a woman or girl

in Ireland who wishes to terminate a pregnancy that is a result of rape cannot lawfully do so in Ireland. Her only lawful option is to travel abroad for an abortion. In making this decision, she is risking further harm due to increased clinical risk without a continuous care pathway. This is even more the case if she resorts to a clandestine method. It will not be possible to change the current system without removal of the 8th Amendment.

### Is this proposal connected to the use of the abortion pill?

---

The medical experts who addressed the Joint Oireachtas Committee (JOC) were unequivocal: women and girls in Ireland who are currently accessing abortion are not receiving an acceptable standard of healthcare. This is particularly so because of the rapidly increasing trend of unsupervised self-use of the abortion pill obtained from unregulated online providers. Figures show that at least 1,748 women and girls in Ireland ordered illegal abortion pills to their homes from just one online provider in 2016<sup>12</sup>.

Doctors who gave evidence to the JOC expressed grave concern regarding the risks that patients may take in procuring a medically unsupervised pregnancy termination. The World Health Organization (WHO) informed the JOC that clandestine self-use of abortion pills without back-up care services fails to meet the criteria of what the WHO regards as safe<sup>13</sup>.

While medical abortion is very safe when provided within a clinical setting<sup>14</sup>, online providers are unregulated. A woman has no way of knowing if any information she receives is accurate, nor if the medication ordered is effective, safe, or will even arrive. This adds to stress at what is already a very difficult time and increases clinical risk. According to the Master of the Rotunda, Professor Fergal Malone, doctors are “concerned regarding the unregulated aspects of this practice and the risks that patients may take in procuring a medically unsupervised pregnancy termination, in particular if they do not have ready access to a doctor or medical centre to assist in the event of unexpected complications. Additionally, patients in this situation can have little or no confidence as to the pharmacological content or safety of what they have sourced”<sup>15</sup>.

Fear of prosecution due to use of abortion pills may lead to increased clinical risk if it deters or delays a woman or girl from seeking medical help in the case of complications. The maximum prison sentence for illegal abortion under the Protection of Life During Pregnancy Act 2013 is 14 years<sup>16</sup>.

## How does this proposal compare to other European countries?

---

Within Europe, the following countries have legislated for a period up to 12 weeks when a woman or girl can access abortion without giving an indication as to reason:

Albania, Armenia, Austria (3 months), Azerbaijan, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, France, Georgia, Germany, Greece, Hungary, Italy (90 days), Latvia, Lithuania, Luxembourg, Moldova, Norway, Russia, Slovakia, Switzerland and Ukraine.

This period is extended to 14 weeks in Romania and Spain, 18 weeks in Sweden and up to viability in the Netherlands.

## Final comments regarding the proposal on early pregnancy (12 weeks)

---

Removing the 8th amendment will allow for the provision of compassionate, non-judgmental care to women and girls who are pregnant as a result of rape. It will return care for women and girls who are currently accessing abortion pills illegally via the internet or who are forced to travel abroad for abortion services, back into the supervision of their doctors here in Ireland. The rapidly increasing trend of illegal abortion through use of the abortion pill would be regulated; all of the women and girls who currently resort to this method would be able to access legal abortion in Ireland. Both illegal abortion and travel for legal abortion, expose women and girls to increased clinical risk and harm. Neither of the current options reflect an active preference, but are imposed by the lack of safe alternatives in Ireland.

1. Head 7, General Scheme of a Bill to Regulate Termination of Pregnancy, (27 March 2018), <http://health.gov.ie/wp-content/uploads/2018/03/General-Scheme-for-Publication.pdf>.
2. Video of the presentations made to the Committee are available here [https://www.youtube.com/channel/UC2DgyetL9aUTMry\\_F9B9yUw](https://www.youtube.com/channel/UC2DgyetL9aUTMry_F9B9yUw). All documentation pertaining to the Assembly's work, including submissions and evidence is available here <https://www.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/>.
3. Information pertaining to the Committee's work, including evidence tendered to the Committee and its Report is available here [http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/eighthamendmentoftheconstitution/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/eighthamendmentoftheconstitution/).
4. Head 7, op cit.
5. This will mean the proposal Irish law should the 8th Amendment be removed, would be more restrictive than abortion laws found in almost all other European countries.
6. 92% of abortions in UK in 2016 were carried out at under 13 weeks' gestation and 81% were carried out at under 10 weeks (considerably higher than 2006 at 68%). A woman who travels must cover all the costs involved and organise the logistics of the trip, arrange childcare and time off work. This means women from Ireland typically have later abortions than UK residents.
7. First Report and Recommendations of the Citizens' Assembly (29 June 2017), p. 3, <https://www.citizensassembly.ie/en/The-Eighth-Amendment-of-the-Constitution/Final-Report-on-the-Eighth-Amendment-of-the-Constitution/Final-Report-incl-Appendix-A-D.pdf>.
8. As provided by law and licencing practice in Ireland. Para 2.40, Report of the Joint Oireachtas Committee on the Eighth Amendment of the Constitution, <https://www.oireachtas.ie/parliament/media/committees/eighthamendmentoftheconstitution/Report-of-the-Joint-Committee-on-the-Eighth-Amendment-web-version.pdf>.
9. Para 2.23, op cit.
10. Dr Maeve Eogan MD FRCOG FRCPI, Consultant Obstetrician and Gynaecologist, Rotunda Hospital (October 2017), Pregnancy in Context of Sexual Violence: SATU Perspective, Opening Statement for Joint Committee on the Eighth Amendment of the Constitution, available at [http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/eighthamendmentoftheconstitution/presentations/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/eighthamendmentoftheconstitution/presentations/). Insert reference.
11. Dublin Rape Crisis Centre, Opening Statement to the Joint Oireachtas Committee on the Eighth Amendment (October 2017), available at [http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/eighthamendmentoftheconstitution/presentations/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/eighthamendmentoftheconstitution/presentations/).
12. Figures for access to abortion pill are taken from a paper published in the British Journal of Obstetrics and Gynaecology in 2016: "Experiences and characteristics of women seeking and completing at-home medical termination of pregnancy through online telemedicine in Ireland and Northern Ireland: a population-based analysis" . British Journal of Obstetrics & Gynaecology 2017;124(8):1208-1215. Those figures include women from Northern Ireland.
13. Evidence of Dr Ronald Johnson to the Joint Oireachtas Committee on the Eighth Amendment, 11 October 2017. [https://beta.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_the\\_eighth\\_amendment\\_of\\_the\\_constitution/2017-10-11/2/](https://beta.oireachtas.ie/en/debates/debate/joint_committee_on_the_eighth_amendment_of_the_constitution/2017-10-11/2/).
14. World Health Organisation. 2012. Safe abortion: technical and policy guidance for health systems.
15. Evidence of Professor Fergal Malone, Master of the Rotunda Hospital, to the Joint Oireachtas Committee on the Eighth Amendment, 11 October 2017. [https://beta.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_the\\_eighth\\_amendment\\_of\\_the\\_constitution/2017-10-11/3/](https://beta.oireachtas.ie/en/debates/debate/joint_committee_on_the_eighth_amendment_of_the_constitution/2017-10-11/3/)
16. Section 22.