

Review of the operation of the Health (Regulation of Termination of Pregnancy) Act 2018

Public Consultation

The Department of Health invites members of the public and interested parties to make submissions as part of the review of the operation of the Health (Regulation of Termination of Pregnancy) Act 2018.

The consultation has two parts:

- Part 1 – Your details
- Part 2 - Your views.

Part 1 requests some information about the person or organisation making the submission. The information given will be used to provide context. This is the only reason for collecting this information.

Part 2 is the main part of the consultation. It has questions to seek people's views on the operation of the Health (Regulation of Termination of Pregnancy) Act 2018. There are opportunities to share your views in more detail throughout.

While recognising that there are a variety of views on the issue of termination of pregnancy generally, the Department is specifically seeking submissions on the operation of the Health (Regulation of Termination of Pregnancy) Act 2018.

Submissions responding to the questions set out in the consultation document below are welcome. Submissions outside the scope of the review of the operation of the Health (Regulation of Termination of Pregnancy) Act cannot be addressed in this forum.

Making a Submission

Before making any submission, please review the privacy information below, including information on the publication of submissions. If after reading this you wish to make a submission, a submission may be made in the following ways:

- Online at the following link:
<https://ec.europa.eu/eusurvey/runner/PublicConsultationOperationofAct2021>

- By emailing your completed submission as an attachment (PDF or Word doc) to Bioethics2Unit@health.gov.ie, with the subject line “Review of the operation of the Act”.

- By posting your completed submission to: Bioethics 2 Unit Public Consultation, Department of Health, Block 1, Miesian Plaza, 50-58 Lower Baggot Street, Dublin, D02 XW14.

Deadline

The closing date for responses is close of business on Friday, 1 April 2022. Submissions received after the deadline cannot be considered and extensions cannot be provided.

Next steps

Submission received will be reviewed following the deadline. Submissions will help inform the review of the operation of the Act.

The Department expects to publish submissions on its website and on www.gov.ie.

Privacy Notice

Any personal information which you volunteer to this Department will be treated with the highest standards of security and confidentiality, strictly in accordance with the General Data Protection Regulation 2016/67 and the Data Protection Act 2018. However, please note the following:

- The Department expects to publish submissions and a report outlining the key themes arising from the public consultation. The Department may include a full list of those who make submissions in an appendix to any report. **Please indicate in the comment box at the end of the submission if you are including personal information and do not consent to your name and/or your submission being published.**
- As information received by the Department is subject to the Freedom of Information Act 2014, such information may be considered for possible release under that Act. **Please indicate in the comment box at the end of the submission if you are including personal, confidential or commercially sensitive information in your submission and wish this information to be redacted in any release.** Otherwise, it will be presumed that the information contained in your submission is releasable under the Freedom of Information Act 2014. Any personal information included in your submission would be redacted prior to release.
- The information provided in the submissions may be shared with relevant Government Departments and State organisations during the review process. Any personal and identifying information will be redacted prior to sharing.
- By providing a submission to the Department, you are consenting to your data being processed by the Department. Your data will only be used in the context of the review of the operation of the Health (Regulation of Termination of Pregnancy) Act 2018, and for no other purpose. If, at any time, you wish to withdraw your submission please contact Bioethics2Unit@health.gov.ie
- The Department's Privacy Policy can be viewed at <https://www.gov.ie/en/organisation-information/2f7457-department-of-healthsprivacy-policy/>
- Submissions will be retained until the review process has been concluded and the final report has been published.

Part 1 – Your Details

In this section, we ask that you tell us a little about yourself, so we can look at the submissions received from different points of view. This is the only reason for collecting this information.

Please note, while separate strands of in-depth qualitative research under the review will consider the operation of the Act specifically from the service user and from the service provider perspectives, service users and service providers are also most welcome to contribute their views through this public consultation process.

Q.1. Are you completing this questionnaire (please tick below):

On behalf of an organisation

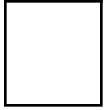
As an individual

Section B. For Organisations

Q2 (i). What is the name of your organisation?

Q2 (j). Please tick the category that best describes your organisation:

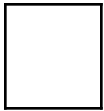
Union/Staff Representative Body



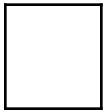
State Body



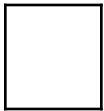
Regulatory Body



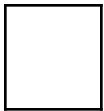
Advocacy Body / Special Interest Group



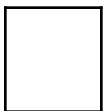
Volunteer/ Not for Profit



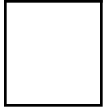
Representative Body



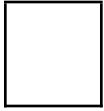
Religious Group



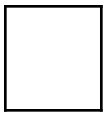
Political Party



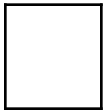
Patient Interest Group



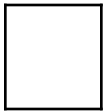
Academic Institution



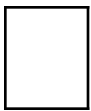
Hospital



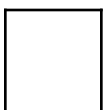
Hospital Group



GP Practice



Community Healthcare Organisation



Community Healthcare Network

Other
(please specify)

Q2 (k). Is your organisation involved in the provision of termination of pregnancy services?

Yes

No

Q2 (l). What is the address of your organisation?

Q2 (m). What is your name and job title?

First name

Last name

Job title

Part 2 – Your Views

In this section, we seek your views on the operation of the Health (Regulation of Termination of Pregnancy) Act 2018.

Please insert your written response in the text boxes provided. The Department respectfully asks that the word limit not exceed 500 words per box.

Please address your responses to the questions asked; material submitted which does not respond to the questions will be considered beyond the scope of the consultation and cannot be included in the review of the operation of the Act.

3 (a). To what extent do you agree that the Health (Regulation of Termination of Pregnancy) Act 2018 has achieved what it set out to do?

Strongly Agree

Somewhat Agree

Neutral

Somewhat Disagree

Strongly Disagree

Q3 (b). Please provide detail / evidence to support your answer

The stated objectives of the Act were ambiguous from the beginning. If the Act's purpose was to introduce widely available and accessible abortion, then the Act has successfully done this as evidenced in the 13,243 legal abortions which took place in the first two years of the law's introduction. This represents a 70% increase in abortion in two years. This points to the reality that there are no serious obstacles to accessing abortion under the current law.

By the same token, the rhetorical objectives which underlined the Act's introduction such as the claim that legal abortion should be "rare" has been proven false. Other objectives and commitments set out by those responsible for the legislation's introduction, such as the claim by Minister for Health Simon Harris that abortions would "absolutely... not going to be done by tele-medicine" further point to the Act's failure to honour its original commitments due to the present policy of telemedicine.

Meanwhile, the objective of providing women with informed consent and a full range of options before making their decision has failed to be achieved. The recent research project undertaken by Students for Life into the operation of the HSE MyOptions hotline (November 2021 – January 2022) revealed the dearth of practical information on alternatives to abortion or supports for continuing with an unplanned pregnancy offered by counsellors. Evidence arose of unfortunate scenarios where women were advised to "make an appointment anyway" to have an abortion, even in cases where the woman expressed reluctance about having an abortion.

The 'Neutral' option has been selected due to the ambiguous objectives which underlined the Act's introduction. This makes it difficult to assess whether the objectives have taken place as intended.

4 (a) Are there parts of the Act which, in your opinion, have not operated well?

Yes

No

Don't know

4 (b). If yes, please let us know which section(s) of the Act, and details of the issue(s) it is causing.

Please provide detail / evidence to support your answer.

Notwithstanding our overall opposition to abortion, there are some sections of the Act which in operation have fallen short of their intentions.

Notifications:

Section 20 of the Act provides for the categories under which notifications of abortions are to be recorded. The data presented yearly under this section is inadequate as important information is not being recorded. In the interests of providing public policy analysts with more detailed statistical records to better inform public health policy and research, the notifications section of the Act should be re-examined and amended to include more detailed notifications. In England and Wales, medical practitioners are required under the Abortion Act 1967, as amended, to notify the Chief Medical Officer of every abortion performed through the HSA4 form, which collects comprehensive data for notification to the CMO.

The following are examples of the information provided in the annual notifications published in other jurisdictions, but not Ireland: the gestational stage of the pregnancy at the time the abortion took place; whether the pregnancy was singleton or a multiple pregnancy; the method of abortion or foeticide used; where the termination of pregnancy was a selective termination, the original number of babies and the number to which they were reduced; whether a live birth followed the termination of pregnancy, and, if so, the care given to the baby and its outcome; if complications arose during or after the abortion and what these entailed; if the abortion resulted in the death of the woman, and cause of death. The recording of detailed information along the lines cited above would provide researchers with comprehensive data with which to gauge any emerging trends that would help foster healthy debate and reflection.

Freedom of conscience:

Section 22 of the Act sets out to protect the right of 'conscientious objection' for any medical practitioner, nurse, or midwife. However, the Act still compels doctors to make an obligatory referral, thereby facilitating abortions to take place. Doctors who entered medicine to save lives are forced to be complicit in ending lives. Doctors who oppose abortion on ethical grounds are now forced to act against their conscience. This section of the Act must be reviewed to ensure that no doctor or healthcare worker should ever be forced to go against their conscience and become complicit in the provision of abortion against their will. The right to conscientious objection must apply to all in the healthcare sector such as pharmacists, and not simply be limited to doctors, nurses, and midwives. Furthermore, there should be no discrimination in employment and hiring decisions.

Other:

There are various other problems with the operation of the Act, under sections 9, 10, and 11. The wrongful diagnosis and abortion of Baby Christopher and the subsequent lack of accountability from the National Maternity Hospital with regard to this case points to very serious failings in how the law operates. Also, two medical practitioners did not sign off on the decision to proceed with an abortion, which was a breach of Section 9 of the Act.

The peer-reviewed article 'Fetal medicine specialist experiences of providing a new service of termination of pregnancy for fatal fetal anomaly: a qualitative study' (2020) published in the *BJOG* pointed to the likelihood that babies have been born alive having survived abortions but have been left to die. This must be investigated without delay as its continuance is an indictment of the entire regime of legal abortion legislated for under the Act.

5 (a). Are there parts of the Act which, in your opinion, have operated well?

Yes

No

Don't know

5 (b). If yes, please let us know which section(s) of the Act, and details of how it has operated / its benefit(s). Please provide detail / evidence to support your answer.

Section 12(3) of the Act provides for a three day waiting period which must elapse between the first and second consultation before a woman can proceed with an abortion. This part of the Act is helpful not only in giving time to decide and get past any initial sense of panic, but in providing a window of time during which other factors (such as an offer of help, or the obtaining of information on support services) can come into play, meaning fewer lives lost and fewer women hurt by abortion.

In 2020, a total of 8,057 women took part in the initial consultation seeking access to abortion, with 6,577 of them proceeding to have the abortion. It means a total of 1,480 women opted to continue with their pregnancy after the initial consultation during the three-day waiting period.

The three-day waiting period was an important Government promise used to persuade people to vote Yes in the 2018 referendum. It was cited by Simon Coveney as a key influence affecting his “journey” to publicly advocating a Yes vote. Meanwhile, the media relied upon the three-day waiting period to deny there would be “abortion on demand without restrictions” and to “fact-check” the claim that Ireland’s abortion laws would be “as liberal as Britain’s”. Apart from being a betrayal of promises made to the public in 2018, removing this important safeguard would prompt the abortion rate to continue to spiral.

Q6. Are there any further comments you would like to make on the operation of the legislation?

Please provide detail / evidence to support your answer, where possible.

Since January 2019, the widescale availability of legal abortion in Ireland has seen the numbers of women having abortions drastically increase. In its first two years, 13,243 legal abortions took place, which represents an increase of 70%. This is a clear departure from much of the rhetoric surrounding the objectives of the Act's introduction, such as commitments to ensure abortion was "safe, legal and rare".

The legislation is clearly operating effectively in terms of allowing largely unrestricted access to abortion. However, the scope of this Review should also address several of the failings associated with legal abortion which have been raised in this submission. Greater efforts must be made to provide a full range of options and supports to women to achieve informed consent. A commitment must be made to investigating several of the extreme excesses which have arisen since the introduction of legal abortion, as highlighted throughout this submission.

Q7. Do you have any comments about services provided under the Act?

Please provide detail / evidence to support your answer, where possible.

Informed consent

The HSE MyOptions 'helpline' was launched with a purpose of providing women in unplanned pregnancies with options, including access to abortion. A report undertaken in November 2021-January 2022 by the group Students For Life identified severe inadequacies in the services offered by HSE MyOptions counsellors. In most cases in the sample of cases contained in the report, women in unplanned pregnancies were presented with information about abortion but scant information on practical supports which may be available to them. Consistently, women were encouraged to make an appointment with the abortion providing doctor, even where they stated clearly that they had not made a decision on whether they wanted an abortion or not.

HSE MyOptions urgently requires an overhaul, and the legislation should be amended to ensure that in all cases women seeking abortions are offered information on supports for continuing with their pregnancy should they decide to do so. In October 2021, a poll recorded that 89% of the public support a women being offered information on alternatives to abortion before proceeding with an abortion.

Pain Relief:

Legal abortion has operated without a mandatory provision of precautionary pain relief for babies in late-term abortions, in spite of the mounting scientific evidence which suggests that unborn babies can experience pain in these scenarios. On 15 December 2021, Minister Donnelly asked that the proposed pain relief measure be delayed to "give the review the space it needs to do its work". Due to the parliamentary and public interest already generated in this topic, the Review should consider and evaluate the evidence for amending the Act to mandate the provision of precautionary pain relief. By allowing the Act to operate without this provision is causing undue and gratuitous suffering for unborn babies in late-term abortions.

D&E Abortions:

Since 2021, it has been acknowledged that dilation and evacuation (D&E) abortions are happening in Ireland. This barbaric procedure involves ripping the unborn baby apart – tearing off his/her limbs and removing the parts of his/her body from the womb piece by piece. There is no section in the Act at present which prohibits this brutal dismemberment from occurring. The Review should take steps to recommend that such cruel practices are explicitly prohibited under the Act governing legal abortion.

Q8. Prior to this consultation what was your awareness of the Act?

Aware of all provisions of the Act

Aware of most provisions of the Act

Aware of some provisions of the Act

Not aware of any provisions of the Act

Note on Personal Information

Q9. Do you consent to your submission being released by the Department of Health?

Yes

Yes, some parts may be released

No, it contains personal or confidential material

If only some parts of your submission may be released, please indicate below if you are including personal or confidential information in your submission and would prefer this information to be redacted. You should indicate the sections of your submission that you do not want released (e.g. “My response to Q2 contains personal information which I do not want released”).

Thank you for taking the time to submit your views on the operation of the Health (Regulation of Termination of Pregnancy) Act 2018.