

Health (Regulation of Termination of Pregnancy) Act, 2018

July 2021



Abortion Rights Campaign recommendations for the review of the 2018 Act:

- Decriminalise abortion in all circumstances (Sect. 23)
- Repeal the arbitrary 12-week limit for abortion on request and extend on request access throughout pregnancy (Sect. 12)
- Repeal the mandatory 3-day waiting period (Sect. 12)
- Legislate for and fully implement safe access zones to ensure abortion care without harassment
- Make explicit the right of transgender people to access abortion care
- Make explicit the right of pregnant people to bodily autonomy and independent decision making
- Make explicit the provision of telemedicine, including the option of online booking
- Repeal refusal of care ('conscientious objection') (Sect. 22)
- Legislate for and fully implement an end to deceptive rogue agencies that deliberately misinform patients about abortion
- Provide Easy-To-Read information on abortion access and adequately resourced and staffed language interpretation services, including Irish Sign Language (ISL)
- Provide services to enable Travellers, people in Direct Provision, disabled people, and others who must travel outside their county to access an abortion
- Fully implement the guarantee of free abortion care for all who live in Ireland, including people residing in Northern Ireland, regardless of possession of a Personal Public Services Number or medical card
- Improve the geographic distribution of primary care and hospital providers, and increase access to abortion by authorising nurses, midwives and other doctors to provide abortion care in line with international best practice
- Provide free access to all methods of contraception approved by Irish regulatory agencies to all who wish to avail of it

Abortion Rights Campaign

The Abortion Rights Campaign (ARC) is a grassroots all-volunteer group dedicated to achieving free, safe, legal, and local abortion care across the island of Ireland, for anyone (including girls, women, transgender, intersex, and non-binary people) who wants or needs it, without reason or gestational limits. ARC demands that the Government makes provisions for and provides adequate access to abortion care as mandated by the Irish public.

Current situation with abortion legislation in Ireland

Abortion is legal in Ireland up to 12 weeks, without reason, and is subject to a mandatory 3 day waiting period, and beyond 12 weeks, in extremely limited circumstances. Abortion is still a criminal offence, with doctors facing a potential 14-year prison term if they provide abortion care outside the narrow parameters of legal abortion. Due to the current issues with the legislation, and the poor geographic distribution of services, people are still forced to travel, both within Ireland and abroad, to receive care.

The legislation governing abortion, the Health (Regulation of Termination of Pregnancy) Act 2018, is due for a 3-year review by the end of 2021. In 2018, then Minister of Health, Simon Harris, promised that the review would be "external and independent [and] not be an in-house job". The current Minister for Health, Stephen Donnelly, supported that commitment.

Despite this, the Government has not guaranteed that the review will be external, independent or engage meaningfully with patients, patient advocates, providers, relevant professionals, or the Oireachtas Health Committee. The Government needs to follow through on its promises.

Barriers to abortion under the Health Act, 2018

The 2018 Act is neither patient nor rights-centred. By framing the Act in terms of criminal offences, it creates a “chilling effect” for medical practitioners, potentially tempering their clinical judgment, and perpetuates the idea of abortion as harmful or shameful.

Patients seeking abortion in Ireland currently contend with:

- Poor geographic distribution of services; Sligo still has no provision of abortion services
- Insufficient access to abortion care between 10-12 weeks:
 - Patients must obtain care in a hospital despite medical evidence and best practice
 - Doctors fear providing an abortion too close to the 12 week cut-off
- Poor distribution of ultrasound scanning services to date pregnancies, and problems arising from inaccurate scanning results
- Inadequate access to hospital-based care; 9 of 19 maternity hospitals refuse to provide services

These barriers are compounded for people from ethnic and racial minority groups, migrants, disabled people, people living in poverty or insecure housing, and people experiencing intimate partner and/or domestic violence. The Act exclusively uses the word “woman”, which excludes transgender, intersex, and non-binary people, who may not be legally “women”, but who can nonetheless become pregnant.

The mandatory 3 day waiting period does not always mean that a person can access an abortion 3 days later, due to limited appointment availability and poor geographic distribution of provision. This delay, on top of all the other barriers, can result in care being inaccessible. For example, if a person needs to travel further to receive care in a hospital, or is blocked altogether as they approach the 12-week cut-off point.

Forced to Travel for Abortion Care

People continue to travel from Ireland to other jurisdictions to access abortion services, demonstrating ongoing problems with the legal framework and its implementation. In 2019, 6,542 abortions were performed up to 12 weeks of pregnancy. In the same year at least 375 people travelled to the UK to obtain an abortion. During 2020, at least 194 people travelled for abortion care during the Covid-19 pandemic and public health lockdowns here and in the UK.

At least 64 people travelled to England in 2019 after a diagnosis of severe or fatal foetal anomalies. For every three people obtaining an abortion for a fatal foetal anomaly in Ireland, two were still forced to go to England; an unknown number may have gone to other countries.

Safe Access Zones

In addition to these problems with the Act, the Government has failed to legislate for the promised safe access zones to protect patients, healthcare workers and the public from anti-abortion activity outside of healthcare facilities. The Government has also failed to legislate for the promised regulation of rogue agencies that intentionally mislead people seeking access to abortion.

For further information please contact:

Email: policy@abortionrights.ie

www.abortionrightscampaign.ie