

An Bille um an gCúigiú Leasú is Fiche
ar an mBunreacht (Beatha Dhaonna
le linn Toirchis a Chosaint), 2001

Twenty-fifth Amendment of the Con-
stitution (Protection of Human Life in
Pregnancy) Bill, 2001

Mar a tionscnaíodh
As initiated



**TWENTY-FIFTH AMENDMENT OF THE CONSTITUTION
(PROTECTION OF HUMAN LIFE IN PREGNANCY) BILL,
2001**

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Article 46 of the Constitution.
2. Citation.

AN CHÉAD SCEIDEAL — THE FIRST SCHEDULE

CUID 1 — PART 1

CUID 2 — PART 2

AN DARA SCEIDEAL — THE SECOND SCHEDULE



**AN BILLE UM AN gCÚIGIÚ LEASÚ IS FICHE AR AN
mBUNREACTH (BEATHA DHAONNA LE LINN TOIRCHIS
A CHOSAINT), 2001**

Mar a tionscnaíodh

RIAR NA nALT

Alt

1. Airteagal 46 den Bhunreacht a leasú.
2. Lua.

AN CHÉAD SCEIDEAL — THE FIRST SCHEDULE

PART 1 — CUID 1

PART 2 — CUID 2

AN DARA SCEIDEAL — THE SECOND SCHEDULE



**TWENTY-FIFTH AMENDMENT OF THE CONSTITUTION
(PROTECTION OF HUMAN LIFE IN PREGNANCY) BILL,
2001**

BILL

entitled

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AN ACT TO AMEND THE CONSTITUTION.

WHEREAS by virtue of Article 46 of the Constitution any provision of the Constitution may be amended in the manner provided for by that Article:

AND WHEREAS it is proposed to amend Article 46 of the Constitution: 10

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Amendment of
Article 46 of the
Constitution.

1.—Article 46 of the Constitution is hereby amended as follows:

(a) the section the text of which is set out in *Cuid 1 — Part 1* 15
of *An Chéad Sceideal — The First Schedule* to this Act
shall be inserted after section 5 of the Irish text,

(b) the section the text of which is set out in *Cuid 2 — Part 2*
of *An Chéad Sceideal — The First Schedule* to this Act
shall be inserted after section 5 of the English text. 20

Citation.

2.—(1) The Amendment of the Constitution effected by this Act shall be called the Twenty-fifth Amendment of the Constitution.

(2) This Act may be cited as the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Act, 2001.



**AN BILLE UM AN gCÚIGIÚ LEASÚ IS FICHE AR AN
mBUNREACTH (BEATHA DHAONNA LE LINN TOIRCHIS
A CHOSAINT), 2001**

BILLE

5

dá ngairtear

ACHT CHUN AN BUNREACTH A LEASÚ.

DE BHRÍ gur cead, de bhua Airteagal 46 den Bhunreacht, foráil ar bith den Bhunreacht a leasú ar an modh a shocraítear leis an Airteagal sin:

10 AGUS DE BHRÍ go bhfuil beartaithe Airteagal 46 den Bhunreacht a leasú:

ACHTAÍTEAR AG AN OIREACHTAS AR AN ÁBHAR SIN
MAR A LEANAS:

1.—Leasaítear leis seo mar a leanas Airteagal 46 den Bhunreacht: Airteagal 46 den
Bhunreacht a leasú.

15 (a) cuirfear an t-alt a bhfuil an téacs de leagtha amach i *gCuid 1 — Part 1 den Chéad Sceideal — The First Schedule* a ghabhann leis an Acht seo isteach i ndiaidh alt 5 den téacs Gaeilge,

20 (b) cuirfear an t-alt a bhfuil an téacs de leagtha amach i *gCuid 2 — Part 2 den Chéad Sceideal — The First Schedule* a ghabhann leis an Acht seo isteach i ndiaidh alt 5 den téacs Sacs-Bhéarla.

2.—(1) An Cúigiú Leasú is Fiche ar an mBunreacht a thabharfar Lua.
ar an leasú a dhéantar ar an mBunreacht leis an Acht seo.

25 (2) Féadfar an tAcht um an gCúigiú Leasú is Fiche ar an mBunreacht (Beatha Dhaonna le linn Toirchis a Chosaint), 2001, a ghairm den Acht seo.

CUID 1 — PART 1

- 6 1° D’ainneoin na bhforálacha sin romhainn den Airteagal seo, déanfar Airteagal 40 den Bhunreacht seo a leasú mar a leanas: 5
- Cuirfear na fo-ailt seo a leanas le halt 3 den téacs Gaeilge:
- “4° Déanfar, go sonrach, beatha na mbeo gan breith sa bhroinn a chosaint de réir fhorálacha an Achta chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002.
- 5° Beidh feidhm ag forálacha alt 2 d’Airteagal 46 agus ailt 1, 3 agus 4 d’Airteagal 47 den Bhunreacht seo maidir le haon Bhille a ritear nó a mheastar a rith-eadh ag dhá Theach an Oireachtais, ar Bille é a bhfuil togra ann chun an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002, a leasú, mar atá feidhm acu maidir le Bille a bhfuil togra nó tograí ann chun an Bunreacht seo a leasú agus ní foláir don Uachtarán a lámh a chur le haon Bhille den sórt sin láithreach ar mbeith sásta dó gur thoiligh an pobal go cuí leis an mBille de réir fhorálacha alt 1 d’Airteagal 47 den Bhunreacht seo, agus ní foláir don Uachtarán é a fhógairt go cuí ina dhlí.” 10 15 20
- 2° Má achtaíonn an tOireachtas dlí, nach bhfuil ann ach na forálacha atá leagtha amach sa *Dara Sceideal — The Second Schedule* a ghabhann leis an *Acht um an gCúigiú Leasú is Fiche ar an mBunreacht (Beatha Dhaonna le linn Toirchis a Chosaint), 2001*, déanfar an t-alt seo, seachas an leasú ar Airteagal 40 den Bhunreacht seo a dhéantar leis an alt seo, a fhágáil ar lár as gach téacs oifigiúil den Bhunreacht seo a fhoilseofar dá éis sin, ach d’ainneoin é a fhágáil ar lár amhlaidh leanfaidh an t-alt seo d’fheidhm dlí a bheith aige. 25 30
- 3° Mura ndéanfar dlí den sórt sin a achtú amhlaidh laistigh de 180 lá ón tráth a chuirfear an t-alt seo leis an mBunreacht seo, scoirfidh an t-alt seo d’éifeacht a bheith leis agus fágfar ar lár é as gach téacs oifigiúil den Bhunreacht seo a fhoilseofar dá éis sin. 35
- 4° Ní bheidh feidhm ag forálacha Airteagail 26 agus 27 den Bhunreacht seo maidir leis an mBille le haghaidh dlí den sórt sin.

CUID 2 — PART 2

6 1° Notwithstanding the foregoing provisions of this Article, Article 40 of this Constitution shall be amended as follows:

5 The following subsections shall be added to section 3 of the English text:

10 “4° In particular, the life of the unborn in the womb shall be protected in accordance with the provisions of the Protection of Human Life in Pregnancy Act, 2002.

15 5° The provisions of section 2 of Article 46 and sections 1, 3 and 4 of Article 47 of this Constitution shall apply to any Bill passed or deemed to have been passed by both Houses of the Oireachtas containing a proposal to amend the Protection of Human Life in Pregnancy Act, 2002, as they apply to a Bill containing a proposal or proposals for the amendment of this Constitution and any such Bill shall be signed by the President forthwith upon his being satisfied that the Bill has been duly approved by the people in accordance with the provisions of section 1 of Article 47 of this Constitution and shall be duly promulgated by the President as a law.”.

25 2° If a law, containing only the provisions set out in *An Dara Sceideal — The Second Schedule to the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Act, 2001*, is enacted by the Oireachtas, this section, other than the amendment of Article 40 of this Constitution effected thereby, shall be omitted from every official text of this Constitution published thereafter, but notwithstanding such omission this section shall continue to have the force of law.

35 3° If such a law is not so enacted within 180 days of this section being added to this Constitution, this section shall cease to have effect and shall be omitted from every official text of this Constitution published thereafter.

4° The provisions of Articles 26 and 27 of this Constitution shall not apply to the Bill for such a law.

AN ACT TO PROTECT HUMAN LIFE IN PREGNANCY, TO REPEAL SECTIONS 58 AND 59 OF THE OFFENCES AGAINST THE PERSON ACT, 1861, AND TO PROVIDE FOR RELATED MATTERS. 5

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Abortion.

1.—(1) In this Act, “abortion” means the intentional destruction by any means of unborn human life after implantation in the womb of a woman.

(2) Notwithstanding *subsection (1)* of this section, abortion does not include the carrying out of a medical procedure by a medical practitioner at an approved place in the course of which or as a result of which unborn human life is ended where that procedure is, in the reasonable opinion of the practitioner, necessary to prevent a real and substantial risk of loss of the woman’s life other than by self-destruction. 10 15

(3) In this section—

“approved place” means a place in the State approved for the time being by order as being suitable for the purposes of this section;

“medical practitioner” means a person permitted for the time being by law to practise as a medical practitioner in the State; 20

“reasonable opinion” means a reasonable opinion formed in good faith which has regard to the need to preserve unborn human life where practicable and of which a written record has been made and signed by the practitioner; 25

“woman” means a female person.

Prohibition of abortion.

2.—(1) No person shall carry out or effect an abortion in the State.

(2) For the purposes of this section, a person shall be presumed to have intended the natural and probable consequences of his or her conduct; but this presumption may be rebutted. 30

(3) A person who contravenes *subsection (1)* of this section, or attempts to do so, or aids, abets, counsels or procures any other person to do so, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 12 years or a fine or both. 35

(4) A prosecution for an offence under this section may be brought only by or with the consent of the Director of Public Prosecutions.

Conscientious objections.

3.—Nothing in this Act shall be construed as obliging any person to carry out any medical procedure referred to in *section 1* of this Act. 40

5 ACHT CHUN BEATHA DHAONNA LE LINN TOIRCHIS A CHOSAINT, CHUN AILT 58 AGUS 59 DEN *OFFENCES AGAINST THE PERSON ACT*, 1861, A AISGHAIRM AGUS CHUN SOCRÚ A DHÉANAMH I dTAOBH NITHE GAOLMHARA.

ACHTAÍTEAR AG AN OIREACHTAS MAR A LEANAS:

1.—(1) San Acht seo, ciallaíonn “ginmhilleadh” beatha dhaonna Ginmhilleadh.
gan breith a dhíothú d’aon ghnó ar mhodh ar bith tar éis ionphlandú
10 i mbroinn mná.

(2) D’ainneoin *fho-alt (1)* den alt seo, ní fholaíonn ginmhilleadh lia-chleachtóir do dhéanamh beart liachta in áit fhormheasta ar beart é a gcuirtear deireadh le beatha dhaonna gan breith lena linn nó dá thoradh i gcás ina bhfuil an beart sin riachtanach, i dtuairim réasúnta
15 an chleachtóra, chun cosc a chur le baol réadach substaintiúil go bhfaighidh an bhean bás ar shlí seachas trí fhéindíothú.

(3) San alt seo—
ciallaíonn “áit fhormheasta” áit sa Stát atá formheasta in alt na huaire, le hordú, mar áit atá oiriúnach chun críocha an ailt seo;
20 ciallaíonn “lia-chleachtóir” duine atá ceadaithe in alt na huaire, le dlí, chun cleachtadh mar lia-chleachtóir sa Stát;

ciallaíonn “tuairim réasúnta” tuairim réasúnta ar thángthas uirthi de mheon macánta agus a fhéachann don ghá atá ann beatha dhaonna gan breith a chaomhnú i gcás inar féidir é agus a bhfuil taifead scríofa
25 uirthi déanta agus sínithe ag an gcleachtóir;

ciallaíonn “bean” duine baineann.

2.—(1) Ní dhéanfaidh aon duine ginmhilleadh, nó ní thabharfaidh Ginmhilleadh a
thoirmeasc.
aon duine ginmhilleadh i gcrích, sa Stát.

(2) Chun críocha an ailt seo, toimhdeofar go raibh sé ar intinn ag
30 duine na hiarmhairtí nádúrtha dóchúla a theacht as a iompar nó as a hiompar; ach féadfar an toimhde sin a fhrisnéis.

(3) Aon duine a sháróidh *fo-alt (1)* den alt seo, nó a dhéanfaidh iarracht déanamh amhlaidh, nó a chabhróidh nó a neartóidh le haon duine eile, nó a chomhairleoidh d’aon duine eile nó a chuirfidh faoi
35 deara d’aon duine eile, déanamh amhlaidh, beidh sé nó sí ciontach i gcion agus dlífear, ar é nó í a chiontú ar díotáil, príosúnacht ar feadh téarma nach faide ná 12 bhliain nó fíneáil, nó iad araon, a chur air nó uirthi.

(4) Ní fhéadfar ionchúiseamh i leith ciona faoin alt seo a thionscn-
40 amh ach amháin ag an Stiúrthóir Ionchúiseamh Poiblí nó le toiliú uaidh nó uaithe.

3.—Ní fhorléireofar aon ní san Acht seo mar ní a chuirfidh d’oib- Agóidí coinsiasa.
leagáid ar aon duine aon bheart liachta dá dtagraítear in *alt 1* den Acht seo a dhéanamh.

Travel and information.

4.—(1) This Act does not limit freedom to travel between the State and another state or freedom to obtain or make available in the State, in accordance with conditions for the time being laid down by law, information relating to services lawfully available in another state.

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(2) This Act does not operate to restrict any person from travelling to another state on the ground that his or her intended conduct there would, if it occurred in the State, constitute an offence under *section 2* of this Act.

Orders.

5.—(1) In this Act (other than in *section 7*), “an order” means an order made by a member of the Government authorised in that behalf by the Government.

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(2) An order may make such provision relating to the making, keeping and confirmation of records (including records of opinions) of medical procedures referred to in *section 1* of this Act as may be considered by the member of the Government concerned necessary or appropriate for the purposes of this Act.

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(3) An order may be amended or revoked by order.

(4) An order shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

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Repeals.

6.—Sections 58 and 59 of the Offences against the Person Act, 1861, are hereby repealed.

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Short title and commencement.

7.—(1) This Act may be cited as the Protection of Human Life in Pregnancy Act, 2002.

(2) This Act shall come into operation on such day not earlier than 2 months after the date of its passing as the Taoiseach may appoint by order.

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4.—(1) Ní theorannaíonn an tAcht seo saoirse chun taisteal idir an Stát agus stát eile nó saoirse chun faisnéis a fháil nó a chur ar fáil sa Stát, de réir coinníollacha atá leagtha síos in alt na huaire le dlí, maidir le seirbhísí atá ar fáil go dleathach i stát eile. Taisteal agus faisnéis.

5 (2) Ní oibríonn an tAcht seo chun srian a chur ar aon duine taisteal chuig stát eile ar an bhforas go mbeadh an t-iompar atá ar intinn aige nó aici a dhéanamh ann ina chion faoi *alt 2* den Acht seo dá mba sa Stát a tharlódh an t-iompar sin.

10 5.—(1) San Acht seo (seachas in *alt 7*), ciallaíonn “ordú” ordú arna dhéanamh ag comhalta den Rialtas atá údaraithe chuige sin ag an Rialtas. Orduithe.

15 (2) Féadfar, le hordú, cibé socrú a dhéanamh a measfaidh an comhalta den Rialtas lena mbaineann é a bheith riachtanach nó cuí chun críocha an Achta seo, ar socrú é a bhaineann le déanamh, coimeád agus daingniú taifead (lena n-áirítear taifid ar thuairimí) ar bhearta liachta dá dtagraítear in *alt 1* den Acht seo.

(3) Féadfar, le hordú, ordú a leasú nó a chúlghairm.

20 (4) Leagfar ordú faoi bhráid gach Tí den Oireachtas a luaithe is féidir tar éis a dhéanta agus má dhéanann ceachtar Teach acu sin, laistigh den 21 lá a shuífidh an Teach sin tar éis an t-ordú a leagan faoina bhráid, rún a rith ag neamhniú an ordaithe, beidh an t-ordú ar neamhní dá réir sin, ach sin gan dochar do bhailíocht aon ní a rinneadh roimhe sin faoin ordú.

25 6.—Aisghairtear leis seo ailt 58 agus 59 den *Offences against the Person Act*, 1861. Aisghairm.

7.—(1) Féadfar an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002, a ghairm den Acht seo. Gearrtheideal agus tosach feidhme.

(2) Tiocfaidh an tAcht seo i ngníomh cibé lá, nach luaithe ná 2 mhí tar éis dháta a rite, a cheapfaidh an Taoiseach le hordú.



**TWENTY-FIFTH AMENDMENT OF THE CONSTITUTION
(PROTECTION OF HUMAN LIFE IN PREGNANCY)
BILL, 2001**

EXPLANATORY MEMORANDUM

Introduction

The purpose of the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Bill is to provide for the amendment of the Constitution to state that the proposed *Protection of Human Life in Pregnancy Act, 2002*, shall be the law on abortion in the State.

It provides for the operation of a mechanism whereby proposed changes to Article 40.3 of the Constitution and the text of proposed legislation on the protection of human life in pregnancy will be put to the people in a referendum.

Provisions of Bill

Section 1 provides for the amendment of Article 46 of the Constitution so that the text of the *First Schedule* to the Bill will be inserted after the existing section 5 of that Article.

Section 2 states that the amendment of the Constitution effected by the Act shall be called the Twenty-fifth Amendment of the Constitution and that the Act may be cited as the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Act, 2001.

First Schedule

The *First Schedule* contains the proposed text of the amendment of Article 46 of the Constitution. This in turn contains the proposed text of Articles 40.3.4° and 40.3.5° of the Constitution and also specifies the conditions under which the amendment of Article 40 can take place.

The procedure for the insertion of the amendment into the Constitution is expressed to be “notwithstanding” Article 46, as otherwise it would have been necessary to hold a second referendum under the provisions of that Article. In effect, the electorate is being asked to approve a conditional amendment to the Constitution, which will have effect only if, subsequent to the referendum, the Oireachtas enacts the *Protection of Human Life in Pregnancy Act, 2002*, exactly as contained within the *Second Schedule* to this Bill as enacted.

The text proposed as Article 40.3.4° provides that, in particular, the life of the unborn in the womb shall be protected in accordance with the provisions of the *Protection of Human Life in Pregnancy Act, 2002*.



**AN BILLE UM AN gCÚIGIÚ LEASÚ IS FICHE AR AN
mBUNREACTH (BEATHA DHAONNA LE LINN TOIRCHIS
A CHOSAINT), 2001**

MEABHRÁN MÍNIÚCHÁIN

Réamhrá

Is é is cuspóir don Bhille um an gCúigiú Leasú is Fiche ar an mBunreacht (Beatha Dhaonna le linn Toirchis a Chosaint) ná socrú a dhéanamh chun an Bunreacht a leasú chun a rá gurb é *an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*, mar atá beartaithe, an dlí a bheidh ann maidir le ginmhilleadh sa Stát.

Déantar socrú sa Bhille go mbainfear feidhm as meicníocht trína ndéanfar athruithe atá sé i gceist a dhéanamh ar Airteagal 40.3 den Bhunreacht, agus an téacs de reachtaíocht bheartaithe maidir le beatha dhaonna le linn toirchis a chosaint, a chur faoi bhráid an phobail i reifreann.

Forálacha an Bhille

In *alt 1* déantar socrú chun Airteagal 46 den Bhunreacht a leasú ionas go gcuirfear téacs an Chéad Sceidil a ghabhann leis an mBille isteach i ndiaidh alt 5 den Airteagal sin mar atá sé faoi láthair.

In *alt 2* deirtear go dtabharfar an Cúigiú Leasú is Fiche ar an mBunreacht ar an leasú a dhéantar ar an mBunreacht leis an Acht, agus gur féidir an tAcht um an gCúigiú Leasú is Fiche ar an mBunreacht (Beatha Dhaonna le linn Toirchis a Chosaint), 2001, a ghairm den Acht.

An Chéad Sceideal

Sa *Chéad Sceideal* tá an téacs den leasú atá sé i gceist a dhéanamh ar Airteagal 46 den Bhunreacht. Sa leasú sin tá an téacs beartaithe d'Airteagail 40.3.4° agus 40.3.5° den Bhunreacht agus leagtar amach ann freisin na coinníollacha faoinar féidir Airteagal 40 a leasú.

Deirtear maidir leis an nós imeachta chun an leasú a chur isteach sa Bhunreacht gur “d’ainneoin” Airteagal 46 é; murach sin bheadh gá leis an dara reifreann faoi fhorálacha an Airteagail sin. I ndáiríre táthar ag iarraidh ar thoghthóirí toiliú le leasú coinníollach ar an mBunreacht, nach mbeidh éifeacht leis ach sa chás amháin go n-achtaíonn an tOireachtas, tar éis an reifrinn, *an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*, díreach mar atá sé leagtha amach sa Dara Sceideal a ghabhann leis an mBille seo mar a achtaítear é.

Foráiltear leis an téacs a mholtar mar Airteagal 40.3.4° go ndéanfar, go sonrath, beatha na mbeo gan breith sa bhroinn a chosaint de réir fhorálacha *an Achta chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*.

The text proposed as Article 40.3.5° provides that any Bill containing provisions to amend the *Protection of Human Life in Pregnancy Act, 2002*, must be referred to the people in a further referendum.

The text proposed as Article 46.6.2° has been inserted because, once the amendments to Article 40 take place, it would be undesirable for the new Article 40 to appear in more than one place in the Constitution (i.e. in Article 46 as well as in Article 40). Accordingly, once the *Protection of Human Life in Pregnancy Act, 2002*, is enacted and amendments are made to Article 40, the amendments to Article 46 will no longer appear in the official text of the Constitution and the amendments made to Article 40 will appear in the appropriate place within that Article.

The text proposed as Article 46.6.3° contains a mechanism whereby, if the law in relation to the protection of human life in pregnancy does not enter into force within 180 days of the amendment of the Constitution, the whole section will cease to have effect and the Constitution will revert to the form in which it existed before the Referendum.

The text proposed as Article 46.6.4° states that the Bill for the law on the protection of human life in pregnancy is excluded from the terms of Articles 26 and 27 of the Constitution. This is because, if the people in a referendum decide that the *Protection of Human Life in Pregnancy Act, 2002*, should be enacted, it would be inappropriate that this legislation should nonetheless be subject to the provisions of these Articles and the mechanisms for which they provide.

Second Schedule

The *Second Schedule* contains the text of the proposed *Protection of Human Life in Pregnancy Act, 2002*.

Section 1 defines abortion for the purposes of the Act.

Subsection (2) specifies the type of medical procedure which is excluded from the definition of abortion contained in the Act.

Subsection (3) deals with the interpretation of certain terms used in *section 1*. It is intended that arrangements will be put in place for the approval by a Minister of the Government of certain hospitals for the carrying out of medical procedures of the type involved. The definition of “reasonable opinion” includes a requirement that the medical practitioner make a written, signed record of that opinion.

Section 2 deals with the prohibition of abortion.

Subsection (1) prohibits abortion within the State.

Subsection (2) provides that a person shall be presumed (though this presumption may be rebutted) to have intended the natural and probable consequences of his or her conduct.

Subsection (3) stipulates the penalties for contravention of the law in relation to abortion and includes as offences attempted abortion and aiding, abetting, counselling or procurement of such abortion. The prohibitions encompass those currently contained in sections 58 and 59 of the Offences Against the Person Act, 1861, which are repealed by *section 6*.

Foráiltear leis an téacs a mholtar mar Airteagal 40.3.5° nach foláir aon Bhille ina bhfuil forálacha chun leasú a dhéanamh ar *an Acht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*, a chur faoi bhráid an phobail i reifreann eile.

Tá an téacs a mholtar mar Airteagal 46.6.2° curtha isteach toisc nach mbeadh sé inmhianaithe, nuair a dhéanfar na leasuithe ar Airteagal 40, go mbeadh an tAirteagal 40 nua i níos mó ná áit amháin sa Bhunreacht (is é sin, in Airteagal 46 agus in Airteagal 40). Dá bhrí sin, nuair a bheidh *an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*, achtaithe, agus na leasuithe déanta ar Airteagal 40, ní bheidh na leasuithe ar Airteagal 46 san áireamh a thuilleadh sa téacs oifigiúil den Bhunreacht agus beidh na leasuithe a dhéantar ar Airteagal 40 san áit cheart san Airteagal sin.

Sa téacs a mholtar mar Airteagal 46.6.3° tá meicníocht a fhágfaidh, mura dtiocfaidh an dlí a bhaineann le beatha dhaonna le linn toirchis a chosaint i bhfeidhm laistigh de 180 lá ón dáta a leasaítear an Bunreacht, go scoirfidh an t-alt ar fad d'éifeacht a bheith leis agus go rachaidh an Bunreacht ar ais go dtí an fhoirm ina raibh sé roimh an Reifreann.

Sa téacs a mholtar mar Airteagal 46.6.4° deirtear nach dtagann an Bille le haghaidh an dlí chun beatha dhaonna le linn toirchis a chosaint faoi réir théarmaí Airteagail 26 agus 27 den Bhunreacht. Is éard is cúis leis sin ná, má chinneann an pobal i reifreann gur cóir *an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*, a achtú, nach mbeadh sé cuí go mbeadh an reachtaíocht sin, mar sin féin, faoi réir fhorálacha na nAirteagal sin agus na meicníochtaí dá bhforáiltear iontu.

An Dara Sceideal

Sa *Dara Sceideal* tá an téacs beartaithe den *Acht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002*.

In alt 1 mínítear ginmhilleadh chun críocha an Achta.

I *bhfo-alt (2)* sonraítear an cineál beart liachta atá eisiata ón míniú ar ghinmhilleadh atá san Acht.

I *bhfo-alt (3)* déantar forléiriú ar théarmaí áirithe a úsáidtear in *alt 1*. Tá sé i gceist go gcuirfead socruithe ar bun le go gceadóidh Aire den Rialtas ospidéal áirithe chun bearta liachta den chineál atá i gceist a dhéanamh. Sa mhíniú ar “tuairim réasúnta” tá ceanglas go ndéanfaidh an lia-chleachtóir taifead scríofa agus sínithe ar an tuairim sin.

Baineann *alt 2* le ginmhilleadh a thoirmeasc.

Le *fo-alt (1)* toirmiscear ginmhilleadh sa Stát.

I *bhfo-alt (2)* foráiltear go dtuimhdeofar (cé go bhféadfar an toimhde sin a fhrisnéis) go raibh sé ar intinn ag duine na hiarmhairtí nádúrtha dóchúlacha a theacht as a iompar nó as a hiompar.

I *bhfo-alt (3)* leagtar síos na pionóis as sárú a dhéanamh ar an dlí a bhaineann le ginmhilleadh agus sonraítear mar chionta ann iarracht ar ghinmhilleadh, agus cabhrú nó neartú le haon duine eile, nó comhairliú d’aon duine eile nó cur faoi deara d’aon duine eile, ginmhilleadh den sórt sin a dhéanamh. Cuimsíonn na toirmisc sin na toirmisc atá in ailt 58 agus 59 den *Offences against the Person Act, 1861*, a aisghairtear le *halt 6*.

Subsection (4) provides that prosecutions may be brought only by or with the consent of the Director of Public Prosecutions.

Section 3 is a “conscientious objection” provision.

Section 4 deals with travel and information.

Subsection (1) provides that the Act does not limit the rights to travel and information already conferred by Article 40.3.3° of the Constitution.

Subsection (2) provides that the Act shall not operate to restrict a person from travelling to another state on grounds that his or her conduct there would be an offence under this Act, were it to occur in Ireland.

Section 5 deals with the arrangements which apply to orders made under *section 1* of the Act.

Subsection (1) defines the term “an order” as it appears in the Act, other than in *section 7*.

Subsection (2) specifies the matters in relation to which an order may make provisions.

Subsection (3) deals with amendment or revocation of an order.

Subsection (4) deals with the laying of an order before the Oireachtas.

Section 6 repeals the current legislation prohibiting abortion, in the form of sections 58 and 59 of the Offences Against the Person Act, 1861, as these provisions are to be replaced by those contained in *section 2* of this Act.

Section 7 deals with the short title of the Act and arrangements for its commencement.

Subsection (1) specifies the short title of the Act.

Subsection (2) provides for the making of an order by the Taoiseach to bring the Act into operation.

Department of Health and Children,
October, 2001.

I *bhfo-alt (4)* foráiltear nach bhféadfar ionchúisimh a thionscnamh ach amháin ag an Stiúrthóir Ionchúiseamh Poiblí nó le toiliú uaidh nó uaithi.

Foráil i dtaobh “agóid choinsiasa” is ea *alt 3*.

Baineann *alt 4* le taisteal agus faisnéis.

Foráiltear le *fo-alt (1)* nach dteorannaíonn an tAcht an ceart taistil agus an ceart chun faisnéise a thugtar cheana féin le hAirteagal 40.3.3 den Bhunreacht.

Foráiltear le *fo-alt (2)* nach n-oibreoidh an tAcht chun srian a chur ar aon duine taisteal chuig stát eile ar an bhforas go mbeadh a iompar nó a hiompar ann ina chion faoin Acht seo dá mba in Éirinn a tharlódh sé.

Baineann *alt 5* leis na socruithe a bhfuil feidhm acu i gcás orduithe a dhéanfar faoi *alt 1* den Acht.

I *bhfo-alt (1)* mínítear an téarma “ordú” mar atá sé san Acht, seachas in *alt 7*.

I *bhfo-alt (2)* sonraítear na hábhair a bhféadfar forálacha a dhéanamh ina leith le hordú.

Baineann *fo-alt (3)* le hordú a leasú nó a chúlghairm.

Baineann *fo-alt (4)* le hordú a leagan faoi bhráid an Oireachtais.

Le *halt 6* aisghairtear an reachtaíocht atá ann faoi láthair lena dtoirmiscítear ginmhilleadh, is é sin ailt 58 agus 59 den *Offences against the Person Act, 1861*, toisc go bhfuil na forálacha in *alt 2* den Acht seo le cur in ionad na bhforálacha sin.

Baineann *alt 7* le gearrtheideal an Achta agus leis na socruithe dá thosach feidhme.

I *bhfo-alt (1)* sonraítear gearrtheideal an Achta.

I *bhfo-alt (2)* foráiltear go ndéanfaidh an Taoiseach ordú chun an tAcht a thabhairt i ngníomh.

*An Roinn Sláinte agus Leanaí,
Deireadh Fómhair, 2001.*