



Reforming the Constitution

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- Article 46: "1. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article."
- German Basic Law, Article 79: "Amendments to this Basic Law affecting the division of the Federation into Länder, their participation on principle in the legislative process, or the principle laid down in Articles 1 [Human dignity, rights] and 20 [Constitutional principles – democratic and social federal state] shall be inadmissible."

- *Re Article 26 and the Regulation of Information (Termination of Pregnancies) Bill 1995* – Argument that people's power of amendment did not extend to violating fundamental natural law principles – not upheld by Supreme Court
- *Hanafin v Minister for Environment*:
“The will of the people as expressed in a referendum providing for the amendment of the Constitution is sacrosanct and if freely given, cannot be interfered with. The decision is theirs and theirs alone.”
- No limitations on power of people to amend

How have we amended the Constitution?

- Referendums on 32 proposals
- 23 approved, 9 rejected
- Subject matter: Europe, abortion, family, criminal, voting rights, miscellaneous
- But no substantive change

Constitutional Reviews

- 1967 Oireachtas Committee Report
- 1968 Draft Report by Attorney General's Committee
- 1972-1994 Reviews relating to Northern Ireland
- 1996 Report of Constitution Review Group
- 1996-97 All Party Oireachtas Committee
- 1997-2002 All Party Oireachtas Committee
- 2002-07 All Party Oireachtas Committee
- 2007-11 All Party Oireachtas Committee

Direct Democracy in 1922 Constitution

- Article 47 – Referendum for ordinary legislation
- Article 48 – The Initiative
- Kevin O’Higgins: “[P]ersonal, actual contact between the people and the laws by which they are governed is advisable in a country where the traditional attitude of the people is to be against the law and against the Government. The referendum, we consider, will be a stimulus to the political thought and the political education of the people.”

Advantages & Disadvantages

- Swiss Minaret Ban
- More democratic – allows voices of marginalised and civil society groups to be heard
- Potential for more controversial but also more meaningful reform