

The Regulation and Practice of Referendums in Ireland

Professor Gavin Barrett, Sutherland School
of Law,
University College Dublin

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I. Introduction - Constitutional and legal regulation of types of referendum

II. Political players in referendum campaign

- The Government
- Political Parties
- Ad Hoc Campaign Groups
- The Referendum Commission
- Standards in Public Office Commission

III. Who puts the question

Government very dominant

BUT

1. Needs majority in both Houses of the Oireachtas
2. Law - and lawyers - play a key role.
3. Rulings of Courts have significantly reduced Government discretion regarding when to initiate referendum process re Treaty ratification
 - *Crotty v. An Taoiseach (1987)* → *inter alia*, strict interpretation of sovereignty clause
 - *Crotty* limited in *Pringle v. Government of Ireland (2013)* to “where undefined policies not specified in the treaty and in circumstances where those policies, which Ireland will be required to support, are to be determined not by the Government but by institutions or bodies specified in the treaty.”

4. Processes according to which referendums are conducted.

- *McKenna v. An Taoiseach (No. 2)* (1995)
(also *McCrystal* case (2012) and *Jordan* case (2015))
- *Coughlan v. Broadcasting Complaints Commission and RTÉ* (2000)

5. Constitutional Conventions.

6. Referendums relating to ordinary legislation under Article 27 of the Constitution

Overall picture: considerable executive dominance in determining when and on what grounds a referendum should be held, modified however re referendums on Treaties and conduct of referendum process

V. Participation quorum

- None

VI. Required majority

- Constitutional referendums
- Other referendums

**Challenges For Referendums –
Observations In The Light Of The
Experience Of The United Kingdom
And Ireland**

1. Money
2. Balance In Broadcasting
3. Turnout
4. Lies And Inaccurate Statements
5. Sidelining Of Democratically Elected Governments
6. The Challenge Of Inflexibility – The ‘Stickiness Of Referendums’