

TASMANIA

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**VOLUNTARY ASSISTED DYING BILL 2013**

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## VOLUNTARY ASSISTED DYING BILL 2013

*(Brought in by the Honourable Larissa Tahireh Giddings and  
the Honourable Nicholas James McKim)*

### A BILL FOR

**An Act to provide for the administration of medical procedures to enable the voluntary death of eligible persons in specific and restricted circumstances and subject to appropriate safeguards, to provide protection to medical practitioners performing any action under this Act, and for related purposes**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### PART 1 – PRELIMINARY

#### 1. Short title

This Act may be cited as the *Voluntary Assisted Dying Act 2013*.

#### 2. Commencement

This Act commences on a day to be proclaimed.

#### 3. Interpretation

- (1) In this Act, unless the contrary intention appears –

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***adult*** means a person who has attained the age of 18 years;

***assisted death*** means the death of an eligible person that, either directly or indirectly, is the result of the administration of prescribed medication, to the eligible person, in accordance with this Act;

***assisted dying prescription*** means a prescription for medication to end an eligible person's life in accordance with this Act;

***assisted dying request*** means an oral request or a written request;

***competent***, in relation to a person, means the person –

- (a) has the ability to make and communicate, to health care providers, considered decisions in relation to the person's medical treatment, including communicating through persons familiar with the person's manner of communicating; and
- (b) is not suffering from a psychiatric or psychological disorder, or depression, to a degree that may cause the judgement of the person to be impaired;

***counselling*** means a consultation between a psychiatrist, or psychologist, and a

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person to determine, in the opinion of that psychiatrist or psychologist, whether or not the person –

- (a) is competent to make an assisted dying request; and
- (b) is making that request voluntarily;

***diagnosed*** means diagnosed by a medical practitioner;

***eligible medical condition*** means a medical condition that meets the requirements of section 11(1);

***eligible person*** – see section 9;

***eligible request*** – see section 10;

***health care provider*** means –

- (a) a person who provides a prescribed health service; or
- (b) a person who holds himself, herself or itself out as being able to provide a prescribed health service;

***informed decision*** – see section 12;

***initial oral request*** means a request under section 13;

***oral request*** means an initial oral request or subsequent oral request;

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***pharmacist*** means a person who holds general registration under the Health Practitioner Regulation National Law (Tasmania) in the pharmacy profession;

***prescribed medication***, in relation to an eligible person, means medication that is prescribed to the eligible person under an assisted dying prescription;

***primary medical practitioner***, in relation to a person, means a medical practitioner who accepts primary responsibility for the treatment of the person's eligible medical condition;

***psychiatrist*** has the same meaning as in the *Mental Health Act 2013*;

***psychologist*** means a person who holds general registration under the Health Practitioner Regulation National Law (Tasmania) in the psychology profession;

***Registrar*** means the Registrar appointed under section 32(1);

***regulations*** means regulations made under this Act;

***secondary medical practitioner***, in relation to a person, means a medical practitioner who –

- (a) is qualified to make a medical diagnosis of, and medical prognosis for, the person; and



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- (b) has specialised qualifications, or experience, in diagnosing and treating the eligible medical condition of the person; and
- (c) has accepted a referral in respect of the person from the person's primary medical practitioner;

*subsequent oral request* means a request under section 21(1);

*written request* means a request that is made under section 17(1) in a form approved by the Minister.

- (2) If a person makes an oral request under this Act, the wording of the oral request is taken to comply with this Act if the wording of the oral request implies the relevant intention or if such an intention may be inferred from the oral request.

#### **4. Application of Act**

- (1) Nothing in this Act authorises a medical practitioner, or any other person, to end the life of a person by any means, except in accordance with this Act.
- (2) Any action taken in accordance with this Act does not, for any purpose, constitute suicide, assisted suicide, killing, mercy killing, homicide, murder or manslaughter.

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- (3) Nothing in this Act authorises any person to provide, under this Act, a lower standard of care for a person than would otherwise be provided to that person.

**5. Act does not derogate from certain Acts**

This Act is in addition to, and does not derogate from, the *Poisons Act 1971* or any other Act, or any provision of another Act, that is prescribed for the purposes of this section.

**6. Act binds Crown**

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

**7. Functions and powers of Minister**

- (1) The Minister has power to do all things necessary or convenient to be done in connection with, or incidental to or related to, the performance or exercise of the Minister's functions or powers under this Act.
- (2) The Minister may delegate any of his or her functions or powers under this Act, other than this power of delegation.

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**PART 2 – ELIGIBLE REQUESTS FOR ASSISTED  
DEATH**

*Division 1 – Preliminary*

**8. Circumstances in which assistance may be provided  
under this Act**

A person's primary medical practitioner may only assist in the death of a person, in accordance with this Act, if the person's primary medical practitioner is satisfied that the person is an eligible person.

**9. Eligible person**

For the purposes of this Act, a person is an eligible person if the person's primary medical practitioner is satisfied that –

- (a) the person has made an initial oral request, a written request and a subsequent oral request; and
- (b) each assisted dying request made by the person is an eligible request; and
- (c) the person has made an informed decision to end his or her life.

**10. Eligible request**

- (1) For the purposes of this Act, an assisted dying request is an eligible request if the person making the assisted dying request –

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- (a) is an adult; and
  - (b) is a Tasmanian resident; and
  - (c) is competent; and
  - (d) is making the request voluntarily; and
  - (e) is diagnosed with an eligible medical condition; and
  - (f) complies with the relevant provisions of this Act.
- (2) For the purposes of subsection (1)(b), evidence of a person’s Tasmanian residency may include, but is not limited to, evidence that the person currently –
- (a) holds a driver licence issued under the *Vehicle and Traffic Act 1999*; or
  - (b) is enrolled to vote in Tasmania at a State level.

**11. Eligible medical condition**

- (1) For the purposes of this Act, an eligible medical condition is an incurable and irreversible medical condition, whether caused by illness, disease or injury –
- (a) that would result in the death of a person diagnosed with the medical condition and that is causing persistent and not relievable suffering for the person that is intolerable for the person; or

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- (b) that is a progressive medical condition that is causing persistent and not relievable suffering, for a person diagnosed with the medical condition, that is intolerable for the person –

and that is in the advanced stages with no reasonable prospect of a permanent improvement in the person’s medical condition.

- (2) For the avoidance of doubt, a person does not have an eligible medical condition solely because of the age of the person, any disability of the person or any psychological illness of the person.

**12. Informed decision**

- (1) For the purposes of this Act, an informed decision is a decision made by a person at any time after the person has received the information specified in subsection (2) from the person’s primary medical practitioner.
- (2) The following information is specified for the purposes of subsection (1):
  - (a) the medical diagnosis of, and medical prognosis for, the person;
  - (b) the processes and procedures for making assisted dying requests including, but not limited to, the information specified in subsection (3);

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- (c) the various methods of administration of medication that is likely to be prescribed to the person under an assisted dying prescription;
  - (d) the potential risks that are associated with the administration of medication that is likely to be prescribed to the person under an assisted dying prescription;
  - (e) the probable result of the administration of medication that is likely to be prescribed to the person under an assisted dying prescription;
  - (f) all other reasonable treatment options available to the person including, but not limited to, palliative care;
  - (g) any other medical or treatment information that is considered, by the person's primary medical practitioner, to be relevant.
- (3) Information to be provided under subsection (2)(b) is to include –
- (a) that a person must make an initial oral request, a written request and a subsequent oral request to be an eligible person for the purposes of this Act; and
  - (b) the waiting periods that apply, or may apply, as part of the processes and procedures under this Act; and

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- (c) that the primary medical practitioner is required to be on the same premises (but not necessarily within sight of the person) if the person intends to self-administer the medication that is likely to be prescribed to the person under an assisted dying prescription; and
  - (d) the possible complications that may occur after the medication, that is likely to be prescribed to the person under an assisted dying prescription, is administered to the person; and
  - (e) any steps the primary medical practitioner may take, if such a complication occurs.
- (4) For the purposes of subsection (1), a person is taken to have received the information specified in subsection (2) if –
- (a) the information was provided to the person in language and terms understandable to the person; and
  - (b) after the information was so provided, the person was satisfied with any answers given by the person’s primary medical practitioner to any questions the person may have had in respect of the information.

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***Division 2 – Process for assisted dying requests***

**13. Initial oral request for assisted death**

If a person wishes to access an assisted death, he or she may make, to his or her primary medical practitioner, a verbal request for an assisted death.

**14. Responsibilities of primary medical practitioner after initial oral request**

On receipt of an initial oral request from a person, the person's primary medical practitioner must –

- (a) review the person's relevant medical records; and
- (b) provide the person, in accordance with section 12, with the information specified in that section to ensure that the person can make an informed decision to end his or her life; and
- (c) discuss with the person his or her reasons for requesting an assisted death; and
- (d) if the primary medical practitioner is not satisfied that the person is competent to make the initial oral request, or is not voluntarily making the initial oral request, refer the person for counselling and discuss with the person the reasons for the referral; and



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- (e) inform the person that he or she may rescind any assisted dying request made by the person at any time and in any manner the person thinks appropriate; and
- (f) recommend to the person that the person notify family and friends significant to the person of the person's intention to end his or her life.

**15. Responsibilities of person performing counselling**

- (1) If a person has been referred for counselling under section 14(d), the person who performs the counselling must state, in a written report to the person's primary medical practitioner –
  - (a) that the person performing the counselling has counselled the person; and
  - (b) in the opinion of the person who performs the counselling –
    - (i) whether or not the person being counselled is competent to make the initial oral request; and
    - (ii) whether or not the person being counselled has voluntarily made the initial oral request.
- (2) A written report under subsection (1) –
  - (a) is to be in a form approved by the Minister; and

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- (b) may contain any other information that the person who performed the counselling considers relevant.
- (3) Nothing in this section prevents a person's primary medical practitioner from referring the person to a psychiatrist, or psychologist or any other person, at any time, or for any reason, the primary medical practitioner thinks appropriate.

**16. Receipt of written report from person performing counselling**

- (1) If a person's primary medical practitioner receives a written report under section 15(1), in respect of the person, that states –
  - (a) the person is competent to make an assisted dying request; and
  - (b) the person has voluntarily made the initial oral request –the primary medical practitioner must inform the person that the person may make a written request.
- (2) If a person's primary medical practitioner receives a written report under section 15(1), in respect of the person, that states –
  - (a) the person is not competent to make an assisted dying request; or
  - (b) the person has not voluntarily made the initial oral request –

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the primary medical practitioner must inform the person that the person's initial oral request is not an eligible request and the reasons why the initial oral request is not an eligible request.

**17. Written request for assisted death**

- (1) Subject to subsection (2), a person who makes an initial oral request may make, to his or her primary medical practitioner, a request in writing for an assisted death.
- (2) A written request under subsection (1) must not be made by a person until at least 48 hours after the person made the initial oral request.
- (3) A written request by a person must be –
  - (a) completed and signed by –
    - (i) the person; or
    - (ii) if the person is unable to complete or sign the written request, an adult designated by the person to complete or sign, or complete and sign, on his or her behalf; and
  - (b) witnessed by at least two adults, in the presence of the person, who have observed the written request being completed and signed in accordance with paragraph (a).
- (4) A person making a written request must not designate, under subsection (3)(a)(ii), any of the

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following persons to complete or sign, or complete and sign, the request on his or her behalf:

- (a) the person's primary medical practitioner;
  - (b) a person who has provided counselling under this Act to the person making the written request;
  - (c) a witness to the written request.
- (5) One of the witnesses to a written request by a person must not be any one of the following:
- (a) a person related by blood, marriage or adoption to the person making the request;
  - (b) a person in a caring relationship, or family relationship or significant relationship, within the meaning of the *Relationships Act 2003* with the person making the written request;
  - (c) a person who, at the time of witnessing the written request, would make a financial gain or benefit, either directly or indirectly, as a result of the death of the person making the written request;
  - (d) a person who is the owner, operator or employee of a health care provider from whom the person making the written request is receiving medical treatment, or

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is a resident at a facility operated by the health care provider.

- (6) The following persons must not be a witness to a written request by a person:
- (a) the person's primary medical practitioner;
  - (b) if the person is referred for counselling under this Act, any person who performed the counselling;
  - (c) another person who completes or signs, or completes and signs, the written request for or on behalf of the person making the written request.

**18. Responsibilities of primary medical practitioner after written request**

- (1) After receiving a written request from a person, the person's primary medical practitioner must –
- (a) examine the person, and the person's relevant medical records; and
  - (b) confirm whether or not the person has an eligible medical condition.
- (2) If a person's primary medical practitioner is satisfied that the person has an eligible medical condition and that the person's initial oral request was an eligible request, the primary medical practitioner must –

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- (a) refer the person to a secondary medical practitioner for confirmation of the medical diagnosis of, and medical prognosis for, the person; and
- (b) discuss with the person the information provided to the person under section 14(b) and (e), including any new relevant information; and
- (c) determine, as agreed with the person as a result of that discussion, the steps the primary medical practitioner may take if complications occur after administering the medication that is likely to be prescribed to the person under an assisted dying prescription; and
- (d) provide any additional relevant information requested by the person; and
- (e) caution the person about the importance of –
  - (i) having another person present when the medication, that is likely to be prescribed to the person under an assisted dying prescription, is administered to the person; and
  - (ii) not administering that medication in a public place; and
- (f) recommend to the person that he or she notify family and friends significant to

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the person of the person's intention to end his or her life.

**19. Responsibilities of secondary medical practitioner**

- (1) After a secondary medical practitioner accepts a referral under section 18(2)(a), the secondary medical practitioner must –
  - (a) examine the person referred under section 18(2)(a) and the person's relevant medical records; and
  - (b) assess the person so referred and determine, in his or her own medical opinion, the medical diagnosis of, and medical prognosis for, the person so referred.
- (2) After examining a person referred under section 18(2)(a), the secondary medical practitioner must, in a written report to the person's primary medical practitioner –
  - (a) confirm that the secondary medical practitioner –
    - (i) has examined the person and the person's relevant medical records under subsection (1)(a); and
    - (ii) has assessed the person under subsection (1)(b); and
  - (b) state the determinations made by the secondary medical practitioner as a result of such an assessment.

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- (3) A written report under subsection (2) –
  - (a) is to be in a form approved by the Minister; and
  - (b) may contain any other information that the secondary medical practitioner considers relevant.

**20. Receipt of written notice from secondary medical practitioner**

- (1) If a person's primary medical practitioner receives a written report under section 19(2) that does not confirm, to the satisfaction of the primary medical practitioner, the primary medical practitioner's medical diagnosis of, and medical prognosis for, the person, the primary medical practitioner may refer the person to another secondary medical practitioner.
- (2) If the person's primary medical practitioner receives a written report under section 19(2) from the other secondary medical practitioner referred to in subsection (1) that does not confirm, to the satisfaction of the primary medical practitioner, the primary medical practitioner's medical diagnosis of, and medical prognosis for, the person –
  - (a) all existing assisted dying requests of the person are rescinded; and
  - (b) the person's primary medical practitioner must inform the person that his or her



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assisted dying requests are rescinded and  
the reasons for the rescission.

**21. Subsequent oral request for assisted death**

- (1) Subject to subsection (2), a person who has made a written request may make, to his or her primary medical practitioner, another verbal request for an assisted death.
- (2) A person's subsequent oral request must not be made under subsection (1) until –
  - (a) the person's primary medical practitioner receives a written report under section 19(2) that confirms, to the satisfaction of the primary medical practitioner, the medical diagnosis of, and medical prognosis for, the person; and
  - (b) at least 7 days after the person made the written request.

**22. Responsibilities of primary medical practitioner after subsequent oral request**

- (1) If a person's primary medical practitioner is satisfied that the person's written request is an eligible request, the person's primary medical practitioner is to –
  - (a) accept any subsequent oral request made by the person; and

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- (b) on accepting that request, inform the person that he or she is now an eligible person.
- (2) After accepting a subsequent oral request from a person, the eligible person's primary medical practitioner must discuss with the eligible person whether there are any relevant treatment options available that may adequately and to the satisfaction of the eligible person –
  - (a) improve the eligible person's medical condition; or
  - (b) relieve the eligible person's suffering.
- (3) If the eligible person and the eligible person's primary medical practitioner are satisfied there are no relevant treatment options available as discussed under subsection (2), the primary medical practitioner must inform the eligible person that –
  - (a) he or she may rescind the subsequent oral request at any time and in any manner the eligible person thinks appropriate, and offer the eligible person an opportunity to rescind any assisted dying request made by the eligible person; and
  - (b) the primary medical practitioner will only issue an assisted dying prescription in respect of the eligible person if requested to do so by the eligible person; and

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- (c) the primary medical practitioner will only deliver the assisted dying prescription to a pharmacist for filling if requested to do so by the eligible person.

*Division 3 – Discharge of assisted dying requests*

**23. Issue of assisted dying prescription**

- (1) An eligible person's primary medical practitioner must not issue an assisted dying prescription in respect of the eligible person unless –
  - (a) the eligible person has requested that the assisted dying prescription be issued; and
  - (b) the primary medical practitioner is satisfied that –
    - (i) each assisted dying request by the eligible person, that has not been rescinded, is an eligible request; and
    - (ii) the eligible person has made an informed decision to end his or her life; and
    - (iii) at the time of making the request under paragraph (a), the eligible person was competent to make the request and is making the request voluntarily; and
  - (c) immediately before issuing the assisted dying prescription, the primary medical

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practitioner has offered the eligible person a chance to rescind any assisted dying request made by the eligible person.

- (2) After issuing an assisted dying prescription in respect of an eligible person, the primary medical practitioner must –
- (a) personally deliver the assisted dying prescription to a pharmacist as discussed and agreed with the eligible person; and
  - (b) once the assisted dying prescription has been filled, personally collect the prescribed medication from the pharmacist; and
  - (c) retain possession of the prescribed medication until the prescribed medication is to be administered.

**24. Administration of prescribed medication**

- (1) For the avoidance of doubt, prescribed medication may be administered to an eligible person by –
- (a) the eligible person; or
  - (b) the eligible person’s primary medical practitioner.
- (2) If an eligible person intends to self-administer prescribed medication, the eligible person’s primary medical practitioner must –

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- 
- (a) offer the eligible person a chance to rescind any assisted dying request made by the eligible person before dispensing the prescribed medication to the eligible person for self-administration; and
- (b) remain on the same premises as the eligible person (but not necessarily within sight of the eligible person) until, and while, the eligible person self-administers the prescribed medication; and
- (c) take any steps, as determined under section 18(2)(c), the primary medical practitioner considers necessary.
- (3) If an eligible person's primary medical practitioner intends to administer the eligible person's prescribed medication, the primary medical practitioner must –
- (a) offer the eligible person a chance to rescind any assisted dying request made by the eligible person before the primary medical practitioner administers the prescribed medication; and
- (b) take any steps, as determined under section 18(2)(c), the primary medical practitioner considers necessary.
- (4) Nothing in this Act authorises a person to take or administer prescribed medication in a public place.

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**25. Return of prescribed medication**

(1) If –

- (a) a primary medical practitioner has collected an eligible person’s prescribed medication from a pharmacist; and
- (b) after collecting the prescribed medication, the eligible person rescinds any of his or her assisted dying requests –

the primary medical practitioner must return, as soon as practicable, the prescribed medication to the pharmacist.

(2) If –

- (a) a primary medical practitioner has collected an eligible person’s prescribed medication from a pharmacist; and
- (b) not all of the prescribed medication is administered to the eligible person –

the primary medical practitioner must return, as soon as practicable, any remaining prescribed medication to the pharmacist.

***Division 4 – Miscellaneous***

**26. Primary medical practitioner not to refuse assisted dying request in certain circumstances**

For the avoidance of doubt, a person’s primary medical practitioner is not to refuse a request

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made by the person under this Act solely on the basis that the person declines, or is unable, to contact any family or friends significant to the person.

**27. Rescission of assisted dying request**

- (1) A person may rescind, at any time and in any manner the person thinks appropriate, any assisted dying request made by the person regardless of the mental state of the person at the time of the rescission.
- (2) If a person rescinds an assisted dying request, all assisted dying requests made by that person that exist at the time of that rescission are rescinded.
- (3) For the avoidance of doubt, nothing in this Act prevents a person from making an initial oral request after any previous assisted dying request by the person has been rescinded in accordance with this Act.

**28. Record requirements**

- (1) A person's primary medical practitioner is to record, or file, the following information or documents on the person's medical records:
  - (a) the primary medical practitioner's medical diagnosis of, and medical prognosis for, the person;
  - (b) each assisted dying request made by the person;

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- (c) each determination by the primary medical practitioner as to whether or not the person –
  - (i) is competent; or
  - (ii) is making an informed decision to end his or her life; or
  - (iii) is voluntarily making an assisted dying request;
- (d) each written report provided to the primary medical practitioner under section 15;
- (e) each written report provided to the primary medical practitioner under section 19(2);
- (f) each time the primary medical practitioner –
  - (i) informed the person that he or she may rescind an assisted dying request made by the person; and
  - (ii) offered the person an opportunity to rescind an assisted dying request made by the person;
- (g) the steps intended to be taken to fulfil the assisted dying request of the person, including a notation of the prescribed medication;
- (h) after the prescribed medication has been administered to the person, the steps



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taken to fulfil the assisted dying request of the person, including any steps taken by the primary medical practitioner, or that the primary medical practitioner is aware were taken, in respect of any complications that occurred after the administration of the prescribed medication;

- (i) a note by the primary medical practitioner that he or she has complied with all relevant requirements of this Act;
  - (j) any other document or information as prescribed.
- (2) A person's primary medical practitioner must send, to the Registrar, a copy of the records required to be kept in respect of the person under subsection (1) as soon as practicable after the record is made, or filed, under that subsection.

Penalty: Fine not exceeding 50 penalty units.

- (3) No later than 14 days after the death of an eligible person in accordance with this Act, the eligible person's primary medical practitioner must –
- (a) ensure that a copy of each record required to be kept in respect of that eligible person under subsection (1) has been sent to the Registrar in accordance with subsection (2); and

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- (b) send to the Registrar a copy of the notification given under section 35 of the *Births, Deaths and Marriages Registration Act 1999* in respect of the eligible person; and
- (c) send to the Registrar a copy of any other information that the primary medical practitioner considers relevant.

Penalty: Fine not exceeding 50 penalty units.

- (4) A pharmacist who dispenses prescribed medication under the authority of this Act must file a copy of any record made under the *Poisons Act 1971* in respect of that medication with the Registrar no later than 14 days after making the record.

Penalty: Fine not exceeding 50 penalty units.

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**PART 3 – IMMUNITIES AND LIABILITIES**

**29. Effect of Act on wills, contracts and statutes**

- (1) Any provision of a will, contract or other agreement, whether written or oral or made before or after the commencement of this section, is invalid to the extent that the provision attempts to affect whether or not a person may make or rescind an assisted dying request under this Act.
- (2) No obligation owing under a contract, whether written or oral or made before or after the commencement of this section, is to be conditioned, or affected, by the making of or rescinding of an assisted dying request under this Act.

**30. Insurance or annuity policy**

- (1) The sale, procurement or issuing of any life, health or accident insurance, or annuity, policy or the rate charged for any policy is not to be conditional on, or affected by, the making or rescinding of, or the failure to make or rescind, an assisted dying request by a person.
- (2) The act of a person self-administering prescribed medication to end his or her life in accordance with this Act is not to affect any life, health or accident insurance, or annuity or policy that may be held in respect of the person.

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- (3) The act of a person to end the life of another person in accordance with this Act is not to affect any life, health or accident insurance, or annuity or policy that may be held in respect of that other person.

**31. Immunities**

- (1) In this section –

*participate in activities* means to perform functions and duties under this Act, other than –

- (a) making an initial medical diagnosis of, and medical prognosis for, a person; or
- (b) providing information about this Act to a person on the request of that person; or
- (c) providing a person with a referral to another medical practitioner; or
- (d) a person contracting with the person's primary medical practitioner, or a secondary medical practitioner of the person, to act outside the course and scope of the medical practitioner's capacity as an employee or independent contractor of another health care provider.

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- (2) Except as provided under sections 37, 38 and 39 –
- (a) no person is subject to civil or criminal liability, or professional disciplinary action, for anything done in good faith and without negligence in compliance with this Act, including being present when an eligible person self-administers medication under this Act to end his or her life; and
  - (b) no professional organisation or association, or health care provider, may subject a person to censure, discipline, suspension, loss of licence, loss of privileges, loss of membership or other penalty for participating in activities, or refusing to participate in activities, under this Act; and
  - (c) no assisted dying request by a person for, or the provision by a primary medical practitioner of, medication under this Act –
    - (i) constitutes neglect for any purposes; or
    - (ii) provides the sole basis for the appointment of a guardian; and
  - (d) no health care provider is under any duty, whether by contract, statute or any other legal basis, to participate in activities, or to assist in the participation of activities, under this Act.

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(3) Despite subsection (2)(d), if –

- (a) a health care provider is unable, or unwilling, to participate in activities under this Act; and
- (b) as a result, a person transfers his or her care to another health care provider –

the health care provider unable or unwilling to participate in activities is to transfer, if requested to do so, a copy of the person’s relevant medical records to the new health care provider.

(4) Despite any other provisions of this Act –

- (a) a health care provider (the ***prohibiting provider***) may prohibit another health care provider from participating in activities under this Act, on the premises of the prohibiting provider, if the prohibiting provider has notified the other health care provider of the prohibiting provider’s policy regarding participating in activities under this Act; and
- (b) a prohibiting provider may subject the other health care provider to any one or more of the following sanctions if the prohibiting provider has notified the other provider, prior to the other provider’s participation in activities under this Act on the premises of the prohibiting provider, that the prohibiting provider prohibits participation in

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activities under this Act on the premises of the prohibiting provider:

- (i) if the other provider is a member of the prohibiting provider's staff, loss of privileges, loss of membership or other sanction in accordance with any by-laws or guidelines of the prohibiting provider;
- (ii) termination of lease or other property contract;
- (iii) other non-monetary remedies provided by a lease or other property contract, not including –
  - (A) the loss or restriction of medical staff privileges; or
  - (B) exclusion of the other provider from any board or group operated by the prohibiting provider;
- (iv) termination of contract, or other non-monetary remedies provided by a contract, if the other provider participates in activities under this Act while an employee or independent contractor of the prohibiting provider, unless the other provider is participating in those activities while acting outside the course and scope of

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his or her capacity as an employee or independent contractor of the prohibiting provider.

- (5) A prohibiting provider that imposes sanctions under subsection (4)(b) must, in imposing those sanctions, follow all due process and other procedures the prohibiting provider may have in relation to the imposition of the sanctions.



## **PART 4 – REGISTRAR**

### **32. Appointment of Registrar and staff**

- (1) The Minister is to appoint a person as the Registrar for the purposes of this Act.
- (2) To assist the Registrar in the performance of his or her functions under this Act, the Minister may appoint such other officers as are necessary.
- (3) During any illness or absence of the Registrar, or during any vacancy in the office of the Registrar, the Minister may appoint a person as Acting Registrar to carry out the functions of the Registrar.
- (4) Any function performed, or power exercised, by an Acting Registrar has the same force and effect as if it were performed or exercised by the Registrar.
- (5) A person appointed under this section –
  - (a) is appointed subject to and in accordance with the *State Service Act 2000*; and
  - (b) may hold the office in conjunction with State Service employment.

### **33. Functions and powers of Registrar**

- (1) The Registrar may do any one or more of the following:

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- (a) review a death that occurs as a result of assistance provided under this Act, for the purpose of monitoring compliance with this Act;
  - (b) investigate, report and make recommendations to the Minister on any matter relating to the operation or administration of this Act;
  - (c) communicate to appropriate authorities any concerns the Registrar has about compliance or non-compliance with this Act;
  - (d) distribute information, and provide education, relating to –
    - (i) the functions of the Registrar; and
    - (ii) the operation of this Act;
  - (e) perform such other functions, or exercise such other powers, as may be prescribed.
- (2) The Registrar has the power to do all things necessary or convenient to be done in connection with, or incidental to or related to, the performance or exercise of his or her functions or powers under this Act.
- (3) The Registrar may delegate any of his or her functions or powers under this Act, other than this power of delegation.

**34. General record requirements**

- (1) The Minister is to notify the Registrar of –
  - (a) any records, or other documents, required to be kept by the Registrar for the purposes of this Act; and
  - (b) the form and content of such records; and
  - (c) the manner in which such records, or other documents, are to be kept.
- (2) The Registrar is to keep records and documents, for the purposes of this Act, in accordance with the requirements of the Minister under subsection (1).
- (3) Unless otherwise notified by the Minister, the Registrar may keep any records, or documents, electronically.

**35. Annual report**

- (1) The Registrar must, on or before 31 October in each year, give the Minister a report detailing the administration and operation of this Act during the financial year ending on the preceding 30 June.
- (2) On receiving that report, the Minister is to cause a copy of the report to be tabled in each House of Parliament within 10 sitting-days after the copy of the report is given to the Minister.

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**PART 5 – MISCELLANEOUS**

**36. Use of interpreter, third party or other means of communication**

- (1) A person may not make an assisted dying request under this Act unless –
- (a) each of the following persons is fluent in the same language as the person making the assisted dying request:
    - (i) the person’s primary medical practitioner;
    - (ii) each secondary medical practitioner who examines the person;
    - (iii) each person who provides counselling to the person under this Act; or
  - (b) an interpreter is present at each time of communication between –
    - (i) the person making the assisted dying request; and
    - (ii) each person referred to in paragraph (a) who is not fluent in the same language as the eligible person.
- (2) For the purpose of subsection (1)(b), a person is an interpreter if –

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- (a) the person is fluent in the same language as –
    - (i) the person making the assisted dying request; and
    - (ii) the person referred to in subsection (1)(b)(ii); and
  - (b) each person referred to in paragraph (a), including the proposed interpreter, agrees to that person acting as an interpreter.
- (3) If a person is unable to speak adequately to communicate orally, as required under this Act, the person is taken to have communicated orally for the purposes of this Act if the person communicates –
- (a) in writing; or
  - (b) through another means that enables the person to be understood aurally; or
  - (c) through another person familiar with the person’s manner of communication.

**37. Offences relating to written requests**

- (1) A person making a written request must not ask another person to complete or sign, or complete and sign, the written request on his or her behalf if, at the time of asking, the person making the request knew, or reasonably ought to have known, that the other person was not permitted under section 17(4) to complete or sign, or complete and sign, the written request.

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Penalty: Fine not exceeding 200 penalty units.

- (2) A person must not complete or sign, or complete and sign, a written request on behalf of another person if, at the time the person completes or signs, or completes and signs, the written request, he or she knew, or reasonably ought to have known, that he or she was not permitted under section 17(4) to complete or sign, or complete and sign, the written request.

Penalty: Fine not exceeding 200 penalty units.

- (3) A person making a written request must not ask another person to witness that written request if, at the time of asking, the person making the written request knew, or reasonably ought to have known, that the other person was not permitted under section 17(5) or (6) to witness the written request.

Penalty: Fine not exceeding 200 penalty units.

- (4) A person must not witness a written request if, at the time of witnessing the request, the person knew, or reasonably ought to have known, that he or she was not permitted under section 17(5) or (6) to witness the request.

Penalty: Fine not exceeding 200 penalty units.

**38. Offences relating to documents generally**

- (1) In this section –

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***assisted dying document*** means a document made, recorded or filed for the purposes of this Act;

***modify***, in relation to a document, includes to alter, forge, conceal or destroy the document.

- (2) A person must not modify, rescind or reinstate an assisted dying document with the intention, or effect, of causing life-sustaining procedures or artificially administered nutrition to be –
- (a) withheld or withdrawn from another person, resulting in the hastened death of that person; or
  - (b) maintained or continued in respect of another person, resulting in the prolonged life of that person.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (3) A person must not modify, rescind or reinstate an assisted dying document for the purpose of causing another person's death.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (4) A person must not modify, rescind or reinstate an assisted dying document for any purpose that is not otherwise specified in this section.

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Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (5) A person is not guilty of an offence under this section if that person has been lawfully authorised to modify, rescind or reinstate the document.

**39. Offence to coerce or exert undue influence**

- (1) A person must not coerce or exert undue influence on another person to make an assisted dying request.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (2) A person must not coerce or exert undue influence on another person to destroy or rescind an assisted dying request.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (3) A person must not coerce or exert undue influence on a medical practitioner to –

(a) perform any function, or exercise any power, under this Act in respect of an assisted dying request; or

(b) refuse to perform any function, or exercise any power, under this Act in respect of an assisted dying request.



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Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 5 years, or both.

- (4) For the avoidance of doubt, subsection (1) does not apply to a medical practitioner in so far as the medical practitioner is complying with appropriate medical standards and any guidelines that apply in the circumstances.

**40. Offences generally**

- (1) Nothing in this Act limits liability for civil damages resulting from negligent conduct or intentional misconduct by any person.
- (2) The penalties in this Act do not preclude criminal penalties applicable under another Act for conduct which is inconsistent with the provisions of this Act.

**41. Death certificates**

- (1) Nothing in this Act prevents an eligible person's primary medical practitioner from signing the certificate given to the Registrar under section 35(3) of the *Births, Deaths and Marriages Registration Act 1999* in respect of the eligible person.
- (2) For the purposes of section 35(1) of the *Births, Deaths and Marriages Registration Act 1999*, the cause of death of an eligible person who dies as a result of assistance provided in accordance with this Act is taken to include –

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- (a) the eligible medical condition of the eligible person; and
- (b) that assistance has been provided under this Act resulting in the death of the eligible person.

**42. General information requirements**

- (1) The Minister may make guidelines to facilitate the collection or provision of information relating to compliance with this Act.
- (2) Any information collected or provided in accordance with subsection (1) must not be made available for inspection by the public, unless otherwise authorised under this Act or any other Act.
- (3) A person who collects, or provides, information under this Act does not contravene the *Personal Information Protection Act 2004* in respect of that information if the information is collected or provided in accordance with this Act or any guidelines issued under this Act.

**43. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

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- (3) The regulations may –
  - (a) provide that a contravention of any of the regulations is an offence; and
  - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.
- (5) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any standards, rules, codes or specifications, whether the standards, rules, codes or specifications are published or issued before or after the commencement of this Act.
- (6) A reference in subsection (5) to standards, rules, codes or specifications includes a reference to an amendment of those standards, rules, codes or specifications, whether the amendment is published or issued before or after the commencement of this Act.

**44. Review of Act**

- (1) The Minister is to cause a review of the operation of this Act to be carried out as soon as

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practicable after the fifth anniversary of its commencement.

- (2) In causing the review to be undertaken, the Minister is to ensure the public is given a reasonable opportunity to make submissions on the operation of this Act.
- (3) The persons who carry out the review are to give the Minister a written report on its outcome.
- (4) The Minister is to cause a copy of the report to be tabled in each House of Parliament within 10 sitting-days of that House after it is given to the Minister.

**45. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Health; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Health and Human Services.