

**House of Assembly—No 168**

As laid on the table and read a first time, 20 October 2016

South Australia

**Death with Dignity Bill 2016**

A BILL FOR

An Act to provide for choices and dignity at the end of life.

---

## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Impaired decision making capacity
- 5 Relationship to other Acts

### Part 2—Object and principles

- 6 Object
- 7 Principles

### Part 3—Voluntary euthanasia

#### Division 1—No offence to provide information etc about voluntary euthanasia

- 8 No offence to provide information etc about voluntary euthanasia

#### Division 2—Making a request for voluntary euthanasia

- 9 Who may make a request for voluntary euthanasia
- 10 How to make a request for voluntary euthanasia
- 11 Preliminary examination and assessment by medical practitioner
- 12 Examination and assessment by second medical practitioner
- 13 Examination and assessment by psychiatrist
- 14 Witnessing a request for voluntary euthanasia
- 15 Revocation of request for voluntary euthanasia

#### Division 3—Administration of voluntary euthanasia

- 16 Authorised methods of administering voluntary euthanasia
- 17 Self-administration of voluntary euthanasia
- 18 Administration of voluntary euthanasia by medical practitioner etc
- 19 Person etc may decline to administer or assist in administration of voluntary euthanasia
- 20 Protection from liability
- 21 Cause of death
- 22 Report to State Coroner

#### Division 4—Provision relating to prescription etc of drugs to be used in administration of voluntary euthanasia

- 23 Application of Division
- 24 Prescription and dispensing of drugs
- 25 Storage of drugs
- 26 Disposal of drugs

### Part 4—Offences etc

- 27 Undue influence etc
- 28 False or misleading statements
- 29 Certain persons to forfeit interest in estate

### Part 5—Miscellaneous

- 30 Insurance

---

31	Victimisation
32	Confidentiality
33	Annual report on operation of Act
34	Review of Act
35	Regulations

## Schedule 1—Related amendments and transitional provisions

### Part 1—Preliminary

1	Amendment provisions
---	----------------------

### Part 2—Amendment of *Advance Care Directives Act 2013*

2	Amendment of section 12—Provisions that cannot be included in advance care directives
---	---

### Part 3—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995*

3	Insertion of section 5
5	Application of Act in respect of voluntary euthanasia

---

## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Death with Dignity Act 2016*.

#### 5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—Interpretation

(1) In this Act—

*eligible person*—see section 9(2);

10 *medical practitioner* means a person registered under the *Health Practitioner Regulation National Law* in the medical profession (other than as a student);

*nurse practitioner* means a registered nurse whose registration is endorsed as being qualified to practise as a nurse practitioner under the *Health Practitioner Regulation National Law (South Australia)*;

15 *psychiatrist* means a person registered under the *Health Practitioner Regulation National Law* as a specialist in psychiatry;

*registered nurse* means a person registered on the Register of Nurses as a registered nurse (all within the meaning of the *Health Practitioner Regulation National Law (South Australia)*);

20 *request for voluntary euthanasia* means a request for voluntary euthanasia to be administered made in accordance with this Act;

**voluntary euthanasia** means the administration of drugs, in accordance with this Act, to bring about the death of a person who has made a request for voluntary euthanasia;

**voluntary euthanasia request form** means a voluntary euthanasia request form that complies with any requirements set out in the regulations for the purposes of this definition (including, to avoid doubt, a requirement that the form be in a prescribed form).

(2) For the purposes of this Act, a reference to **palliative care** will be taken to be a reference to care provided to persons suffering from a terminal medical condition for the purpose of improving their quality of life by preventing and relieving their suffering (whether physical, emotional, social or spiritual in nature) and treating other problems associated with life-threatening illnesses.

(3) For the purposes of this Act, a reference to a **consultation, examination or assessment** of a person by a medical practitioner or psychiatrist will be taken to include a reference to a consultation, examination or assessment undertaken remotely by means of a system or scheme of a kind specified by the regulations.

#### 4—Impaired decision making capacity

(1) For the purposes of this Act, a person will be taken to have an **impaired decision making capacity** in respect of a decision to make a request for voluntary euthanasia if the person is not capable of—

- (a) understanding any information that may be relevant to the decision (including information relating to the consequences of making the decision); or
- (b) retaining such information; or
- (c) using such information in the course of making the decision; or
- (d) communicating their decision in any manner.

(2) For the purposes of this Act—

- (a) a person will not be taken to be incapable of understanding information merely because the person is not able to understand matters of a technical or trivial nature; and
- (b) a person will not be taken to be incapable of retaining information merely because the person can only retain the information for a limited time; and
- (c) a person may fluctuate between having impaired decision making capacity and full decision making capacity.

#### 5—Relationship to other Acts

(1) Unless the contrary intention expressly appears, this Act applies despite the provision of any other Act or law.

(2) Nothing in the *Criminal Law Consolidation Act 1935*, the *Consent to Medical Treatment and Palliative Care Act 1995* or the *Controlled Substances Act 1984* or any other Act or law prevents—

- (a) a medical practitioner from prescribing or supplying, or a pharmacist or other person from selling, dispensing or supplying, a prescription drug or drug of dependence for a purpose relating to the administration of voluntary euthanasia in accordance with this Act; or

- (b) a person from assisting (however described) in the administration of voluntary euthanasia in accordance with this Act.
- (3) Nothing in this Act prevents a person from giving an advance care directive under the *Advance Care Directives Act 2013* that makes provision for the future administration of voluntary euthanasia to the person (however, if a person who has given such an advance care directive also makes a request for voluntary euthanasia under this Act, then the request for voluntary euthanasia made under this Act will be taken to prevail).
- (4) For the purposes of the *Coroners Act 2003*, the death of a person brought about by the administration of voluntary euthanasia is a reportable death (within the meaning of that Act).
- (5) For the purposes of the *Health Practitioner Regulation National Law (South Australia) Act 2010* and the *Health Practitioner Regulation National Law*, a failure by a health practitioner to comply with this Act will be taken to constitute proper cause for disciplinary action against the health practitioner.
- (6) Nothing in this Act renders lawful voluntary euthanasia administered other than in accordance with this Act.

## Part 2—Object and principles

### 6—Object

The object of this Act is to reform the law—

- (a) to allow adult persons of sound mind to formally request that their suffering be ended at the time of their choosing by the administration of voluntary euthanasia in accordance with this Act;
- (b) to ensure that participation in the making of a request for voluntary euthanasia (including by gathering information), and the administration of voluntary euthanasia, in accordance with this Act does not amount to a criminal offence or cause a person to suffer any other discrimination or liability;
- (c) to ensure that participation in the administration of voluntary euthanasia in accordance with this Act does not amount to a criminal offence or cause a person to suffer any other discrimination or liability;
- (d) to ensure that the arrangements that a person may make under this Act to bring their suffering to an end are, and should be implemented as, a medical issue;
- (e) to protect those persons who decline to be involved in the making of requests for, or the administration of, voluntary euthanasia by ensuring that those persons do not suffer any discrimination or liability.

### 7—Principles

The following principles must be taken into account in relation to the operation of this Act:

- (a) subject to the laws of the State, every person has the right to choose how he or she should live their life;

- (b) terminally ill people who satisfy the requirements set out in this Act are entitled to bring about the end of their life in accordance with this Act should their suffering become intolerable;
- (c) medical practitioners and other persons should be able to provide assistance to a person wanting to bring about the end of their life in accordance with this Act without exposing themselves to civil or criminal liability or other detriment;
- (d) the arrangements that a person may make under this Act to bring their suffering to an end are, and should be implemented as, a medical issue.

## Part 3—Voluntary euthanasia

### Division 1—No offence to provide information etc about voluntary euthanasia

#### 8—No offence to provide information etc about voluntary euthanasia

Despite section 13A of the *Criminal Law Consolidation Act 1935*, or any other Act or law, a person incurs no criminal or civil liability merely by—

- (a) providing or publishing information relating to voluntary euthanasia; or
- (b) selling or supplying material or equipment (not being a drug) that is, or is to be, used for a purpose relating to voluntary euthanasia.

**Note—**

Section 13A of the *Criminal Law Consolidation Act 1935* makes it an offence to aid, abet or counsel the suicide or attempted suicide of another.

### Division 2—Making a request for voluntary euthanasia

#### 9—Who may make a request for voluntary euthanasia

- (1) Subject to this Act, an eligible person (and no other person) may make a request for voluntary euthanasia.
- (2) An *eligible person* is a person in relation to whom each of the following criteria are satisfied:
  - (a) the person is a competent adult;
  - (b) the person is suffering from a terminal medical condition and—
    - (i) that terminal medical condition is causing suffering that is intolerable to the person; and
    - (ii) there is no reasonably available medical treatment or palliative care options that would, having regard to both the treatment and any consequences of the treatment, relieve the person's suffering in a manner that is acceptable to the person;
  - (c) the person's death has, disregarding any medical treatment that may be administered to prolong the person's life, become inevitable by reason of the terminal medical condition;

- (d) the person does not have an impaired decision making capacity in respect of a decision to make a request for voluntary euthanasia;
- (e) the person has lived in the State for a period of not less than 12 months immediately preceding the making of the request.
- 5 (3) To avoid doubt, a person is not an eligible person merely because the person is—
- (a) of advanced age;
- (b) suffering from a disability (however described);
- (c) suffering from a mental health condition,
- whether or not the person finds those matters intolerable.
- 10 (4) For the purposes of this section—
- (a) a person is suffering from a **terminal medical condition** if he or she has an incurable medical condition (not being a mental health condition) that will cause the person's death (whether directly or as a result of related medical consequences);
- 15 (b) the question of whether a medical condition is **incurable** is to be determined by reference to medical treatment that is, at the time a particular request for voluntary euthanasia is made, reasonably available to the person suffering from the condition and does not include treatment that is experimental in nature or otherwise extraordinary;
- 20 (c) a reference to a terminal medical condition causing **suffering** will be taken to be a reference to—
- (i) suffering that is a direct consequence of the terminal medical condition; and
- (ii) suffering caused by any treatment of the terminal medical condition;
- 25 and
- (iii) suffering caused by complications or other medical conditions arising out of, or out of the treatment of, the terminal medical condition,
- however, a reference to suffering will be taken not to include a reference to suffering that consists only of emotional reactions to having a terminal medical condition such as distress, grief, fear or anger;
- 30 (d) the question of whether a person's suffering is **intolerable**—
- (i) is to be determined subjectively and need not meet an objective standard; and
- 35 (ii) cannot be challenged or questioned in any proceedings seeking to prevent or delay the administration of voluntary euthanasia to the person;
- (e) in determining whether a person's death has become **inevitable**, it is not necessary to establish that the death is imminent nor that it will occur within a particular period.
- 40

## 10—How to make a request for voluntary euthanasia

- (1) An eligible person *makes a request for voluntary euthanasia* by taking the following steps in accordance with any requirements set out in this Division:
- (a) first, the eligible person must complete the relevant parts of a voluntary euthanasia request form;
  - (b) second, the eligible person is examined and assessed by a medical practitioner in accordance with section 11;
  - (c) third, the eligible person is examined and assessed by a second and independent medical practitioner in accordance with section 12;
  - (d) fourth, the eligible person is (if so required) examined and assessed by a psychiatrist in accordance with section 13;
  - (e) fifth, the eligible person presents the completed voluntary euthanasia request form to the medical practitioner referred to in section 11;
  - (f) sixth, the request for voluntary euthanasia is witnessed in accordance with section 14;
  - (g) finally, the medical practitioner referred to in section 11 certifies on the completed voluntary euthanasia request form that they are of the opinion that—
    - (i) the person making the request for voluntary euthanasia is an eligible person; and
    - (ii) the requirements under this Division have been satisfied in respect of the request for voluntary euthanasia; and
    - (iii) the request for voluntary euthanasia genuinely reflects the wishes of the eligible person; and
    - (iv) the eligible person understands the nature and implications of the request for voluntary euthanasia; and
    - (v) the eligible person was not acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person) in relation to their request for voluntary euthanasia.
- (2) On completion of the steps referred to in subsection (1), the eligible person will be taken to have made a request for voluntary euthanasia.
- (3) A request for voluntary euthanasia—
- (a) is in force from the time the medical practitioner completes the certification required under subsection (1)(g); and
  - (b) remains in force until it is revoked in accordance with this Act.
- (4) The medical practitioner referred to in section 11 must keep the following documents in respect of each request for voluntary euthanasia made by a person—
- (a) the voluntary euthanasia request form; and
  - (b) the written reports provided to the medical practitioner under sections 12 and 13 (if any); and

- (c) if a request for voluntary euthanasia is made in accordance with subsection (5)—the audio-visual record under subsection (5)(b),

in accordance with the requirements set out in the regulations.

- (5) Despite subsection (1)(a), a request for voluntary euthanasia may, in the case of an eligible person who is unable to read or write or both, or who is not reasonably fluent in English, be made in accordance with the following provisions:

- (a) the request must be made by the eligible person making an oral request to the medical practitioner referred to in section 11 (whether with the assistance of an interpreter or other person or otherwise);
- (b) an audio-visual record of the making of the request for voluntary euthanasia must be made;
- (c) in the case of an eligible person who is not reasonably fluent in English—any information required to be given to, or by, the eligible person under this Act must be given with the assistance of an interpreter in relation to a language in which the person is fluent;
- (d) in the case of an eligible person whose ability to read or write or otherwise communicate is limited by an illness or disability—any information required to be given to, or by, the eligible person under this Act must be given with the assistance of a person (the *person assisting*) who is able to effectively communicate with the eligible person;

**Note—**

A person suffering from aphasia, for example, might be such a person.

- (e) the interpreter, person assisting or the medical practitioner must—
- (i) complete a voluntary euthanasia request form on behalf of the eligible person (and in such a case the form will be taken to be the eligible person's request for voluntary euthanasia); and
- (ii) certify that the voluntary euthanasia request form accurately reproduces in English the information supplied by the eligible person in the course of making the request;
- (f) the interpreter or person assisting must certify that the information required to be given to the person under this Act was given to, and appeared to be understood by, the eligible person;
- (g) the making of the request for voluntary euthanasia must otherwise comply with the requirements set out in subsection (1).

**11—Preliminary examination and assessment by medical practitioner**

- (1) For the purposes of section 10(1)(b), an examination and assessment of a person by a medical practitioner must comply with the following provisions:

- (a) the examination and assessment must occur at a consultation initiated by or on behalf of the person;
- (b) the medical practitioner must satisfy themselves that the person is an eligible person;

(c) the medical practitioner must give to the person the following information in writing:

(i) a diagnosis and prognosis of the terminal medical condition from which the person is suffering;

(ii) information explaining the forms of treatment that are reasonably available to treat the terminal medical condition from which the person is suffering and the risks associated with such treatment;

(iii) information explaining palliative care options that are reasonably available to the person;

(iv) information setting out the medical procedures that may be used to administer voluntary euthanasia and the risks associated with the procedures;

(v) information explaining that, just because a person makes a request for voluntary euthanasia, the person need not actually end their life;

(vi) any other information required by the regulations for the purposes of this subsection.

(2) If the medical practitioner reasonably suspects that—

(a) the person is not of sound mind; or

(b) the decision making ability of the person is adversely affected by their state of mind; or

(c) the person is acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person) in relation to their wish to request voluntary euthanasia,

the medical practitioner must refer the person to a psychiatrist for examination and assessment in accordance with section 13.

(3) A person may be assisted in the course of an examination or assessment under this section by an interpreter or other person.

## **12—Examination and assessment by second medical practitioner**

(1) For the purposes of section 10(1)(c), an examination and assessment of a person by a second medical practitioner must comply with the following provisions:

(a) the medical practitioner must be independent of both the medical practitioner referred to in section 11 and the person;

(b) the medical practitioner must examine the person;

(c) the medical practitioner must satisfy themselves that—

(i) the person is an eligible person; and

(ii) the medical practitioner referred to in section 11 has complied with the provisions of section 11(1)(c);

(d) the medical practitioner must give to the person the following information in writing:

- 5
- (i) the medical practitioner's diagnosis and prognosis of the terminal medical condition from which the person is suffering;
  - (ii) information explaining the forms of treatment that are reasonably available to treat the terminal medical condition from which the person is suffering and the risks associated with such treatment;
  - (iii) information explaining palliative care options that are reasonably available to the person;
  - (iv) information explaining that, just because a person makes a request for voluntary euthanasia, the person need not actually end their life.
- 10 (2) As soon as is reasonably practicable after an examination and assessment, the second medical practitioner must provide to the medical practitioner referred to in section 11 a written report setting out whether or not, in their opinion—
- (a) the person is of sound mind; or
  - (b) the decision making ability of the person is adversely affected by their state of mind; or
  - (c) the person is acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person) in relation to their wish to request voluntary euthanasia.
- 15
- 20 (3) If the report provided by the second medical practitioner sets out that they are of the opinion—
- (a) the person is not, or may not be, of sound mind; or
  - (b) the decision making ability of the person is, or may be, adversely affected by their state of mind; or
  - (c) the person is, or may be, acting under any form of duress, inducement or undue influence,
- 25
- the medical practitioner referred to in section 11 must refer the person to a psychiatrist for examination and assessment in accordance with section 13.
- (4) A person may be assisted in the course of an examination or assessment under this section by an interpreter or other person.

### 30 **13—Examination and assessment by psychiatrist**

- (1) For the purposes of this Part, an examination and assessment of a person by a psychiatrist must comply with the following provisions:
- (a) the psychiatrist must examine the person;
  - (b) the psychiatrist must assess whether or not—
- (i) the person is of sound mind; and
  - (ii) the decision making ability of the person is adversely affected by their state of mind; and
  - (iii) the person is acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person) in relation to their wish to request voluntary euthanasia; and
- 35
- 40

- (iv) the person genuinely appears to understand the nature and implications of a request for voluntary euthanasia; and
- (v) the person genuinely wishes voluntary euthanasia to be administered to them.

- 5 (2) On completing an examination and assessment of a person, the psychiatrist—
- (a) must, as soon as is reasonably practicable (and in any case within 48 hours), inform the medical practitioner referred to in section 11 of the psychiatrist's assessment of each of the matters set out in subsection (1)(b); and
  - (b) must provide a written report to the medical practitioner referred to in  
10 section 11 in respect of the examination and assessment.
- (3) The validity and legality of an assessment of a psychiatrist under this section cannot be challenged or questioned in any proceedings seeking to prevent or delay the administration of voluntary euthanasia to an eligible person.
- (4) A person may be assisted in the course of an examination or assessment under this  
15 section by an interpreter or other person.

#### **14—Witnessing a request for voluntary euthanasia**

- (1) A request for voluntary euthanasia must be witnessed in accordance with the following provisions:
- (a) the presentation of the completed voluntary euthanasia request form under  
20 section 10(1)(e) must be done in the presence of 2 witnesses (who may, subject to subsection (2), be related to, or known by, the eligible person to whom the request relates);
  - (b) each witness must be a competent adult person;
  - (c) each witness must, on the appropriate part of the voluntary euthanasia request  
25 form and in the presence of the medical practitioner referred to in section 11, certify that—
    - (i) he or she witnessed the eligible person present the completed voluntary euthanasia request form to the medical practitioner under  
30 section 10(1)(e); and
    - (ii) he or she is not a person who cannot witness the eligible person's request for voluntary euthanasia; and
    - (iii) the request for voluntary euthanasia appears to genuinely reflect the wishes of the eligible person; and
    - (iv) the eligible person appeared to understand the nature and  
35 implications of the request for voluntary euthanasia; and
    - (v) the witness is of the opinion that the eligible person was not acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the eligible person) in relation to their request for voluntary euthanasia;
  - (d) the witnessing of the request must comply with any other provisions set out in  
40 the regulations.

- (2) The following persons cannot witness a particular eligible person's request for voluntary euthanasia:
- (a) a medical practitioner or psychiatrist who examines or assesses the eligible person under this Division;
  - 5 (b) a person who is a direct beneficiary of, or who otherwise has a direct interest in, the estate of the eligible person;
  - (c) a person who is the owner or operator (however described) of a hospital, hospice, nursing home or other institution for the care of the sick or infirm in which the eligible person resides, or an employee or agent of such a facility;
  - 10 (d) any other person declared by the regulations to be included in the ambit of this subsection.
- (3) A person witnessing a request for voluntary euthanasia may be assisted by an interpreter or other person.

### 15—Revocation of request for voluntary euthanasia

- 15 (1) A person who has made a request for voluntary euthanasia may revoke the request at any time.
- (2) A written, oral or any other indication of the revocation of, or of a person's wish to revoke, a request for voluntary euthanasia is sufficient to revoke the request (whether or not the person is mentally competent when the indication is given).

## 20 Division 3—Administration of voluntary euthanasia

### 16—Authorised methods of administering voluntary euthanasia

- (1) Subject to subsection (2), this Act only authorises the administration of voluntary euthanasia to a person by means of the person self-administering drugs in concentrations likely to end their life.
- 25 (2) If a person who has made a request for voluntary euthanasia is unable to self-administer voluntary euthanasia, a medical practitioner, registered nurse or nurse practitioner may administer voluntary euthanasia to the person by administering drugs in concentrations likely to end their life.

**Note—**

30 Section 18 sets out requirements to be met before a registered nurse or nurse practitioner can, in fact, administer voluntary euthanasia to a person.

- (3) For the purposes of this or any other Act or law, a person's request for voluntary euthanasia will, in the absence of evidence to the contrary, be taken to constitute any consent necessary for the administration of voluntary euthanasia to the person.

### 35 17—Self-administration of voluntary euthanasia

- (1) A person may self-administer voluntary euthanasia if—
- (a) he or she is competent; and
  - (b) he or she has lived in the State for a period of not less than 12 months immediately preceding the administration of voluntary euthanasia; and
  - 40 (c) he or she has made a request for voluntary euthanasia that is in force; and

(d) not less than 14 days have passed since the person was examined and assessed by a medical practitioner in accordance with section 11.

(2) A person self-administering voluntary euthanasia may be assisted by such other persons as he or she thinks fit.

5 **18—Administration of voluntary euthanasia by medical practitioner etc**

(1) A medical practitioner (whether or not he or she is the medical practitioner referred to in section 11 in respect of a particular request for voluntary euthanasia) may administer voluntary euthanasia to a person if—

(a) the person—

10 (i) is competent; and

(ii) has lived in the State for a period of not less than 12 months immediately preceding the administration of voluntary euthanasia; and

(iii) is capable of communicating their decisions; and

15 (iv) is unable to self-administer voluntary euthanasia; and

(b) the person has made a request for voluntary euthanasia that is in force; and

(c) the person confirms that he or she wishes voluntary euthanasia to be administered; and

20 (d) not less than 14 days have passed since the person was examined and assessed by a medical practitioner in accordance with section 11.

(2) Without limiting any other Act, or any rules of professional conduct, a medical practitioner may authorise a specified registered nurse or nurse practitioner to administer voluntary euthanasia to a person if the medical practitioner is satisfied that—

25 (a) the requirements set out in subsection (1) have been met; and

(b) the registered nurse or nurse practitioner (as the case requires) is authorised under a law of this State to administer drugs of the relevant kind to a person (whether or not the registered nurse or nurse practitioner is expressly authorised to administer voluntary euthanasia).

30 (3) A medical practitioner, registered nurse or nurse practitioner may be assisted in relation to the administration of voluntary euthanasia by an interpreter or such other persons as they think fit (however, nothing in this section authorises those persons to themselves administer voluntary euthanasia to a person).

35 **19—Person etc may decline to administer or assist in administration of voluntary euthanasia**

(1) A medical practitioner, registered nurse or nurse practitioner may decline to administer voluntary euthanasia on any grounds without prejudice to their employment or any other form of discrimination.

40 (2) A person may decline to assist in the administration of voluntary euthanasia on any grounds without prejudice to the person's employment or any other form of discrimination.

(3) The administering authority of a hospital, hospice, nursing home or other institution for the care of the sick or infirm may refuse to permit the administration of voluntary euthanasia within the institution but, if it does so—

- (a) must take steps to ensure that the refusal is brought to the attention of any person prior to being admitted to, or entering, the institution; and
- (b) if a person has been admitted to, or entered, the institution without having been made aware of the refusal—must, if the person so requests, arrange for the transfer of the person to an institution that permits the administration of voluntary euthanasia.

## 20—Protection from liability

(1) If a medical practitioner or other person—

- (a) takes part in, or is otherwise involved in relation to, the making of a request or purported request for voluntary euthanasia in accordance with this Act; or
- (b) takes part in, or is otherwise involved in relation to, the administration of voluntary euthanasia in accordance with this Act,

the medical practitioner or person—

- (c) incurs no criminal liability (other than in proceedings for an offence against this Act) for an act or omission in so doing; and
- (d) incurs no civil liability for an act or omission in so doing, provided that the act or omission was done or made in good faith and without negligence.

(2) A medical practitioner or other person who (whether voluntarily or pursuant to a requirement under this Act) advises another person of a reasonable suspicion that a person has revoked a request for voluntary euthanasia—

- (a) cannot, by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and
- (b) insofar as he or she has acted in good faith, incurs no civil or criminal liability in respect of the advice.

(3) For the purposes of this section, a reference to the civil liability of a person includes a reference to liability arising under disciplinary proceedings or similar proceedings.

(4) For the purposes of this section, a reference to the administration of voluntary euthanasia includes a reference to the attempted administration of voluntary euthanasia.

## 21—Cause of death

(1) For the purposes of the law of the State the death of a person resulting from the administration of voluntary euthanasia—

- (a) will be taken to have been caused by the terminal medical condition from which the person was suffering (being the terminal medical condition referred to in section 9(2)(b)); and
- (b) will be taken not to be suicide or homicide.

- (2) To avoid doubt, this section applies in relation to a finding under section 29 of the *Coroners Act 2003*.

## **22—Report to State Coroner**

- 5 (1) A medical practitioner, registered nurse or nurse practitioner who administers voluntary euthanasia to a person must make a report to the State Coroner within 48 hours after the person's death.  
Maximum penalty: \$5 000.
- 10 (2) A medical practitioner to whom a request for voluntary euthanasia is made must, as soon as is reasonably practicable after becoming aware that the person who made the request has self-administered voluntary euthanasia pursuant to the request, make a report to the State Coroner.  
Maximum penalty: \$5 000.
- 15 (3) A report under this section must be in the prescribed form and must be accompanied by—
- (a) a copy of the voluntary euthanasia request form; and
  - (b) a copy of any report or other document required to be kept under section 10(4)(b) and (c); and
  - (c) any other information required by the regulations.

## **Division 4—Provision relating to prescription etc of drugs to be used in administration of voluntary euthanasia**

### **23—Application of Division**

- 25 (1) Except where the contrary intention appears, this Division is in addition to, and does not derogate from, the provisions of the *Controlled Substances Act 1984*, or any law of the Commonwealth, relating to the prescribing, dispensing, supplying or storage of drugs.
- (2) This Division does not apply in circumstances where—
- (a) voluntary euthanasia is to be administered to a person in a hospital, hospice, nursing home or other institution for the care of the sick or infirm; and
  - 30 (b) the drugs to be used to administer voluntary euthanasia to the person are the property, or in the possession, of the hospital, hospice, nursing home or institution; and
  - (c) the *Controlled Substances Act 1984* or an Act of the Commonwealth regulates the storage and handling of drugs of the relevant kind in such a place.
- 35 (3) A failure to comply with this Division does not invalidate a request for, or the administration of, voluntary euthanasia to a person.

## 24—Prescription and dispensing of drugs

The following provisions apply to the prescription and dispensing of a drug to be used to administer voluntary euthanasia to a person:

- (a) the drug must be prescribed by the medical practitioner referred to in section 11;
- (b) the medical practitioner must send the prescription directly to a pharmacist nominated by the person to whom voluntary euthanasia is to be administered, or a person authorised by that person for the purposes of this section;
- (c) the nominated pharmacist must, as soon as is reasonably practicable after receiving the prescription, notify the person to whom voluntary euthanasia is to be administered of that fact;
- (d) prior to dispensing the drug to the person to whom voluntary euthanasia is to be administered, or to a person authorised by that person for the purposes of this section, the pharmacist must give to the person such information in writing as may be required by the regulations for the purposes of this paragraph;
- (e) the prescription and dispensing of the drug must comply with any other requirement set out in the regulations.

## 25—Storage of drugs

A drug that has been dispensed for the purposes of administering voluntary euthanasia to a person must, except when it is being so used, be stored in a secure area in accordance with the requirements set out in the regulations.

## 26—Disposal of drugs

- (1) A drug that has been dispensed for the purposes of administering voluntary euthanasia to a person must, if the drug—
  - (a) has not been so used within 7 days after being dispensed; or
  - (b) is left over after voluntary euthanasia is administered to the person,
 be destroyed or disposed of in accordance with the requirements set out in the regulations.
- (2) The regulations may provide for an offence for a person to refuse or fail to comply with subsection (1).

## Part 4—Offences etc

### 27—Undue influence etc

A person who, by dishonesty or undue influence, induces another to make a request for voluntary euthanasia is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

## 28—False or misleading statements

- (1) A person who makes a false or misleading statement in, or in relation to, a request for voluntary euthanasia is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

- 5 (2) For the purposes of this section, a reference to a request for voluntary euthanasia includes a reference to a request that has been revoked.

## 29—Certain persons to forfeit interest in estate

10 If a court finds a person guilty of an offence against section 27 or 28, the court may, on the application of the prosecution, order that the person forfeits any interest that the person might otherwise have had in the estate of the person who made the relevant request for voluntary euthanasia.

## Part 5—Miscellaneous

### 30—Insurance

- 15 (1) An insurer is not entitled to refuse to make a payment that is payable under a life insurance policy on the death of the insured on the ground that the death resulted from the administration of voluntary euthanasia (and any clause in a life insurance policy that is inconsistent with this subsection will be taken to be void and of no effect).

- (2) This section applies despite an agreement between a person and an insurer to the contrary.

### 31—Victimisation

- 20 (1) A person commits an act of victimisation against another person (the *victim*) if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—

25 (a) takes part in, or is otherwise involved in relation to, the making of a request, or purported request, for voluntary euthanasia in accordance with this Act; or

(b) takes part in, or is otherwise involved in relation to, the administration of voluntary euthanasia in accordance with this Act; or

(c) refuses to take part in the making of a request for, or administration of, voluntary euthanasia in accordance with this Act.

- 30 (2) An act of victimisation under this Act may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

but, if the victim commences proceedings in a court seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.

(3) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

(4) In this section—

*detriment* includes—

- (a) injury, damage or loss; or
- (b) intimidation or harassment; or
- (c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or
- (d) threats of reprisal.

### 32—Confidentiality

(1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

- (a) as required or authorised by or under this Act or any other Act or law; or
- (b) with the consent of the person to whom the information relates; or
- (c) in connection with the administration of this Act; or
- (d) to an authority responsible under the law of a place outside this State, where the information is required for the proper administration of that law; or
- (e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

Maximum penalty: \$10 000.

(2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.

(3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—

- (a) the person to whom the information was disclosed; or
- (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

### 33—Annual report on operation of Act

(1) The Minister must, on or before 30 September in each year, cause a report to be prepared on the operation of this Act during the previous financial year.

(2) The Minister must cause a copy of the report prepared under subsection (1) to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

### 34—Review of Act

- 5
- (1) The Minister must cause a review of the operation of this Act to be conducted and a report on the results of the review to be submitted to the Minister.
  - (2) The review and the report must be completed before the fifth anniversary of the commencement of this Act.
  - (3) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

### 35—Regulations

- 10
- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
  - (2) Without limiting the generality of subsection (1), the regulations may provide for—
    - 15 (a) the exemption of a person, or a class of persons, from the operation of a specified provision or provisions of this Act; and
    - (b) fines, not exceeding \$10 000, for offences against the regulations; and
    - (c) facilitation of proof of the commission of offences against the regulations.
  - (3) The regulations may—
    - 20 (a) be of general or limited application; and
    - (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
    - (c) make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act or on the making of regulations under this Act; and
    - 25 (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or any other specified person or body; and
    - (e) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or another specified person or body.
  - (4) If a code, standard or other document is referred to or incorporated in the regulations—
    - 30 (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
    - 35 (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

## **Schedule 1—Related amendments and transitional provisions**

### **Part 1—Preliminary**

#### **1—Amendment provisions**

5           In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### **Part 2—Amendment of *Advance Care Directives Act 2013***

#### **2—Amendment of section 12—Provisions that cannot be included in advance care directives**

- 10           (1) Section 12(1)(a)(i) and (ii)—delete subparagraphs (i) and (ii) and substitute:
- (i) that is unlawful, or that would require an unlawful act to be performed; or
- (2) Section 12—after subsection (1) insert:
- (1a) An advance care directive cannot constitute a request for the administration of voluntary euthanasia to a person (however nothing in this subsection prevents a person from expressing their preferences or wishes in relation to voluntary euthanasia in an advance care directive).
- 15

### **Part 3—Amendment of *Consent to Medical Treatment and Palliative Care Act 1995***

20           **3—Insertion of section 5**

              After section 4B insert:

#### **5—Application of Act in respect of voluntary euthanasia**

25           This Act does not apply in relation to medical treatment consisting of, or given in the course of, the administration of voluntary euthanasia to a person in accordance with the *Death with Dignity Act 2016*.