

South Australia

**Consent to Medical Treatment and Palliative Care
(Voluntary Euthanasia) Amendment Bill 2008**

A BILL FOR

An Act to amend the *Consent to Medical Treatment and Palliative Care Act 1995*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Consent to Medical Treatment and Palliative Care (Voluntary Euthanasia) Amendment Act 2008*.

5 **2—Commencement**

This Act will come into operation 3 months after the day on which it is assented to by the Governor.

3—Amendment provisions

10 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 *Consent to Medical Treatment and Palliative Care Act 1995*

4—Amendment of long title

Long title—after "dying;" insert:

15 to regulate the administration of voluntary euthanasia;

5—Amendment of section 1—Short title

Section 1—delete the section and substitute:

1—Short title

This Act may be cited as the *Medical Treatment Act 1995*.

6—Amendment of section 3—Objects

Section 3—after paragraph (c) insert:

and

(d) to allow certain adult persons—

(a) who are in the terminal phase of a terminal illness; or

(b) who have an illness, injury or other medical condition that—

(i) results in permanent deprivation of consciousness;
or

(ii) irreversibly impairs the person's quality of life so
that life has become intolerable to that person,

to end their suffering by means of voluntary euthanasia administered
in accordance with this Act.

7—Insertion of Part 2 Division A1

Part 2—before Division 1 insert:

Division A1—Application of Part

5A—Application of Part

This Part does not apply to, or in relation to, medical treatment
consisting of the administration of voluntary euthanasia to a person.

8—Repeal of section 18

Section 18—delete the section

9—Substitution of Part 4

Delete Part 4 and substitute:

Part 4—Voluntary euthanasia

Division 1—Preliminary

18—Interpretation

(1) In this Part—

active request means an active request made in accordance with
section 19, as in force from time to time;

active request form—see section 19(3)(d)(i);

adult means a person of or over 18 years of age;

advance request means an advance request made in accordance with section 20, as in force from time to time;

advance request form—see section 20(2)(d)(i);

5 *Board* means the Voluntary Euthanasia Board of South Australia established under Division 3;

palliative care specialist means a medical practitioner registered under the law of this State whose principal area of practice is the provision of palliative care;

10 *psychiatrist* means a medical practitioner registered under the law of this State as a specialist in psychiatry;

Register means the Register required to be kept under section 36;

Registrar means the Registrar appointed under section 35;

15 *request for voluntary euthanasia* means an active request or advance request;

treating medical practitioner of a person means—

(a) a medical practitioner who is currently treating the person for the terminal illness of which the person is in the terminal phase; and

20 (b) a medical practitioner currently responsible (whether solely or otherwise) for the primary care of the person;

voluntary euthanasia means the administration of medical treatment, in accordance with this Part, to assist the death of a person who has made a request for voluntary euthanasia that is in force.

25 (2) A reference in this Part to a request for voluntary euthanasia or an advance request includes a reference to such a request that has been renewed in accordance with this Part.

Division 2—Requests for voluntary euthanasia

Subdivision 1—Active requests

30 **19—Active requests**

(1) This section applies to the following persons:

(a) an adult person who is in the terminal phase of a terminal illness;

35 (b) an adult person who has an illness, injury or other medical condition that—

(i) results in permanent deprivation of consciousness; or

(ii) irreversibly impairs the person's quality of life so that life has become intolerable to that person.

- (2) A person to whom this section applies may, at any time, make a request (an **active request**) for voluntary euthanasia to be administered.
- (3) The following provisions apply in relation to an active request:
- 5 (a) the request must be made by the person who is the subject of the request;
- (b) the person intending to make the request must, at a preliminary appointment with a medical practitioner to whom the request is to be made and who has agreed to accept the request (the **medical practitioner**), be given the following information:
- 10 (i) a diagnosis and prognosis of the person's illness, injury or condition;
- 15 (ii) information explaining the forms of treatment that are reasonably available to treat the person's illness, injury or condition, and the risks associated with such treatment;
- (iii) information explaining the extent to which appropriate palliative care may alleviate the person's suffering;
- 20 (iv) information setting out the procedures that may be used to administer voluntary euthanasia;
- (v) information explaining the risks associated with those procedures;
- 25 (vi) information setting out the effect of section 24;
- (c) if the medical practitioner suspects that—
- (i) the person intending to make the request is not of sound mind; or
- 30 (ii) the decision-making ability of the person is adversely affected by the person's state of mind,
- then, before making the request, the person must obtain a certificate from a psychiatrist certifying that, in the psychiatrist's opinion—
- (iii) the person is of sound mind; and
- 35 (iv) the person's state of mind is unlikely to adversely affect the person's ability to decide to request that voluntary euthanasia be administered;
- (d) the request—
- 40 (i) subject to subsection (4), must be made in writing in the prescribed form (the **active request form**); and

- 5
- (ii) must be made at a separate appointment with the medical practitioner (being an appointment taking place not less than 24 hours after the preliminary appointment referred to in paragraph (b)); and
- (iii) must be made in the presence of an adult witness (not being the medical practitioner); and
- (iv) if a certificate from a psychiatrist is required under paragraph (c)—must be accompanied by the certificate;
- 10
- (e) the request may include any other condition or instruction that the person who is the subject of the request wishes to be satisfied or given effect in relation to the administration of voluntary euthanasia.
- 15
- (4) In the case of a person who is unable to write, an active request may be made orally but, if the request is made orally—
- (a) an audio-visual record of the making of the request must be made, and a certified copy of the record must accompany the active request form when the form is forwarded to the Registrar in accordance with this Part; and
- 20
- (b) the medical practitioner must reduce the request to writing in the prescribed form and the medical practitioner and the adult witness must each sign the form (and in such a case the written form will be taken to be the active request form).
- 25
- (5) The medical practitioner and the adult witness must, on the making of an active request, each certify, in accordance with any instruction on the active request form—
- (a) in the case of a oral request—that the active request form was completed in accordance with the wishes of the person who is the subject of the request; and
- 30
- (b) in any case—that the person who is the subject of the request—
- (i) appeared to understand the nature and implications of the request; and
- (ii) did not appear to be acting under duress.
- 35
- (6) The validity and legality of a certification of a psychiatrist that a person is of sound mind, or that the person's state of mind is unlikely to adversely affect the person's ability to decide to make an active request, cannot be challenged or questioned in any proceedings (other than proceedings under this Part).
- 40
- (7) An active request has effect from the time that the request is entered on the register under Division 4 and remains in force until the request is revoked.

Subdivision 2—Advance requests

20—Advance requests

(1) An adult person may, at any time, make a request in accordance with this section (an *advance request*) for voluntary euthanasia to be administered in the event that he or she becomes a person to whom section 19 applies.

(2) The following provisions apply in relation to an advance request:

(a) the request must be made by the person who is the subject of the request;

(b) the person intending to make the request must, at a preliminary appointment with a medical practitioner to whom the request is to be made and who has agreed to accept the request (the *medical practitioner*), be given the following information:

(i) information setting out the procedures that may be used to administer voluntary euthanasia;

(ii) information explaining the risks associated with those procedures;

(iii) information setting out the effect of section 24;

(c) if the medical practitioner suspects that—

(i) the person intending to make the request is not of sound mind; or

(ii) the decision-making ability of the person is adversely affected by the person's state of mind,

then, before making the request, the person must obtain a certificate from a psychiatrist certifying that, in the psychiatrist's opinion—

(iii) the person is of sound mind; and

(iv) the person's state of mind is unlikely to adversely affect the person's ability to decide to request that voluntary euthanasia be administered;

(d) the request—

(i) subject to subsection (3), must be made in writing in the prescribed form (the *advance request form*); and

(ii) must be made at a separate appointment with the medical practitioner (being an appointment taking place not less than 7 days after the preliminary appointment referred to in paragraph (b)); and

(iii) must be made in the presence of an adult witness (not being the medical practitioner);

- (iv) if a certificate from a psychiatrist is required under paragraph (c)—must be accompanied by the certificate;
- 5 (e) the request must set out instructions in relation to determining what level of pain, indignity or other distress would make life intolerable to the person;
- 10 (f) the request may include any other condition or instruction that the person who is the subject of the request wishes to be satisfied or given effect in relation to the administration of voluntary euthanasia.
- (3) In the case of a person who is unable to write, an advance request may be made orally but, if the request is made orally—
- 15 (a) an audio-visual record of the making of the request must be made, and a certified copy of the record must accompany the advance request form when the form is forwarded to the Registrar in accordance with this Part; and
- 20 (b) the medical practitioner must reduce the request to writing in the prescribed form and the medical practitioner and the adult witness must each sign the form (and in such a case the written form will be taken to be the advance request form).
- (4) The medical practitioner and the adult witness must, on the making of an advance request, each certify, in accordance with any instruction on the advance request form—
- 25 (a) in the case of a oral request—that the advance request form was completed in accordance with the wishes of the person who is the subject of the request; and
- (b) in any case—that the person who is the subject of the request—
- 30 (i) appeared to understand the nature and implications of the request; and
- (ii) did not appear to be acting under duress.
- (5) The validity and legality of a certification of a psychiatrist that a person is of sound mind, or that the person's state of mind is unlikely to adversely affect the person's ability to decide to make an advance request, cannot be challenged or questioned in any proceedings (other than proceedings under this Part).
- 35 (6) An advance request has effect from the time that the request is entered on the register under Division 4.
- (7) An advance request remains in force—
- 40 (a) until it is revoked in accordance with this Act; or
- (b) unless it is renewed under section 21, for a period of 5 years after the day on which it comes into effect (or until such earlier date as may be specified in the request),

whichever occurs first.

21—Renewal of advance request

- 5
- (1) A person who has made an advance request that is in force may, by notice in writing given to the Registrar, renew his or her advance request.
- (2) A notice under subsection (1)—
- 10
- (a) must be made in a manner and form determined by the Registrar; and
- (b) must comply with any requirements set out in the regulations.
- (3) No fee may be charged in relation to a renewal under this section.
- (4) An advance request that has been renewed under this section expires 5 years after the day on which the notice under subsection (1) is given to the Registrar (but may be further renewed in accordance with this section).
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Subdivision 3—Miscellaneous

22—Variation of requests

- 20
- (1) A person who has made a request for voluntary euthanasia may, with the written authority of the Board, by notice in writing given to the Registrar, vary an instruction or matter set out in the request (being an instruction or matter of a kind referred to in section 19(3)(e) or section 20(2)(f) (as the case requires)).
- (2) The Board must not authorise a proposed variation under this section if, in the opinion of the Board, the proposed variation significantly changes the nature of the request for voluntary euthanasia.
- 25

Note—

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In the event of a desire to significantly change the nature of the request (such as significantly moving forward the administration of voluntary euthanasia) the request must be revoked and a new request made.

23—Interaction between requests

A request for voluntary euthanasia made by a person revokes all earlier requests for voluntary euthanasia made by the person.

24—Revocation of requests

- 35
- (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 withdrawal of, or of a 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).
- 40

(3) A person who becomes aware that a person who has made a request for voluntary euthanasia has revoked the request must, as soon as is practicable, advise the Registrar of the revocation.

5 (4) If the treating medical practitioner of a person who has made a request for voluntary euthanasia becomes aware (whether by being advised by the person or otherwise) that the person has revoked a request for voluntary euthanasia, he or she must, as soon as is practicable, advise the Registrar of the revocation.

10 (5) A person who, without reasonable excuse, refuses or fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

25—Documents to be forwarded to Registrar

15 (1) A medical practitioner to whom a request for voluntary euthanasia is made must, as soon as is reasonably practicable, forward the active request form or the advance request form (as the case requires) and any document required under this Part to accompany the request, or the active request form or advance request form, to the Registrar.

20 (2) A medical practitioner who, without reasonable excuse, refuses or fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

Division 3—Voluntary Euthanasia Board of South Australia

26—Establishment of Board

25 (1) The Voluntary Euthanasia Board of South Australia is established.

(2) The Board—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

30 (c) is capable of suing and being sued in its corporate name; and

(d) has all the powers of a natural person that are capable of being exercised by a body corporate; and

(e) has the functions and powers assigned or conferred under this Act.

35 (3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

27—Composition of Board

(1) The Board consists of 5 members appointed by the Governor of whom—

40 (a) 1 must be a medical practitioner; and

- (b) 1 must be a palliative care specialist; and
- (c) 1 must be a legal practitioner of at least 7 years' standing; and
- (d) 2 must be persons nominated by the Minister.

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- (2) At least 1 member of the Board must be a woman and at least 1 must be a man.
 - (3) The Governor may appoint a person to be a deputy of a member and a person so appointed may act as a member of the Board in the absence of the member.
 - 10 (4) The requirements of qualification and nomination (if applicable) made by this section in relation to the appointment of a member extend to the appointment of a deputy of that member.
 - (5) An act or proceeding of the Board is not invalid by reason only of a defect in the appointment of a member.

15 **28—Terms and conditions of membership**

- (1) A member of the Board will be appointed on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.
- 20 (2) However, a member of the Board may not hold office for consecutive terms that exceed 9 years in total.
- (3) A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.
- (4) The Governor may remove a member of the Board from office—
 - 25 (a) for breach of, or non-compliance with, a condition of appointment; or
 - (b) for misconduct; or
 - (c) for failure or incapacity to carry out official duties satisfactorily.
- 30 (5) The office of a member of the Board becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - 35 (d) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or
 - (e) is removed from office under subsection (4).

- (6) If a member of the Board's term of office expires, or the member resigns, before a matter currently before the Board is completed, the member may, for the purpose of continuing and completing that matter, continue to act as a member of the Board.

29—Presiding member

The Minister must appoint a member of the Board to preside at meetings of the Board (the *presiding member*).

30—Functions of Board

- (1) The functions of the Board are as follows:
- (a) to provide advice to the Minister as the Board considers appropriate;
- (b) to carry out other functions assigned to the Board under this Act or by the Minister.
- (2) The Board must carry out its functions with the object of ensuring that a person's request for voluntary euthanasia is carried out in accordance with this Part and the wishes of the person.

31—Board's procedures

- (1) Subject to this Act, 3 members constitute a quorum of the Board.
- (2) A meeting of the Board will be chaired by the presiding member or, in his or her absence, the members present at a meeting of the Board must choose 1 of their number to preside at the meeting.
- (3) A decision carried by unanimous decision of the members of the Board at a meeting is a decision of the Board.
- (4) The Board must have accurate minutes kept of its meetings.
- (5) Subject to this Act, the Board may determine its own procedures.

32—Conflict of interest etc under Public Sector Management Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with persons in the medical or legal professions generally, or a substantial section of persons in the medical or legal professions.

33—Other staff of Board

- (1) There will be such other staff of the Board as the Board thinks necessary for the proper performance of its functions.
- (2) A member of the staff of the Board is not, as such, an employee of the Public Service, but the Board may employ a person who is on leave from employment in the Public Service or with an instrumentality or agency of the Crown.

- (3) The Board may, under an arrangement established by a Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

34—Annual report

- (1) The Board must, on or before 30 September in each year, deliver to the Minister a report on the work of the Board during the financial year ending on the preceding 30 June.
- (2) The report must include the information required by regulations.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Division 4—Register

35—Registrar of Board

- (1) There will be a Registrar of the Board.
- (2) The Registrar will be appointed by the Board on terms and conditions determined by the Board.

36—Register

- (1) The Registrar must keep a register in relation to requests for voluntary euthanasia made in accordance with this Act (the *Register*).
- (2) The Register must, in relation to each request for voluntary euthanasia, contain the information required by the regulations and may contain any other information the Registrar thinks fit.
- (3) In addition to the information required under subsection (2), the Registrar must keep, in relation to each entry in the Register, the following:
- (a) the active request form or advance request form (as the case requires) relating to the entry;
 - (b) any other document required under this Part to accompany the relevant active request form or advance request form;
 - (c) if a notice of renewal of an advance request is given to the Registrar—the notice;
 - (d) information relating to any order made by the Board under section 38(8) in respect of the request to which the entry relates;
 - (e) any other document required by the regulations;
 - (f) any other document provided to the Registrar in relation to the entry.

(4) If the Registrar is advised under this Part, or otherwise becomes aware, of a revocation or purported revocation of a request for voluntary euthanasia, the Registrar must, as a matter of urgency, inquire into the revocation or purported revocation.

5 (5) If, after due inquiry, the Registrar suspects that a request for voluntary euthanasia has been revoked, the Registrar must remove the relevant entry from the Register.

10 (6) The Register must be kept available for inspection by a person who, in the opinion of the Registrar, has proper grounds for inspecting the Register.

(7) The Registrar must impose conditions in relation to inspection of the Register protecting the privacy of persons other than the person forming the subject of the relevant inspection, and may impose any other condition the Registrar thinks fit in relation to such inspection.

15 (8) A certificate stating that a request for voluntary euthanasia was, or was not, registered on the Register and purporting to be signed by the Registrar will, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the registration, or of the fact that the request was not so registered.

20 **37—Registrar may require information**

(1) The Registrar may, by notice in writing, for the purpose of preparing and administering the Register, require a person to provide the Registrar with such information as the Registrar may require.

25 (2) A person must not refuse or fail to comply with a requirement under subsection (1).

Maximum penalty: \$10 000 or imprisonment for 6 months.

30 (3) If a person is required under this section to provide information to the Registrar, the Registrar may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Registrar.

Division 5—Board declarations and orders

38—Board declarations and orders

35 (1) This section applies, in respect of a particular person's request for voluntary euthanasia, to the following persons:

(a) the person;

(b) a medical practitioner who is, or is likely, to administer voluntary euthanasia to the person;

40 (c) the treating medical practitioner of the person;

(d) the Registrar;

- (e) a person authorised in writing for the purposes of this section by a person referred to in a preceding paragraph.
- 5 (2) A person to whom this section applies may apply to the Board to make 1 or all of the following declarations in relation to a person who has made a request for voluntary euthanasia which has not been revoked:
- (a) a declaration that a person who made the request is, or is not, a person to whom section 19 applies;
- 10 (b) a declaration that a condition specified in the request has, or has not, been satisfied;
- (c) a declaration that a requirement under this Act in relation to the making of the request has, or has not, been satisfied.
- (3) An application under this section must be made in a manner and form determined by the Board.
- 15 (4) No fee may be charged in relation to an application under this section.
- (5) If a person (not being the person who is the subject of the relevant request for euthanasia) makes an application under this section, the Board—
- 20 (a) must, in accordance with any requirement set out in the regulations, give notice of the application, and of the time and place at which it intends to conduct any relevant proceedings, to the person who is the subject of the relevant request for euthanasia; and
- 25 (b) must afford to the person who is the subject of the relevant request for euthanasia a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.
- (6) Subject to this section, if an application is made under this section for a declaration that a person is a person to whom section 19 applies, or that a relevant condition has been satisfied, the Board must inquire into the subject matter of the application and, if satisfied beyond reasonable doubt that the person is a person to whom section 19 applies, or that the relevant condition has been satisfied, the Board must grant the application.
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- (7) In respect of an application for a declaration under subsection (2)(b) that a condition relating to the question of whether life has become intolerable to a person, or is likely to have become intolerable to a person, has been satisfied, the Board must determine the question in accordance with the expressed wishes or views of the person, and, in the absence of any expressed wishes or views, the Board may not make the declaration.
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- 5 (8) If, after due inquiry in relation to a particular request for voluntary euthanasia (whether such inquiry was a result of an application under this section or was conducted on the Board's own motion), the Board is of the opinion that it is appropriate to do so, the Board may make 1 or more of the following orders:
- (a) an order declaring the request to be void and of no effect;
- 10 (b) an order postponing the administration of voluntary euthanasia for a specified period (being a period not exceeding 1 month) to enable further inquiries to be made in relation to the request;
- (c) an order imposing such conditions as the Board thinks fit on the administration of voluntary euthanasia to the person;
- 15 (d) any other order the Board thinks fit in relation to the request (including an order that the person submit to an examination by a medical practitioner, or by a medical practitioner of a class, specified by the Board).
- (9) If the Board makes an entry under subsection (8)(a), the Registrar must remove the relevant entry from the Register.
- 20 (10) A person who contravenes, or fails to comply with—
- (a) an order under this section; or
- (b) a condition imposed under this section on the administration of voluntary euthanasia to a person,
- is guilty of an offence.
Maximum penalty: Imprisonment for 10 years.
- 25 (11) In relation to an application for a declaration under this section, or an inquiry under subsection (8), the Board—
- (a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and
- 30 (b) must act according to good conscience and the substantial merits of the case without regard to technicalities and legal forms; and
- (c) must deal with the application or inquiry as a matter of urgency; and
- 35 (d) may refer any question of law for determination by the Supreme Court.
- (12) An applicant for a declaration under this section is entitled to be represented at the hearing of the application.
- (13) A hearing of an application for a declaration under this section is not to be open to the public.

39—Powers of Board in relation to witnesses etc

- (1) For the purposes of this Subdivision, the Board may—
 - (a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of a person whom the Board thinks fit to call before it; or
 - (b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of relevant documents, records or equipment and, in the case of a document or record that is not in the English language—
 - (i) a written translation of the document or record into English; and
 - (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record; or
 - (c) inspect documents, records or equipment produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the documents or records or their contents; or
 - (d) require a person to make an oath or affirmation (which may be administered by a member of the Board) to answer truthfully questions put by a member of the Board or a person appearing before the Board; or
 - (e) require a person appearing before the Board (whether summoned to appear or not) to answer questions put by a member of the Board or by a person appearing before the Board.
- (2) On the receipt of an application for the issue of a summons under this section, a member of the Board or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.
- (3) A person who—
 - (a) fails without reasonable excuse to comply with a summons issued to attend, or to produce documents, records or equipment, before the Board; or
 - (b) having been served with a summons to produce—
 - (i) a written translation of the document or record into English; and
 - (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,

fails, without reasonable excuse, to comply with the summons; or

- 5
- (c) misbehaves before the Board, wilfully insults the Board or 1 or more of the members in the exercise of the member's official duties, or wilfully interrupts the proceedings of the Board; or
 - (d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Board,

10 is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

- (4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

40—Access to Board records

15 Except as authorised by the Supreme Court, the records of proceedings for a declaration under section 38 will not be open to inspection.

41—Finality of declarations

20 A declaration made, or purportedly made, under section 38 cannot be appealed against, reviewed, called into question, or affected by any court, on any account.

Division 6—Appeal

42—Right of appeal to Supreme Court

- 25
- (1) An appeal lies to the Supreme Court against an order of the Board made, or purportedly made, under section 38(8).
 - (2) An appeal may be instituted by a person to whom section 38 applies.
 - (3) An appeal must be instituted within 7 days of the date of the order appealed against.

Division 7—Administration of voluntary euthanasia

43—Administration of voluntary euthanasia

- 30
- (1) A medical practitioner (whether the patient's treating medical practitioner or otherwise) may administer voluntary euthanasia to a person if—
 - 35 (a) the person has made a request for voluntary euthanasia; and
 - (b) the person has not revoked the request; and
 - (c) the person is a person to whom section 19 applies; and

(d) any conditions precedent set by the person in relation to the administration of voluntary euthanasia (whether expressed in the request or otherwise) have, as far as is practicable, been satisfied; and

5 (e) the person has not expressed a desire to postpone the administration of voluntary euthanasia; and

(f) the medical practitioner has taken the steps prescribed by the regulations to ascertain, as far as is practicable, whether the person has revoked the request; and

10 (g) the medical practitioner has made the prescribed enquiries with the Board in relation to the request; and

(h) any relevant order made by the Board under section 38 has been complied with; and

15 (i) any other requirement set out in the regulations for the purposes of this section has been satisfied.

(2) A medical practitioner may only administer voluntary euthanasia by 1 or more of the following methods:

(a) by administering drugs in appropriate concentrations to end life;

20 (b) by prescribing drugs for self-administration by a patient to allow the patient to end his or her life;

(c) by withholding or withdrawing medical treatment in circumstances that will result in an end to life.

25 (3) A method of administering voluntary euthanasia referred to in subsection (2) must, as far as is practicable, result in an end to life that is painless.

30 (4) In administering voluntary euthanasia, a medical practitioner must give effect, as far as is practicable, to the expressed wishes of the person who is the subject of the request (whether such wishes are expressed in the request for voluntary euthanasia or otherwise).

44—Report to State Coroner

(1) A medical practitioner who administers voluntary euthanasia must make a report to the State Coroner within 48 hours after doing so. Maximum penalty: \$5 000.

35 (2) The report must be in the prescribed form, and must be accompanied by—

(a) a copy of the relevant active request form or advance request form (as the case requires); and

40 (b) if a certificate from a psychiatrist is required under section 19(3)(c) or 20(2)(c)—a copy of the certificate.

(3) The State Coroner must forward to the Board a copy of a report made under this section.

Division 8—Offences

45—Undue influence

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.

46—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.

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

Maximum penalty: Imprisonment for 10 years.

Division 9—Miscellaneous

47—Certain persons to forfeit interest in estate

A person convicted or found guilty of an offence against section 24(5) or 45 forfeits any interest that that person might otherwise have had in the estate of the person to whom voluntary euthanasia has been, or is to be, administered.

48—Protection from liability

A medical practitioner who administers voluntary euthanasia, or a person who assists in the administration of voluntary euthanasia, incurs no civil or criminal liability by doing so (including, to avoid doubt, in disciplinary proceedings or similar proceedings).

49—Person may decline to administer or assist the administration of voluntary euthanasia

- (1) A medical practitioner may decline to carry out a request for the administration of voluntary euthanasia on any grounds.
- (2) However, if a medical practitioner declines to administer voluntary euthanasia, he or she must inform the person that another medical practitioner may be prepared to consider the request.
- (3) A person may decline to assist a medical practitioner to administer voluntary euthanasia on any grounds without prejudice to the person's employment or any other form of adverse discrimination.
- (4) The administering authority of a hospital, hospice, nursing home or other institution for the care of the sick or infirm may refuse to permit voluntary euthanasia within the institution but, if it does so, must take steps to ensure that such refusal is brought to the attention of patients entering the institution in accordance with the regulations.

50—Cause of death

- 5
- (1) For the purposes of the law of the State, or for any other purpose, the death of a person resulting from voluntary euthanasia will be taken to have been caused by the patient's relevant illness, injury or medical condition.
 - (2) For the purposes of the law of the State, or for any other purpose, the death of a person resulting from voluntary euthanasia is not suicide or homicide.

51—Insurance

- 10
- (1) An insurer is not entitled to refuse to make a payment that is payable under a life insurance policy on death of the insured on the ground that the death resulted from the administration of voluntary euthanasia.
 - 15 (2) A person is not obliged to disclose a request for voluntary euthanasia to an insurer, and an insurer must not ask a person to disclose whether the person has made a request for voluntary euthanasia.
Maximum penalty: \$10 000.
 - (3) This section applies despite an agreement between a person and an insurer to the contrary.
- 20

52—Confidentiality

- 25
- (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
 - 30 (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.
35
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.
- 40

- (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.

Part 5—Miscellaneous

53—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) The regulations may confer discretionary powers on a specified person or body of persons.