

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to provide a legislative framework for the rights of terminally ill persons to request and receive assistance to end their lives voluntarily. Under this framework, terminally ill persons may be assisted by their medical practitioners to administer a substance to themselves.

The Bill provides protection for persons providing such assistance and sets up safeguards against possible abuse of the right recognised by the Bill.

### Outline of provisions

#### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act 3 months after the date of assent to the proposed Act, unless sooner commenced by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

#### Part 2 Request for and provision of assistance

**Clause 4** enables a patient with a terminal illness who is experiencing pain, suffering or distress to an unacceptable extent to request a medical practitioner (the *primary medical practitioner*) to assist the patient to end the patient's life.

**Clause 5** empowers the primary medical practitioner (in due course) to assist the patient to end the patient's life, or to refuse to provide such assistance.

**Clause 6** makes it an offence for a person:

(a) to give or promise any reward or advantage, or

(b) to cause or threaten to cause any disadvantage,

to a primary medical practitioner or other person:

(c) for assisting in ending a life, or

(d) for refusing to assist in ending a life, or

(e) for the purpose of compelling or persuading the primary medical practitioner or other person to assist or refuse to assist in ending a life.

This clause also prevents the gift or promise of any such reward or advantage from being legally enforced or retained.

**Clause 7** sets out the conditions that must be satisfied before a primary medical practitioner may provide assistance under the proposed Act.

**Clause 8** deals with the situation where the patient requesting assistance under the proposed Act is physically unable to sign a certificate. In this case the patient may nominate a person to sign the certificate on the patient's behalf.

**Clause 9** allows a patient who has requested assistance to rescind that request at any time. The primary medical practitioner must then destroy the patient's certificate of request and note the fact on the patient's medical record.

**Clause 10** makes it an offence to procure the signing or witnessing of a certificate of request by deception or improper influence. A person who commits this offence forfeits any financial benefit that might follow from the death of the patient concerned.

#### Part 3 Records and reporting of death

**Clause 11** sets out the information that a primary medical practitioner providing assistance under the proposed Act must keep as part of the patient's medical record.

**Clause 12** facilitates the recording and notification of a death resulting from assistance provided under the proposed Act.

**Clause 13** requires a primary medical practitioner who provides assistance under the proposed Act to send to the Voluntary Assisted Deaths Review Panel established under Part 4 (the *Panel*) a copy of the death notification required under the *Births, Deaths and Marriages Registration Act 1995* and so much of the patient's medical record as relates to the terminal illness and death of the patient.

## **Part 4 Voluntary Assisted Deaths Review Panel**

**Clause 14** provides for the establishment and composition of the Panel.

**Clause 15** provides that the functions of the Panel are to review deaths that occur as a result of assistance provided under the proposed Act, to report to Parliament on matters relating to the exercise of the functions of the Panel, to communicate breaches of the proposed Act to appropriate authorities and to foster research into the operation of the Act.

**Clause 16** requires the Panel to review each death of a patient that occurs as a result of assistance provided under the proposed Act. In conducting the review, the Panel is to have regard to the notice of death, and medical records, provided by the primary medical practitioner in relation to the patient.

**Clause 17** allows the Panel to require a person to provide information or documents for the purpose of conducting a review. It is an offence to fail to comply with such a requirement or to provide false or misleading information in response to such a requirement.

**Clause 18** provides for the referral to appropriate authorities of matters relating to breaches of the proposed Act.

**Clause 19** makes it an offence to make a record of, or disclose to any person, any information acquired by a person by the operation of the proposed Act, except in the exercise of functions under the proposed Act or otherwise in connection with the administration of the proposed Act.

**Clause 20** provides for the reporting by the Panel on matters relating to the Panel's functions to each House of Parliament and to the Minister.

**Clause 21** provides for the procedures relating to the provision of reports to Parliament.

## **Part 5 Miscellaneous**

**Clause 22** provides that action taken by a medical practitioner or other health care provider in accordance with the proposed Act does not constitute an offence, or an attempt or conspiracy to commit an offence, or aiding, abetting, counselling or procuring the commission of an offence, against the *Crimes Act 1900* or any other Act or law.

**Clause 23** provides that a certificate of request for assistance under the proposed Act is admissible and prima facie evidence before a court of the request contained in the certificate.

**Clause 24** provides that a will, contract or other agreement is not valid to the extent that it would affect whether a person may make or rescind a request for assistance under the proposed Act or provide or refuse to provide that assistance. This clause also provides that contractual obligations are not affected by the making or rescinding of a request for assistance under the proposed Act.

**Clause 25** provides that insurance contracts are not affected by the making or rescinding of a request for, or the provision of, assistance under the proposed Act.

**Clause 26** confers immunity from civil or criminal action and professional disciplinary action for anything done in good faith and without negligence in compliance with the proposed Act.

**Clause 27** allows the Governor to make regulations for the purposes of the proposed Act.

**Clause 28** confers jurisdiction on the Local Court for offences against the proposed Act (other than offences against section 6 or 10).

**Clause 29** provides for a review of the proposed Act by the Minister after the period of 5 years from the commencement of the proposed Act.

## **Schedule 1 Form**

**Schedule 1** sets out the form of certificate to be used in relation to a request for assistance under the proposed Act.

## **Schedule 2 Members and procedure of Panel**

**Schedule 2** contains ancillary provisions relating to the members and procedure of

the Panel.