

Western Australia

LEGISLATIVE COUNCIL

*(Introduced by Hon Norm Kelly)*

# **Voluntary Euthanasia Bill 1998**

**A Bill for**

**An Act to provide for the administration of voluntary euthanasia.**

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Voluntary Euthanasia Act 1998*.

**2. Interpretation**

In this Act, unless inconsistent with the context —

“**applicant**” means a person who makes a request for the administration of euthanasia;

5 “**medical practitioner**” means a person registered as a medical practitioner under the *Medical Act 1894*.

**3. Purpose of Act**

10 This Act is intended to permit a person to end his or her life deliberately with medical assistance where the person has an illness or medical condition that will most likely cause the death of that person and the pain and suffering arising from or relating to that illness or medical condition has, or is in the process of becoming, unbearable to the person.

**4. Euthanasia request**

15 (1) A person who is mentally competent and of or over the age of 18 may request euthanasia.

(2) A request under subsection (1) cannot be made unless, at the time at which it is made, the applicant —

20 (a) has a medically-diagnosed illness or condition that, as it progresses, will most likely cause the death of that person;

and

(b) by reason of the pain and suffering or debilitation associated with the actual progress of that illness or condition, has no desire to continue living.

25 (3) A request made under subsection (2) lapses 3 months from the date on which it was made and may be renewed subsequently for 1 or more further periods of 3 months.

- (4) Any subsequent request is to be treated for all purposes as if it were an original request.
- (5) A request and any subsequent request must be made in the form prescribed in the Schedule.

5 **5. Witnesses**

- (1) A request must be witnessed by 2 adult persons in each other's presence and in the presence of the applicant, of whom one cannot be a friend or close relation of the applicant.
- 10 (2) Where an applicant is physically unable to sign a request, a witness may sign on the applicant's behalf.
- (3) A witness who signs a request under subsection (2) forfeits any financial or valuable gain or advantage that the witness might otherwise have obtained, directly or indirectly, resulting from the applicant's death.

15 **6. Request to be made to medical practitioner**

- (1) A request is to be made to a medical practitioner who may accept or reject the request.
- 20 (2) It is the duty of the medical practitioner rejecting the request to inform the applicant at the earliest opportunity and, after making reasonable inquiries, refer it to another medical practitioner willing to accept it.
- (3) Subject to the requirements of this Act, a medical practitioner who accepts a request is bound to act in accordance with its provisions during its currency.

**7. Procedure following acceptance of request**

A medical practitioner must not give effect to a request unless —

- 5
- (a) the medical practitioner and another medical practitioner have each examined the applicant separately and each is satisfied on reasonable grounds that —
- 10
- (i) the applicant has an illness or condition of the type described in section 4 (2) (a);
- (ii) any medical treatment available to the applicant is confined to the amelioration of pain and suffering arising from the illness or condition;
- 15
- (iii) the applicant is mentally competent and is not suffering from treatable, clinical depression;
- (iv) the applicant freely and knowingly requests the administration of euthanasia and for this purpose an interpreter shall be used if the first language of the applicant is not the same as that of each medical practitioner;
- 20
- (b) the medical practitioner, or another medical practitioner having expertise in the field of palliative care if either of the medical practitioners referred to in paragraph (a) do not have that expertise, has informed the applicant of the likely progress of the illness or condition, the forms of treatment that are available, including palliative care, and their respective risks, side-effects and possible outcomes, and the availability of counselling and psychiatric support services;
- 25
- (c) the form of request complies in all substantive respects with the requirements of this Act;
- 30
- (d) the medical practitioners referred to in paragraph (a) and, where applicable, paragraph (b) have endorsed the request in the form prescribed in the Schedule;

- (e) the completed form of request has been placed on the applicant's medical file.

**8. Administration of euthanasia**

- 5 (1) It is unlawful for any person who is not a medical practitioner to administer euthanasia or assist in its self-administration.
- (2) So far as is practicable at the time, a medical practitioner shall give effect to an applicant's instructions contained in a request governing the time, place and circumstances for the administration of euthanasia.
- 10 (3) Not less than 48 hours shall elapse between the time of completing all the requirements of this Act in relation to a request and the administration of euthanasia.
- (4) Euthanasia cannot be administered otherwise than by the use of drugs in appropriate concentrations, or by withholding or  
15 withdrawing medical treatment, to the extent that, in either case, death will ensue quickly without pain or distress.
- (5) For the purposes of subsection (4), drugs may be administered by a medical practitioner or supplied to the applicant for  
20 self-administration by, and in the presence of, that medical practitioner.

**9. Revocation of request**

- (1) A request may be revoked by an applicant at any time and in any manner sufficient to indicate revocation.
- 25 (2) A person to whom revocation of a request is made, if that person is not the applicant's medical practitioner, must forthwith inform the applicant's medical practitioner.
- (3) The medical practitioner must take reasonable steps to satisfy himself or herself that revocation has been made if it is not in

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writing signed by the applicant and was not made to that medical practitioner.

- 5 (4) In whichever way revocation is made, and subject to the provisions of this section, the medical practitioner shall destroy the request and note the applicant's medical file accordingly.
- (5) Revocation of a request does not prevent the making of a subsequent request.

**10. Subsequent mental incompetence**

10 Where an applicant becomes mentally incompetent, whether permanently or episodically, after making a request —

- (a) but before the requirements of section 7 have been completed, the request lapses;
- (b) and the requirements of section 7 have been completed, the request has effect.

15 **11. Coroner to be informed**

- (1) A medical practitioner who administers, or who assists in the self-administration of, euthanasia must inform the Coroner in writing within 48 hours of an applicant's death and supply a copy of the request and the death certificate.
- 20 (2) A death that ensues as a result of euthanasia under this Act is not, by reason only of that fact, a reportable death within the meaning of section 3 of the *Coroners Act 1996*.

**12. Evidence**

25 In any proceedings before a court, a request is admissible as evidence of the fact that the request was made and of any statement, certificate or instruction or other matter contained in the request.

**13. No liability**

An applicant and any person who deals with, or gives effect to, a request —

- (a) does not incur any criminal or civil liability;
- 5 (b) is not liable to any disciplinary proceeding,

if what the applicant or the person did, or failed to do, was reasonable or necessary in order to give effect to, or comply with, the provisions of this Act.

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## Schedule

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### Section A — Applicant's request

5 I [name/address of applicant] being mentally competent make this request for the administration of euthanasia in accordance with the directions set out below.

I make this request freely and in the knowledge and with the intent that carrying it into effect will result in my death.

10 I desire that euthanasia be self-administered or administered to me [strike out the option that does NOT apply] on [date] at [state place/location] in the presence of [names of persons (if any) applicant desires to be present at time of administration] in the following circumstances [here give any special directions]

*signature of applicant or s 5(2) witness and date*

### Section B — Witness declaration (to be completed by each witness)

I, [name/address of witness] declare that I witnessed:

[name of applicant] sign this request;

or

[name of s 5(2) witness] sign this request with the applicant's consent;

and

[name of other witness] sign this request as a witness.

*signature of witness and date*

I, [name/address of witness] declare that I witnessed:

[name of applicant] sign this request;

or

[name of s 5(2) witness] sign this request with the applicant's consent;

and

[name of other witness] sign this request as a witness.

*signature of witness and date*



**Section C — Statement of medical practitioner**

I [name/address of applicant's medical practitioner] having received and accepted this request certify that I have —

- (a) examined the applicant and that I am satisfied that:
- 5           • the applicant's illness or condition [describe precisely the illness/condition diagnosed] meets the requirements of s 4 (2) (a) of the *Voluntary Euthanasia Act 1998* ("the Act");
  - 10           • medical treatment available cannot affect the progress of the illness/condition but is confined to reducing the severity of its symptoms and the amelioration of pain, suffering and distress;
  - the applicant is mentally competent and is not suffering from treatable clinical depression;
  - 15           • the applicant has made this request freely and knowingly and understands that giving effect to this request will result in his/her death.
- (b) provided, or have caused to be provided, the information required by s 7 (b) of the Act [attach copy of any relevant written information provided to applicant];
- (c) placed, or caused to be placed, this request on the applicant's medical file.
- 20

I endorse this request.

*signature of medical practitioner and date*

**Section D — Statement of second medical practitioner and, if applicable, medical practitioner referred to in section 7 (b)**

- 25 I [name/address of medical practitioner] certify that I have examined the applicant and that I am satisfied that:
- the applicant's illness or condition [describe precisely the illness/condition diagnosed] meets the requirements of s 4 (2) (a) of the *Voluntary Euthanasia Act 1998* ("the Act");
  - 30           • medical treatment available cannot affect the progress of the illness/condition but is confined to reducing the severity of its symptoms and the amelioration of pain, suffering and distress;
  - the applicant is mentally competent and is not suffering from treatable clinical depression;

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- the applicant has made this request freely and knowingly and understands that giving effect to this request will result in his/her death.

I endorse the request.

5 *signature of medical practitioner and date*

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