



# End of Life Choice Act 2019

Public Act 2019 No 67  
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Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the End of Life Choice Act 2019.

**2 Commencement**

- (1) If a majority of electors voting in a referendum respond to the question in subsection (2) supporting this Act coming into force, this Act comes into force 12

- months after the date on which the official result of that referendum is declared.
- (2) The wording of the question to be put to electors in a referendum for the purposes of subsection (1) is—  
“Do you support the End of Life Choice Act 2019 coming into force?”
- (3) The wording of the 2 options for which electors may vote in response to the question is—  
“Yes, I support the End of Life Choice Act 2019 coming into force.”  
“No, I do not support the End of Life Choice Act 2019 coming into force.”
- (4) This section overrides any other enactment to the extent that the enactment specifies any wording of the question or the options for the referendum that is different from the wording in subsections (2) and (3).
- (5) If this Act does not come into force under subsection (1) within 5 years after the date on which it receives the Royal assent, this Act is repealed.
- (6) In this section, **referendum**—
- (a) means a referendum providing electors with an opportunity to decide whether this Act should come into force; and
  - (b) includes any fresh referendum required to be held if the High Court, on a petition, declares the referendum under paragraph (a) to be void.

## Part 1

### Preliminary provisions

#### 3 Purpose of Act

The purpose of this Act is—

- (a) to give persons who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives; and
- (b) to establish a lawful process for assisting eligible persons who exercise that option.

#### 4 Interpretation

In this Act, unless the context otherwise requires,—

**approved form** means a form approved and issued under section 40

**assisted dying**, in relation to a person, means—

- (a) the administration by an attending medical practitioner or an attending nurse practitioner of medication to the person to relieve the person’s suffering by hastening death; or

- (b) the self-administration by the person of medication to relieve their suffering by hastening death

**attending medical practitioner**, in relation to a person, means the person's medical practitioner

**attending nurse practitioner** means a nurse practitioner who is acting under the instruction of an attending medical practitioner (or replacement medical practitioner)

**authority** has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**Code of Health and Disability Services Consumers' Rights** means the Code of Health and Disability Services Consumers' Rights prescribed by regulations made under section 74(1) of the Health and Disability Commissioner Act 1994

**competent to make an informed decision about assisted dying** has the meaning given to it in section 6

**conscientious objection** means an objection on the ground of conscience

**Director-General** means the Director-General of Health

**eligible person** has the meaning given to it in section 5

**health practitioner** has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**independent medical practitioner** means a medical practitioner who,—

- (a) in relation to a person who has requested to exercise the option of receiving assisted dying, is independent of the person and of the person's attending medical practitioner (and any replacement medical practitioner); and
- (b) has held, for at least the previous 5 years, a practising certificate, or the equivalent certification from an overseas authority responsible for the registration or licensing of medical practitioners

**medical practitioner** means a health practitioner who—

- (a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and
- (b) holds a current practising certificate

**medication**, in relation to assisted dying, means a lethal dose of the medication

**Minister** means the Minister of the Crown who is responsible for the administration of this Act—

- (a) under the authority of a warrant; or
- (b) under the authority of the Prime Minister

**Ministry** means the Ministry of Health

**nurse practitioner** means a health practitioner who—

- (a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and
- (b) holds a current practising certificate

**person who is eligible for assisted dying** has the meaning given to it in section 5

**pharmacist** means a health practitioner who—

- (a) is, or is deemed to be, registered with the Pharmacy Council established by section 114(5) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of pharmacy; and
- (b) holds a current practising certificate

**psychiatrist** means a medical practitioner whose scope of practice includes psychiatry

**Registrar** means the Registrar (assisted dying) nominated under section 27

**Review Committee** means the committee appointed under section 26

**SCENZ** means Support and Consultation for End of Life in New Zealand

**SCENZ Group** means the body established under section 25.

## **5 Meaning of person who is eligible for assisted dying or eligible person**

- (1) In this Act, **person who is eligible for assisted dying** or **eligible person** means a person who—
  - (a) is aged 18 years or over; and
  - (b) is—
    - (i) a person who has New Zealand citizenship as provided in the Citizenship Act 1977; or
    - (ii) a permanent resident as defined in section 4 of the Immigration Act 2009; and
  - (c) suffers from a terminal illness that is likely to end the person's life within 6 months; and
  - (d) is in an advanced state of irreversible decline in physical capability; and
  - (e) experiences unbearable suffering that cannot be relieved in a manner that the person considers tolerable; and
  - (f) is competent to make an informed decision about assisted dying.
- (2) A person is not a person who is eligible for assisted dying or an eligible person by reason only that the person—

- (a) is suffering from any form of mental disorder or mental illness; or
- (b) has a disability of any kind; or
- (c) is of advanced age.

## **6 Meaning of competent to make an informed decision about assisted dying**

In this Act, a person is **competent to make an informed decision about assisted dying** if the person is able to—

- (a) understand information about the nature of assisted dying that is relevant to the decision; and
- (b) retain that information to the extent necessary to make the decision; and
- (c) use or weigh that information as part of the process of making the decision; and
- (d) communicate the decision in some way.

## **7 Act binds the Crown**

This Act binds the Crown.

# **Part 2 Assisted dying**

## **8 Conscientious objection**

- (1) A health practitioner is not under any obligation to assist any person who wishes to exercise the option of receiving assisted dying under this Act if the health practitioner has a conscientious objection to providing that assistance to the person.
- (2) Subsection (1)—
  - (a) applies despite any legal obligation to which the health practitioner is subject, regardless of how the legal obligation arises; but
  - (b) does not apply to the obligation in section 9(2).
- (3) An employer must not—
  - (a) deny to an employee any employment, accommodation, goods, service, right, title, privilege, or benefit merely because the employee objects on the grounds of conscience to providing any assistance referred to in subsection (1); or
  - (b) provide or grant to an employee any employment, accommodation, goods, service, right, title, privilege, or benefit conditional upon the employee providing or agreeing to provide any assistance referred to in subsection (1).
- (4) A person who suffers any loss by reason of any breach of subsection (3) is entitled to recover damages from the person responsible for that breach.

- (5) In subsection (3), **employee** includes a prospective employee.

**9 Effect of conscientious objection by attending medical practitioner**

- (1) This section applies if—
- (a) a person informs the attending medical practitioner under section 11(1) that they wish to exercise the option of receiving assisted dying; and
  - (b) the attending medical practitioner has a conscientious objection to providing that option to the person.
- (2) The attending medical practitioner must tell the person—
- (a) of their conscientious objection; and
  - (b) of the person’s right to ask the SCENZ Group for the name and contact details of a replacement medical practitioner.
- (3) If the person chooses to have a replacement medical practitioner, all subsequent references in this Act to the attending medical practitioner (except in section 11(1)) are to the person’s replacement medical practitioner.

**10 Assisted dying must not be initiated by health practitioner**

- (1) A health practitioner who provides any health service to a person must not, in the course of providing that service to the person,—
- (a) initiate any discussion with the person that, in substance, is about assisted dying under this Act; or
  - (b) make any suggestion to the person that, in substance, is a suggestion that the person exercise the option of receiving assisted dying under this Act.
- (2) Subsection (1) does not prevent a health practitioner from—
- (a) discussing with a person, at that person’s request, assisted dying under this Act; or
  - (b) providing information to a person, at that person’s request, about assisted dying under this Act.
- (3) A health practitioner who contravenes subsection (1)—
- (a) is not to be treated as having committed an offence under section 39(1); but
  - (b) may under the Health and Disability Commissioner Act 1994 be found by the Health and Disability Commissioner or held by the Human Rights Review Tribunal to have acted in breach of the Code of Health and Disability Services Consumers’ Rights by providing services that do not comply with relevant legal standards; and
  - (c) may be the subject of disciplinary proceedings for professional misconduct under the Health Practitioners Competence Assurance Act 2003.
- (4) In this section, **health service** has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003.

**11 Request made**

- (1) A person who wishes to exercise the option of receiving assisted dying must inform the attending medical practitioner of their wish.
- (2) The attending medical practitioner must—
  - (a) give the person the following information:
    - (i) the prognosis for the person’s terminal illness; and
    - (ii) the irreversible nature of assisted dying; and
    - (iii) the anticipated impacts of assisted dying; and
  - (b) personally communicate by any means (for example, by telephone or electronic communication) with the person about the person’s wish at intervals determined by the progress of the person’s terminal illness; and
  - (c) ensure that the person understands their other options for end-of-life care; and
  - (d) ensure that the person knows that they can decide at any time before the administration of the medication not to receive the medication; and
  - (e) encourage the person to discuss their wish with others such as family, friends, and counsellors; and
  - (f) ensure that the person knows that they are not obliged to discuss their wish with anyone; and
  - (g) ensure that the person has had the opportunity to discuss their wish with those whom they choose; and
  - (h) do their best to ensure that the person expresses their wish free from pressure from any other person by—
    - (i) conferring with other health practitioners who are in regular contact with the person; and
    - (ii) conferring with members of the person’s family approved by the person; and
  - (i) record the actions they have taken to comply with paragraphs (a) to (h) in the first part of the approved form that requests the option of receiving assisted dying.

**12 Request confirmed**

- (1) This section applies after the attending medical practitioner complies with section 11.
- (2) If the person requesting to exercise the option of receiving assisted dying (A) wishes to proceed, the attending medical practitioner must give A the approved form referred to in section 11(2)(i).
- (3) A must—
  - (a) sign and date the second part of the form; or

- (b) be present when the second part of the form is signed and dated as described in subsection (4).
- (4) The second part of the form may be signed and dated by another person (**B**) if—
  - (a) A cannot write for any reason; and
  - (b) A requests B to sign and date it; and
  - (c) B notes on the form that they signed the second part of the form in the presence of A; and
  - (d) B confirms on the form that B is not—
    - (i) a health practitioner caring for A; or
    - (ii) a person who knows that they stand to benefit from the death of A; or
    - (iii) a person aged under 18 years; or
    - (iv) a person with a mental incapacity.
- (5) The attending medical practitioner must—
  - (a) be present when—
    - (i) subsection (3)(a) is complied with; or
    - (ii) subsections (3)(b) and (4) are complied with; and
  - (b) collect the form; and
  - (c) send the completed form to the Registrar.

### **13 First opinion to be given by attending medical practitioner**

- (1) This section applies after the attending medical practitioner complies with section 12(5)(c).
- (2) The attending medical practitioner must reach the opinion that—
  - (a) the person requesting the option of receiving assisted dying is a person who is eligible for assisted dying; or
  - (b) the person requesting the option of receiving assisted dying is not a person who is eligible for assisted dying; or
  - (c) the person requesting the option of receiving assisted dying would be a person who is eligible for assisted dying if it were established under section 15 that the person was competent to make an informed decision about assisted dying.
- (3) The attending medical practitioner must—
  - (a) complete an approved form recording their opinion; and
  - (b) send the completed form to the Registrar.

**14 Second opinion to be given by independent medical practitioner**

- (1) This section applies if the attending medical practitioner reaches the opinion described in section 13(2)(a) or (c).
- (2) The attending medical practitioner must—
  - (a) ask the SCENZ Group for the name and contact details of an independent medical practitioner; and
  - (b) ask the independent medical practitioner for their opinion on whether the person requesting the option of receiving assisted dying is a person who is eligible for assisted dying.
- (3) The independent medical practitioner must—
  - (a) read the person's medical files; and
  - (b) examine the person; and
  - (c) reach the opinion that—
    - (i) the person is a person who is eligible for assisted dying; or
    - (ii) the person is not a person who is eligible for assisted dying; or
    - (iii) the person would be a person who is eligible for assisted dying if it were established under section 15 that the person was competent to make an informed decision about assisted dying.
- (4) The independent medical practitioner must—
  - (a) complete an approved form recording their opinion; and
  - (b) send the completed form to the Registrar; and
  - (c) send a copy of the completed form to the attending medical practitioner.

**15 Third opinion to be given by psychiatrist if competence not established to satisfaction of 1 or both medical practitioners**

- (1) This section applies if—
  - (a) the following situation exists:
    - (i) the attending medical practitioner reaches the opinion described in section 13(2)(a); and
    - (ii) the independent medical practitioner reaches the opinion described in section 14(3)(c)(iii); or
  - (b) the following situation exists:
    - (i) the attending medical practitioner reaches the opinion described in section 13(2)(c); and
    - (ii) the independent medical practitioner reaches the opinion described in section 14(3)(c)(i); or
  - (c) the following situation exists:

- (i) the attending medical practitioner reaches the opinion described in section 13(2)(c); and
  - (ii) the independent medical practitioner reaches the opinion described in section 14(3)(c)(iii).
- (2) The medical practitioners must jointly—
  - (a) ask the SCENZ Group for the name and contact details of a psychiatrist; and
  - (b) ask the psychiatrist for their opinion on whether the person requesting the option of receiving assisted dying is competent to make an informed decision about assisted dying.
- (3) The psychiatrist must—
  - (a) read the person’s medical files; and
  - (b) examine the person; and
  - (c) reach the opinion that—
    - (i) the person is competent to make an informed decision about assisted dying; or
    - (ii) the person is not competent to make an informed decision about assisted dying.
- (4) The psychiatrist must—
  - (a) complete an approved form recording their opinion; and
  - (b) send the completed form to the Registrar; and
  - (c) send a copy of the completed form to—
    - (i) the attending medical practitioner; and
    - (ii) the independent medical practitioner.

## **16 Opinion reached that person is not eligible for assisted dying**

- (1) Subsection (2) applies if the attending medical practitioner reaches the opinion described in section 13(2)(b).
- (2) The attending medical practitioner must explain the reasons for their opinion to the person requesting the option of receiving assisted dying.
- (3) Subsection (4) applies if—
  - (a) the independent medical practitioner reaches the opinion described in section 14(3)(c)(ii); or
  - (b) the following situation exists:
    - (i) a psychiatrist is asked for their opinion under section 15(2)(b); and
    - (ii) the psychiatrist reaches the opinion described in section 15(3)(c)(ii).

- (4) The independent medical practitioner or the psychiatrist, as appropriate, must explain their reasons for their opinion to the person requesting the option of receiving assisted dying and the attending medical practitioner.
- (5) The attending medical practitioner must—
  - (a) complete an approved form recording the actions taken to comply with subsection (2) or (4); and
  - (b) send the completed form to the Registrar.

### **17 Opinion reached that person is eligible for assisted dying**

- (1) This section applies if—
  - (a) the following situation exists:
    - (i) the attending medical practitioner reaches the opinion described in section 13(2)(a); and
    - (ii) the independent medical practitioner reaches the opinion described in section 14(3)(c)(i); or
  - (b) the following situation exists:
    - (i) a psychiatrist is asked for their opinion under section 15(2)(b); and
    - (ii) the psychiatrist reaches the opinion described in section 15(3)(c)(i).
- (2) The attending medical practitioner must—
  - (a) advise the person requesting the option of receiving assisted dying that the person is a person who is eligible for assisted dying; and
  - (b) discuss with the person the progress of the person's terminal illness; and
  - (c) discuss with the person the likely timing for the administration of the medication; and
  - (d) give the person an approved form for the person to complete by choosing the date and time for the administration of the medication; and
  - (e) advise the person that at any time after completing the approved form referred to in paragraph (d) the person may decide—
    - (i) not to receive the medication; or
    - (ii) to receive the medication at a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication.
- (3) The attending medical practitioner must—
  - (a) complete an approved form recording the actions taken to comply with subsection (2); and
  - (b) send the completed form to the Registrar.

**18 Eligible person to choose date and time for administration of medication**

- (1) If an eligible person wishes to receive assisted dying, the person must—
  - (a) complete the approved form referred to in section 17(2)(d); and
  - (b) return the completed form to the attending medical practitioner.
- (2) After receiving the completed form, the attending medical practitioner must send the form to the Registrar.
- (3) Each time (if any) that an eligible person decides under section 17 or 20 to receive the medication on a date later than the date initially chosen and specified in the approved form referred to in section 17(2)(d),—
  - (a) the eligible person must complete a new approved form to replace the form initially or most recently completed under section 17(2)(d) (**a replacement form**); and
  - (b) references in sections 19 and 20 to the date chosen or chosen time are references to the date and time chosen in the replacement form.

**19 Provisional arrangements for administration of medication**

- (1) This section applies after the attending medical practitioner complies with section 18(2).
- (2) Before the date chosen by an eligible person for the administration of the medication, the attending medical practitioner must—
  - (a) advise the person about the following methods for the administration of the medication:
    - (i) ingestion, triggered by the person:
    - (ii) intravenous delivery, triggered by the person:
    - (iii) ingestion through a tube, triggered by the attending medical practitioner or an attending nurse practitioner:
    - (iv) injection administered by the attending medical practitioner or an attending nurse practitioner; and
  - (b) ask the person to choose one of the methods; and
  - (c) ensure that the person knows that they can decide, at any time before the administration of the medication, not to receive the medication or to receive the medication at a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication; and
  - (d) make provisional arrangements for the administration of the medication on the chosen day and time.
- (3) At least 48 hours before the chosen time for the administration of the medication, the attending medical practitioner, or an attending nurse practitioner, must—

- (a) write the appropriate prescription for the eligible person; and
  - (b) advise the Registrar of the method and of the date and time chosen for the administration of the medication.
- (4) The Registrar must check that the processes in sections 11 to 18 have been complied with.
- (5) If the Registrar is satisfied that the processes in sections 11 to 18 have been complied with, the Registrar must notify the attending medical practitioner accordingly.

## **20 Administration of medication**

- (1) This section applies after the attending medical practitioner has received notification from the Registrar under section 19(5).
- (2) At the chosen time for the administration of the medication, the attending medical practitioner, or an attending nurse practitioner, must ask the eligible person if they choose—
- (a) to receive the medication at that time; or
  - (b) not to receive the medication at that time, but to receive the medication at a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication; or
  - (c) not to receive the medication at that time, and to rescind their request to exercise the option of assisted dying.
- (3) If the eligible person chooses not to receive the medication at the chosen time, the attending medical practitioner, or an attending nurse practitioner, must—
- (a) immediately take the medication away from the eligible person; and
  - (b) complete an approved form recording the action taken to comply with paragraph (a); and
  - (c) send the completed form to the Registrar.
- (4) If the eligible person chooses to receive the medication, the attending medical practitioner, or the attending nurse practitioner, must—
- (a) provide the medication to the person, for administration by either of the methods described in section 19(2)(a)(i) and (ii); or
  - (b) administer the medication by either of the methods described in section 19(2)(a)(iii) and (iv).
- (5) The attending medical practitioner, or the attending nurse practitioner, must—
- (a) be available to the eligible person until the person dies; or
  - (b) arrange for another medical practitioner or attending nurse practitioner to be available to the person until the eligible person dies.

- (6) For the purposes of subsection (5), the attending medical practitioner or attending nurse practitioner **is available to the eligible person** if the medical practitioner or attending nurse practitioner—
- (a) is in the same room or area as the person; or
  - (b) is not in the same room or area as the person but is in close proximity to the person.

## **21 Death to be reported**

- (1) Within 14 working days of a person's death as a result of the administration of medication under section 20, the attending medical practitioner, or the attending nurse practitioner who provided or administered the medication on the instruction of the attending medical practitioner, must send the Registrar a report in the approved form containing the information described in subsection (2).
- (2) The information is—
- (a) the name of the attending medical practitioner or attending nurse practitioner; and
  - (b) the person's name; and
  - (c) the person's last known address; and
  - (d) the fact that the person has died; and
  - (e) which of the methods described in section 19(2)(a) was used; and
  - (f) a description of the administration of the medication; and
  - (g) whether any problem arose in the administration of the medication and, if so, how it was dealt with; and
  - (h) the place where the person died; and
  - (i) the date and time when the person died; and
  - (j) the name of the medical practitioner or nurse practitioner who was available to the person until the person died; and
  - (k) the names of any other health practitioners who were present when the person died.
- (3) The Registrar must send the report to the Review Committee.

## **22 Destruction of prescription if no longer required**

- (1) Subsection (2) applies if—
- (a) an attending medical practitioner, or an attending nurse practitioner, holds a prescription written under section 19(3)(a); and
  - (b) the medication is no longer required.
- (2) The attending medical practitioner, or the attending nurse practitioner, must—
- (a) immediately destroy the prescription; and

- (b) complete an approved form recording the action taken to comply with paragraph (a); and
- (c) send the completed form to the Registrar.

**23 No further action to be taken if person rescinds request to exercise option of receiving assisted dying**

- (1) This section applies if, at any time, an eligible person rescinds their request to exercise the option of receiving assisted dying.
- (2) The attending medical practitioner or attending nurse practitioner must—
  - (a) complete an approved form recording that the person has rescinded their request; and
  - (b) send the completed form to the Registrar; and
  - (c) take no further action in respect of the person’s request (other than under section 22, if applicable).
- (3) If at any subsequent time the person wishes to exercise the option of receiving assisted dying, the person may make a new request under section 11.

**24 No further action to be taken if pressure suspected**

If, at any time, the attending medical practitioner or attending nurse practitioner suspects on reasonable grounds that a person who has expressed the wish to exercise the option of receiving assisted dying is not expressing their wish free from pressure from any other person, the medical practitioner or nurse practitioner must—

- (a) take no further action under this Act to assist the person in exercising the option of receiving assisted dying; and
- (b) tell the person that they are taking no further action under this Act to assist the person in exercising the option of receiving assisted dying; and
- (c) complete an approved form recording—
  - (i) that they are taking no further action under this Act to assist the person in exercising the option of receiving assisted dying; and
  - (ii) the actions taken to comply with paragraph (b); and
- (d) send the form completed under paragraph (c) to the Registrar.

### **Part 3 Accountability**

**25 SCENZ Group**

- (1) The Director-General must establish the SCENZ Group by appointing to it the number of members that the Director-General considers appropriate.

- (2) The Director-General must appoint members who the Director-General considers have, collectively, knowledge and understanding of matters relevant to the functions of the SCENZ Group.
- (3) The functions of the SCENZ Group are—
  - (a) to make and maintain a list of medical practitioners who are willing to act for the purposes of this Act as—
    - (i) replacement medical practitioners:
    - (ii) independent medical practitioners:
  - (b) to provide a name and contact details from the list maintained under paragraph (a), when this Act requires the use of a replacement medical practitioner or independent medical practitioner, in a way that ensures that the attending medical practitioner does not choose the replacement medical practitioner or independent medical practitioner:
  - (c) to make and maintain a list of health practitioners who are willing to act for the purposes of this Act as psychiatrists:
  - (d) to provide a name and contact details from the list maintained under paragraph (c), when this Act requires the use of a psychiatrist, in a way that ensures that neither the attending medical practitioner nor the independent medical practitioner chooses the psychiatrist:
  - (e) to make and maintain a list of pharmacists who are willing to dispense medication for the purposes of section 20:
  - (f) to provide a name and contact details from the list maintained under paragraph (e) when section 20 is to be applied:
  - (g) in relation to the administration of medication under section 20,—
    - (i) to prepare standards of care; and
    - (ii) to advise on the required medical and legal procedures; and
    - (iii) to provide practical assistance if assistance is requested.
- (4) The Ministry must service the SCENZ Group.

## 26 Review Committee

- (1) The Minister must appoint an end-of-life Review Committee consisting of—
  - (a) a medical ethicist; and
  - (b) 2 health practitioners, one of whom must be a medical practitioner who practises in the area of end-of-life care.
- (2) The Review Committee has the following functions:
  - (a) to consider reports sent to it under section 21(3) (**assisted death reports**); and

- (b) to report to the Registrar whether it considers that the information contained in an assisted death report shows satisfactory compliance with the requirements of this Act; and
- (c) to direct the Registrar to follow up on any information contained in an assisted death report that the Review Committee considers does not show satisfactory compliance with the requirements of this Act.

## **27 Registrar (assisted dying)**

- (1) The Director-General must nominate an employee of the Ministry as the Registrar (assisted dying).
- (2) The Registrar must establish and maintain a register recording the following:
  - (a) approved forms held by the Registrar; and
  - (b) the Review Committee's reports to the Registrar; and
  - (c) the Registrar's reports to the Minister.
- (3) The Registrar must consult the Privacy Commissioner—
  - (a) before establishing the register; and
  - (b) at regular intervals while maintaining the register.
- (4) If the Registrar receives a complaint about the appropriateness of the conduct of any health practitioner under this Act that the Registrar considers relates to a matter within the jurisdiction of any of the following persons, the Registrar must refer the complaint to that person:
  - (a) the Health and Disability Commissioner, if it appears that the complaint alleges that the conduct of the health practitioner is, or appears to be, in breach of the Code of Health and Disability Services Consumers' Rights; or
  - (b) the appropriate authority, if it appears that the complaint relates to a health practitioner's competence, fitness to practise, or conduct; or
  - (c) the New Zealand Police.
- (5) If the Registrar does not refer a complaint under subsection (4), the Registrar must notify the complainant of that fact and of the reason why a referral was not made.
- (6) The Registrar must take any action directed by the Review Committee under section 26(2)(c).
- (7) The Registrar must report to the Minister by the end of 30 June each year on the following matters for the year:
  - (a) the total number of deaths occurring under section 20;
  - (b) the number of deaths occurring through each of the methods described in section 19(2)(a);
  - (c) the number of complaints received about breaches of this Act:

- (d) how those complaints were dealt with;
  - (e) any other matter relating to the operation of this Act that the Registrar thinks appropriate.
- (8) The Registrar must perform any other functions that this Act requires the Registrar to perform.

### **28 Persons to provide information to Registrar**

- (1) This section applies to—
- (a) the Health and Disability Commissioner; and
  - (b) an authority; and
  - (c) the New Zealand Police.
- (2) A person to whom this section applies must provide to the Registrar each year any information that the Registrar may require to enable the Registrar to report to the Minister on the matters referred to in section 27(7)(c) and (d).
- (3) The information must be provided within the time and in the manner specified by the Registrar (which must be reasonable in the circumstances).

### **29 Minister must present to House of Representatives copy of report under section 27**

As soon as practicable after receiving a report under section 27(7), the Minister must present a copy of the report to the House of Representatives.

### **30 Review of operation of Act**

- (1) The Ministry must, within 3 years after the commencement of this Act and then at subsequent intervals of not more than 5 years,—
- (a) review the operation of this Act; and
  - (b) consider whether any amendments to this Act or any other enactment are necessary or desirable; and
  - (c) report on its findings to the Minister.
- (2) As soon as practicable after receiving a report under subsection (1)(c), the Minister must present a copy of the report to the House of Representatives.

## **Part 4 Related matters**

### **31 Regulations**

The Governor-General may, by Order in Council, make regulations providing for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

**32 Other rights and duties not affected**

- (1) Nothing in this Act affects a person's rights to—
  - (a) refuse to receive nutrition;
  - (b) refuse to receive hydration;
  - (c) refuse to receive life-sustaining medical treatment.
- (2) Nothing in this Act affects a medical practitioner's duty to alleviate suffering in accordance with standard medical practice.

**33 Advance directive, etc, may not provide for assisted dying**

- (1) A person who wishes to request to exercise the option of receiving assisted dying under this Act must sign and date the approved form referred to in section 12(3) (the **request form**), and to the extent that any provision expressing such a wish is included by the person in an advance written or oral directive, will, contract, or other document that provision is invalid.
- (2) A person who, after signing and dating the request form, wishes to rescind a request to exercise the option of receiving assisted dying under this Act must communicate that wish to the attending medical practitioner or the attending nurse practitioner orally, in writing (a **rescind document**), or by gesture and to the extent that any provision expressing such a wish is included by the person in an advance written or oral directive, will, contract, or other document (not being a rescind document) that provision is invalid.
- (3) No particular form of words is required to rescind orally or in writing a request to exercise the option of receiving assisted dying under this Act.

**34 Welfare guardians have no power to make decisions or take actions under this Act**

A welfare guardian appointed under the Protection of Personal and Property Rights Act 1988 for a person does not, in that capacity, have the power to make any decision, or take any action, under this Act for that person.

**35 Effect on contracts of death under this Act**

A person who dies as a result of assisted dying is, for the purposes of any life insurance contract, or any other contract,—

- (a) taken to have died as if assisted dying had not been provided; and
- (b) taken to have died from the terminal illness referred to in section 5(c) from which they suffered.

**36 Restrictions on making public details of assisted dying deaths**

- (1) This section applies in respect of a death that was, or appears to be, the result of assisted dying under this Act.
- (2) No person may make public in respect of any death to which this section applies—

- (a) the method by which the medication was administered to the deceased:
  - (b) the place where the medication was administered to the deceased:
  - (c) the name of the person who administered the medication to the deceased, or the name of that person's employer.
- (3) A person who contravenes this section commits an offence and is liable on conviction—
- (a) to a fine not exceeding \$20,000, in the case of a body corporate:
  - (b) to a fine not exceeding \$5,000, in any other case.
- (4) Nothing in this section applies in respect of court or tribunal proceedings or to reports or publications of those proceedings.
- (5) In this section, **make public** means publish by means of—
- (a) broadcasting (within the meaning of the Broadcasting Act 1989); or
  - (b) a newspaper (within the meaning of the Defamation Act 1992); or
  - (c) a book, journal, magazine, newsletter, or other similar document; or
  - (d) an audio or a visual recording; or
  - (e) an Internet site that is generally accessible to the public, or some other similar electronic means.

### 37 Immunity from criminal liability

- (1) A health practitioner who does all or any of the following is immune from criminal liability under section 179 of the Crimes Act 1961 or any other enactment:
- (a) discusses with a person, at that person's request and in accordance with sections 10 and 11 of this Act, assisted dying under this Act:
  - (b) provides to a person, at that person's request and in accordance with sections 10 and 11 of this Act, information about assisted dying under this Act:
  - (c) gives a person the approved form referred to in section 11(2)(i) of this Act in accordance with section 12(2) of this Act and complies with section 12(5) of this Act:
  - (d) takes any other action that this Act authorises or requires them to take in respect of a person who requests to discuss, requests information about, or wishes or requests to exercise the option of receiving, assisted dying under this Act, and who has not yet been advised in accordance with this Act whether the person is a person who is eligible for assisted dying.
- (2) The rest of this section applies if a person (A) is eligible to exercise the option of receiving assisted dying under this Act and wishes or requests to exercise that option.

- (3) A has the right to request to exercise the option of assisted dying under this Act and does not commit an offence under any enactment by exercising that option.
- (4) If another person (**B**) knows, or has reasonable grounds for believing, that A has requested to exercise the option of assisted dying under this Act, B is not justified—
  - (a) in using any force, under section 41 of the Crimes Act 1961, to prevent A from exercising that option; or
  - (b) in using any force, under section 48 of the Crimes Act 1961, to defend A from an action being taken in respect of A and that this Act authorises or requires to be taken in respect of A.
- (5) B, or any other person, is immune from criminal liability if B or that person, in good faith and believing on reasonable grounds that A wishes to exercise the option of assisted dying under this Act,—
  - (a) takes any action that causes, assists, or facilitates the death of A in accordance with the requirements of this Act (for example, an attending medical practitioner who, under section 20(4)(a), administers medication to A in accordance with the requirements of this Act is immune from liability under the Crimes Act 1961 for the death of A); or
  - (b) fails to take any action and that failure causes, assists, or facilitates the death of A in accordance with the requirements of this Act (for example, an attending nurse practitioner who, under section 20(5)(a), is available to A, and takes no action to revive A, is immune from liability under the Crimes Act 1961 for the death of A).
- (6) Subsection (5) applies—
  - (a) even if taking that action, or failing to take that action, would, but for subsection (5), constitute an offence under any enactment; and
  - (b) notwithstanding section 63 of the Crimes Act 1961.

### **38 Immunity from civil liability**

- (1) A person (**A**) is immune from civil liability if A, in good faith and believing on reasonable grounds that another person (**B**) wishes to exercise the option of assisted dying,—
  - (a) takes any action that assists or facilitates the death of B in accordance with the requirements of this Act; or
  - (b) fails to take any action and that failure assists or facilitates the death of B in accordance with the requirements of this Act.
- (2) Nothing in this section affects the right of any person to—
  - (a) bring disciplinary proceedings against a health practitioner under the Health Practitioners Competence Assurance Act 2003; or

- (b) bring proceedings under section 50 or 51 of the Health and Disability Commissioner Act 1994; or
- (c) apply for judicial review.

### **39 Offences**

- (1) A person who is a medical practitioner, nurse practitioner, or psychiatrist commits an offence if the medical practitioner, nurse practitioner, or psychiatrist wilfully fails to comply with any requirement of this Act.
- (2) A person commits an offence if the person, without lawful excuse,—
  - (a) completes or partially completes an approved form for any other person without that other person’s consent; or
  - (b) alters or destroys a completed or partially completed approved form without the consent of the person who completed or partially completed the form.
- (3) A person who commits an offence under this section is liable on conviction to either or both of the following:
  - (a) imprisonment for a term not exceeding 3 months;
  - (b) a fine not exceeding \$10,000.

### **40 Director-General may approve forms**

The Director-General may approve and issue forms for the purposes of this Act.

### **41 Amendments to other enactments**

Amend the enactments specified in the Schedule as set out in that schedule.

## Schedule Amendments to other enactments

s 41

### Part 1 Amendments to Acts

#### **Burial and Cremation Act 1964 (1964 No 75)**

In section 2(1), definition of **certificate of cause of death**, replace “or 46C” with “, 46C, or 46CA”.

After section 46C, insert:

#### **46CA Certificate of cause of death in relation to assisted dying**

- (1) This section applies if a person dies as a result of assisted dying under the End of Life Choice Act 2019.
- (2) The medical practitioner or nurse practitioner who was available to the person until the person died must, immediately after the person’s death, give a certificate of cause of death.
- (3) However, a certificate of cause of death must not be given under this section if the coroner has decided to open an inquiry into the death under Part 3 of the Coroners Act 2006.

In section 46D, replace “or 46C” with “46C, or 46CA”.

#### **Coroners Act 2006 (2006 No 38)**

After section 13(2), insert:

- (2A) However, subsections (1) and (2) do not apply in any case in which the death was a result of assisted dying under the End of Life Choice Act 2019.

In section 60(1)(a), after “self-inflicted”, insert “(other than as a result of assisted dying under the End of Life Choice Act 2019)”.

After section 71(3), insert:

- (4) In this section, **self-inflicted**, in relation to a death, does not include a death that was the result of assisted dying under the End of Life Choice Act 2019 (*see* section 36 of that Act, which restricts making public details of assisted dying deaths).

#### **Crimes Act 1961 (1961 No 43)**

In section 41, insert as subsection (2):

- (2) This section is subject to section 37 of the End of Life Choice Act 2019.

In section 48, insert as subsection (2):

- (2) This section is subject to section 37 of the End of Life Choice Act 2019.

**Crimes Act 1961 (1961 No 43)—continued**

After section 179(3), insert:

- (4) This section is subject to section 37 of the End of Life Choice Act 2019.

**Health Act 1956 (1956 No 65)**

In section 112B, replace the definition of **health information** with:

**health information** has the meaning set out in paragraphs (a) and (c) of the definition of that term in section 22B, but does not include information about assisted dying services provided under the End of Life Choice Act 2019.

**Health and Disability Commissioner Act 1994 (1994 No 88)**

In section 2(1), definition of **health services**, replace paragraph (a)(vii) with:

- (vii) diagnostic services;
- (viii) services provided to a person who has requested assisted dying under the End of Life Choice Act 2019; and

**New Zealand Public Health and Disability Act 2000 (2000 No 91)**

In section 6(1), replace the definition of **services** with:

**services** means—

(a) health services; and

(b) disability support services; and

(c) services provided to a person who has requested assisted dying under the End of Life Choice Act 2019

**Protection of Personal and Property Rights Act 1988 (1988 No 4)**

After section 18(1)(f), insert:

- (g) to request, on behalf of the person, the option of receiving assisted dying under the End of Life Choice Act 2019.

**Part 2****Amendments to legislative instruments****Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995 (SR 1995/183)**

Replace regulation 7(1)(a)(xiii) with:

- (xiii) the cause or causes of the person's death, subject to subparagraph (xiiia):
- (xiiia) in respect of a person who died as a result of assisted dying under the End of Life Choice Act 2019, the terminal illness that gave rise to the person's eligibility for assisted dying:

**Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995 (SR 1995/183)—*continued***

(xiiib) in respect of a person who died as a result of assisted dying under the End of Life Choice Act 2019, the fact that the person died as a result of assisted dying under that Act:

(xiiic) the interval between the onset of the cause of death and the death, in respect of each cause of death, subject to subparagraph (xiiid):

(xiiid) in respect of a person who died as a result of assisted dying under the End of Life Choice Act 2019, the interval between the onset of the terminal illness that gave rise to the person's eligibility for assisted dying and the person's death by assisted dying:

**Cremation Regulations 1973 (SR 1973/154)**

In regulation 7(1)(a), replace “or 46C(1)” with “, 46C, or 46CA”.

In Schedule 1, form B, replace “or 46C(1)” with “, 46C, or 46CA”.

In Schedule 1, form B, replace items 6 and 7 with:

6 Did you attend the deceased before the deceased's death?

If so, for how long? [*state how many weeks, months, or years*]

7 If you attended the deceased before the deceased's death, when did you last see the deceased alive? [*state how many hours or days before death*]

In Schedule 1, form B, replace item 9(a) with:

(a) immediate cause—the disease, injury, or complication that caused the death, or assisted dying? [*specify*]

In Schedule 1, form B, replace item 10 with:

10 What was the mode of death if other than by assisted dying? [*specify*]

In Schedule 1, form B, replace item 14 with:

14 In view of your knowledge of the deceased's habits and constitution, do you feel any doubt whatever as to the cause of the deceased's death? [*specify*]

In Schedule 1, form B, replace the paragraph immediately following item 17 with:

I certify that the answers given above are true and accurate to the best of my knowledge and belief, and that there is no circumstance known to me that can give rise to any suspicion that the death was due wholly or in part to any other cause than that stated that makes it desirable that the body should not be cremated.

**Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996 (SR 1996/78)**

In the Schedule, after clause 5, insert:

**Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996 (SR 1996/78)—*continued***

**5A End of Life Choice Act 2019**

- (1) This clause sets out how this Code operates with the End of Life Choice Act 2019 (the **EOLC Act**).
- (2) For Right 4(2) of this Code, contravening section 10(1) of the EOLC Act may be found or held to be providing services that do not comply with relevant legal standards.
- (3) Right 6(1)(b) and (c), and (2) of this Code is overridden by section 10 (assisted dying must not be initiated by health practitioner) of the EOLC Act.
- (4) Right 7(2) to (5) of this Code is overridden by section 6 (meaning of competent to make an informed decision about assisted dying) of the EOLC Act.
- (5) Under clause 5 of this Code (and without limiting that clause), nothing in this Code requires a provider to act in breach of any duty or obligation imposed by the EOLC Act or prevents a provider from doing an act authorised by the EOLC Act.

**Legislative history**

8 June 2017	Introduction (Bill 269–1)
13 December 2017	First reading and referral to Justice Committee
9 April 2019	Reported from Justice Committee (Bill 269–2)
26 June 2019	Second reading
23 October 2019	Committee of the whole House (Bill 269–3)
13 November 2019	Third reading
16 November 2019	Royal assent

This Act is administered by the Ministry of Health.