



# NATURAL DEATH ACT, 1983

No. 121 of 1983

## SUMMARY OF PROVISIONS

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No. 121 of 1983

**An Act to provide for, and give legal effect to, directions against artificial prolongation of the dying process.**

*[Assented to 22 December 1983]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

- Short title.      1. This Act may be cited as the "Natural Death Act, 1983".
- Commencement.      2. This Act shall come into operation on a day to be fixed by proclamation.
- Interpretation.      3. In this Act—
- "extraordinary measures" means medical or surgical measures that prolong life, or are intended to prolong life, by supplanting or maintaining the operation of bodily functions that are temporarily or permanently incapable of independent operation:
- "recovery", in relation to a terminal illness, includes a remission of symptoms or effects of the illness:
- "terminal illness" means any illness, injury or degeneration of mental or physical faculties—
- (a) such that death would, if extraordinary measures were not undertaken, be imminent;
- and
- (b) from which there is no reasonable prospect of a temporary or permanent recovery, even if extraordinary measures were undertaken.
- Power to make direction.      4. (1) A person of sound mind, and of or above the age of eighteen years, who desires not to be subjected to extraordinary measures in the event of his suffering from a terminal illness, may make a direction in the prescribed form.

(2) The direction must be witnessed by two witnesses.

(3) Where a person who is suffering from a terminal illness has made a direction under this section and the medical practitioner responsible for his treatment has notice of that direction, it shall be the duty of that medical practitioner to act in accordance with the direction unless there is reasonable ground to believe—

(a) that the patient has revoked, or intended to revoke, the direction;

or

(b) that the patient was not, at the time of giving the direction, capable of understanding the nature and consequences of the direction.

(4) This section does not derogate from any duty of a medical practitioner to inform a patient who is conscious and capable of exercising a rational judgment of all the various forms of treatment that may be available in his particular case so that the patient may make an informed judgment as to whether a particular form of treatment should, or should not, be undertaken.

(5) The Governor may, by regulation, prescribe a form for the purposes of subsection (1).

5. (1) This Act does not affect the right of any person to refuse medical or surgical treatment.

Act not to affect other rights.

(2) This Act (other than section 6) does not affect the legal consequences (if any) of—

(a) taking, or refraining from taking, therapeutic measures (not being extraordinary measures) in the case of a patient who is suffering from a terminal illness (whether or not he has made a direction under this Act);

or

(b) taking, or refraining from taking, extraordinary measures in the case of a patient who has not made a direction under this Act.

(3) A medical practitioner incurs no liability for a decision made by him in good faith and without negligence as to whether—

(a) a patient is, or is not, suffering from a terminal illness;

(b) a patient revoked, or intended to revoke, a direction under this Act;

or

(c) a patient was, or was not, at the time of giving a direction under this Act, capable of understanding the nature and consequences of the direction.

6. (1) For the purposes of the law of this State, the non-application of extraordinary measures to, or the withdrawal of extraordinary measures from, a person suffering from a terminal illness does not constitute a cause of death.

Certain aspects of causation of death.

(2) This section does not relieve a medical practitioner from the consequences of a negligent decision as to whether or not a patient is suffering from a terminal illness.

7. (1) Nothing in this Act prevents the artificial maintenance of the circulation or respiration of a dead person—

Saving clause.

(a) for the purpose of maintaining bodily organs in a condition suitable for transplantation;

or

(b) where the dead person was a pregnant woman—for the purpose of preserving the life of the foetus.

(2) Nothing in this Act authorizes an act that causes or accelerates death as distinct from an act that permits the dying process to take its natural course.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor