

NORTHERN TERRITORY OF AUSTRALIA

NATURAL DEATH ACT 1988

No. 51 of 1988

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NORTHERN TERRITORY OF AUSTRALIA

No. 51 of 1988

AN ACT

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

[Assented to 17 November 1988]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Natural Death Act 1988*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"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 such an illness, injury or degeneration of mental or physical faculties -

- (a) that death would, if extraordinary measures were not undertaken, be imminent; and

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- (b) from which there is no reasonable prospect of a temporary or permanent recovery, even if extraordinary measures were undertaken.

4. POWER TO MAKE DIRECTION

(1) A person of sound mind who has attained the age of 18 years, and who desires not to be subjected to extraordinary measures in the event of his or her suffering from a terminal illness, may make a direction in the prescribed form.

(2) A direction under subsection (1) is of no effect unless witnessed by 2 witnesses who have attained the age of 18 years, neither of whom is the medical practitioner responsible for the treatment of the person.

(3) Subject to subsection (2), where a person who is suffering from a terminal illness has made a direction under this section and the medical practitioner responsible for the treatment of the person 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 that the person -

- (a) has revoked, or intended to revoke, the direction; or
- (b) was not, at the time of making 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 to the patient's 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 Administrator may, by regulation, prescribe a form for the purposes of subsection (1).

5. ACT NOT TO AFFECT OTHER RIGHTS

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

(2) This Act (other than section 6) does not affect the legal consequences (if any) of taking, or refraining from taking -

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

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- (b) 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 or her in good faith and without negligence as to whether a patient -

- (a) is, or is not, suffering from a terminal illness;
- (b) revoked, or intended to revoke, a direction under this Act; or
- (c) was, or was not, at the time of making a direction under this Act, capable of understanding the nature and consequences of the direction.

6. CERTAIN ASPECTS OF CAUSATION OF DEATH

(1) For the purposes of the law of the Territory, 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 where the non-application or withdrawal was as a result of and in accordance with a direction made under section 4(1) by the person.

(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. SAVINGS

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

- (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 fetus.

(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.