

Review procedures for the termination of life on request and assisted suicide and amendment of the Criminal Code and the Burial and Cremation Act (Termination of Life on Request and Assisted Suicide (Review Procedures) Act)

CHAPTER I. DEFINITIONS

Section 1

For the purposes of this Act, the following definitions shall apply:

- a. Our Ministers: the Minister of Justice and the Minister of Health, Welfare and Sport;
- b. assisted suicide: intentionally helping another person to commit suicide or providing him with the means to do so as referred to in article 294, paragraph 2, second sentence, of the Criminal Code;
- c. the attending physician: the physician who, according to the notification, has terminated life on request or has provided assistance with suicide;
- d. the independent physician: the physician who has been consulted about the attending physician's intention to terminate life on request or to provide assistance with suicide;
- e. the care providers: the persons referred to in article 446, paragraph 1, of Book 7 of the Civil Code;
- f. the committee: a regional review committee as referred to in section 3;
- g. regional inspector: a regional inspector employed by the Health Care Inspectorate of the Public Health Supervisory Service.

CHAPTER II. DUE CARE CRITERIA

Section 2

- 1. In order to comply with the due care criteria referred to in article 293, paragraph 2, of the Criminal Code, the attending physician must:
 - a. be satisfied that the patient has made a voluntary and carefully considered request;
 - b. be satisfied that the patient's suffering was unbearable, and that there was no prospect of improvement;
 - c. have informed the patient about his situation and his prospects;

- d. have come to the conclusion, together with the patient, that there is no reasonable alternative in the light of the patient's situation;
 - e. have consulted at least one other, independent physician, who must have seen the patient and given a written opinion on the due care criteria referred to in a. to d. above; and
 - f. have terminated the patient's life or provided assistance with suicide with due medical care and attention.
2. If a patient aged sixteen or over who is no longer capable of expressing his will, but before reaching this state was deemed capable of making a reasonable appraisal of his own interests, has made a written declaration requesting that his life be terminated, the attending physician may comply with this request. The due care criteria referred to in subsection 1 shall apply *mutatis mutandis*.
 3. If the patient is a minor aged between sixteen and eighteen and is deemed to be capable of making a reasonable appraisal of his own interests, the attending physician may comply with a request made by the patient to terminate his life or provide assistance with suicide, after the parent or parents who has/have responsibility for him, or else his guardian, has or have been consulted.
 4. If the patient is a minor aged between twelve and sixteen and is deemed to be capable of making a reasonable appraisal of his own interests, the attending physician may comply with the patient's request if the parent or parents who has/have responsibility for him, or else his guardian, is/are able to agree to the termination of life or to assisted suicide. Subsection 2 shall apply *mutatis mutandis*.

CHAPTER III. REGIONAL REVIEW COMMITTEES FOR THE TERMINATION OF LIFE ON REQUEST AND ASSISTED SUICIDE

Division 1: Establishment, composition and appointment

Section 3

1. There shall be regional committees to review reported cases of the termination of life on request or assisted suicide as referred to in article 293, paragraph 2, and article 294,

paragraph 2, second sentence, of the Criminal Code.

2. A committee shall consist of an odd number of members, including in any event one legal expert who shall also chair the committee, one physician and one expert on ethical or moral issues. A committee shall also comprise alternate members from each of the categories mentioned in the first sentence.

Section 4

1. The chair, the members and the alternate members shall be appointed by Our Ministers for a period of six years. They may be reappointed once for a period of six years.
2. A committee shall have a secretary and one or more deputy secretaries, all of whom shall be legal experts appointed by Our Ministers. The secretary shall attend the committee's meetings in an advisory capacity.
3. The secretary shall be accountable to the committee alone in respect of his work for the committee.

Division 2: Resignation and dismissal

Section 5

The chair, the members and the alternate members may tender their resignation to Our Ministers at any time.

Section 6

The chair, the members, and the alternate members may be dismissed by Our Ministers on the grounds of unsuitability or incompetence or other compelling reasons.

Division 3: Remuneration

Section 7

The chair, the members and the alternate members shall be paid an attendance fee and a travel and subsistence allowance in accordance with current government regulations, insofar as these expenses are not covered in any other way from the public purse.

Division 4: Duties and responsibilities

Section 8

1. The committee shall assess, on the basis of the report referred to in section 7, subsection 2 of the Burial and Cremation Act, whether an attending physician, in terminating life on request or in assisting with suicide, acted in accordance with the due care criteria set out in section 2.
2. The committee may request the attending physician to supplement his report either orally or in writing, if this is necessary for a proper assessment of the attending physician's conduct.
3. The committee may obtain information from the municipal pathologist, the independent physician or the relevant care providers, if this is necessary for a proper assessment of the attending physician's conduct.

Section 9

1. The committee shall notify the attending physician within six weeks of receiving the report referred to in section 8, subsection 1, of its findings, giving reasons.
2. The committee shall notify the Board of Procurators General of the Public Prosecution Service and the regional health care inspector of its findings:
 - a. if the attending physician, in the committee's opinion, did not act in accordance with the due care criteria set out in section 2; or
 - b. if a situation occurs as referred to in section 12, last sentence, of the Burial and Cremation Act. The committee shall notify the attending physician accordingly.
3. The time limit defined in the first subsection may be extended once for a maximum of six weeks. The committee shall notify the attending physician accordingly.

4. The committee is empowered to explain its findings to the attending physician orally. This oral explanation may be provided at the request of the committee or the attending physician.

Section 10

The committee is obliged to provide the public prosecutor with all the information that he may require:

- (1) for the purpose of assessing the attending physician's conduct in a case as referred to in section 9, subsection 2; or
- (2) for the purposes of a criminal investigation.

The committee shall notify the attending physician that it has supplied information to the public prosecutor.

Division 6: Procedures

Section 11

The committee shall be responsible for making a record of all reported cases of termination of life on request or assisted suicide. Our Ministers may lay down further rules on this point by ministerial order.

Section 12

1. The committee shall adopt its findings by a simple majority of votes.
2. The committee may adopt findings only if all its members have taken part in the vote.

Section 13

The chairs of the regional review committees shall meet at least twice a year in order to discuss the methods and operations of the committees. A representative of the Board of Procurators General and a representative of the Health Care Inspectorate of the Public Health

Supervisory Service shall be invited to attend these meetings.

Division 7: Confidentiality and disqualification

Section 14

The members and alternate members of the committee are obliged to maintain confidentiality with regard to all the information that comes to their attention in the course of their duties, unless they are required by a statutory regulation to disclose the information in question or unless the need to disclose the information in question is a logical consequence of their responsibilities.

Section 15

A member of the committee sitting to review a particular case shall disqualify himself and may be challenged if there are any facts or circumstances which could jeopardise the impartiality of his judgment.

Section 16

Any member or alternate member or the secretary of the committee shall refrain from giving any opinion on an intention expressed by an attending physician to terminate life on request or to provide assistance with suicide.

Division 8: Reporting requirements

Section 17

1. By 1 April of each year, the committees shall submit to Our Ministers a joint report on their activities during the preceding calendar year. Our Ministers may lay down the format of such a report by ministerial order.
2. The report referred to in subsection 1 shall state in any event:
 - a. the number of cases of termination of life on request and assisted suicide of which the committee has been notified and which the committee has assessed;

- b. the nature of these cases;
- c. the committee's findings and its reasons.

Section 18

Each year, when they present their budgets to the States General, Our Ministers shall report on the operation of the committees on the basis of the report referred to in section 17, subsection 1.

Section 19

1. On the recommendation of Our Ministers, rules shall be laid down by order in council on:
 - a. the number of committees and their powers;
 - b. their locations.
2. Further rules may be laid down by Our Ministers by or pursuant to order in council with regard to:
 - a. the size and composition of the committees;
 - b. their working methods and reporting procedures.

CHAPTER IV. AMENDMENTS TO OTHER LEGISLATION

Section 20

The Criminal Code shall be amended as follows.

A

Article 293 shall read as follows:

Article 293

1. Any person who terminates another person's life at that person's express and earnest request shall be liable to a term of imprisonment not exceeding twelve years or a fifth-category fine.

2. The act referred to in the first paragraph shall not be an offence if it is committed by a physician who fulfils the due care criteria set out in section 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act, and if the physician notifies the municipal pathologist of this act in accordance with the provisions of section 7, subsection 2 of the Burial and Cremation Act.

B

Article 294 shall read as follows:

Article 294

1. Any person who intentionally incites another to commit suicide shall, if suicide follows, be liable to a term of imprisonment not exceeding three years or to a fourth-category fine.
2. Any person who intentionally assists another to commit suicide or provides him with the means to do so shall, if suicide follows, be liable to a term of imprisonment not exceeding three years or a fourth-category fine. Article 293, paragraph 2 shall apply *mutatis mutandis*.

C

The following shall be inserted in article 295, after “293”: , first paragraph,.

D

The following shall be inserted in article 422, after “293”: , first paragraph,.

Section 21

The Burial and Cremation Act shall be amended as follows.

A

Section 7 shall read as follows:

Section 7

1. The person who conducted the post-mortem examination shall issue a death certificate if he is satisfied that the death was due to natural causes.
2. If death was the result of the termination of life on request or assisted suicide as referred to in article 293, paragraph 2, or article 294, paragraph 2, second sentence, of the Criminal Code respectively, the attending physician shall not issue a death certificate and shall immediately notify the municipal pathologist or one of the municipal pathologists of the cause of death by completing a report form. The attending physician shall enclose with the form a detailed report on compliance with the due care criteria set out in section 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.
3. If the attending physician decides, in cases other than those referred to in subsection 2, that he is unable to issue a death certificate, he shall immediately notify the municipal pathologist or one of the municipal pathologists accordingly by completing a report form.

B

Section 9 shall read as follows:

Section 9

1. The form and layout of the models for the death certificates to be issued by the attending physician and the municipal pathologist shall be laid down by order in council.
2. The form and layout of the models for the notification and the detailed report as referred to in section 7, subsection 2, for the notification as referred to in section 7, subsection 3 and for the forms referred to in section 10, subsections 1 and 2, shall be laid down by order in council on the recommendation of Our Minister of Justice and Our Minister of Health, Welfare and Sport.

C

Section 10 shall read as follows:

Section 10

1. If the municipal pathologist decides that he is unable to issue a death certificate, he shall immediately notify the public prosecutor by completing a form and shall immediately notify the Registrar of Births, Deaths and Marriages.
2. Without prejudice to subsection 1, the municipal pathologist shall, if notified as referred to in section 7, subsection 2, report without delay to the regional review committees referred to in section 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act by completing a form. He shall enclose a detailed report as referred to in section 7, subsection 2.

D

The following sentence shall be added to section 12: If the public prosecutor decides, in cases as referred to in section 7, subsection 2, that he is unable to issue a certificate of no objection to burial or cremation, he shall immediately notify the municipal pathologist and the regional review committee as referred to in section 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

E

In section 81, first point, "7, subsection 1" shall be replaced by: 7, subsections 1 and 2.

Section 22

The General Administrative Law Act shall be amended as follows.

In section 1:6, the full stop at the end of point (d) shall be replaced by a semi-colon, and a fifth point shall be inserted as follows:

- e. decisions and actions to implement the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

CHAPTER V. CONCLUDING PROVISIONS

Section 23

This Act shall enter into force on a date to be determined by Royal Decree.

Section 24

This Act may be cited as the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at ... on ...

The Minister of Justice,

The Minister of Health, Welfare and Sport,

Lower House, 1998-1999 session, 26 691, Nos. 1-2