

Assisted dying developments across Australasia

[Alastair Hercus](#), [Peter Chemis](#), [Hamish Kynaston](#), [Alastair Sherriff](#), [Natasha Wilson](#), [Nicola Cuervo](#), [Catherine Miller](#), [Holly Hedley](#)

7 December 2017

It is hard to think of any medico-legal issue that attracts as much controversy as assisted dying. Whether, and in what circumstances, people should be able to choose to die raises difficult moral and legal questions, and these questions are currently the subject of hot debate both in New Zealand and across the Tasman.

This update discusses recent developments in Australia, including the very recent passing of the Voluntary Assisted Dying Bill 2017 in Victoria and the almost simultaneous failure of a similar Bill of the same name in New South Wales. The update also touches on where things are at in New Zealand, particularly in light of our recent change of Government.

Across the Tasman - a new Act in Victoria but not in New South Wales

Over the last few weeks, two Australian states, New South Wales and Victoria, have both debated Bills proposing to legalise assisted dying.

On 16 November, the New South Wales Upper House narrowly voted down the Voluntary Assisted Dying Bill 2017 by a margin of a single vote. In contrast, a few days later, the opposite result occurred in Victoria, where, after approximately 100 hours of debate, a Bill with the same name was passed.

The Victorian Bill [received royal assent](#) on 5 December, which means that a legally assisted dying regime will be implemented in Victoria by mid 2019. The Victorian regime will cover terminally ill individuals who are in intolerable pain and have less than six months to live (or one year for neurodegenerative disease sufferers).

Interestingly, Victoria will not be the first Australian jurisdiction to legalise assisted dying. Between 1995 and 1997, the Northern Territory became first in the world to legalise physician-assisted dying for the terminally ill. However, that law was swiftly repealed after being used only four times. Since then, other jurisdictions have tested the waters (most recently in South Australia in 2016) but none had succeeded until now.

Assisted dying in New Zealand - recent developments

In recent years we have seen significant public debate on legally assisted death, mostly linked to Wellington-based lawyer Lecretia Seales' unsuccessful case before the High Court. In the wake of this decision, public interest in the issue has continued to grow.

In August 2017, the Health Select Committee (led by Simon O'Connor) reported on [Hon Maryan Street's petition](#) that had asked Parliament to "investigate fully public attitudes towards the introduction of legislation which would permit medically-assisted dying in the event of a terminal illness or an irreversible condition which makes life unbearable." After a lengthy public submission process, the Committee's final report did not recommend any legal changes and also noted that 80% of the public submissions were against the legalisation of medically-assisted dying. In contrast to this report however, a [recent study](#) of 15,000 New Zealanders indicated that approximately two-thirds supported some form of law reform in this area.

The End of Life Choice Bill

The discussion is likely to continue next year, with Epsom MP and ACT Party Leader David Seymour's End of Life Choice Bill still awaiting its first reading in Parliament. The Bill's current scope is confined to either terminally ill individuals with less than six months to live, or individuals suffering from a "grievous and irremediable medical condition". The Attorney-General has already [reported back](#) positively on the Bill's compatibility with human rights, including the right not to be deprived of life, freedom of conscience and freedom of expression. However, quite what will happen with this Bill in the coming months is anyone's guess; particularly as the New Zealand First-Labour coalition agreement provides for a Parliamentary conscience vote on whether the Bill's merits should be determined by MPs or instead by public referendum. Like the rest of Aotearoa, we will watch the progress of this Bill and of the assisted dying debate in New Zealand with keen interest.

Auckland

**188 Quay Street
Auckland 1010**

**PO Box 1433
Auckland 1140
New Zealand**

P: +64 9 358 2555

F: +64 9 358 2055

Wellington

**Aon Centre
1 Willis Street
Wellington 6011**

**PO Box 2694
Wellington 6140
New Zealand**

P: +64 4 499 4242

F: +64 4 499 4141

Christchurch

**83 Victoria Street
Christchurch 8013**

**PO Box 322
Christchurch 8140
New Zealand**

P: +64 3 379 1747

F: +64 3 379 5659