



Australian Capital Territory

Children and Young People Amendment Act 2005

A2005-33

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Australian Capital Territory

Children and Young People Amendment Act 2005

A2005-33

An Act to amend the *Children and Young People Act 1999*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Children and Young People Amendment Act 2005*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Children and Young People Act 1999*.

4 Chapter 14

substitute

Chapter 14 Standards and standing orders

401A Definitions for ch 14

In this chapter:

exempt provision—see section 403A (2).

place of detention means an attendance centre, institution, shelter or other place that children and young people may be detained under this Act, but does not include a remand centre.

402 Standard-making power

- (1) The chief executive may make standards for this Act.
- (2) The standards may make provision in relation to the following:
 - (a) the care to be provided by the chief executive for children or young people for whom the chief executive has parental responsibility;

(b) the conduct of family group conferences.

(3) A standard is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

403 Standing order-making power

(1) The Minister may make standing orders for this Act.

(2) The standing orders may make provision in relation to the following at or in relation to places of detention:

(a) safety, management and good order (including security);

(b) welfare, health and safety;

(c) powers of search, including of anyone entering, leaving or inside a place of detention;

(d) use of force;

(e) personal property;

(f) education;

(g) visits;

(h) mail and phone calls;

(i) medical care and examinations;

(j) use of technology, including video surveillance and other monitoring devices;

(k) discipline, including penalties and the withdrawal of entitlements;

(l) behaviour management strategies;

(m) anything else prescribed by regulation.

(3) To remove any doubt, the *Listening Devices Act 1992* does not apply in relation to the use of video surveillance or other monitoring devices in accordance with a standing order.

(4) A standing order is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Note 2 Exempt provisions are not required to be notified.

(5) This section expires 1 year after the day it commences.

403A Standing orders—provisions about security etc

(1) The Minister may, in writing, certify that—

(a) a stated provision of the standing orders applies to—

(i) the security of a place of detention; or

(ii) the safety of people at a place of detention; or

(iii) anything else prescribed by regulation; and

(b) the publication of the provision would be contrary to the public interest.

(2) The certificate must state in general terms the matter to which the provision (the *exempt provision*) applies.

(3) A certificate under subsection (2) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(4) The following provisions of the Legislation Act do not apply in relation to an exempt provision:

(a) section 61 (Notification of registrable instruments);

(b) section 62 (Effect of failure to notify registrable instrument);

(c) section 64 (Presentation of subordinate laws and disallowable instruments);

- (d) section 65 (Disallowance by resolution of Assembly);
- (e) section 68 (Amendment by resolution of Assembly).

403B Standing orders—inspection

The chief executive must ensure that a copy of the standing orders (including any exempt provisions) is always available at attendance centres, institutions and shelters for inspection by—

- (a) a judge or magistrate; or
- (b) the community advocate; or
- (c) the human rights commissioner; or
- (d) an official visitor; or
- (e) the ombudsman.

5 Regulation-making power Section 417 (2) (b)

substitute

- (b) make provision in relation to—
 - (i) the duties of people in charge of shelters, attendance centres and institutions; and
 - (ii) the health and safety (including medical examinations) of children or young people, and other people, at places of detention; and
 - (iii) travel and transport arrangements for children or young people attending attendance centres or performing community service; and
 - (iv) the discipline and security (including the use of force, inspection of mail, and the use of video surveillance and other monitoring devices) at or in relation to places of detention; and

- (v) the safety, management and good order of places of detention; and
- (vi) working out the periods mentioned in section 106 (4) (Community service orders) and section 110 (4) (Attendance centre orders).

6 New section 417 (4)

insert

- (4) In this section:

place of detention means an attendance centre, institution, shelter or other place that children and young people may be detained under this Act, but does not include a remand centre.

7 New chapter 17

insert

Chapter 17 Transitional

418 Standing orders may operate retrospectively etc

- (1) This section applies to a standing order made under section 403 within 28 days after the day this section commences.
- (2) The standing order may provide that the standing order (or a provision of the standing order) commences on a date not earlier than 10 May 2000.
- (3) Subsection (2) has effect despite the Legislation Act, section 76 (Non-prejudicial provision may commence retrospectively).
- (4) The standing order has effect—
 - (a) as if it had been enacted by an Act; and
 - (b) despite anything in—

- (i) this Act (other than this section); or
 - (ii) any other territory law, including the *Listening Devices Act 1992*; but
- (c) subject to the *Human Rights Act 2004*.

Example for par (c)

The standing orders are subject to the right to liberty and security of the person under the *Human Rights Act 2004*, section 18.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) Subsections (1) to (4) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

419 Review of initial standing orders

- (1) In this section:
- initial standing orders* means the standing orders to which section 418 applies.
- (2) The chief executive must review the initial standing orders, and report to the Minister in writing about the results of the review, within 3 months after the day this section commences.

420 Effect of declaration in NI2005-179 etc

- (1) In this section:
- relevant declaration* means the *Children and Young People (Community Youth Justice Centre) Attendance Centre Declaration 2005 (No 1)* NI2005-179.
- (2) The relevant declaration has effect, and is taken to have always had effect, under this Act as if the declaration commenced on 5 July 2004.

- (3) Block 1, section 13, in the Division of City is taken to be, and always to have been, an attendance centre for this Act, section 412 during the period beginning on 12 November 2001 and ending on 4 July 2004.
- (4) Block 14, section 49, in the Division of Symonston is taken to be, and always to have been, an attendance centre for this Act, section 412 for the period beginning on 10 May 2000 and ending on 11 November 2001.
- (5) Block 14, section 49, in the Division of Symonston is taken to be, and always to have been, an attendance centre for the *Children's Services Act 1986*, section 157 for the period beginning on self-government day and ending on 9 May 2000.
- (6) Subsections (1) to (5) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

421 Effect of declarations in NI2005-180 and NI2005-181

- (1) In this section:
relevant declarations means the following:
 - the *Children and Young People (Quamby Youth Detention Centre) Shelter Declaration 2005 (No 1)* NI2005-180
 - the *Children and Young People (Quamby Youth Detention Centre) Institution Declaration 2005 (No 1)* NI2005-181.
- (2) The relevant declarations have effect, and are taken always to have had effect, under this Act as if the relevant declarations commenced on 10 May 2000.
- (3) The relevant declarations are taken to have also had effect, and always have had effect, as if—
 - (a) they had been made under the *Children's Services Act 1986*;
and

- (b) as made under that Act, they commenced on 25 March 1994 and ended on 9 May 2000.
- (4) Subsections (1), (2) and (3) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

422 Effect of declaration in NI2005-222

- (1) In this section:
- relevant declaration* means the *Children and Young People (Marlow Cottage) Shelter Declaration 2005 (No 1)* NI2005-222.
- (2) The relevant declaration has effect, and is taken always to have had effect, under this Act as if the relevant declaration commenced on 10 May 2000.
- (3) The relevant declaration is taken to have also had effect, and always have had effect, as if—
- (a) it had been made under the *Children's Services Act 1986*; and
- (b) as made under that Act, it commenced on 6 November 1995 and ended on 9 May 2000.
- (4) Subsections (1), (2) and (3) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

423 Effect of approval in NI1988-1

- (1) In this section:
- relevant approval* means the *Children's Services (Attendance Centre, Shelter and Institution) Approval 1988 (No 1)* NI1988-1.
- (2) To remove any doubt and without limiting the period for which the relevant approval had effect, the approval is taken always to have had effect for the period beginning on self-government day and ending on 24 March 1994.

- (3) Subsections (1) and (2) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

424 Effect of appointment of official visitors

- (1) In this section:

relevant instrument means the *Children and Young People Official Visitor Appointment 2005 (No 1)* DI2005-89.

- (2) To remove any doubt, the appointment of the official visitors by the relevant instrument has effect, and is taken always to have had effect, for the period stated in the instrument.
- (3) Subsections (1) and (2) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

425 Expiry—ch 17

This chapter expires 4 months after the day it commences.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 June 2005.

2 Notification

Notified under the Legislation Act on 1 July 2005.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Children and Young People Amendment Bill 2005, which was passed by the Legislative Assembly on 1 July 2005.

Clerk of the Legislative Assembly

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