



Australian Capital Territory

Children and Young People (Death Review) Amendment Act 2011

A2011-9

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 New chapter 19A	3
5 Dictionary, new definitions	18



Australian Capital Territory

Children and Young People (Death Review) Amendment Act 2011

A2011-9

An Act to amend the *Children and Young People Act 2008*

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

J2010-229

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Children and Young People (Death Review) Amendment Act 2011*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *Children and Young People Act 2008*.

4 New chapter 19A

insert

**Chapter 19A Children and Young People
Death Review Committee**

**Part 19A.1 Establishment and functions of
committee**

727A Establishment of committee

The Children and Young People Death Review Committee (the *CYP death review committee*) is established.

727B Functions of committee

- (1) The CYP death review committee has the following functions:
 - (a) to keep a register of deaths of children and young people under part 19A.3;
 - (b) to identify patterns and trends in relation to the deaths of children and young people;
 - (c) to undertake research that aims to help prevent or reduce the likelihood of the death of children and young people;
 - (d) to identify areas requiring further research, by the committee or another entity, that arise from the identified patterns and trends in relation to the deaths of children and young people;
 - (e) to make recommendations about legislation, policies, practices and services for implementation by the Territory and non-government bodies to help prevent or reduce the likelihood of the death of children and young people;

- (f) to monitor the implementation of the committee's recommendations;
 - (g) to report to the Minister under part 19A.4;
 - (h) any other function given to the committee under this chapter.
- (2) The CYP death review committee has no function in relation to reviewing the cause of death of a particular child or young person.

727C Committee members

The CYP death review committee is made up of—

- (a) the chief executive; and
- (b) the children and young people commissioner; and
- (c) the members appointed by the Minister under section 727D; and
- (d) the chair appointed under section 727E.

727D Appointment of committee members

- (1) The Minister must appoint at least 8, but not more than 10, members to the CYP death review committee.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) The Minister must, unless it is not reasonably practicable, ensure that the committee includes—
- (a) people with experience or expertise in the following:
 - (i) psychology;
 - (ii) paediatrics;
 - (iii) epidemiology;
 - (iv) child forensic medicine;
 - (v) public health administration;
 - (vi) education;
 - (vii) engineering and child safety products or systems;
 - (viii) working with Aboriginal and Torres Strait Islander children and young people; and
 - (b) a social worker with expertise or experience in working with children and young people and families; and
 - (c) a police officer with experience in working with children and young people and families.
- (3) The Minister must not appoint someone to the committee under this section unless satisfied that the person is suitable to be a member of the committee.
- (4) In considering whether someone is suitable to be a member of the committee, the Minister—
- (a) must consider relevant information mentioned in section 65 (1), definition of *suitability information*, paragraphs (a), (b) and (c) about the person; and
 - (b) may consider other suitability information about the person.
- (5) The appointment of a member under this section is for not longer than 3 years.

- (6) The conditions of appointment of a member under this section are the conditions stated in the appointment, subject to any determination under the *Remuneration Tribunal Act 1995*.

727E Appointment of chair of committee

- (1) The Minister must appoint someone as the chair of the CYP death review committee.
- (2) However, the chair must not be someone who is otherwise a member of the CYP death review committee.
- (3) Also, the Minister must not appoint someone unless satisfied that the person—
- (a) has the expertise or experience to be the chair of the CYP death review committee; and
 - (b) is otherwise suitable to be the chair.
- (4) In considering whether someone is suitable to be a chair of the CYP death review committee, the Minister—
- (a) must consider relevant information mentioned in section 65 (1), definition of *suitability information*, paragraphs (a), (b) and (c) about the person; and
 - (b) may consider other suitability information about the person.
- (5) The appointment of the chair is for not longer than 3 years.
- (6) The conditions of appointment of the chair are the conditions stated in the appointment, subject to any determination under the *Remuneration Tribunal Act 1995*.

727F Conflict of interest

A member of the CYP death review committee must take all reasonable steps to avoid being placed in a position where a conflict of interest arises during the exercise of the committee's functions.

727G Appointment of advisers

- (1) The Minister may, on the request of the CYP death review committee, appoint a person as an adviser to the committee.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) However, the Minister must not appoint someone unless satisfied that the person has the experience or expertise to exercise the functions of an adviser.
- (3) An appointment may be subject to conditions stated in the appointment.
- (4) An adviser must, on request of the CYP death review committee, provide advice to the committee in relation to the committee's functions and otherwise in accordance with any conditions of appointment.
- (5) The Minister may end the appointment of an adviser if the adviser breaches a condition of appointment.

727H Ending member appointments

The Minister may end the appointment of a member of the CYP death review committee appointed under section 727D or the chair—

- (a) for misbehaviour; or
- (b) if the member is convicted, or found guilty, in Australia of an indictable offence; or

- (c) if the member is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be an indictable offence; or
- (d) if the member is absent from 3 consecutive meetings of the committee, otherwise than on approved leave; or
- (e) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

7271 Arrangements for staff

- (1) The chief executive must, on request of the CYP death review committee, make arrangements with the committee to use public servants in the administrative unit under the chief executive's control.

Note The chief executive means the chief executive of the administrative unit responsible for this section (see Legislation Act, s 163 (References to a chief executive or the chief executive)). Administrative units are established under the administrative arrangements (see *Public Sector Management Act 1994*, s 13).

- (2) The *Public Sector Management Act 1994* applies to the management by the committee of public servants who are the subject of an arrangement under subsection (1).

Part 19A.2 Meetings of committee

727J Meetings

- (1) The CYP death review committee must meet at least once each year.
- (2) The chair must give the committee at least 14 days written notice of a meeting.

727K Presiding member at meetings

The chair presides at all meetings of the CYP death review committee.

727L Quorum at meetings

- (1) Business may be carried on at a meeting of the CYP death review committee only if at least $\frac{2}{3}$ of the members (other than the chair) are present.
- (2) A member must not be represented at a meeting by anyone else.

727M Voting at meetings

- (1) At a meeting of the CYP death review committee, each member, other than the chair, has a vote on each question to be decided.
- (2) A question is decided by a majority of the votes of the members present and voting.
- (3) Despite subsection (1), if the votes are equal, the chair has a deciding vote.

Part 19A.3 Register of deaths of children and young people

727N Children and young people deaths register

- (1) The CYP death review committee must keep a register (the *children and young people deaths register*) of—
 - (a) the deaths of children and young people that occur in the ACT; and
 - (b) the deaths that occur outside the ACT of children and young people who normally live in the ACT.

Note Information in the register is protected information (see ch 25).

- (2) The register must include the following information in relation to the death of a child or young person that is available to the CYP death review committee:
 - (a) the cause of the death of the child or young person;
 - (b) the age and sex of the child or young person;
 - (c) whether the child or young person is Aboriginal or a Torres Strait Islander;
 - (d) whether, within 3 years before his or her death, the child or young person, or a sibling of the child or young person, was the subject of a report the chief executive decided, under section 360 (5), was a child protection report;
 - (e) anything else prescribed by regulation.
- (3) The register may contain—
 - (a) any other demographic data available to the CYP death review committee; and

-
- (b) any information about a child or young person, or the circumstances of the child or young person's death, that the committee considers relevant to exercise its reporting functions under part 19A.4; and
- (c) anything else the committee considers relevant.
- (4) If the death of a child or young person is subject to a coronial inquest or review by the Territory, the CYP death review committee must not include any information on the register about the cause or circumstances of the death until the coronial inquest or review has ended.

Examples—review by Territory

- an internal review by the Office for Children, Youth and Family Support
- a joint review by ACT Health and the Office for Children, Youth and Family Support

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) The CYP death review committee—
- (a) must index the deaths on the register according to cause of death and age and sex of the children and young people; and
- (b) may also index the deaths in any other way the committee considers relevant.
- (6) The CYP death review committee—
- (a) must use its best endeavours to include on the register information about the deaths of children and young people that occurred during the period starting on 1 January 2004 and ending the day before the commencement of this section; and
- (b) may include on the register information about the deaths of children and young people that occurred before 1 January 2004.

- (7) This subsection and subsection (6) expire 6 years after the day this subsection commences.

727O Obtaining information from certain entities

- (1) A relevant entity must give the CYP death review committee the following information in relation to the death of a child or young person:
- (a) information required under section 727N (2) to be included on the register;
 - (b) other information requested in writing by the committee that the committee considers is necessary to exercise its functions.
- (2) Information mentioned in subsection (1) (a) must be given within 3 months after the death of the child or young person.
- (3) Information mentioned in subsection (1) (b) must be given as soon as practicable after the request is made.
- (4) However, information mentioned in section 727N (4) must be given as soon as practicable after the end of the inquest or review.
- (5) A relevant entity is only required to give information under this section that is within the knowledge of the entity because of the exercise of its functions.
- (6) In this section:
- relevant entity* means each of the following:
- (a) the chief police officer;
 - (b) the registrar-general;
 - (c) the Coroner's Court;
 - (d) the chief executive responsible for administering this Act, chapter 10;

- (e) the chief executive responsible for administering the *Education Act 2004*, chapter 2;
- (f) the chief executive responsible for administering the *Health Act 1993*, part 3;
- (g) a licensed proprietor of a childcare service;
- (h) an entity prescribed by regulation.

727P Exchanging information with corresponding interstate entities

The CYP death review committee may enter into an agreement with an entity who exercises a function under a law of a State, that corresponds or substantially corresponds to a function of the committee, to exchange information relevant to the function.

727Q Power to ask for information, documents and other things

- (1) This section applies if the CYP death review committee believes on reasonable grounds that a person can give information or produce a document or something else that the committee considers necessary to allow it to exercise its functions.
- (2) The CYP death review committee may, by written notice given to the person, require the person to give the information in writing or produce the document or other thing.

Note Information given or contained in a document or something else produced is protected information (see ch 25).

- (3) However, the CYP death review committee must not require a family member of a child or young person who has died to give information or produce a document or something else in relation to the child or young person.
- (4) The notice must state how, and the time within which, the person must comply with the requirement.

- (5) A person commits an offence if—
- (a) the person is required by a notice under this section to give information in writing or produce a document or other thing to the CYP death review committee; and
 - (b) the person fails to give the information or produce a document or other thing to the committee as required.

Maximum penalty: 50 penalty units.

Note 1 The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Note 2 Giving false information is an offence against the Criminal Code, s 338.

- (6) Subsection (5) does not apply if the person has a reasonable excuse for failing to give the information or produce the document or other thing to the CYP death review committee as required.

727R Children and young people deaths register—who may have access?

- (1) The CYP death review committee must ensure that the register is accessed only by the following:
- (a) committee members;
 - (b) staff mentioned in section 727I;
 - (c) advisers appointed under section 727G;
 - (d) someone authorised by the committee to have access to the register.
- (2) An authorisation is a notifiable instrument.

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

- (3) The committee must notify a person who can access the register of the person's obligations to deal with information on the register in accordance with the requirements under chapter 25 (Information secrecy and sharing).

Note Information on the register is protected information (see ch 25).

Part 19A.4 Annual reports about deaths of children and young people

727S Annual report

- (1) For each financial year, the CYP death review committee must report to the Minister about the following in relation to the deaths of children and young people included on the children and young people deaths register during the year:
- (a) the number of deaths of children and young people;
 - (b) the age and sex of each child or young person who died and whether, within 3 years before his or her death, the child or young person, or a sibling of the child or young person, was the subject of a report the chief executive decided, under section 360 (5), was a child protection report;
 - (c) the patterns or trends (if any) identified in relation to the deaths of children and young people—
 - (i) generally; and
 - (ii) who, within 3 years before their death were, or had a sibling who was, the subject of a report the chief executive decided, under section 360 (5), was a child protection report.

Note There are restrictions on recording and divulging protected and sensitive information (see ch 25).

- (2) The CYP death review committee may include in the report—
 - (a) its recommendations (if any) about legislation, policies, practices and services for implementation by the Territory and non-government bodies to help prevent or reduce the likelihood of the death of children and young people; and
 - (b) information about the implementation of any previous recommendations of the committee; and
 - (c) any other matter it considers relevant.
- (3) However, the CYP death review committee must not include in the report any information that would—
 - (a) disclose the identity of a child or young person who has died; or
 - (b) allow the identity of a child or young person who has died to be worked out.
- (4) The CYP death review committee must give the Minister the report within 4 months after the end of the financial year.
- (5) The Minister must present the report in the Legislative Assembly within 6 sitting days after the day the report is given to the Minister.

727T Other reports

- (1) The CYP death review committee may at any time prepare a report for the Minister on any matter arising in connection with the exercise of the committee's functions.
- (2) The CYP death review committee must not include in the report any information that would—
 - (a) disclose the identity of a child or young person who has died; or
 - (b) allow the identity of a child or young person who has died to be worked out.

- (3) The Minister must present the report to the Legislative Assembly within 6 sitting days after the report is given to the Minister.
- (4) Within 3 months after receiving a report under subsection (1), the Minister must give information to the CYP death review committee about any action the Minister has taken, or will take, in relation to the matters raised in the report.

727U Reporting on deaths of children and young people before the commencement of ch 19A

- (1) For the period starting on 1 January 2004 and ending the day before the commencement of this chapter, the CYP death review committee must use its best endeavours to report about the following in relation to the deaths of children and young people included on the register for that period:
 - (a) the number of deaths of children and young people;
 - (b) the age and sex of each child or young person who died and whether, within 3 years before his or her death, the child or young person, or a sibling of the child or young person, was the subject of a report the chief executive decided, under section 360 (5), was a child protection report;
 - (c) the patterns or trends (if any) identified in relation to the deaths of children and young people—
 - (i) generally; and
 - (ii) who, within 3 years before their death were, or had a sibling who was, the subject of a report the chief executive decided, under section 360 (5), was a child protection report.

Note There are restrictions on recording and divulging protected and sensitive information (see ch 25).

- (2) The CYP death review committee may include in the report—
 - (a) its recommendations (if any) about legislation, policies, practices and services for implementation by the Territory and non-government bodies to help prevent or reduce the likelihood of the death of children and young people; and
 - (b) any other matter it considers relevant.
- (3) However, the CYP death review committee must not include in the report any information that would—
 - (a) disclose the identity of a child or young person who has died; or
 - (b) allow the identity of a child or young person who has died to be worked out.
- (4) The CYP death review committee must give the Minister the report within 6 years after the day this section commences.
- (5) The Minister must present the report in the Legislative Assembly within 6 sitting days after the day the report is given to the Minister.
- (6) This section expires 6 years after the day it commences.

5 Dictionary, new definitions

insert

children and young people deaths register—see section 727N.

CYP death review committee means the Children and Young People Death Review Committee established under section 727A.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 25 August 2010.

2 Notification

Notified under the Legislation Act on 17 March 2011.

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 (Death Review) Amendment Bill 2011, which originated in the Legislative Assembly as the Children and Young People (Death Review) Amendment Bill 2010 and was passed by the Assembly on 9 March 2011.

Clerk of the Legislative Assembly

© Australian Capital Territory 2011