



Australian Capital Territory

Coroners Amendment Act 2020

A2020-32

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Australian Capital Territory

Coroners Amendment Act 2020

A2020-32

An Act to amend the *Coroners Act 1997*

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

1 Name of Act

This Act is the *Coroners Amendment Act 2020*.

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 *Coroners Act 1997*.

**4 Objects of Act
Section 3BA (1) (d)**

after

make recommendations

insert

and comments

5 Section 3BA (2) (a)

substitute

- (a) for an inquest into a person's death—recognises the following:
- (i) the family and friends of the deceased person have an interest in having all reasonable questions about the circumstances of the person's death answered;
 - (ii) the death of a person, and an inquest into the person's death, has a significant impact on the person's family and friends;
 - (iii) that where appropriate, members of the immediate family of the deceased person should be given the earliest opportunity to participate in, and be kept informed of the particulars and progress of, the inquest into the person's death;
 - (iv) that different cultures have different beliefs and practices about death that should, where possible, be respected; and

6 New section 3BB

insert

3BB Meaning of *death in care*

- (1) In this Act:

death in care means the death of a person—

- (a) while being taken into or detained in custody, or subject to an order, under—
- (i) the *Mental Health Act 2015*; or
 - (ii) the *Crimes Act 1900*, section 309 (Assessment whether emergency detention required); or

- (b) because of a fatal injury sustained in circumstances mentioned in subsection (a).
- (2) For this section, a person is *subject to* an order if the person is—
 - (a) being taken into, or detained in, custody under the order; or
 - (b) being restrained, or otherwise being provided with care, under the order; or
 - (c) otherwise subject to the order.

7 **Meaning of *death in custody***
Section 3C (1)

after

means the death of a person

insert

(other than a death in care)

8 **Section 3C (1) (c)**

omit

9 **Deputy coroners' functions**
Section 9 (2)

before

death in custody

insert

death in care or

**10 Coroner's jurisdiction in relation to deaths
Section 13 (1) (i)**

before

custody

insert

care or

**11 Consideration of immediate family
Section 23 (1)**

before

death in custody

insert

death in care or

**12 Decision not to conduct hearing
Section 34A (2)**

substitute

- (2) A coroner must not dispense with a hearing into a death of a person, if the coroner has reasonable grounds for believing the death is a death in care or death in custody.

**13 Notification of immediate family
Section 37 (1)**

substitute

- (1) Before conducting a hearing for an inquest into a death (other than a death in care or death in custody), the coroner must, at the earliest opportunity, take reasonable steps to notify a member of the immediate family of the deceased person about the time and place of the hearing.

**14 Notice relating to conduct of hearing
Section 38**

omit

14 days

substitute

28 days

**15 Inquests into non-custodial deaths and inquiries—
discretion to appoint counsel assisting
Section 39 (1)**

before

death in custody

insert

death in care or

16 Section 39 (3), note

substitute

Note A coroner must appoint a lawyer as counsel assisting in an inquest into a death in care or a death in custody (see s 72).

17 Section 54 heading

substitute

54 Requests for copies of findings

18 Section 54 (1)

before

death in custody

insert

death in care or

19 New section 57A

in division 5.4, insert

57A Correction of errors

- (1) A coroner may amend a finding or report in relation to an inquest or inquiry to correct a mistake, error or omission in the finding or report.
- (2) The amendment may be made—
 - (a) on the coroner’s own initiative; or
 - (b) on request by a person with sufficient interest in the inquest or inquiry.

20 Part 6 heading

substitute

Part 6 Deaths in care and deaths in custody—additional provisions

21 Sections 69 to 71

before

death in custody

insert

death in care or

22 Section 72 heading

substitute

**72 Inquest into death in care or death in custody—
appointment of counsel assisting**

23 Section 72

before

death in custody

insert

death in care or

24 Section 73

substitute

73 Records of deaths in care and deaths in custody

The registrar must keep a record of an inquest into a death in care or death in custody for a period of not less than 7 years after the completion of the inquest.

**25 Findings about quality of care, treatment and supervision
Section 74**

before

death in custody

insert

death in care or

**26 Copies of reports of findings
Section 75 (1)**

before

death in custody

insert

death in care or

27 Section 75 (1) (b)

substitute

(b) the agency the deceased person was in the care or custody of when the death happened and the Minister responsible for the agency; and

28 Section 75 (2)

before

death in custody

insert

death in care or

**29 Response to reports
Section 76 (1)**

omit

custodial

30 Section 78 heading

substitute

78 Obligation to report death in care or death in custody

31 Section 78 (a)

substitute

- (a) knows of a death in care or death in custody; and

**32 Deaths in institutions—retention of records of dead person
Section 100 (2)**

before

custody

insert

care or

33 Section 100 (4)

substitute

- (4) In subsection (2):

responsible person, in relation to a person who died in care or custody, means—

- (a) if the person died in a hospital or other institution—the person in charge of the hospital or institution; or
- (b) in any other case—the person in charge of the agency the deceased person was in the care or custody of when the death happened.

34 New section 100A

insert

100A Attorney-general may make guidelines for responses

- (1) The Attorney-General may make guidelines in relation to responses required under section 57 (4) (b) and section 76 including—
 - (a) information to be included in the response; and
 - (b) requirements for the preparation of the response.
- (2) A guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

**35 Annual report of court
Section 102 (2) (a)**

before

deaths in custody

insert

deaths in care or

36 Dictionary, new definition of *death in care*

insert

death in care—see section 3BB.

37 Dictionary, definition of *member of the immediate family*, except note

substitute

member of the immediate family, of a deceased person the subject of an inquest, means—

- (a) a person who was the deceased person's domestic partner, parent, step-parent, grandparent, child, brother or sister, or guardian or ward; and
- (b) if the deceased person was an Aboriginal or Torres Strait Islander person—a person who, in accordance with the traditions and customs of the deceased person's Aboriginal or Torres Strait Islander community, had the responsibility for, or an interest in, the welfare of the deceased person.

1 Presentation speech

Presentation speech made in the Legislative Assembly on 13 February 2020.

2 Notification

Notified under the [Legislation Act](#) on 29 July 2020.

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 Coroners Amendment Bill 2020, which was passed by the Legislative Assembly on 23 July 2020.

Clerk of the Legislative Assembly

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