2024

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Children, Youth and Family Services)

Children and Young People Amendment Bill 2024 (No 2)

Contents

 Page

[Part 1 Preliminary 2](#_Toc161305751)

 [1 Name of Act 2](#_Toc161305752)

 [2 Commencement 2](#_Toc161305753)

 [3 Legislation amended 2](#_Toc161305754)

[Part 2 Children and Young People Act 2008 3](#_Toc161305755)

 [4 New section 24A 3](#_Toc161305756)

 [5 What are the care and protection chapters?
Section 336, definition of care and protection chapters, paragraph (j) 4](#_Toc161305757)

 [6 Age—care and protection chapters stop applying if person discovered to be adult
Section 339 (5) 4](#_Toc161305758)

 [7 Care and protection chapters stop applying when young person becomes adult
Section 340 (5) 4](#_Toc161305759)

 [8 Part 15.5 heading 5](#_Toc161305760)

 [9 Section 529A 5](#_Toc161305761)

 [10 Section 529BA 5](#_Toc161305762)

 [11 Assistance generally
Section 529I (1) 5](#_Toc161305763)

 [12 Section 529I (2) 6](#_Toc161305764)

 [13 Section 529I (2) (j) 6](#_Toc161305765)

 [14 Section 529J heading 6](#_Toc161305766)

 [15 Section 529J (1) 7](#_Toc161305767)

 [16 Section 529J (2) and examples 7](#_Toc161305768)

 [17 Section 529J (5) and (6) 7](#_Toc161305769)

 [18 Financial assistance—previous out-of-home carer
Section 529JA (1) and note 7](#_Toc161305770)

 [19 Section 529JA (3) 7](#_Toc161305771)

 [20 Section 529K and notes 7](#_Toc161305772)

 [21 New chapter 16A 8](#_Toc161305773)

 [22 Chapter 19 heading 23](#_Toc161305774)

 [23 Dictionary, new definition of *affected person* 23](#_Toc161305775)

 [24 Dictionary, definition of *application* 24](#_Toc161305776)

 [25 Dictionary, definition of *decision-maker* 24](#_Toc161305777)

 [26 Dictionary, new definitions 24](#_Toc161305778)

 [27 Dictionary, definition of *previous out-of-home carer* 25](#_Toc161305779)

 [28 Dictionary, definition of *reviewable decision* 25](#_Toc161305780)

 [29 Dictionary, new definition of *review application* 25](#_Toc161305781)

 [30 Dictionary, definition of *young adult* 25](#_Toc161305782)

[Part 3 Children and Young People Regulation 2009 26](#_Toc161305783)

 [31 New sections 5 to 7 26](#_Toc161305784)

 [32 New schedule 1 27](#_Toc161305785)

 [33 Dictionary, note 31](#_Toc161305786)

 [34 Dictionary, new definitions 32](#_Toc161305787)

[Schedule 1 Other amendments 33](#_Toc161305788)

[Part 1.1 Court Procedures Act 2004 33](#_Toc161305789)

[Part 1.2 Magistrates Court Act 1930 33](#_Toc161305791)

2024

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Children, Youth and Family Services)

Children and Young People Amendment Bill 2024 (No 2)

A Bill for

An Act to amend the [Children and Young People Act 2008](http://www.legislation.act.gov.au/a/2008-19%22%20%5Co%20%22A2008-19) and the [Children and Young People Regulation 2009](http://www.legislation.act.gov.au/sl/2009-37), and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Children and Young People Amendment Act 2024 (No 2)*.

2 Commencement

 (1) This Act (other than the provisions mentioned in subsection (2)) commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

 (2) The following provisions commence on 1 July 2025:

 section 5

 sections 21 to 26

 sections 28 and 29

 part 3

 schedule 1.

3 Legislation amended

This Act amends the [Children and Young People Act 2008](http://www.legislation.act.gov.au/a/2008-19) and the [Children and Young People Regulation 2009](http://www.legislation.act.gov.au/sl/2009-37).

Note This Act also amends the following legislation (see sch 1):

 [Court Procedures Act 2004](http://www.legislation.act.gov.au/a/2004-59)

 [Magistrates Court Act 1930](http://www.legislation.act.gov.au/a/1930-21).

Part 2 Children and Young People Act 2008

4 New section 24A

insert

24A Director-general charters

 (1) The director-general may, on the director-general’s own initiative, make charters in relation to matters about providing, or assisting to provide, services for children and young people in accordance with this Act.

 (2) The director-general must make a charter about a matter the subject of a direction by the Minister, but only if the matter relates to providing, or assisting to provide, services for children and young people in accordance with this Act.

 (3) A person exercising a function under this Act to which a charter applies must, as far as practicable, give effect to the charter when exercising the function unless giving effect to the charter would—

 (a) not be in the best interests of a child or young person; or

 (b) be contrary to a provision of this Act.

 (4) A charter does not create rights or impose legally enforceable obligations on the Territory, a Minister or anyone else.

 (5) A charter is a notifiable instrument.

 (6) The director-general must review a charter at least once every 5 years after the day the charter is notified.

5 What are the care and protection chapters?
Section 336, definition of care and protection chapters, paragraph (j)

omit

all proceedings

substitute

court proceedings

6 Age—care and protection chapters stop applying if person discovered to be adult
Section 339 (5)

omit

part 15.5 (Transition to adulthood)

substitute

part 15.5 (Transition from out-of-home care)

7 Care and protection chapters stop applying when young person becomes adult
Section 340 (5)

omit

part 15.5 (Transition to adulthood)

substitute

part 15.5 (Transition from out-of-home care)

8 Part 15.5 heading

substitute

Part 15.5 Transition from out-of-home care

9 Section 529A

substitute

529A Object—pt 15.5

The object of this part is to promote, strengthen and foster the wellbeing of people—

 (a) preparing to begin the transition from out-of-home care; and

 (b) who were previously in out-of-home care.

10 Section 529BA

substitute

529BA Who is a previous out-of-home carer for a person?—pt 15.5

In this part:

previous out-of-home carer, for a person, means an out-of-home carer with whom the director-general had placed the person when they were a child or young person.

11 Assistance generally
Section 529I (1)

substitute

 (1) This section applies to a child, young person or young adult who was in out-of-home care.

 (1A) The director-general—

 (a) must provide the services that the director-general considers appropriate to a child, young person or young adult who is younger than 21 years old; and

 (b) may provide the services that the director-general considers appropriate to a young adult who is 21 years old or older.

 (1B) However, a young adult may ask the director-general to—

 (a) stop providing services to them; and

 (b) if services have been stopped, ask for the services to be provided again.

12 Section 529I (2)

omit

subsection (1)

substitute

subsection (1A)

13 Section 529I (2) (j)

omit

young

14 Section 529J heading

substitute

529J Financial assistance—child, young person or young adult

15 Section 529J (1)

substitute

 (1) The director-general may provide financial assistance to a child, young person or young adult who was in out-of-home care.

16 Section 529J (2) and examples

omit

17 Section 529J (5) and (6)

omit

18 Financial assistance—previous out-of-home carer
Section 529JA (1) and note

substitute

 (1) This section applies if—

 (a) a young adult is younger than 21 years old; and

 (b) the young adult is in fact living with a previous out-of-home carer for the young adult.

19 Section 529JA (3)

omit

20 Section 529K and notes

substitute

529K Entitlement to personal items

A child, young person or young adult who has left out-of-home care is entitled to have and keep, free of charge, all of their personal items that are held by—

 (a) the director-general; or

 (b) an approved kinship and foster care organisation; or

 (c) a previous out-of-home carer for the child, young person or young adult.

21 New chapter 16A

insert

Chapter 16A Care and protection—notification and review of certain decisions

Part 16A.1 Preliminary

635A Definitions—ch 16A

In this chapter:

affected person, for a decision, means—

 (a) a person prescribed for section 635B (a) for the decision; and

 (b) any other person whose interests are affected by the decision.

decision-maker, for an internally reviewable decision, means the entity prescribed by regulation for the decision.

internally reviewable decision means a decision prescribed by regulation.

internal reviewer—see section 635E (1).

internal review notice—see the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), section 67B (1).

reviewable decision means a decision of an internal reviewer in relation to an internally reviewable decision.

Part 16A.2 Internal review

635B Internal review notices

If a decision-maker makes an internally reviewable decision, the decision-maker must give an internal review notice to—

 (a) each person prescribed by regulation for the decision; and

 (b) the public advocate; and

 (c) if a child or young person the subject of the decision is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

Note 1 The decision-maker must also take reasonable steps to give an internal review notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), s 67B).

Note 2 The requirements for internal review notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35).

635C Application for internal review

 (1) The following may apply to the decision-maker for review of an internally reviewable decision:

 (a) an affected person for the decision;

 (b) the public advocate;

 (c) if a child or young person the subject of the decision is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

 (2) The application must—

 (a) be in writing; and

 (b) state the name and contact details of the applicant; and

 (c) set out the applicant’s reasons for making the application.

 (3) The application must be given to the decision-maker within—

 (a) 28 days after the day the applicant is given the internal review notice for the decision; or

 (b) any longer period allowed by the decision-maker before or after the end of the 28-day period.

635D Application not affect internally reviewable decision

The making of an application for review of an internally reviewable decision does not affect the operation of the decision.

635E Internal review

 (1) If an application is made for internal review, the decision-maker must arrange for someone else (the internal reviewer) to review the decision.

 (2) The internal reviewer must, within 40 days after the internal reviewer receives the application—

 (a) confirm the decision; or

 (b) vary the decision; or

 (c) set aside the decision and substitute their own decision.

 (3) If the internal reviewer does not take action under subsection (2) within the 40-day period, the internal reviewer is taken to have confirmed the decision.

635F Application for ACAT review—internally reviewable decision

 (1) This section applies if a person who may make an application for review of an internally reviewable decision under section 635C (1) considers exceptional circumstances exist that warrant the review of the decision by the ACAT.

Examples—exceptional circumstances

1 a decision is made that would significantly affect a child’s or young person’s relationship with a significant person for the child or young person or, if set aside after it takes effect, would cause significant disruption for the child or young person, such as to place a child with a carer interstate

2 a decision is made that would be impractical or impossible to reverse, such as to allow a young person to undergo an irreversible medical procedure

3 a decision is made that is likely to cause harm to a child or young person, such as to restrict a breast feeding person’s contact with their child

4 an affected person will be denied procedural fairness if an application for review of the decision is not undertaken quickly

 (2) The person may apply to the ACAT for review of the internally reviewable decision.

Part 16A.3 ACAT review

635G Reviewable decision notices

If an internal reviewer makes a reviewable decision, the internal reviewer must give a reviewable decision notice to each person who is given an internal review notice.

Note 1 The internal reviewer must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35).

635H Application for ACAT review—reviewable decision

An affected person for a reviewable decision may apply to the ACAT for review of the decision.

Note If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35) for the application, the form must be used.

635I Application for ACAT review by certain statutory office‑holders—reviewable decision

 (1) The following (a relevant statutory office-holder) may apply to the ACAT for review of a reviewable decision:

 (a) the public advocate;

 (b) if a child or young person the subject of the decision is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

 (2) However, the relevant statutory office-holder must not make an application unless they have first attempted to resolve the matter satisfactorily with—

 (a) if an application for internal review of the decision has not been made—the decision-maker; or

 (b) if an application for internal review of the decision has been made—the internal reviewer for the decision.

Part 16A.4 ACAT Procedural matters

Division 16A.4.1 Preliminary

635J Definitions—pt 16A.4

In this part:

litigation guardian, for a child or young person, means a person appointed as a litigation guardian for the child or young person under section 635R.

review application means an application before the ACAT in a proceeding for review of—

 (a) an internally reviewable decision that the ACAT decides to deal with as a reviewable decision under section 635F (3); or

 (b) a reviewable decision under section 635H or section 635I.

Division 16A.4.2 Parties and appearance

635K Parties to review application

 (1) The parties to a review application are—

 (a) for an application started by the public advocate or the Aboriginal and Torres Strait Islander children and young people commissioner under section 635I—a child or young person the subject of the application and the decision-maker; and

 (b) in any other case—the applicant and the decision-maker.

 (2) The [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), section 29 (3) does not apply to an application for review under this chapter.

635L Affected people to be notified about review application

 (1) On the making of a review application, the ACAT must tell the decision-maker—

 (a) that the application has been made; and

 (b) give details of the application.

 (2) Within 7 days after being told about an application, the decision‑maker must give written notice of the application to the following:

 (a) each affected person for the decision;

 (b) the public advocate;

 (c) if a child or young person the subject of the application is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

 (3) The notice must include—

 (a) details of the review application; and

 (b) for a notice given to an affected person—

 (i) a statement that the person may be joined as a party to the review application; and

 (ii) information about how the person may be joined as a party to the review application.

Note For joining parties to an application, see the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), s 29 (5).

635M Appearance

 (1) The following (a relevant statutory office-holder) may appear and give evidence at the hearing of a review application:

 (a) the public advocate;

 (b) if the child or young person the subject of the application is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

 (2) Subsection (1) does not apply if the relevant statutory office-holder is a litigation guardian for a child or young person in the review application.

Note The role of a litigation guardian is set out in s 635S.

Division 16A.4.3 Children and young people in review applications

635N Meaning of direct legal representative and independent legal representative—div 16A.4.3

In this division:

direct legal representative, for a child or young person, means a legal representative undertaking the functions mentioned in section 635R (1).

independent legal representative, for a child or young person, means a legal representative undertaking the functions mentioned in section 635R (2).

635O Children and young people’s right to express views to ACAT

A child or young person who is the subject of a review application has the right to express their views to the ACAT about matters relevant to the application.

635P Appointment of legal representative for child or young person

The ACAT must appoint a legal representative for a child or young person in a review application if the ACAT considers it is in the best interests of the child or young person to be legally represented in the application.

635Q Legal representative to act as direct legal representative or independent legal representative

 (1) A legal representative for a child or young person is to act as a direct legal representative if—

 (a) the child or young person is capable of giving proper instructions; and

 (b) a litigation guardian has not been appointed for the child or young person.

 (2) A legal representative for a child or young person is to act as an independent legal representative if—

 (a) the child or young person is not capable of giving proper instructions; or

 (b) a litigation guardian has been appointed for the child or young person.

635R Functions of legal representative

 (1) A direct legal representative for a child or young person must—

 (a) as far as possible, present the views and wishes of the child or young person to the ACAT; and

 (b) act on the instructions of the child or young person.

 (2) An independent legal representative for a child or young person must—

 (a) as far as possible, present the views and wishes of the child or young person to the ACAT; and

 (b) safeguard and represent the interests of the child or young person; and

 (c) act on the instructions of a litigation guardian (if any) appointed for the child or young person.

 (3) Nothing in this section limits the role of a legal representative for a child or young person.

635S Removal of legal representative

 (1) This section applies if a child or young person has a legal representative appointed under section 635P.

 (2) The ACAT may, on application or on its own initiative—

 (a) remove the legal representative if it considers it is in the best interests of the child or young person; and

 (b) order that the review application be suspended until someone else has been appointed as a replacement legal representative.

 (3) An application under subsection (2) may be made by a party to the review application or anyone else.

 (4) Nothing in this section affects the ACAT’s ability to remove a legal representative or stop a legal representative participating in the review application under another territory law.

635T Appointment of litigation guardian for child or young person

 (1) This section applies to a child or young person who is either—

 (a) the subject of a review application, whether or not the child or young person has a legal representative; or

 (b) not the subject of a review application but whose interests may be affected by the review application.

 (2) The ACAT—

 (a) for a child or young person mentioned in subsection (1) (a) or (b)—may appoint a litigation guardian for a child or young person if the ACAT considers it is in the best interests of the child or young person to have a litigation guardian; or

 (b) for a child or young person mentioned in subsection (1) (a)—must appoint a litigation guardian for a child or young person if the application was started by the public advocate or the Aboriginal and Torres Strait Islander children and young people commissioner under section 635I.

 (3) However, the ACAT must not appoint a litigation guardian if—

 (a) the child or young person has expressed a wish not to have a litigation guardian; and

 (b) the ACAT considers that the child or young person understands the nature and effect of the decisions the child or young person makes in relation to the review application.

 (4) The following may be appointed as a litigation guardian:

 (a) a person not under a legal disability;

 (b) the public advocate;

 (c) if the child or young person is an Aboriginal or Torres Strait Islander person—the Aboriginal and Torres Strait Islander children and young people commissioner.

 (5) However, the ACAT must not appoint a person as a litigation guardian unless satisfied—

 (a) the person has no interest in the review application that conflicts, or might conflict, with the interests of the child or young person; and

 (b) the person agrees to be appointed.

635U Functions of litigation guardian

 (1) A litigation guardian for a child or young person must—

 (a) safeguard and represent the interests of the child or young person; and

 (b) instruct any independent legal representative (if any) of the child or young person.

 (2) Anything that a child or young person is allowed to do in relation to a review application may be done by the child’s or young person’s litigation guardian.

 (3) Anything that a child or young person is required to do in relation to a review application must be done by the child’s or young person’s litigation guardian.

635V Removal of litigation guardian

 (1) This section applies if a child or young person has a litigation guardian appointed under section 635T in a review application.

 (2) The ACAT may, on application or on its own initiative—

 (a) remove the litigation guardian; and

 (b) order that the review application be suspended until someone else has been appointed as a replacement litigation guardian.

 (3) An application under subsection (2) may be made by a party to the review application or anyone else.

635W Children and young people not to be compelled to give evidence

 (1) A child or young person must not be compelled to give evidence in a review application.

 (2) Before a child or young person gives evidence in a review application, the ACAT must satisfy itself that the child or young person is willing to give the evidence.

635X Questioning children and young people

 (1) This section applies to a child or young person giving evidence or expressing their views to the ACAT in relation to a review application.

 (2) The child or young person must not be cross-examined.

 (3) Only the following people may ask questions of the child or young person:

 (a) the ACAT;

 (b) the legal representative, if any, of the child or young person;

 (c) the litigation guardian, if any, for the child or young person.

Division 16A.4.4 Miscellaneous

635Y Hearings to be in private

 (1) A hearing of a review application must be held in private.

 (2) A private hearing is taken to be a hearing to which the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), section 39 (Hearings in private or partly in private) applies.

Note Requirements for keeping private hearings secret are set out in the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), s 40.

 (3) For the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), section 39 (5), the following are additional matters about which the ACAT may be satisfied in giving directions under section 39 (2) (b) or (c):

 (a) because a child or young person is otherwise likely to be harmed;

 (b) because the safety of another person is otherwise likely to be endangered.

635Z Non-disclosure of information in notices and statements

 (1) This section applies if a decision-maker is required to give any of the following to a person (a relevant document):

 (a) an internal review notice under section 635B;

 (b) a reviewable decision notice under section 635G;

 (c) a reasons statement under the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), section 22B in relation to a reviewable decision to which this chapter applies.

 (2) The decision-maker or internal reviewer may withhold the disclosure of information from the relevant document if they consider that not withholding the information—

 (a) is likely to result in harm to a child or young person; or

 (b) is likely to endanger the safety of another person; or

 (c) would result in undue interference with the privacy of a child or young person, or another person.

 (3) A relevant document from which disclosure of information is withheld under subsection (2) must include a statement that—

 (a) the disclosure of certain information has been withheld; and

 (b) the person may apply to the ACAT for access to the withheld information.

 (4) The person given the relevant document may apply to the ACAT for access to the withheld information.

 (5) The ACAT must give the person access to the withheld information unless satisfied that, if access is given—

 (a) a child or young person is likely to be harmed; or

 (b) the safety of another person is likely to be endangered; or

 (c) there would be undue interference with the privacy of a child or young person, or another person.

 (6) An application may be considered by the ACAT without a hearing.

635ZA Matter before ACAT and court

 (1) This section applies if—

 (a) a review application is before the ACAT; and

 (b) a proceeding on a care and protection order, that relates to some or all of the matters to which the review application relates (a related court proceeding), is also before a court.

 (2) The director-general must, on becoming aware of a related court proceeding, tell the ACAT—

 (a) that the proceeding is before the court; and

 (b) details of the proceeding.

 (3) The ACAT must, on application or on its own initiative, suspend the review application if it considers the court’s decision in the related court proceeding would effectively decide the matters to be decided by the ACAT in the review application.

 (4) If the matters are effectively decided by the court, the ACAT must dismiss the review application.

 (5) If the matters are not decided by the court, the ACAT may cancel the suspension of the review application and continue to deal with the application.

 (6) In acting under this section, the ACAT may be made up by a presidential member alone, but not a non-presidential member alone.

Note The president of the ACAT is responsible for allocating members to the ACAT for an application (see [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), s 89).

635ZB Review of ch 16A

 (1) The Minister must, as soon as practicable 5 years after this section commences—

 (a) review the operation of this chapter; and

 (b) present a report of the review to the Legislative Assembly.

 (2) This section expires 6 years after the day it commences.

22 Chapter 19 heading

substitute

Chapter 19 Care and protection—provisions applying to court proceedings under care and protection chapters

23 Dictionary, new definition of affected person

insert

affected person, for a decision, for chapter 16A (Care and protection—notification and review of certain decisions)—see section 635A.

24 Dictionary, definition of application

omit

all proceedings

substitute

court proceedings

25 Dictionary, definition of decision-maker

substitute

decision-maker—

 (a) includes any court or tribunal exercising jurisdiction under this Act; and

 (b) for an internally reviewable decision, for chapter 16A (Care and protection—notification and review of certain decisions)—see section 635A.

26 Dictionary, new definitions

insert

direct legal representative, for a child or young person, for division 16A.4.3 (Children and young people in review applications)—see section 635N.

independent legal representative, for a child or young person, for division 16A.4.3 (Children and young people in review applications)—see section 635N.

internally reviewable decision, for chapter 16A (Care and protection—notification and review of certain decisions)—see section 635A.

internal reviewer, for chapter 16A (Care and protection—notification and review of certain decisions)—see section 635E (1).

internal review notice, for chapter 16A (Care and protection—notification and review of certain decisions)—see the [ACT Civil and Administrative Tribunal Act 2008](http://www.legislation.act.gov.au/a/2008-35), section 67B (1).

litigation guardian, for a child or young person, for part 16A.4 (ACAT procedural matters)—see section 635J.

27 Dictionary, definition of previous out-of-home carer

substitute

previous out-of-home carer, for a person, for part 15.5 (Transition from out-of-home care)—see section 529BA.

28 Dictionary, definition of reviewable decision

substitute

reviewable decision—

 (a) for chapter 16A (Care and protection—notification and review of certain decisions)—see section 635A; and

 (b) for division 24.1.3 (Notification and review of decisions)—see section 839.

29 Dictionary, new definition of review application

insert

review application, for part 16A.4 (ACAT procedural matters)—see section 635J.

30 Dictionary, definition of young adult

omit

part 15.5 (Transition to adulthood)

substitute

part 15.5 (Transition from out-of-home care)

Part 3 Children and Young People Regulation 2009

31 New sections 5 to 7

insert

5 Decision-maker for internally reviewable decisions—care and protection—Act, s 635A, def decision-maker

The director-general is prescribed for a decision mentioned in schedule 1.

6 Internally reviewable decisions—care and protection—Act, s 635A, def internally reviewable decision

The following decisions are prescribed:

 (a) a decision of the director-general mentioned in schedule 1, part 1.2, column 3 exercising a function mentioned in column 2 for the decision;

 (b) a decision of the director-general mentioned in schedule 1, part 1.3, column 3 under a section of the Act mentioned in column 2 for the decision.

7 Notice of internally reviewable decisions—care and protection—Act, s 635B (a)

The following people are prescribed:

 (a) for a decision mentioned in schedule 1, part 1.2—a person mentioned in column 4 for the decision;

 (b) for a decision mentioned in schedule 1, part 1.3—a person mentioned in column 4 for the decision.

32 New schedule 1

insert

Schedule 1 Internally reviewable decisions—care and protection

(see s 6 and s 7)

Part 1.1 Preliminary

1.1 Definitions—sch 1

In this schedule:

Aboriginal or Torres Strait Islander cultural plan—see the [Act](https://www.legislation.act.gov.au/a/2008-19), section 513 (3).

carer, of child or young person—

 (a) means an out-of-home carer; and

 (b) includes a previous carer and a prospective carer.

Part 1.2 Care and protection decisions

| column 1item | column 2function | column 3decision | column 4prescribed person |
| --- | --- | --- | --- |
| 1  | short-term parental responsibility provision  | decision in relation to support or service to be given to parent of child or young person |  child or young person parent of child or young person |
| 2  | contact provision in relation to deciding who may have contact with child or young person | person to have contact with child or young person |  person to have contact child or young person parent of child or young person carer of child or young person |
| 3  | contact provision in relation to deciding who may have contact with child or young person | person not to have contact with child or young person |  person not to have contact child or young person parent of child or young person carer of child or young person |
| 4  | contact provision in relation to deciding any conditions for person’s contact with child or young person | place condition on person’s contact with child or young person in relation to frequency or duration of contact |  person with condition placed on contact child or young person parent of child or young person carer of child or young person |
| 5  | drug use provision in relation to giving directions about undergoing drug testing | any direction given |  parent subject to provision person with daily care responsibility for parent’s child or young person |
| 6  | residence provision to decide where or with whom child or young person must live | placement of child or young person |  child or young person parent of child or young person carer of child or young person |
| 7  | daily care responsibility under [Act](https://www.legislation.act.gov.au/a/2008-19), s 512 | placement of child or young person |  child or young person parent of child or young person carer of child or young person |
| 8  | supervision provision | any decision |  parent subject to provision person with daily care responsibility for child or young person |
| 9  | parental responsibility provision | decision about support for child or young person in relation to their culture |  child or young person parent of child or young person  carer of child or young person |
| 10  | parental responsibility provision | decision in relation to child’s or young person’s education |  child or young person parent of child or young person carer of child or young person |
| 11  | parental responsibility provision | decision in relation to child’s or young person’s health |  child or young person parent of child or young person carer of child or young person |
| 12  | parental responsibility provision | decision in relation to child’s or young person’s religion |  child or young person parent of child or young person carer of child or young person |
| 13  | Aboriginal or Torres Strait Islander cultural plan | proposal about preservation and enhancement of identity of child or young person |  child or young person parent of child or young person carer of child or young person |
| 14  | parental responsibility provision in relation to Aboriginal or Torres Strait Islander cultural plan | decision in relation to implementation of plan |  child or young person parent of child or young person carer of child or young person |
| 15  | [Act](https://www.legislation.act.gov.au/a/2008-19), s 513 | placement of Aboriginal or Torres Strait Islander child or young person in accordance with Aboriginal or Torres Strait Islander cultural plan |  child or young person parent of child or young person carer of child or young person |

Part 1.3 Assistance decisions

| column 1item | column 2section | column 3decision | column 4prescribed person |
| --- | --- | --- | --- |
| 1  | 503 | refuse to provide assistance to child or young person |  child or young person carer of child or young person parent of child or young person |
| 2  | 529I | refuse to provide assistance to child, young person or young adult |  child or young person young adult parent of child, young person or young adult |
| 3  | 529J | refuse to provide financial assistance to child, young person or young adult |  child or young person young adult |
| 4  | 529JA | refuse to provide financial assistance to previous out-of-home carer of young adult  |  young adult previous out-of-home carer |

33 Dictionary, note

insert

 child (see s 11)

 daily care responsibility (see s 19)

 out-of-home carer (see s 508)

 parent (see s 16 (2))

 young adult

 young person (see s 12)

34 Dictionary, new definitions

insert

Aboriginal or Torres Strait Islander cultural plan, for schedule 1 (Internally reviewable decisions—care and protection)—see the [Act](https://www.legislation.act.gov.au/a/2008-19), section 513 (3).

carer, of child or young person, for schedule 1 (Internally reviewable decisions—care and protection)—see schedule 1, section 1.1.

Schedule 1 Other amendments

(see s 3)

Part 1.1 Court Procedures Act 2004

[1.1] New section 13 (1A)

insert

 (1A) However, the Minister must not determine fees for a proceeding in the ACAT on an application for review of a decision under the [Children and Young People Act 2008](http://www.legislation.act.gov.au/a/2008-19), chapter 16A (Care and protection—notification and review of certain decisions).

Part 1.2 Magistrates Court Act 1930

[1.2] Section 288 (1) (d)

omit

any application or other proceeding

insert

any application to or other proceeding in a court

Endnotes

1 Presentation speech

 Presentation speech made in the Legislative Assembly on 19 March 2024.

2 Notification

 Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 2024.

3 Republications of amended laws

 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au/).

© Australian Capital Territory 2024