



Australian Capital Territory

# **Coroners Act 1997**

**A1997-57**

**Republication No 13**

**Effective: 23 November 2005 – 23 November 2005**

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Last amendment made by A2005-54  
(republication for amendments by A2005-53)

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Coroners Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 23 November 2005. It also includes any amendment, repeal or expiry affecting the republished law to 23 November 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Coroners Act 1997

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Australian Capital Territory

## Coroners Act 1997

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An Act to provide for the holding of inquests into deaths and inquiries into fires and disasters, and for related purposes

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Coroners Act 1997*.

### **U** 3 Interpretation for Act

(1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***Aboriginal person*** means a person who is descended from, identifies as, and is accepted by an Aboriginal community as, an Aboriginal person.

***body*** includes part of a body, and the remains of a body.

***Chief Coroner*** means the person who is Chief Coroner by virtue of the operation of section 6.

***coroner*** includes a deputy coroner appointed under section 8.

***court*** means the Coroner's Court continued in existence under section 4 (1).

***custodial officer*** means—

- (a) a police officer; or
- (b) the administrator appointed under the *Remand Centres Act 1976*, section 6 or an officer appointed under the *Remand Centres Act 1976*, section 6AA; or
- (c) an authorised officer or a supervisor within the meaning of the *Supervision of Offenders (Community Service Orders) Act 1985*; or

- (d) the chief psychiatrist appointed under the *Mental Health (Treatment and Care) Act 1994*, section 112 or a mental health officer appointed under the *Mental Health (Treatment and Care) Act 1994*, section 119; or
- (e) the chief executive responsible for administering the *Children and Young People Act 1999*, chapter 2 (General objects, principles and parental responsibility) or an officer within the meaning given by that Act, dictionary; or
- (f) the sheriff, a deputy sheriff, or a person appointed to assist the sheriff under the *Supreme Court Act 1933*; or
- (g) a carer within the meaning of the *Intoxicated People (Care and Protection) Act 1994*; or
- (h) the manager of a detention centre or a custodial officer as provided for by the *Periodic Detention Act 1995*, section 37.

**death** includes a suspected death.

**disaster** means an occurrence in the Territory due to natural or other causes that—

- (a) caused or threatened to cause substantial—
  - (i) loss of life or property; or
  - (ii) injury or distress to persons or damage to property or the environment; or
- (b) in any way substantially endangered the safety of the public in any part of the Territory.

**hearing** means a hearing under division 5.1.

**immediate family**, in relation to a deceased person the subject of an inquest, means—

- (a) a person who was the domestic partner of the deceased, or a parent, grandparent, child, brother or sister, or guardian or ward, of the deceased; and

- (b) if the deceased was an Aboriginal person or Torres Strait Islander—a person who, in accordance with the traditions and customs of the Aboriginal or Torres Strait Island community of which the deceased was a member, had the responsibility for, or an interest in, the welfare of the deceased.

*Note* For the meaning of *domestic partner*, see Legislation Act, s 169.

*inquest* means an inquest concerning the death of a person.

*inquiry* means an inquiry concerning a disaster or fire.

*place* includes a vehicle, a vessel or an aircraft.

*registrar* means the registrar of the Coroner's Court appointed under section 11, and includes a deputy registrar.

*registrar-general* means the Registrar-General of Births, Deaths and Marriages.

*Torres Strait Islander* means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands.

- (2) A reference in this Act to a *death in custody* is a reference to the death of a person—
- (a) in a prison, lockup or remand centre; or
  - (b) while—
    - (i) performing work pursuant to a community service order under the *Supervision of Offenders (Community Service Orders) Act 1985* or under the *Children and Young People Act 1999*; or
    - (ii) serving a detention period in accordance with the *Periodic Detention Act 1995*; or
    - (iii) being taken into or detained in custody, or subject to an order, under the *Mental Health (Treatment and Care) Act 1994*, or subject to a certificate under the *Mental Health Act 1962*, section 4; or

- (iv) being taken into or detained in custody, restrained, or otherwise being provided with care under, or subject to an order of the kind referred to in the *Children and Young People Act 1999*, section 96 (1) (i) to (m) (Disposition of young offenders) or an arrangement under the *Children and Young People Act 1999*, section 134 (Arrangements for transfer—general) or section 145 (Lawful custody for transit through ACT); or
- (v) at a licensed place under the *Intoxicated People (Care and Protection) Act 1994*; or
- (vi) in, or being taken into, or after being taken into, or while escaping or attempting to escape from, the custody of a custodial officer (other than a custodial officer referred to in subsection (1), definition of *custodial officer*, paragraph (g)); or
- (vii) in, or being taken into, or after being taken into, the custody of a custodial officer referred to in subsection (1), definition of *custodial officer*, paragraph (g);

and includes death as a result of a fatal injury sustained in a place or in any of the circumstances referred to in paragraph (a) or (b).

**U** 3A

**Notes**

**U** 3B

**Offences against Act—application of Criminal Code etc**

## **Part 2                            The Coroner's Court**

### **Division 2.1                    Establishment**

#### **4                            Establishment**

- (1) The Coroner's Court established under of the *Coroners Act 1956*, section 3 continues in force as the Coroner's Court.
- (2) The court is constituted by a single coroner.
- (3) The court is a court of record.

### **Division 2.2                    Appointment etc of coroners**

#### **5                            A magistrate is a coroner**

A person who is a magistrate is a coroner for the Territory.

#### **6                            Chief Coroner**

The person for the time being holding or occupying the office of Chief Magistrate is the Chief Coroner.

#### **7                            Chief Coroner's powers and functions**

- (1) The Chief Coroner is responsible for ensuring the orderly and expeditious discharge of the business of the court.
- (2) Subject to this Act, and after such consultation with the coroners of the court as is appropriate and practicable, the Chief Coroner shall make such arrangements as to the coroner who is to constitute a court in particular matter or class of matters as the Chief Coroner thinks fit.

**8 Deputy coroners**

- (1) The Executive may, by instrument, appoint a person to be a deputy coroner.
- (2) A deputy coroner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are specified in his or her instrument of appointment.

**9 Deputy coroners' powers**

- (1) Subject to the directions of the Chief Coroner, a deputy coroner has and may exercise the powers of a coroner.
- (2) The Chief Coroner shall not direct a deputy coroner to hold an inquest into a death in custody.
- (3) A deputy coroner who is a medical practitioner is not competent or compellable to hold an inquest into the cause of the death of a person whom he or she attended professionally at or immediately before the death of the person or during the last illness of the person.

**10 Oath or affirmation to be taken or made by a coroner or deputy coroner**

- (1) A coroner or deputy coroner shall not perform a function or duty of his or her office until he or she has taken or made—
  - (a) an oath or affirmation in accordance with schedule 1, part 1.1;  
or
  - (b) an oath or affirmation in accordance with schedule 1, part 1.2.
- (2) An oath or affirmation may—
  - (a) be taken or made before; and
  - (b) be administered or received by;  
a judge of the Supreme Court or a person authorised for the purpose by the Attorney-General.

**11            Registrar and deputy registrars**

- (1) The registrar of the Magistrates Court is the registrar of the court.
- (2) Each deputy registrar of the Magistrates Court is a deputy registrar of the court.
- (3) The registrar of the court may appoint such deputy registrars of the court as the registrar considers necessary for this Act.



## **Part 3**                      **Jurisdiction of coroners**

### **Division 3.1**              **Inquests into deaths**

#### **12**                      **General functions and jurisdiction of coroner**

- (1) A coroner has the functions and jurisdiction given by this Act or any other Territory law.
- (2) Except as otherwise provided by this Act, a coroner also has all the functions and jurisdiction that were vested in a coroner immediately before the commencement of the *Coroners Act 1956*.

#### **13**                      **Coroner's jurisdiction in relation to deaths**

- (1) A coroner shall hold an inquest into the manner and cause of death of a person who—
  - (a) is killed; or
  - (b) is found drowned; or
  - (c) dies, or is suspected to have died, a sudden death the cause of which is unknown; or
  - (d) dies under suspicious circumstances; or
  - (e) dies during or within 72 hours after, or as a result of—
    - (i) an operation of a medical, surgical, dental or like nature; or
    - (ii) an invasive medical or diagnostic procedure;other than an operation or procedure that is specified in the regulations to be an operation or procedure to which this paragraph does not apply; or
  - (f) dies and a medical practitioner has not given a certificate as to the cause of death; or

- (g) dies not having been attended by a medical practitioner at any time within the period commencing 3 months prior to the death; or
  - (h) dies after an accident where the cause of death appears to be directly attributable to the accident; or
  - (j) dies, or is suspected to have died, in circumstances that, in the opinion of the Attorney-General, should be better ascertained; or
  - (k) dies in custody.
- (2) A coroner has jurisdiction to hold an inquest into the manner and cause of death, outside the Territory, of a person, if—
- (a) the person was ordinarily resident in the Territory; and
  - (b) the death occurred in any of the circumstances referred to in subsection (1).
- (3) A coroner has jurisdiction to hold an inquest notwithstanding that—
- (a) the body of the deceased—
    - (i) is not within the Territory; or
    - (ii) has been destroyed; or
    - (iii) is in a place from which it cannot be recovered; or
  - (b) in the case of a suspected death—the body of the deceased cannot be found.

#### **14 Decision not to conduct hearing**

- (1) A coroner may decide not to conduct a hearing into a death if, after consideration of information given to a coroner relating to the death of a person, the coroner is satisfied that—
- (a) the manner and cause of death are sufficiently disclosed; and
  - (b) a hearing is unnecessary.

- (2) A coroner shall not dispense with conducting a hearing into a death if the coroner has reasonable grounds for believing that the person died—
- (a) in custody; or
  - (b) while under, or as a result of the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation.
- (3) A coroner who decides not to conduct a hearing into a death shall give to the Chief Coroner and a member of the immediate family of the deceased written notice of his or her decision including the grounds on which the decision was based.

## **15 Control of the body of the deceased**

- (1) Where—
- (a) a death occurs in respect of which a coroner is required to hold an inquest; and
  - (b) the body of the deceased is in the Territory;
- a coroner has control of the body until the coroner has issued a certificate under section 16.
- (2) A deputy coroner is not authorised to issue a certificate under subsection (1).

## **16 Release of body**

Where—

- (a) the death of a person has been reported to the coroner; and
- (b) the coroner is satisfied that there is no reason why the body of the deceased should not be buried, cremated, or taken out of the Territory for burial or cremation;

the coroner may give a certificate under this section.

**17 Assistance to State and other Territory coroners**

- (1) A coroner may exercise any of his or her powers under this Act to assist a coroner of a State or another Territory in relation to a death in that State or other Territory.
- (2) If the Attorney-General requests, a coroner shall exercise any of his or her powers under this Act to assist a coroner of a State or another Territory in relation to a death in that State or other Territory.

**Division 3.2 Inquiries into fires**

**18 Coroner's jurisdiction in relation to fires**

- (1) A coroner shall hold an inquiry into the cause and origin of a fire that has destroyed or damaged property, if—
  - (a) requested to do so by the Attorney-General; or
  - (b) the coroner is of the opinion that an inquiry into the cause and origin of the fire should be held.
- (2) Where—
  - (a) the owner or occupier of destroyed or damaged property requests a coroner to hold an inquiry into the cause and origin of a fire; and
  - (b) the coroner is of the opinion that an inquiry into the cause and origin of the fire should not be held;

the coroner shall give to each owner or occupier who requested that an inquiry be held written notice of his or her opinion and the grounds on which the opinion is based.

## **Division 3.3                      Inquiries into disasters**

### **19                      Coroner's jurisdiction in relation to disasters**

- (1) The Chief Coroner shall, if requested to do so by the Attorney-General, cause an inquiry to be held into the cause and origin of a disaster.
- (2) The Chief Coroner shall not cause an inquiry to be held into the cause and origin of a disaster except with the consent of the Attorney-General.

## **Part 4 Post-mortem examinations and exhumations**

### **20 Dispensing with post-mortem examination**

- (1) A coroner may dispense with the conduct of a post-mortem examination of a body if the coroner, after considering the information furnished to him or her relating to the death, is satisfied that the manner and cause of death are sufficiently disclosed.
- (2) A coroner may dispense with the conduct of a post-mortem examination of a body if, on the request of a member of the immediate family of the deceased or a representative of that person, the coroner is satisfied that the manner and cause of death are sufficiently disclosed.

### **21 Directions to medical practitioners to conduct post-mortem examinations**

- (1) Subject to section 28, a coroner may, by order, direct a medical practitioner to conduct a post-mortem examination of the body of a person who has died in any of the circumstances in respect of which the coroner has jurisdiction to hold an inquest.
- (2) A coroner may, by order, direct the same or another medical practitioner to conduct a further or more complete post-mortem examination of a body if satisfied that it is desirable to do so.
- (3) Where a coroner makes an order under subsection (1) or (2) in relation to a person who has died in a hospital or an institution, the coroner may, by order, direct the person in charge of the hospital or institution to give the medical records relating to that person to the medical practitioner specified in the order.
- (4) Unless otherwise directed by the coroner by order, the medical practitioner to whom the records are given shall return the records to

the person in charge of the hospital or institution as soon as practicable after the completion of the post-mortem.

- (5) An order under subsection (1), (2) or (4) shall be in writing.

**22 Unavailability of medical practitioner directed to conduct a post-mortem examination**

If a medical practitioner specified in an order under section 21 (1) or (2) is, for any reason, unable to conduct the post-mortem examination, the coroner may—

- (a) amend the order by substituting the name of another medical practitioner; or
- (b) direct that a specified medical practitioner conduct the post-mortem.

**23 Consideration of immediate family**

- (1) A coroner holding an inquest into a death (other than a death in custody) may, if requested to do so by a member of the immediate family of the deceased or a representative of that person, authorise—
- (a) the viewing of the body of the deceased by the member or a representative of that member; or
  - (b) an inspection of the scene of the death by the member or a representative of that member; or
  - (c) an inspection of the scene of an event, being an event which, in the opinion of the coroner, may have resulted in the death of the person; or
  - (d) the member or a representative of that member to be present at any post-mortem examination conducted on the body; or
  - (e) the same or another medical practitioner to conduct a further post-mortem examination on the body.

- (2) If a coroner refuses to give an authorisation under subsection (1) on the ground that he or she believes that it would not be in the public interest or the interests of justice to do so, the coroner shall give to the person who made the request written notice of his or her refusal and an explanation for the refusal.
- (3) A notice under subsection (2) shall include a statement that the person who made the request may apply to the Chief Coroner requesting that the coroner who made the decision reconsider his or her decision.

## **24 Reconsideration of decisions**

- (1) Where—
  - (a) a coroner refuses to give an authorisation under section 23 (1); and
  - (b) the Chief Coroner receives a written application requesting that the coroner who refused to give the authorisation be requested to reconsider his or her decision;

the Chief Coroner shall, if satisfied that the applicant has sufficient interest in the decision, request the coroner to whom the application relates to reconsider his or her decision.

- (2) A request shall set out the grounds on which the person relies.
- (3) The Chief Coroner shall notify the applicant of any comments of a coroner in response to the request.

## **25 Previous attending medical practitioner entitled to observe post-mortem examination**

A medical practitioner who attended a person professionally at or immediately before the person's death or during the person's last illness is entitled, on request, to be present as an observer at a post-mortem examination of the body of the deceased.



**26 Removal of body to place of post-mortem examination**

- (1) Subject to section 28, if a coroner has reasonable grounds for believing that a person has died in circumstances in respect of which the coroner has jurisdiction to hold an inquest, the coroner may issue a warrant to a police officer named in the warrant authorising him or her, with such assistance as the police officer considers necessary, to take and remove the body to a specified place for post-mortem examination.
- (2) A police officer named in the warrant may, at any time of the day or night, with such assistance as he or she considers necessary—
  - (a) enter into and search, and, where necessary, break open, any house, building, premises or place, where he or she has reasonable cause to suspect the body may be found; and
  - (b) remove the body to the place where the post-mortem examination is to be conducted.

**27 Warrant for exhumation of body or recovery of ashes**

- (1) Subject to section 28, a coroner may issue a warrant for—
  - (a) the exhumation for post-mortem examination of a body that has been buried; or
  - (b) if the body of the deceased has been cremated—the recovery of the ashes;if the coroner is satisfied that—
  - (c) there is reasonable cause to believe that the person died in circumstances in respect of which the coroner has jurisdiction to hold an inquest; and
  - (d) a post-mortem examination of the body or an analysis of the ashes of the deceased should be made.
- (2) Where—

- (a) the body of a deceased person has been buried or cremated and the inquest concerning the death of that person has not been completed; or
- (b) the Supreme Court has quashed an inquest and has directed that a fresh inquest be held;

a coroner may, if he or she is of the opinion that—

- (c) a post-mortem or a more complete post-mortem examination should be made of the body; or
- (d) an analysis or more complete analysis should be made of the ashes of the deceased;

issue a warrant for the exhumation of the body or, if practicable, for the recovery of the ashes for the post-mortem examination or analysis or the more complete post-mortem examination or analysis, as the case requires.

(3) Where—

- (a) the body of a person who died outside the Territory has been buried in the Territory or the ashes of a person who so died are in the Territory; and
- (b) a coroner having jurisdiction in the place where the person died informs a coroner that—
  - (i) an inquest is to be, or is being, held into the cause of the death of the person; and
  - (ii) it is desirable that a post-mortem examination or a more complete post-mortem examination should be made of the body or an analysis or more complete analysis be made of the ashes;

the coroner may issue a warrant for the exhumation of the body or for the recovery of the ashes of the deceased for a post-mortem examination or a more complete post-mortem examination or an analysis or more complete analysis of the ashes.

**28 Prior considerations before directing post-mortem examinations**

In determining whether or not to—

- (a) make an order under section 21 (1); or
- (b) issue a warrant under section 26 or 27;

a coroner shall have regard to the desirability of minimising the causing of distress or offence to persons who, because of their cultural attitudes or spiritual beliefs, could reasonably be expected to be distressed or offended by the making of that decision.

**29 Form of warrant for exhumation**

A warrant for the exhumation of the body or the recovery of the ashes of a person shall—

- (a) authorise the police officer to whom it is directed to exhume the body or recover the ashes of the person named in the warrant; and
- (b) direct the person to whom it is directed to take the body or ashes to the place specified in the warrant as the place for the post-mortem examination of the body or analysis of the ashes.

**30 Reinterment of remains or ashes**

- (1) A coroner by whom a warrant for the exhumation of the body or the recovery of the ashes of a person was issued shall, as soon as he or she is satisfied that the exhumed body should be reinterred or the ashes returned to the person entitled to them, by order, direct a person named in the order to reinter the body or return the ashes.
- (2) The coroner shall give a copy of an order under subsection (1) to a member of the immediate family of the deceased or a representative of that member.

**31 Removal of body or ashes for purposes of inquest outside the Territory**

- (1) Where—
- (a) the body of a person who has died outside the Territory is lying, or the ashes of a deceased are, in the Territory; and
  - (b) a coroner is informed by a coroner having jurisdiction in the place where the person died that an inquest is to be held in that place into the manner and cause of the death of the person;
- the coroner may make an order directing a person named in the order to remove the body or ashes to the place at which the inquest is to be held.
- (2) Where a coroner makes an order under subsection (1), the coroner shall—
- (a) notify the registrar-general; and
  - (b) give to the registrar-general such of the particulars specified in section 56 (2) as are known to the coroner.

**32 Report by medical practitioner or analyst**

Where, under section 21, 27 or 71, a post-mortem examination of the body, or an analysis of the ashes, of a deceased is carried out, the person carrying out the examination or analysis shall, as soon as practicable after the examination or analysis is completed—

- (a) furnish a report to the coroner by whom the order was made; and
- (b) if a request has been made under section 71—furnish a report to the person who made the request, or his or her representative or a representative (if any) of the deceased.

**33 Assistance at post-mortems etc**

A coroner who—

- (a) makes an order for a post-mortem examination, reinterment or analysis of ashes; or
- (b) issues a warrant for an exhumation of a body or the recovery of the ashes of a deceased;

may, by instrument, appoint a person or persons to assist in the examination, reinterment, exhumation, analysis or recovery.

## **Part 5 Inquests and inquiries**

### **Division 5.1 Hearings**

#### **34 Hearings**

For the purposes of an inquest or inquiry a coroner may conduct a hearing.

#### **35 Time and place of hearing**

A coroner shall fix the time and place of a hearing.

#### **36 Adjournment of hearing**

A coroner may, by order made in or outside the court, adjourn a hearing from time to time and from place to place.

#### **37 Notification of immediate family**

- (1) Before conducting a hearing for the purposes of an inquest into a death (other than a death in custody), the coroner shall have regard to—
  - (a) whether a member of the immediate family of the deceased has been notified of the time and place of the hearing; or
  - (b) if a member of the immediate family of the deceased has not been notified of the time and place of the hearing—whether reasonable efforts have been made to do so.
- (2) Nothing in subsection (1) prevents a coroner from conducting a hearing if the coroner believes, on reasonable grounds, that it would be in the public interest or the interests of justice to do so.

**38 Notice relating to conduct of hearing**

A coroner shall, where practicable, not less than 14 days before conducting a hearing, publish in a daily newspaper published and circulating in the Territory the date, time and place of the hearing.

**39 Non-custodial deaths and fires—discretion to appoint legal practitioner**

- (1) A coroner may appoint a legal practitioner to assist the coroner for the purposes of an inquest in relation to a death (other than a death in custody) or in an inquiry.
- (2) An appointment under subsection (1) may be made either generally or in relation to a particular matter.

**U 40 Hearing in public except in certain cases**

- (1) Subject to subsection (2), a hearing shall be in public.
- (2) Where a coroner is of the opinion that it is desirable in the public interest or in the interests of justice to do so, the coroner may, by order—
  - (a) direct that a hearing or part of it shall take place in private and give directions as to the persons who may be present; and
  - (b) give directions prohibiting or restricting the publication or disclosure of evidence whether or not a hearing has been held.
- (3) A person shall not, without reasonable excuse, contravene an order under subsection (2).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**41 Hearing to be held without jury**

A hearing for the purposes of an inquest or inquiry shall be conducted without a jury.

## **42 Representation at hearing**

A coroner may grant leave to a person—

- (a) who has been summoned to give evidence in relation to an inquest or inquiry; or
- (b) who, in the opinion of the coroner, has a sufficient interest in the subject matter of the inquest or inquiry;

to appear in person at a hearing or to be represented by a legal practitioner and, at the hearing, to examine and cross-examine witnesses on matters relevant to the inquest or inquiry to which the hearing relates.

## **42A Appearance by audiovisual or audio links**

- (1) This section applies where, in relation to an inquest or inquiry, or a part of an inquest or inquiry (the relevant proceedings), the coroner has given a direction under the *Evidence (Miscellaneous Provisions) Act 1991*, section 20 (1) (Territory courts may take evidence and submissions from outside ACT) or section 32 (1) (Use of link in proceedings).
- (2) Where this section applies, a person who in the relevant proceedings—
  - (a) is required or entitled to appear personally, whether under section 42 or as a witness; or
  - (b) is entitled to appear for another person;may appear in the relevant proceedings and participate or give evidence, as the case requires, in accordance with the direction.
- (3) A person who appears in relevant proceedings in accordance with this section shall be taken to be before the coroner.



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## **Division 5.2                      Witnesses**

### **43                      Power of coroner to subpoena witnesses etc**

- (1) If a coroner is satisfied that—
- (a) a person may be able to give evidence or produce a relevant document or other thing to the coroner; or
  - (b) a person who may be able to give evidence before a coroner will not voluntarily, or does not, appear at a particular time and on a particular date;

the coroner may issue a subpoena requiring the person to appear before the coroner at a time and on a date specified in the subpoena—

- (c) to give that evidence or produce that document or thing; or
  - (d) to give that evidence and produce a document or thing in the possession, custody or control of the person that is mentioned in the subpoena; or
  - (e) to produce a document or thing in the possession, custody or control of the person that is mentioned in the subpoena.
- (2) A person shall be taken to have complied with a subpoena under subsection (1) (a) if the person delivers the document or thing to the court before the date specified in the subpoena.
- (3) A person cannot rely on the common law privileges against selfincrimination and exposure to the imposition of a civil penalty to refuse to produce a document or other thing required under a subpoena.

*Note*        The Legislation Act, s 171 deals with client legal privilege.

- (4) However, any information, document or other thing obtained, directly or indirectly, because of the producing of the document or other thing, is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for—

- (a) an offence in relation to the falsity or the misleading nature of the document or thing; or
- (b) an offence against the Criminal Code, chapter 7 (Administration of justice offences).

#### **44 Service of subpoena on witness**

- (1) A subpoena may be served on a witness—
  - (a) personally; or
  - (b) by sending it to the witness's last-known place of residence or employment by a form of post that requires a signature on receipt; or
  - (c) by leaving it with a responsible adult at the witness's last-known place of residence or employment.
- (2) The subpoena shall be accompanied by—
  - (a) an undertaking to appear for signature by the person and return to a coroner by the date specified in the subpoena; and
  - (b) a form to be completed by the person to claim his or her reasonable costs and expenses of attendance at the inquest or inquiry.
- (3) A person is not entitled to refuse to comply with a subpoena because of a failure at the time the subpoena was served to give the person the form.
- (4) Service of a subpoena on a witness may be proved by the oath of the person who served it or by affidavit.

#### **45 Arrest of witness**

- (1) Where—
  - (a) a subpoena under section 43 has been served on the person to whom it is directed; and

(b) the person fails to attend at the time and place specified in the subpoena;

the coroner may issue his or her warrant for the arrest of the person.

- (2) A warrant under subsection (1) may be directed to all police officers, and any police officer may execute the warrant as if it had been directed specifically to him or her by name.
- (3) The police officer who executes a warrant under subsection (2) shall, as soon as possible after the arrest of the person named in the warrant, cause the person to be brought before a coroner.
- (4) Where a person who has been so arrested is brought before a coroner, the coroner—
- (a) may direct that the person remain in such custody as the coroner directs; or
  - (b) may release the person upon the person entering into a recognisance, with or without sureties, in such sum as the coroner determines that the person will attend at a time and place specified in the recognisance.
- (5) If a person who has been released under subsection (4) (b) fails to attend at the time and place specified in the recognisance—
- (a) the coroner may issue his or her warrant for the arrest of the person; and
  - (b) the coroner may declare the recognisance of the person and the recognisance of his or her sureties to be forfeited and—
    - (i) the declaration is taken to be the declaration of the forfeiture of a recognisance under the *Magistrates Court Act 1930*, section 254 (Enforcement of recognisance); and
    - (ii) the provisions of that section apply to the declaration accordingly.

**46 Persons about to leave Territory—examination and production of documents etc**

- (1) Where, by evidence on oath, a coroner is satisfied that—
- (a) a person is able to give material evidence or to produce a relevant or material document or thing relating to an inquest or inquiry; and
  - (b) the person is likely to be absent from the Territory during the conduct of a hearing;

the coroner may order that the evidence of that person be taken or the document or thing be produced before him or her, at any time before the hearing, in the same manner as the evidence would be taken or the document or thing be produced at the hearing.

- (2) When an order under subsection (1) is served on a person, it shall be accompanied by a form to be completed by the person to claim his or her reasonable costs and expenses of attending the examination or production.
- (3) A person is not entitled to refuse to comply with an order under subsection (1) because of a failure at the time the order was served to give the person the form.

**Division 5.3 Evidence**

**47 Procedure**

- (1) A coroner is not bound to observe the rules of procedure and evidence applicable to proceedings before a court of law.
- (2) Where the procedure for taking any step in an inquest or inquiry is not prescribed in this Act or the law under which the step is to be taken, a coroner may give directions as to the procedure to be followed for the taking of that step.

## **48 Evidence**

- (1) For an inquest or inquiry, a coroner may take evidence on oath and, for that purpose—
  - (a) the coroner may require a witness to take an oath; and
  - (b) the coroner, registrar or other appropriate officer of the court may administer an oath to a witness.

*Note* **Oath** includes affirmation and **take** an oath includes make an affirmation (see Legislation Act, dict, pt 1).

- (2) A coroner may—
  - (a) require a witness to answer a question put to the witness; and
  - (b) if a person appears before a coroner under a subpoena—require the person to give evidence or produce a document or thing stated in the subpoena.
- (3) A record of evidence made for an inquest or inquiry is not, only because it is such a record, admissible in any court as evidence that a person made the depositions included in the record.
- (4) Subsection (3) does not apply in relation to a prosecution for an offence against part 7 or the Criminal Code, chapter 7 (Administration of justice offences).

## **49 Record of proceedings**

- (1) In this section:

**relevant provisions** means the following provisions of the *Magistrates Court Act 1930*:

  - section 314 (Registrar to give directions for preparation of transcript)
  - section 315 (Applications for transcripts)
  - section 316 (Record of proceedings)

- section 317 (Record of proceedings and transcript).
- (2) The relevant provisions apply in relation to the depositions of a witness who gives evidence at a hearing as if the depositions were depositions in a proceeding in the Magistrates Court and as if—
- (a) a reference to the Magistrates Court were a reference to a coroner; and
  - (b) a reference to the registrar of the Magistrates Court were a reference to the registrar of the Coroner’s Court; and
  - (c) in section 315—the following subsection were substituted for subsection (2):
    - ‘(2) A person is entitled to a copy of a record made at an inquest or inquiry only if the person has satisfied the registrar or a coroner that the person has good reason for applying for the copy.’; and
  - (d) in section 316 (6)—proceedings at an inquest or inquiry were proceedings mentioned in that subsection; and
  - (e) all other necessary changes, and any changes prescribed under the regulations, were made.

## **50 Informal request for evidence**

- (1) A coroner may, on being requested by a person having sufficient interest in an inquest or inquiry, request another person to give evidence relevant to the inquest or inquiry.
- (2) The request may be made to the coroner during an inquest or inquiry, or before or after a hearing.

## **51 Access to documents etc**

A coroner may make available to any person with sufficient interest in an inquest or inquiry—

- (a) any document or thing that is produced at, or the coroner intends to consider in relation to, an inquest or inquiry; and
- (b) any evidence relevant to the inquest or inquiry to which the coroner intends to have regard.

## **Division 5.4 Findings and reports**

### **52 Coroner's findings**

- (1) A coroner holding an inquest shall find, if possible—
  - (a) the identity of the deceased; and
  - (b) when and where the death occurred; and
  - (c) the manner and cause of death; and
  - (d) in the case of the suspected death of a person—that the person has died.
- (2) A coroner holding an inquiry shall find, if possible—
  - (a) the cause and origin of the fire or disaster; and
  - (b) the circumstances in which the fire or disaster occurred.
- (3) At the conclusion of an inquest or inquiry, the coroner shall record his or her findings in writing.
- (4) A coroner may comment on any matter connected with the death, fire or disaster including public health or safety or the administration of justice.

### **53 Interim findings**

A coroner may, at any time before concluding an inquest or inquiry, make an interim finding on any matter connected with the inquest or inquiry.

**54 Requests for copies of reports of findings**

- (1) A coroner holding an inquest (other than an inquest into a death in custody) shall, on the request of a member of the immediate family of the deceased or a representative of that member, make available a copy of his or her findings to that member or representative.
- (2) A coroner holding an inquiry into a fire shall, on the request of the owner of the property damaged or destroyed by the fire, make available a copy of his or her findings to the owner.

**55 Adverse comment in findings or reports**

- (1) A coroner shall not include in a finding or report under this Act (including an annual report) a comment adverse to a person identifiable from the finding or report unless he or she has, prior to the making of the finding or report, taken all reasonable steps to give to the person a copy of the proposed comment and a written notice advising the person that, within a specified period (being not more than 28 days and not less than 14 days after the date of the notice), the person may—
  - (a) make a submission to the coroner in relation to the proposed comment; or
  - (b) give to the coroner a written statement in relation to it.
- (2) The coroner may extend, by not more than 28 days, the period of time specified in a notice under subsection (1).
- (3) Where the person so requests, the coroner shall include in the report the statement given under subsection (1) (b) or a fair summary of it.

**56 Notification of registrar-general**

- (1) A coroner shall give notice, in writing, to the registrar-general of an inquest being held.
- (2) The coroner shall—



- (a) where—
- (i) an inquest is adjourned by reason of a notice or the filing of an information under section 58 (1) or (3); or
  - (ii) the coroner decides that an inquest so adjourned is to be, or will not be, proceeded further with;
- give notice, in writing, to the registrar-general; or
- (b) where the inquest—
- (i) is adjourned (otherwise than as referred to in paragraph (a))—give written notice to the registrar-general of the particulars of any interim findings; or
  - (ii) is completed—give written notice to the registrar-general of his or her findings;

together with such particulars as are required to be entered by the registrar-general in the register under the *Births, Deaths and Marriages Registration Act 1997* as have come to the knowledge of the coroner.

## **57 Report after inquest or inquiry**

- (1) A coroner may report to the Attorney-General on an inquest or an inquiry into a fire held by the coroner.
- (2) A coroner shall report to the Attorney-General on an inquiry into a disaster.
- (3) A coroner may make recommendations to the Attorney-General on any matter connected with an inquest or inquiry, including matters relating to public health or safety or the administration of justice.

## Division 5.5 Indictable offences

### 58 Procedure where evidence of indictable offence

- (1) If, during the course of holding an inquest or inquiry, a coroner has reasonable grounds for believing that, having regard to the evidence given at an inquest or inquiry, a person has committed an indictable offence, the coroner—
  - (a) shall, by written notice, inform the director of public prosecutions; and
  - (b) shall not proceed further with the inquest or inquiry until the date ascertained in accordance with subsection (4).
- (2) In determining whether to inform the director of public prosecutions or not to proceed further with an inquest or inquiry, the coroner shall have regard to—
  - (a) the admissibility at trial of the evidence given at the inquest or inquiry on which the coroner bases his or her opinion that the director of public prosecutions should be informed; and
  - (b) whether the director of public prosecutions or a person who may be affected by the referral to the director of public prosecutions of evidence relevant to the alleged offence is, or has been, given the opportunity to give evidence in connection with the alleged offence.
- (3) If, during the course of holding an inquest or inquiry—
  - (a) the director of public prosecutions, by written notice, informs the coroner holding the inquest or inquiry that an information is to be laid or presented charging a person with an indictable offence in relation to the death of a person the subject of the inquest or the matter the subject of the inquiry; or
  - (b) the Attorney-General lays or presents an information against the person;

the coroner shall not proceed further with the inquest or inquiry until the date ascertained in accordance with subsection (4).

- (4) For subsections (1) and (3), the coroner may proceed with the inquest or inquiry—
- (a) if a prosecution is not instituted on or before the day after the day that is 3 months after—
    - (i) the day the coroner issued the written notice required to be given to the director of public prosecutions under subsection (1) (a); or
    - (ii) receipt of a written notice provided to a coroner under subsection (3) (a); or
  - (b) on a day after—
    - (i) the day on which the director of public prosecutions gives notice to the coroner that—
      - (A) no information is to be laid or presented in relation to the alleged offence; or
      - (B) the director of public prosecutions has discontinued or intends to discontinue proceedings in respect of the information; or
    - (ii) if the person is committed or indicted to take his or her trial for the alleged offence, the day after the day on which—
      - (A) the director of public prosecutions gives notice to the coroner that all proceedings in respect of an information laid or presented are finally decided; or
      - (B) the director of public prosecutions gives notice to the coroner that proceedings in respect of the information have been or will be discontinued; or

- (iii) if the person is not so committed or indicted—the day after the day on which the person is discharged; or
  - (iv) if the person is convicted of the offence, and the director of public prosecutions has not given notice under subparagraph (ii) (A) that the proceedings are finally decided—30 days after the proceedings are finally decided.
- (5) A coroner may continue an inquest or inquiry after the relevant day referred to in subsection (4), but shall not make a finding which is inconsistent with the judgment or verdict of the court which finally determined the guilt or innocence of the person charged.
- (6) A coroner shall not continue with the holding of an inquest or inquiry if satisfied that the inquest or inquiry should not be continued.

## **Division 5.6                    General powers of coroners**

### **59                    Investigators**

- (1) A coroner may, by instrument, appoint a person to assist him or her in the investigation of any matter relating to an inquest or inquiry.
- (2) An investigator appointed under subsection (1) shall—
  - (a) inquire into; and
  - (b) report in writing to the coroner on;  
any matter referred to the investigator by the coroner by his or her instrument of appointment.
- (3) The instrument of appointment of an investigator shall specify—
  - (a) particulars of the subject matter into which the investigator is to inquire and report; and
  - (b) the conditions (if any) to which his or her appointment is subject; and

- (c) the remuneration (if any) to which he or she is entitled to receive.
- (4) An investigator who is a public servant is not entitled to be paid remuneration under subsection (3).
- (5) The coroner holding the inquest or inquiry in relation to which the investigations are made shall have regard to the report of the investigator and shall give it such weight as the coroner thinks fit.

**60 Coroner not to be called as witness**

- (1) A coroner shall not be called to give evidence in a court or judicial proceedings about anything coming to his or her knowledge in exercising a power or performing a function or duty under this Act.
- (2) Subsection (1) does not apply in relation to proceedings against a coroner for an offence.

**61 Coroner not required to view the subject matter of inquest or inquiry**

Unless a coroner considers it advisable to do so, it is not necessary for him or her—

- (a) to view the body or ashes of a person; or
- (b) to inspect the scene of an event, being an event which, in the opinion of the coroner, may have resulted in the death of the person; or
- (c) to view the scene of a fire or disaster.

**62 Coroner may act on a Sunday**

- (1) A coroner may hold an inquest, inquiry or hearing on a Sunday if of the opinion that it is necessary or desirable to do so.
- (2) A coroner may do any act or issue any subpoena, warrant or order on a Sunday.

**63 Police assistance**

- (1) A coroner may, in writing, request the chief police officer for the assistance of a police officer in an investigation for the purpose of an inquest or inquiry.
- (2) The chief police officer shall, as far as practicable, comply with a request under subsection (1).
- (3) Any act or thing done by a police officer pursuant to subsection (1) is to be taken to have been done by or on behalf of the coroner who made the request.

**64 Request for hearing or for reconsideration of certain decisions**

- (1) The Chief Coroner may, on application in writing by a person, arrange for a hearing to be conducted for the purpose of an inquest or an inquiry into a fire.
- (2) Subject to subsection (3), the Chief Coroner shall—
  - (a) on application by a person requesting that a coroner who made a decision to dispense with or to conclude a hearing, reconsider his or her decision; and
  - (b) if satisfied that the applicant has sufficient interest in the inquest or inquiry into a fire to which the hearing relates; request the coroner to whom the application relates to reconsider the decision.
- (3) If the application relates to a decision of the Chief Coroner, he or she shall, if satisfied that the applicant has sufficient interest in the inquest or inquiry into a fire, reconsider his or her decision.
- (4) An application made to the Chief Coroner shall—
  - (a) be in writing; and
  - (b) set out the grounds on which the person relies.

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- (5) The coroner shall respond to the Chief Coroner's request within 14 days after receipt of the request.
- (6) The Chief Coroner shall, within 14 days after receipt of the coroner's response under subsection (5)—
- (a) notify the applicant of any comments of the appropriate coroner in response to the request; and
  - (b) give the applicant notice in writing containing—
    - (i) a statement that the coroner, in relation to whose decision the request was made, does or does not intend to conduct a hearing or to alter his or her original finding; and
    - (ii) if the coroner does not intend to conduct a hearing or to alter his or her original finding—an explanation why.
- (7) If—
- (a) after reconsidering the original finding, the coroner who made it notifies the Chief Coroner that he or she does not intend to conduct a hearing or to alter the finding; or
  - (b) the coroner in respect of whose finding the request was made is unavailable (for whatever reason) to reconsider his or her finding;
- the Chief Coroner shall arrange for a hearing to be conducted, if satisfied that a hearing should be conducted.
- (8) An explanation under subsection (6) (b) (ii) shall include a statement to the effect that application may be made to the Supreme Court, within 30 days after receipt of the notice, for an order that a hearing be conducted.

**U 65      Restriction of access**

- (1) A coroner holding an inquest or an inquiry may take reasonable steps to restrict access to the scene of the death of a person, the

scene of an event which, in the opinion of the coroner, may have resulted in the death, or the place where the fire or disaster occurred.

- (2) A person shall not, without reasonable excuse, enter or interfere with any area to which access is restricted under this section.

Maximum penalty: 100 penalty units.

## **66 Search warrants**

- (1) A coroner may issue a warrant if the coroner believes on reasonable grounds that it is necessary for the purposes of an inquest or inquiry.
- (2) A warrant shall authorise a police officer named in the warrant with such assistance, and by such force, as is necessary and reasonable—
- (a) to enter a place; and
  - (b) to search the place for a document or thing relevant to the inquest or inquiry; and
  - (c) to take any measurements or photographs of the place or any thing in or on the place; and
  - (d) to inspect, or take copies of, or extracts from, any document in or on the place that is, or is reasonably believed to be, relevant to the inquest or inquiry; and
  - (e) to seize any document or thing that the coroner believes on reasonable grounds to be relevant to the inquest or inquiry; and
  - (f) to deliver anything so seized to the coroner.
- (3) A warrant may authorise an investigator to accompany the police officer named in the warrant and to exercise such of the powers under subsection (2) as are specified in the warrant.
- (4) A warrant shall—
- (a) state the purpose for which it is issued; and



- (b) specify particular hours during which the entry is authorised or state that the entry is authorised at any time of the day or night; and
  - (c) include a description of the kind of things in relation to which the powers under the warrant may be exercised; and
  - (d) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.
- (5) A warrant may be executed, in accordance with its terms, at any time during the period commencing on the date of issue of the warrant and ending at the expiration of the date specified for the purpose of subsection (4) (d).
- (6) Before exercising a power under a warrant, the person executing the warrant shall give a copy of the warrant to the owner or occupier of the place to which it relates.
- (7) If, in the course of searching under a warrant for a thing relevant to an inquest or inquiry—
- (a) the person executing the warrant finds a thing that the person believes on reasonable grounds to be connected with the matter into which the coroner is inquiring, although not of a kind specified in the warrant; and
  - (b) the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its being concealed, lost, mutilated, destroyed or disposed of;

the person may seize that thing and shall deliver the thing so seized to the coroner.

## **67 Inspection and retention of seized things**

- (1) A coroner may—

- (a) inspect a document or other thing produced before, or delivered to, the coroner and make copies of, or take extracts from, such parts of the document as are relevant to a matter the subject of the inquest or inquiry; and
  - (b) retain possession of the document or thing for such period as is necessary for the purposes of the inquest or inquiry to which the document or thing relates.
- (2) A person otherwise entitled to possession of a document retained under subsection (1) (b) is entitled to be supplied with a copy of the document certified by the coroner to be a true copy.
- (3) A certified copy of a document shall be received in all courts as evidence as if it were the original.
- (4) Until the certified copy is supplied, the coroner shall, at such times and places as the coroner thinks appropriate, permit—
  - (a) the person otherwise entitled to possession of the document; or
  - (b) a person authorised by that person;to inspect and make copies of, or take extracts from, the document.
- (5) Where the retention of a document or other thing by a coroner ceases to be necessary for the purposes of an inquest or inquiry, the coroner shall, if a person who appears to the coroner to be entitled to the document or thing so requests, give the document or thing to the person.
- (6) On the completion of an inquest or inquiry, a coroner shall take all reasonably practical steps to give any thing taken or seized under this division to the person whom the coroner reasonably believes to be entitled to it.

**68 Chief Coroner—power to hold fresh inquest or inquiry**

- (1) Notwithstanding that an inquest or an inquiry into a fire has been completed, the Chief Coroner may—

- (a) of his or her own motion; or
  - (b) at the request of a person;
- arrange for the holding of a fresh inquest or an inquiry into the fire.
- (2) The Chief Coroner shall not arrange for the holding of an inquest or inquiry under subsection (1) unless satisfied that—
- (a) by reason of the discovery of new facts or evidence of material significance to the inquest or inquiry that was not available to be put before a coroner at the time of the previous inquest or inquiry; and
  - (b) it is desirable in the public interest or the interests of justice to do so.

## Part 6 Deaths in custody—additional provisions

### 69 Consideration of deceased's family etc

- (1) The coroner shall not conduct a hearing into a death in custody unless satisfied that—
  - (a) a member of the immediate family of the deceased has been notified of the time and place of the hearing; or
  - (b) reasonable efforts to notify a member of the immediate family of the deceased have been made but were unsuccessful;and, if the deceased was an Aboriginal person or Torres Strait Islander, the appropriate local Aboriginal legal service has been notified.
- (2) Nothing in subsection (1) prevents a coroner from conducting a hearing if the coroner believes, on reasonable grounds, that it would be in the public interest or the interests of justice to do so.

### 70 Viewing of body etc

- (1) The coroner holding an inquest into a death in custody shall, if requested to do so by a member of the immediate family of the deceased or a representative of that member, authorise—
  - (a) the viewing of the body of the deceased by the member or a representative of that member; or
  - (b) an inspection of the scene of the death by the member or a representative of that member; or
  - (c) the member or a representative of that member to be present at any post-mortem examination conducted on the body; or

(d) the same or another medical practitioner to conduct a further post-mortem examination on the body;

unless the coroner believes, on reasonable grounds, that it would not be in the interests of justice to do so.

(2) If a coroner does not give an authorisation under subsection (1) the coroner shall give written notice of his or her decision and the reasons on which the decision was based—

(a) to the person by whom the request was made; and

(b) if the deceased was an Aboriginal person or Torres Strait Islander—to an appropriate local Aboriginal legal service.

#### **71 Post-mortem examinations by pathologists**

The coroner holding an inquest into a death in custody shall, whenever practicable, direct a post-mortem examination to be made of the body by a pathologist who has not less than 2 years experience in the conduct of post-mortem examinations.

#### **72 Obligation to appoint legal practitioner**

The coroner holding an inquest into a death in custody shall appoint a legal practitioner to assist him or her, either generally or in relation to a particular matter.

#### **73 Records of deaths in custody**

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

#### **74 Findings as to quality of care, treatment and supervision**

The coroner holding an inquest into a death in custody shall include in a record of the proceedings of the inquest findings as to the quality of care, treatment and supervision of the deceased which, in the opinion of the coroner, contributed to the cause of death.

**75 Copies of reports of findings**

- (1) After the coroner has completed an inquest into a death in custody, he or she shall, in writing, report his or her findings to—
  - (a) the Attorney-General; and
  - (b) the custodial agency in whose custody the death occurred and to the Minister responsible for that agency; and
  - (c) the Australian Institute of Criminology; and
  - (d) if the deceased was an Aboriginal person or Torres Strait Islander—an appropriate local Aboriginal legal service; and
  - (e) any other person whom the coroner considers appropriate.
- (2) The coroner shall make available a copy of a report of his or her findings into a death in custody to—
  - (a) a member of the immediate family of the deceased or a representative of that member; and
  - (b) a witness who appeared at an inquest into the death.

**76 Response to reports**

- (1) The custodial agency to which a report is given under section 75 shall, not later than 3 months after the date of receipt of the report, give to the Minister responsible for the custodial agency a written response to the findings contained in the report.
- (2) A written response under subsection (1) shall include a statement of the action (if any) which has been, or is being, taken with respect to any aspect of the findings contained in the report.
- (3) The Minister to whom a copy of a response is given under subsection (2) shall give a copy of the response to the coroner in respect of whose findings the report relates.

- (4) The coroner shall give a copy of the response to each person or agency to whom a copy of his or her report was given under section 75.

## Part 7 Offences

### 76A Application of Criminal Code, ch 7

- (1) A proceeding before the coroner is a legal proceeding for the Criminal Code, chapter 7 (Administration of justice offences).

*Note* That chapter includes offences (eg perjury, falsifying evidence, failing to attend and refusing to be sworn) applying in relation to coronial proceedings.

- (2) To remove any doubt, a decision or action the coroner takes under any of the following provisions is a legal proceeding for that chapter:
- (a) section 14 (Decision not to conduct hearing);
  - (b) section 20 (Dispensing with post-mortem examination);
  - (c) section 27 (Warrant for exhumation of body or recovery of ashes).

### **U** 77 Obligation to report death

- (1) A person shall report a death to a coroner or a police officer if the person has reasonable grounds for believing that—
- (a) the death is one in respect of which a coroner would have jurisdiction to hold an inquest; and



(b) the death has not been reported to a coroner.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A police officer to whom a death has been reported under subsection (1) shall report the death to a coroner.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**U 78 Obligations on custodial officers**

A custodial officer shall report a death in custody to a coroner as soon as is reasonably practicable after becoming aware of the fact.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**U 83 Improper dealings with body or ashes of deceased**

- (1) A person shall not interfere with or remove the body or ashes of a deceased with intent to prevent or hinder the holding of the post-mortem examination or an analysis of the ashes, if the person has reason to believe that a post-mortem examination of the body or an analysis of the ashes has been, or may be, ordered under this Act.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) A person shall not interfere with or remove the body or ashes of a deceased with intent to prevent or hinder the conducting of an inquest, if the person has reason to believe that an inquest has been, or may be, ordered under this Act.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

**88 Contempt**

- (1) A person commits an offence if the person does something in the face, or within the hearing, of the court that is a contempt of court.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Without limiting the operation of any other provision of this Act, where a person commits an offence against subsection (1), a coroner may proceed to charge the person and hear and dispose of the matter immediately and for that purpose receive evidence including unsworn evidence.

- (3) Where—

- (a) a person has been charged under subsection (2) but the matter has not been disposed of; and
- (b) a coroner has reasonable grounds to believe that the person has committed an offence against subsection (1); and
- (c) the coroner considers that it is reasonable in all the circumstances—
  - (i) to order that the person be taken into custody to appear before the court; or
  - (ii) to order that the person be remanded in custody from time to time for periods not exceeding 15 clear days at any one time; or
  - (iii) to release the person on bail; or
  - (iv) to make an order in respect of the person under subsection (7) before the alleged offence has been heard;

the coroner may make such an order.

- (4) An order under subsection (3) need not be in writing but such an order shall be reduced to writing, and a copy served on the alleged offender, as soon as practicable.

- (5) Failure to comply with subsection (4) does not invalidate an order.
- (6) Where a person is convicted of an offence against subsection (1), the court, in addition to any penalty provided for under that subsection that it imposes, may make an order in relation to the person under subsection (7).
- (7) An order under this subsection may provide for—
- (a) the exclusion of the person from any building in which the court sits or the environs of such a building; or
  - (b) prohibiting the person from approaching a coroner, an officer of the court or a witness; or
  - (c) the imposition of any reasonable condition on the person.
- (8) In this section:  
*court*, subject to subsection (9), includes a coroner when exercising the jurisdiction of the court.
- (9) In this section—
- (a) a reference in subsections (2), (3) and (8) to a coroner is not to be read as including a reference to a deputy coroner; and
  - (b) a reference in subsection (3) to a court is not to be read as including a reference to a deputy coroner.

## **89 Acts and omissions of representatives**

- (1) In this section:  
*person* means an individual.

*Note* See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

## Part 8 Powers of Supreme Court

### 90 Application to hold inquest or inquiry

A person to whom notice under section 64 (6) has been given may, within 30 days after receipt of the notice, apply to the Supreme Court for an order that a hearing into a death or fire be conducted.

### 91 Supreme Court—general

The Supreme Court may, on application by a person, if it is of the opinion that it would be in the interests of justice to do so, make an order directing a coroner to conduct a hearing into a death or fire.

### 92 Supreme Court—power to order inquest or inquiry

- (1) The Supreme Court may make an order directing a coroner to conduct a hearing into a death or fire if, on an application made by or under the authority of the Attorney-General or by anyone else, it is satisfied that—
  - (a) a coroner does not intend to conduct a hearing into a death or fire; and
  - (b) it is in the public interest or the interests of justice that a hearing into a death or fire should be conducted.
- (2) If an application is made under subsection (1) by a person (other than the Attorney-General or someone acting under the Attorney-General's authority), the application must be served on the Attorney-General.
- (3) The Attorney-General may appear on the hearing of any application under subsection (1).

**93 Supreme Court—power to quash, or order fresh, inquest or inquiry**

- (1) Where—
- (a) an inquest into the cause of the death of a person, or an inquiry into the cause of a fire or disaster, has been held; and
  - (b) the Supreme Court, on an application made by or under the authority of the Attorney-General or by anyone else is satisfied that, by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, discovery of new facts or evidence or otherwise, it is necessary or desirable in the public interest or the interests of justice that the inquest or inquiry be quashed and that another inquest or inquiry be held;

the Supreme Court may order that the inquest or inquiry be quashed and another inquest or inquiry be held into the death, fire or disaster.

- (2) If an application is made under subsection (1) by a person (other than the Attorney-General or someone acting under the Attorney-General's authority), the application must be served on the Attorney-General.
- (3) The Attorney-General may appear on the hearing of any application under subsection (1).

## Part 9                      Witnesses expenses and other amounts

### 98                      Witnesses expenses

A coroner may allow to a witness who gives evidence before the coroner, whether or not in obedience to a subpoena, such expenses as the Magistrates Court may allow to a witness under the *Magistrates Court Act 1930*.

### 99                      Amounts payable to assistants

A person who, for the purposes of this Act, assists—

- (a) in the exhumation of a body; or
- (b) in the conduct of a post-mortem examination or the analysis of the ashes of the deceased; or
- (c) in the reintering of a body;

shall be paid such amount (if any) as a coroner directs.

## Part 10 Miscellaneous

### **U 100 Deaths in institutions—retention of deceased’s records**

- (1) Where a person dies while a patient in a hospital or other institution in circumstances in which a coroner has jurisdiction to hold an inquest, the person in charge of the hospital or institution shall ensure that all records relating to that person are retained intact for not less than 3 years after the date of the death.

Maximum penalty: 50 penalty units.

- (2) Where a person dies in custody, the person in charge of the hospital or institution in which, or the agency in whose care or custody, the death occurred, shall ensure that records relating to that person are retained intact for not less than 7 years after the date of the death.

Maximum penalty: 50 penalty units.

### **102 Annual report of court**

- (1) The Chief Coroner must give a report relating to the activities of the court during each financial year to the Attorney-General for presentation to the Legislative Assembly.
- (2) The report must include particulars of—
  - (a) reports prepared by coroners into deaths in custody and findings contained in those reports; and
  - (b) notices given under section 14 (3); and
  - (c) recommendations made under section 57 (3); and
  - (d) responses of agencies under section 76, including correspondence about the responses.



- (3) The Chief Coroner must give the report to the Attorney-General as soon as practicable after the end of the financial year and, in any event, within 6 months after the end of the financial year.
- (4) If the Chief Coroner is of the opinion that it will not be reasonably practicable to comply with subsection (3), the Chief Coroner may within that period apply, in writing, to the Attorney-General for an extension of the period.
- (5) The application must include a statement of reasons for the extension.
- (6) The Attorney-General may give the extension (if any) the Attorney-General considers reasonable in the circumstances.
- (7) If the Attorney-General gives an extension, the Attorney-General must present to the Legislative Assembly, within 3 sitting days after the day the extension is given—
  - (a) a copy of the application given to the Attorney-General under subsection (4); and
  - (b) a statement by the Attorney-General stating the extension given and the Attorney-General's reasons for giving the extension.
- (8) The Attorney-General must present a copy of a report under this section to the Legislative Assembly within 6 sitting days after the day the Attorney-General receives the report.
- (9) If the Chief Magistrate fails to give a report to the Attorney-General in accordance with this section, the Chief Magistrate must give the Attorney-General a written statement explaining why the report was not given to the Attorney-General.
- (10) The statement must be given to the Attorney-General within 14 days after the end of the period within which the report was required to be given to the Attorney-General.

- (11) The Attorney-General must present a copy of the statement to the Legislative Assembly within 3 sitting days after the day the Attorney-General receives the statement.

**103            Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note*        Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to the practice and procedures to be followed in inquests and inquiries.

## Part 11 Savings and transitionals

### 104 Definitions for pt 11

In this part:

*commencement date* means the date on which section 3 commences.

*former Act* means the *Coroners Act 1956*.

### 105 Appointments and authorisations

- (1) A person appointed to be a deputy coroner under the former Act, section 7 continues to hold office on the same terms and conditions as if he or she had been appointed under section 8 of this Act.
- (2) A person authorised by the Attorney-General under the former Act, section 10 (2), being an authority in force immediately before the commencement date, shall be taken to have been authorised by the Attorney-General under section 10 (2) of this Act.
- (3) A person appointed to be a deputy registrar under the former Act, section 11 (3) continues to hold office on the same terms and conditions as if he or she had been appointed under section 11 (3) of this Act.

### 106 Inquests or inquiries part heard

- (1) The former Act continues to apply in relation to an inquest into a death or an inquiry into a fire (being a death or fire that occurred before the commencement date) but which had not been concluded before that date.
- (2) However, sections 92 and 93 of this Act apply to an inquest or inquiry mentioned in subsection (1) instead of the former Act, sections 45 and 46.

**107 Determinations**

- (2) A determination under the former Act, section 86 in relation to a form continues in force until the Chief Coroner publishes a notice under section 101 (1) of this Act in relation to that form.
- (3) A direction given under the former Act, section 54 (2) continues in force as a direction given under section 47 (2) of this Act.

## Schedule 1

(see s 10)

### Part 1.1

#### Oath

I, [name], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

#### Affirmation

I, [name], do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

## Part 1.2

### **Oath**

I, [name], do swear that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.  
So help me God.

### **Affirmation**

I, [name], do solemnly and sincerely affirm that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Coroners Act 1997 No 57**

notified 9 October 1997 (Gaz 1997 No S300)  
commenced 9 October 1997 (s 2)

as amended by

#### **Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

#### **Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

#### **Custodial Escorts (Consequential Provisions) Act 1998 No 67 pt 3**

notified 23 December 1998 (Gaz 1998 No S212)  
s 1, s 2 commenced 23 December 1998 (s 2 (1))  
pt 3 commenced 23 December 1998 (s 2 (2) and Gaz 1998 No 51)

#### **Courts and Tribunals (Audio Visual and Audio Linking) Act 1999 No 22 pt 5**

notified 14 April 1999 (Gaz 1999 No S16)  
s 1, s 2 commenced 14 April 1999 (s 2 (1))  
pt 5 commenced 1 September 1999 (s 2 (2) and Gaz 1999 No 35)

#### **Mental Health (Treatment and Care) (Amendment) Act 1999 No 31 sch 2**

notified 25 June 1999 (Gaz 1999 No S34)  
s 1, s 2 commenced 25 June 1999 (s 2 (1))  
sch 2 commenced 1 October 1999 (s 2 (2))

#### **Children and Young People (Consequential Amendments) Act 1999 No 64 sch 2**

notified 10 November 1999 (Gaz 1999 No 45)  
s 1, s 2 commenced 10 Nov 1999 (s 2 (1))  
sch 2 commenced 10 May 2000 (s 2 (2))



**Justice and Community Safety Legislation Amendment Act 2000 No 1 sch**

notified 9 March 2000 (Gaz 2000 No 10)  
s 1, s 2 commenced 9 March 2000 (IA s 10B)  
amdt to repeal ss 94-97 commenced 9 September 2000 (IA s 10E)  
remaining amdts commenced 9 March 2000 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2000 (No 3) No 17 sch 1**

notified 1 June 2000 (Gaz 2000 No 22)  
commenced 1 June 2000 (s 2)

**Coroners Amendment Act 2001 No 6**

notified 8 March 2001 (Gaz 2001 No 10)  
commenced 8 March 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 84**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 84 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Supreme Court Amendment Act 2001 (No 2) 2001 No 54 sch 2 pt 2.3**

notified 15 August 2001 (Gaz 2001 No S57)  
s 1, s 2 commenced 15 August 2001 (IA s 10B)  
sch 2 pt 2.3 commenced 15 August 2001 (s 2)

**Legislation Amendment Act 2002 No 11 pt 2.11**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.11 commenced 28 May 2002 (s 2 (1))

**Cemeteries and Crematoria Act 2003 A2003-11 sch 1 pt 1.2**

notified LR 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
sch 1 pt 1.2 commenced 27 September 2003 (s 2 and LA s 79)

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.8**

notified LA 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
sch 1 pt 1.8 commenced 28 March 2003 (s 2)

## Endnotes

3 Legislation history

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**Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48  
sch 2 pt 2.3**

notified LR 31 October 2003  
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))  
sch 2 pt 2.3 commenced 30 April 2004 (s 2 and LA s 79)

**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 1 pt 1.7**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.7 commenced 9 April 2004 (s 2 (1))

**Health Professionals Legislation Amendment Act 2004 A2004-39  
sch 5 pt 5.5**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 5 pt 5.5 commenced 7 July 2005 (s 2 and see Health Professionals  
Act 2004 A2004-38, s 2 and CN2005-11)

**Court Procedures (Consequential Amendments) Act 2004 A2004-60  
sch 1 pt 1.15**

notified LR 2 September 2004  
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))  
sch 1 pt 1.15 commenced 10 January 2005 (s 2 and see Court  
Procedures Act 2004 A2004-59, s 2 and CN2004-29)

**Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.11**

notified LR 12 May 2005  
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))  
sch 3 pt 3.11 commenced 2 June 2005 (s 2 (1))

**Criminal Code (Administration of Justice Offences) Amendment Act  
2005 A2005-53 sch 1 pt 1.5**

notified LR 26 October 2005  
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))  
sch 1 pt 1.5 commenced 23 November 2005 (s 2)

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.17**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.17 commences 24 November 2005 (s 2)

## 4 Amendment history

### Commencement

s 2 om R2 LRA

### Interpretation for Act

s 3 am 1999 No 64 sch 2; A2005-20 amdt 3.94  
 def **chief police officer** om A2004-60 amdt 1.82  
 def **custodial officer** am 1999 No 31 sch 2; 1999 No 64  
 sch 2; A2004-60 amdt 1.83; A2005-20 amdt 3.93  
 def **engage in conduct** ins A2005-54 amdt 1.90  
 def **immediate family** am A2003-14 amdt 1.28, amdt 1.29  
 def **legal practitioner** om 1997 No 96 sch 1  
 def **medical practitioner** om A2004-39 amdt 5.7  
 def **spouse** om A2003-14 amdt 1.30

### Notes

s 3A ins A2005-54 amdt 1.91

### Offences against Act—application of Criminal Code etc

s 3B ins A2005-54 amdt 1.91

### Establishment

div 2.1 hdg (prev pt 2 div 1 hdg) renum R3 LA

### Appointment etc of coroners

div 2.2 hdg (prev pt 2 div 2 hdg) renum R3 LA

### Oath or affirmation to be taken or made by a coroner or deputy coroner

s 10 am 2001 No 6 s 4

### Inquests into deaths

div 3.1 hdg (prev pt 3 div 1 hdg) renum R3 LA

### General functions and jurisdiction of coroner

s 12 sub A2003-11 amdt 1.3

### Control of the body of the deceased

s 15 am 2001 No 44 amdt 1.926

### Release of body

s 16 hdg sub 2001 No 44 amdt 1.927

s 16 am 2001 No 44 amdt 1.928, amdt 1.929; A2004-60 amdt 1.84

### Inquiries into fires

div 3.2 hdg (prev pt 3 div 2 hdg) renum R3 LA

### Inquiries into disasters

div 3.3 hdg (prev pt 3 div 3 hdg) renum R3 LA

### Hearings

div 5.1 hdg (prev pt 5 div 1 hdg) renum R3 LA

## Endnotes

4 Amendment history

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### **Hearing in public except in certain cases**

s 40 [am A2005-54 amdt 1.92](#)

### **Appearance by audiovisual or audio links**

s 42A ins 1999 No 22 s 10  
am 2000 No 17 sch 1; A2003-48 amdt 2.3

### **Witnesses**

div 5.2 hdg (prev pt 5 div 2 hdg) renum R3 LA

### **Power of coroner to subpoena witnesses etc**

s 43 hdg sub A2004-60 amdt 1.85  
s 43 am A2004-60 amdt 1.86; A2005-53 amdt 1.28, amdt 1.29

### **Service of subpoena on witness**

s 44 hdg am A2004-60 amdt 1.86  
s 44 am A2004-60 amdt 1.86; A2005-53 amdt 1.30

### **Arrest of witness**

s 45 am 1998 No 67 s 12; A2004-60 amdts 1.86-1.89

### **Persons about to leave Territory—examination and production of documents etc**

s 46 am A2005-53 amdt 1.31

### **Evidence**

div 5.3 hdg (prev pt 5 div 3 hdg) renum R3 LA

### **Evidence**

s 48 am A2004-60 amdt 1.90; A2005-53 amdt 1.32, amdt 1.33

### **Record of proceedings**

s 49 sub A2004-60 amdt 1.91  
am A2005-20 amdt 3.95

### **Findings and reports**

div 5.4 hdg (prev pt 5 div 4 hdg) renum R3 LA

### **Indictable offences**

div 5.5 hdg (prev pt 5 div 5 hdg) renum R3 LA

### **Procedure where evidence of indictable offence**

s 58 am 2001 No 54 amdt 2.3, amdt 2.4

### **General powers of coroners**

div 5.6 hdg (prev pt 5 div 6 hdg) renum R3 LA

### **Coroner may act on a Sunday**

s 62 am A2004-60 amdt 1.92

### **Restriction of access**

s 65 [am A2005-54 amdt 1.93](#)

**Application of Criminal Code, ch 7**

s 76A ins A2005-53 amdt 1.34

**Obligation to report death**

s 77 sub A2005-54 amdt 1.94

**Death in custody—obligation to report**

s 78 sub A2005-54 amdt 1.95

**Failure of witnesses to attend or produce documents**s 79 am A2004-60 amdt 1.92  
om A2005-53 amdt 1.35**Refusal to be sworn or give evidence**

s 80 om A2005-53 amdt 1.35

**False evidence**s 81 am 1998 No 54 sch  
om A2005-53 amdt 1.35**Improper dealings with documents**s 82 am 1998 No 54 sch  
om A2005-53 amdt 1.35**Improper dealing with body or ashes of dead person**

s 83 sub A2005-54 amdt 1.96

**Intimidation or dismissal of witnesses**

s 84 om A2005-53 amdt 1.36

**Preventing witnesses from attending**s 85 am A2004-60 amdt 1.93, amdt 1.94  
om A2005-53 amdt 1.36**Bribery of witnesses**

s 86 om A2005-53 amdt 1.36

**Fraud on witnesses**

s 87 om A2005-53 amdt 1.36

**Contempt**s 88 am A2005-53 amdt 1.37; ss renum R13 LA (see A2005-53  
amdt 1.38)**Acts and omissions of representatives**

s 89 sub A2004-15 amdt 1.8

**Supreme Court—power to order inquest or inquiry**

s 92 am 2000 No 1 sch

**Supreme Court—power to quash, or order fresh, inquest or inquiry**

s 93 am 2000 No 1 sch

## Endnotes

4 Amendment history

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### **Witnesses expenses and other amounts**

pt 9 hdg sub 2000 No 1 sch

### **Determination**

s 94 om 2000 No 1 sch

### **Payment**

s 95 om 2000 No 1 sch

### **Remission, refund, deferral, waiver, exemption**

s 96 om 2000 No 1 sch

### **Review of decisions**

s 97 om 2000 No 1 sch

### **Witnesses expenses**

s 98 am A2004-60 amdt 1.94

### **Deaths in institutions—retention of records of dead person**

s 100 sub A2005-54 amdt 1.97

### **Approved forms**

s 101 sub 2001 No 44 amdt 1.930  
(4)-(7) exp 12 September 2002 (s 101 (7))  
am A2004-60 amdt 1.95

### **Annual report of court**

s 102 sub 2002 No 11 amdt 2.20

### **Regulation-making power**

s 103 sub 2001 No 44 amdt 1.931

### **Inquests or inquiries part heard**

s 106 am 2000 No 1 sch

### **Determinations**

s 107 am 2000 No 1 sch

### **Schedule 1**

sch 1 sub 2001 No 6 s 5

### **Part 1.1**

pt 1.1 hdg (prev pt 1 hdg) renum R3 LA

### **Part 1.2**

pt 1.2 hdg (prev pt 2 hdg) renum R3 LA

### **Schedule 2**

sch 2 om 2001 No 44 amdt 1.932

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 (RI) 7 Aug 2003	23 Dec 1998– 31 Aug 1999	A1998-67	amendments by A1997-96, A1998-54 and A1998-67 reissue of printed version
R1A 7 Aug 2003	1 Sept 1999– 9 May 2000	A1999-31	amendments by A1999-22 and A1999-31
R1B 7 Aug 2003	1 June 2000– 8 Aug 2000	A2000-17	amendments by A1999-64 and A2000-17
R2 (RI) 7 Aug 2003	9 Sept 2000– 7 Mar 2001	A2000-17	amendments by A2000-1 reissue of printed version
R2A 7 Aug 2003	8 Mar 2001– 14 Aug 2001	A2001-6	amendments by A2001-6
R3 23 Nov 2001	12 Sept 2001– 27 May 2002	A2001-54	amendments by A2001-44 and A2001-54
R4 30 May 2002	28 May 2002– 12 Sept 2002	A2002-11	amendments by A2002-11
R5 13 Sept 2002	13 Sept 2002– 27 Mar 2003	A2002-11	commenced expiry

## Endnotes

### 6 Uncommenced amendments

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Republication No and date	Effective	Last amendment made by	Republication for
R6 28 Mar 2003	28 Mar 2003– 26 Sept 2003	A2003-14	amendments by A2003-14
R7 27 Sept 2003	27 Sept 2003– 8 Apr 2004	A2003-14	amendments by A2003-11
R8 9 Apr 2004	9 Apr 2004– 29 Apr 2004	A2004-15	amendments by A2004-15
R9* 30 Apr 2004	30 Apr 2004– 9 Jan 2005	A2004-15	amendments by A2003-48
R10 10 Jan 2005	10 Jan 2005– 1 June 2005	A2004-60	amendments by A2004-60
R11 2 June 2005	2 June 2005– 6 July 2005	A2005-20	amendments by A2005-20
R12 7 July 2005	7 July 2005– 22 Nov 2005	A2005-20	amendments by A2004-39

### 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<b>Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.17</b>
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## Part 1.17 Coroners Act 1997

### [1.90] Section 3 (1), new definition

*insert*

*engage in conduct* means—

- (a) do an act; or
- (b) omit to do an act.



**[1.91] New sections 3A and 3B**

*in part 1, insert*

**3A Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**3B Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**[1.92] Section 40 (3)**

*substitute*

- (3) A person commits an offence if the person engages in conduct that contravenes an order.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**[1.93] Section 65 (2)**

*substitute*

- (2) A person commits an offence if the person enters or interferes with an area to which access is restricted under subsection (1).

Maximum penalty: 100 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply to a police officer, a member of an emergency service or a person assisting the coroner unless the coroner orders otherwise.

**[1.94] Section 77**

*substitute*

**77 Obligation to report death**

- (1) A person commits an offence if the person—
- (a) knows that a death has happened; and
  - (b) has reasonable grounds to believe that—
    - (i) a coroner would have jurisdiction to hold an inquest in relation to the death; and
    - (ii) the death has not been reported to a coroner or a police officer; and
  - (c) does not report the death to a coroner or a police officer as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A police officer commits an offence if the police officer—
- (a) knows that a death has happened; and

- (b) has reasonable grounds to believe that—
- (i) a coroner would have jurisdiction to hold an inquest in relation to the death; and
  - (ii) the death has not been reported to a coroner; and
- (c) does not report the death to a coroner as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.95] Section 78**

*substitute*

**78 Death in custody—obligation to report**

A custodial officer commits an offence if the custodial officer—

- (a) knows of a death in custody; and
- (b) has reasonable grounds to believe that the death has not been reported to a coroner; and
- (c) does not report the death to a coroner as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.96] Section 83**

*substitute*

**83 Improper dealing with body or ashes of dead person**

A person commits an offence if—

## Endnotes

6 Uncommenced amendments

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- (a) the person has reasonable grounds to believe that a post mortem examination of the body, or an analysis of the ashes, of a dead person has been, or may be, ordered under this Act; and
- (b) the person interferes with or removes the body or ashes of the dead person with the intention of preventing or hindering the holding of a post-mortem examination of the body, or an analysis of the ashes, being conducted under this Act.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

### [1.97] Section 100

*substitute*

#### **100 Deaths in institutions—retention of records of dead person**

- (1) If a person dies while the person is a patient in a hospital or other institution in circumstances in which a coroner has jurisdiction to hold an inquest, the person in charge of the hospital or institution must ensure that all records relating to the person who died are kept for at least 3 years after the day of the death.

Maximum penalty: 50 penalty units.

- (2) If a person dies in custody, the responsible person must ensure that all records relating to the person who died are kept for at least 7 years after the day of the death.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

(4) In subsection (2):

*responsible person*, in relation to a person who died in 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 custodial agency in whose custody the person was when the person died.

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