



Australian Capital Territory

Coroners Act 1997

A1997-57

Republication No 22

Effective: 22 September 2009 – 1 November 2010

Republication date: 22 September 2009

Last amendment made by A2009-20

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 22 September 2009. It also includes any amendment, repeal or expiry affecting the republished law to 22 September 2009.

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

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- 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 does not include 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

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Dictionary 2
3A	Notes 2
3B	Offences against Act—application of Criminal Code etc 3
3C	Meaning of <i>death in custody</i> 3
3D	Who is a <i>custodial officer</i> ? 5
Part 2	The Coroner's Court
Division 2.1	Establishment
4	Establishment 6
Division 2.2	Appointment etc of coroners
5	A magistrate is a coroner 6

Contents

	Page
6	6
7	6
8	7
9	7
10	7
11	7
Part 3	Jurisdiction of coroners
Division 3.1	Inquests into deaths
12	9
13	9
14	10
15	11
16	11
17	12
Division 3.2	Inquiries into fires
18	12
Division 3.3	Inquiries into disasters
19	13
Part 4	Post-mortem examinations and exhumations
20	14
21	14
22	15
23	15
24	16
25	16
26	17
27	17
28	19
29	19
30	19
31	20

	Page
32 Report by doctor or analyst	20
33 Assistance at post-mortems etc	21
Part 5 Inquests and inquiries	
Division 5.1 Hearings	
34 Hearings	22
35 Time and place of hearing	22
36 Adjournment of hearing	22
37 Notification of immediate family	22
38 Notice relating to conduct of hearing	22
39 Non-custodial deaths and fires—discretion to appoint lawyer	23
40 Hearing in public except in certain cases	23
41 Hearing to be held without jury	23
42 Representation at hearing	23
42A Appearance by audiovisual or audio links	24
Division 5.2 Witnesses	
43 Power of coroner to subpoena witnesses etc	24
44 Service of subpoena on witness	26
45 Arrest of witness	26
46 People about to leave ACT—examination and production of documents etc	27
Division 5.3 Evidence	
47 Procedure	28
48 Evidence	28
49 Record of proceedings	29
50 Informal request for evidence	30
51 Access to documents etc	30
Division 5.4 Findings and reports	
52 Coroner's findings	31
53 Interim findings	31
54 Requests for copies of reports of findings	31
55 Adverse comment in findings or reports	32
56 Notification of registrar-general	32

Contents

	Page
57 Report after inquest or inquiry	33
Division 5.5 Indictable offences	
58 Procedure where evidence of indictable offence	33
Division 5.6 General powers of coroners	
59 Investigators	36
60 Coroner not to be called as witness	37
61 Coroner not required to view the subject matter of inquest or inquiry	37
62 Coroner may act on a Sunday	37
63 Police assistance	37
64 Request for hearing or for reconsideration of certain decisions	38
65 Restriction of access	39
66 Search warrants	40
67 Inspection and retention of seized things	41
68 Chief Coroner—power to hold fresh inquest or inquiry	42
Part 6 Deaths in custody—additional provisions	
69 Consideration of deceased's family etc	44
70 Viewing of body etc	44
71 Post-mortem examinations by pathologists	45
72 Obligation to appoint lawyer	45
73 Records of deaths in custody	45
74 Findings about quality of care, treatment and supervision	45
75 Copies of reports of findings	46
76 Response to reports	46
Part 7 Offences	
76A Application of Criminal Code, ch 7	48
77 Obligation to report death	48
78 Death in custody—obligation to report	49
83 Improper dealing with body or ashes of dead person	50
89 Acts and omissions of representatives	50
Part 8 Powers of Supreme Court	
90 Application to hold inquest or inquiry	52

	Page
91 Supreme Court—general	52
92 Supreme Court—power to order inquest or inquiry	52
93 Supreme Court—power to quash, or order fresh, inquest or inquiry	53
Part 9 Witnesses expenses and other amounts	
98 Witnesses expenses	54
99 Amounts payable to assistants	54
Part 10 Miscellaneous	
99A Contempt of Coroner's Court	55
100 Deaths in institutions—retention of records of dead person	56
101 Court seal	56
102 Annual report of court	56
103 Regulation-making power	58
Schedule 1 Oath or affirmation of office	59
Part 1.1	59
Part 1.2	60
Dictionary	61
Endnotes	
1 About the endnotes	64
2 Abbreviation key	64
3 Legislation history	65
4 Amendment history	69
5 Earlier republications	75



Australian Capital Territory

Coroners Act 1997

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

Part 1 Preliminary

1 Name of Act

This Act is the *Coroners Act 1997*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*death in custody*—see section 3C.' means that the term 'death in custody' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

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.

3C Meaning of *death in custody*

- (1) For this Act, *death in custody* means the death of a person—
- (a) at a correction centre, lockup or detention place; or
 - (b) while performing work under a community service condition of a good behaviour order under the *Crimes (Sentencing) Act 2005*; or

Note 1 An order under the *Crimes Act 1900*, s 408 (Directions to perform work) (repealed) is taken to be a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 339).

Note 2 A community service order under the *Children and Young People Act 1999* (repealed) is taken to be a community service condition of a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 702).

- (c) while performing periodic detention under the *Crimes (Sentencing) Act 2005*; or
- (d) while being taken into or detained in custody, or subject to an order, under the *Mental Health (Treatment and Care) Act 1994*; or

- (e) while subject to an accommodation order under the *Crimes (Sentencing) Act 2005*, section 133Z (Accommodation orders—convicted young offenders only); or
 - (f) while subject to a transfer arrangement under the *Children and Young People Act 2008*, division 5.2.1 (Interstate transfer generally) or, while in custody under that Act, section 128 (Lawful custody for transit through ACT); or
 - (g) while at a licensed place under the *Intoxicated People (Care and Protection) Act 1994*; or
 - (h) while in, being taken into, or after being taken into, the custody of a custodial officer; or
 - (i) while escaping, or attempting to escape, from the custody of a custodial officer, other than a carer under the *Intoxicated People (Care and Protection) Act 1994*.
- (2) Also, ***death in custody*** includes death because of a fatal injury sustained in a place, or in circumstances, mentioned in subsection (1).
- (3) For subsection (1) (e) and (f), a person is ***subject to*** an order or arrangement—
- (a) while being taken into, or detained in, custody under the order or arrangement; or
 - (b) while being restrained, or otherwise being provided with care, under the order or arrangement; or
 - (c) while otherwise subject to the order or arrangement.
- (4) Subsection (1) (b) notes and this subsection expire on 2 June 2011.

3D Who is a *custodial officer*?

In this Act:

custodial officer means any of the following:

- (a) a police officer;
- (b) the person in charge of a correctional centre;
- (c) a corrections officer;
- (d) the chief psychiatrist;
- (e) a mental health officer;
- (f) the chief executive responsible for the *Children and Young People Act 2008* or an authorised person under that Act;
- (g) the sheriff, a deputy sheriff, or a person appointed to assist the sheriff, under the *Supreme Court Act 1933*;
- (h) a carer under the *Intoxicated People (Care and Protection) Act 1994*.

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 must make such arrangements about 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 the terms and conditions (if any) in relation to matters not provided for by this Act 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 must not direct a deputy coroner to hold an inquest into a death in custody.
- (3) A deputy coroner who is a doctor 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 to be taken by coroner or deputy coroner

- (1) A coroner or deputy coroner must not exercise a function of office before taking an oath in accordance with schedule 1, part 1.1 or part 1.2.
- (2) A judge of the Supreme Court or a person authorised for the purpose by the Attorney-General may administer the oath to the coroner or deputy coroner.

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

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 must 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 prescribed by regulation to be an operation or procedure to which this paragraph does not apply; or
 - (f) dies and a doctor has not given a certificate about the cause of death; or

- (g) dies not having been attended by a doctor at any time within the period commencing 3 months before 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 ACT, of a person, if—
- (a) the person was ordinarily resident in the ACT; and
 - (b) the death happened in any of the circumstances referred to in subsection (1).
- (3) A coroner has jurisdiction to hold an inquest even though—
- (a) the body of the deceased—
 - (i) is not within the ACT; 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 must not dispense with 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 must give to the Chief Coroner and a member of the immediate family of the deceased written notice of the decision including the grounds for the decision.

15 Control of the body of the deceased

- (1) If—
- (a) a death happens in relation to which a coroner is required to hold an inquest; and
 - (b) the body of the deceased is in the ACT;
- 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

If—

- (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 ACT 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 must 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 must 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 must give to each owner or occupier who requested that an inquiry be held written notice of the opinion and the grounds for the opinion.

Division 3.3 Inquiries into disasters

19 Coroner's jurisdiction in relation to disasters

- (1) The Chief Coroner must, 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 must 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 a post-mortem examination of a body if the coroner, after considering the information given 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 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 doctors to conduct post-mortem examinations

- (1) Subject to section 28, a coroner may, by order, direct a doctor to conduct a post-mortem examination of the body of a person who has died in any of the circumstances in relation to which the coroner has jurisdiction to hold an inquest.
- (2) A coroner may, by order, direct the same or another doctor 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 doctor specified in the order.

- (4) Unless otherwise directed by the coroner by order, the doctor to whom the records are given must 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) must be in writing.

22 Unavailability of doctor directed to conduct a post-mortem examination

If a doctor 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 doctor; or
- (b) direct that a specified doctor 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 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 doctor 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 must give to the person who made the request written notice of the refusal and an explanation for the refusal.
- (3) A notice under subsection (2) must 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 the 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 must, if satisfied that the applicant has sufficient interest in the decision, request the coroner to whom the application relates to reconsider the decision.

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

25 Previous attending doctor entitled to observe post-mortem examination

A doctor 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 relation to 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 relation to 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) If—

- (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 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.

(3) Where—

- (a) the body of a person who died outside the ACT has been buried in the ACT or the ashes of a person who so died are in the ACT; 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 deciding whether to—

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

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

29 Form of warrant for exhumation

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

- (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 must, 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 must 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 ACT

- (1) If—
- (a) the body of a person who has died outside the ACT is lying, or the ashes of a deceased are, in the ACT; 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 where the inquest is to be held.

- (2) If a coroner makes an order under subsection (1), the coroner must—
- (a) notify the registrar-general; and
 - (b) give to the registrar-general any particulars mentioned in section 56 (2) that are known to the coroner.

32 Report by doctor or analyst

If, under section 21, section 27 or section 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 must, as soon as practicable after the examination or analysis is completed—

- (a) give a report to the coroner by whom the order was made; and

- (b) if a request has been made under section 71—give 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 an inquest or inquiry, a coroner may conduct a hearing.

35 Time and place of hearing

A coroner must 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 an inquest into a death (other than a death in custody), the coroner must 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 must, where practicable, not less than 14 days before conducting a hearing, publish in a daily newspaper the date, time and place of the hearing.

39 Non-custodial deaths and fires—discretion to appoint lawyer

- (1) A coroner may appoint a lawyer to assist the coroner for an inquest in relation to a death (other than a death in custody) or in an inquiry.

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

- (2) An appointment under subsection (1) may be made either generally or in relation to a particular matter.

40 Hearing in public except in certain cases

- (1) Subject to subsection (2), a hearing must be in public.
- (2) If 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 must take place in private and give directions about the people 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 commits an offence if the person engages in conduct that contravenes an order.

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

41 Hearing to be held without jury

A hearing for an inquest or inquiry must 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 lawyer 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 if, 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) If 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 in accordance with the direction.
- (3) A person who appears in relevant proceedings in accordance with this section is taken to be before the coroner.

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 is 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 production 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 must 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) If—
 - (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 a 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) must, 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 so arrested is brought before a coroner, the coroner—
 - (a) may direct that the person remain in 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 a 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 People about to leave ACT—examination and production of documents etc

- (1) If, 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 ACT 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 must 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) If 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 about 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 by regulation, 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 must find, if possible—
 - (a) the identity of the deceased; and
 - (b) when and where the death happened; 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 must find, if possible—
 - (a) the cause and origin of the fire or disaster; and
 - (b) the circumstances in which the fire or disaster happened.
- (3) At the conclusion of an inquest or inquiry, the coroner must 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) must, 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 must, 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 must 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, making 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) If the person so requests, the coroner must 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 must give notice, in writing, to the registrar-general of an inquest being held.
- (2) The coroner must—
- (a) if—
 - (i) an inquest is adjourned because 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, or is not, to proceed further;

give notice, in writing, to the registrar-general; or

(b) if 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 any particulars that are required to be entered by the registrar-general in the register under the *Births, Deaths and Marriages Registration Act 1997* that 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 must 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 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) must, by written notice, inform the director of public prosecutions; and

- (b) must not proceed further with the inquest or inquiry until the date ascertained in accordance with subsection (4).
- (2) In deciding whether to inform the director of public prosecutions or not to proceed further with an inquest or inquiry, the coroner must 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 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 must 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 relation to 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 relation to an information laid or presented are finally decided; or
 - (B) the director of public prosecutions gives notice to the coroner that proceedings in relation to 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 must not make a finding inconsistent with the judgment or verdict of the court that finally determined the guilt or innocence of the person charged.

- (6) A coroner must 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 appoint a person to assist the coroner in the investigation of any matter relating to an inquest or inquiry.

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

- (2) An investigator appointed under subsection (1) must—
- (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 must 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) that 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 must have regard to the report of the investigator and give it the weight the coroner thinks fit.

60 Coroner not to be called as witness

- (1) A coroner must not be called to give evidence in a court or judicial proceedings about anything coming to his or her knowledge in exercising a function 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 that, 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 an inquest or inquiry.
- (2) The chief police officer must, 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 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 an inquest or an inquiry into a fire.
- (2) Subject to subsection (3), the Chief Coroner must—
- (a) on application by a person requesting that a coroner who made a decision to dispense with or to conclude a hearing, reconsider the 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 must, if satisfied that the applicant has sufficient interest in the inquest or inquiry into a fire, reconsider the decision.
- (4) An application made to the Chief Coroner must—
- (a) be in writing; and
 - (b) set out the grounds on which the person relies.
- (5) The coroner must 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 relation to whose finding the request was made is unavailable (for whatever reason) to reconsider the finding;the Chief Coroner must arrange for a hearing to be conducted, if satisfied that a hearing should be conducted.
- (8) An explanation under subsection (6) (b) (ii) must 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.

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 that, in the opinion of the coroner, may have resulted in the death, or the place where the fire or disaster happened.
- (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.

66 Search warrants

- (1) A coroner may issue a warrant if the coroner believes on reasonable grounds that it is necessary for an inquest or inquiry.
- (2) A warrant must 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 any of the powers under subsection (2) that are specified in the warrant.
- (4) A warrant must—
- (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 must 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 must deliver it 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, any parts of the document that are relevant to a matter the subject of the inquest or inquiry; and

- (b) retain possession of the document or thing for the period necessary for 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 must be received in all courts as evidence as if it were the original.
- (4) Until the certified copy is supplied, the coroner must, at any times and places 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) If the retention of a document or other thing by a coroner ceases to be necessary for an inquest or inquiry, the coroner must, if a person who appears to the coroner to be entitled to the document or thing requests, give the document or thing to the person.
- (6) On the completion of an inquest or inquiry, a coroner must 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) Even though 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 must 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 must 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 must, 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 doctor 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 must give written notice of the decision and the reasons for the decision—

(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 must, 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 lawyer

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

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

73 Records of deaths in custody

The registrar must 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 about quality of care, treatment and supervision

The coroner holding an inquest into a death in custody must include in a record of the proceedings of the inquest findings about the

quality of care, treatment and supervision of the deceased that, 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 must, in writing, report the findings to—
 - (a) the Attorney-General; and
 - (b) the custodial agency in whose custody the death happened 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 must make available a copy of a report of the 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 must, 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) must include a statement of the action (if any) that has been, or is being, taken in relation 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) must give a copy of the response to the coroner in relation to whose findings the report relates.
- (4) The coroner must give a copy of the response to each person or agency to whom a copy of the 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).

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.

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.

83 Improper dealing with body or ashes of dead person

A person commits an offence if—

- (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.

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) If—
- (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, because 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, any expenses the Magistrates Court may allow to a witness under the *Magistrates Court Act 1930*.

99 Amounts payable to assistants

A person who, for 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 reinterment of a body;

must be paid the amount (if any) a coroner directs.

Part 10 Miscellaneous

99A Contempt of Coroner's Court

- (1) A person is in contempt of the Coroner's Court if the person—
- (a) contravenes an order of the court or an undertaking given to the court; or
 - (b) commits a contempt in the face or in the hearing of the court; or
 - (c) commits any other contempt of court.

Examples—par (b)

- 1 insulting a coroner, the registrar or deputy registrar of the court, or any other court officer during the officer's sitting or attendance in court
- 2 interrupting a proceeding of the court or misbehaving in court
- 3 obstructing or assaulting someone in attendance in court
- 4 disobeying a direction of the court at the hearing of a proceeding

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

- (2) The Coroner's Court has the same power to deal with contempt of the Coroner's Court as the Supreme Court has to deal with contempt of the Supreme Court.
- (3) However, a contempt mentioned in subsection (1) (a) may be dealt with as a contempt of court only if there is no other effective way to enforce the order or undertaking.
- (4) To remove any doubt, this section does not limit the Supreme Court's power to deal with contempt of the Coroner's Court.

100 Deaths in institutions—retention of records of dead person

- (1) If 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 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.

101 Court seal

The Coroner's Court must have a seal.

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.

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

Schedule 1 Oath or affirmation of office

(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.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Act
- ACT
- appoint
- Attorney-General
- Chief Magistrate
- child
- correctional centre
- corrections officer
- daily newspaper
- director of public prosecutions
- doctor
- domestic partner (see s 169 (1))
- establish
- Executive
- exercise
- give
- indictable offence
- individual
- in relation to
- instrument
- law
- lawyer
- magistrate
- Minister (see s 162)
- oath
- parent

- person
- police officer
- power
- proceeding
- property
- public servant
- registrar-general
- regulation
- Supreme Court
- the Territory
- under.

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.

chief psychiatrist—see the *Mental Health (Treatment and Care) Act 1994*, dictionary.

coroner includes a deputy coroner appointed under section 8.

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

custodial officer—see section 3D.

death includes a suspected death.

death in custody—see section 3C.

disaster means an occurrence in the ACT 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 ACT.

engage in conduct means—

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

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.

mental health officer—see the *Mental Health (Treatment and Care) Act 1994*, dictionary.

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.

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

Endnotes

1 About the endnotes

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

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))

Endnotes

3 Legislation history

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)

**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 commenced 24 November 2005 (s 2)

**Justice and Community Safety Legislation Amendment Act 2005
(No 4) A2005-60 sch 1 pt 1.9**

notified LR 1 December 2005

s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))
sch 1 pt 1.9 commenced 22 December 2005 (s 2 (2) (b))

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.6

notified LR 18 May 2006

s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.6 commenced 2 June 2006 (s 2 (1) and see Crimes
(Sentence Administration) Act 2005 A2005-59 s 2, Crimes
(Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

Statute Law Amendment Act 2006 A2006-42 sch 3 pt 3.6

notified LR 26 October 2006

s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))
sch 3 pt 3.6 commenced 16 November 2006 (s 2 (1))

Court Legislation Amendment Act 2006 A2006-55 pt 2

notified LR 18 December 2006

s 1, s 2 commenced 18 December 2006 (LA s 75 (1))
pt 2 commenced 19 December 2006 (s 2)

Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.7

notified LR 20 June 2007

s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))
sch 3 pt 3.7 commenced 11 July 2007 (s 2 (1))

**Children and Young People (Consequential Amendments) Act 2008
A2008-20 sch 2 pt 2.3, sch 4 pt 4.4**

notified LR 17 July 2008

s 1, s 2 commenced 17 July 2008 (LA s 75 (1))
s 3 commenced 18 July 2008 (s 2 (1))
sch 2 pt 2.3 commenced 9 September 2008 (s 2 (3) and see Children
and Young People Act 2008 A2008-19, s 2 and CN2008-13)
sch 4 pt 4.4 commenced 27 February 2009 (s 2 (5) and see Children
and Young People Act 2008 A2008-19, s 2 and CN2008-17 (and see
CN2008-13))

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.19

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.19 commenced 22 September 2009 (s 2)

4 Amendment history**Name of Act**

s 1 sub A2005-60 amdt 1.28

Dictionary

s 2 hdg ins A2005-60 amdt 1.29

s 2 om R2 LRA

ins A2005-60 amdt 1.31

am A2006-23 amdt 1.45

References to *death in custody*

s 3 hdg ins A2005-60 amdt 1.31

s 3 am 1999 No 64 sch 2; A2005-20 amdt 3.94

defs reloc to dict A2005-60 amdt 1.30

am A2005-60 amdt 1.32

om A2006-23 amdt 1.46

def **chief police officer** om A2004-60 amdt 1.82def **legal practitioner** om 1997 No 96 sch 1def **medical practitioner** om A2004-39 amdt 5.7def **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

Meaning of *death in custody*

s 3C ins A2006-23 amdt 1.47

am A2008-20 amdt 2.11, amdt 2.12, amds 4.8-4.11

(1) (b) notes, (4) exp 2 June 2011 (s 3C (4))**Who is a *custodial officer*?**

s 3D ins A2006-23 amdt 1.47

am A2008-20 amdt 2.13

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

Deputy coroners' powers

s 9 am A2006-42 amdt 3.25

Endnotes

4 Amendment history

Oath to be taken by coroner or deputy coroner

s 10 am 2001 No 6 s 4; A2006-42 amdt 3.16
sub A2007-16 amdt 3.22

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

Coroner's jurisdiction in relation to deaths

s 13 am A2006-42 amdt 3.25

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

Directions to doctors to conduct post-mortem examinations

s 21 hdg sub A2006-42 amdt 3.17
s 21 am A2006-42 amdt 3.25

Unavailability of doctor directed to conduct a post-mortem examination

s 22 hdg am A2006-42 amdt 3.25
s 22 am A2006-42 amdt 3.25

Consideration of immediate family

s 23 am A2006-42 amdt 3.25

Previous attending doctor entitled to observe post-mortem examination

s 25 hdg am A2006-42 amdt 3.25
s 25 am A2006-42 amdt 3.25

Report by doctor or analyst

s 32 hdg am A2006-42 amdt 3.25

Hearings

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

Notice relating to conduct of hearing

s 38 am A2009-20 amdt 3.47

Non-custodial deaths and fires—discretion to appoint lawyer

s 39 hdg am A2006-42 amdt 3.24
s 39 am A2006-42 amdt 3.24; A2007-16 amdt 3.23

Hearing in public except in certain cases

s 40 am A2005-54 amdt 1.92

Representation at hearing

s 42 am A2006-42 amdt 3.24

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

People about to leave ACT—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

Investigators

s 59 am A2007-16 amdt 3.24

Coroner not to be called as witness

s 60 am A2006-42 amdt 3.18

Endnotes

4 Amendment history

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

Viewing of body etc

s 70 am A2006-42 amdt 3.25

Obligation to appoint lawyer

s 72 hdg am A2006-42 amdt 3.24

s 72 am A2006-42 amdt 3.24; A2007-16 amdt 3.25

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)
om A2006-55 s 4

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

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

Contempt of Coroner's Court

s 99A ins A2006-55 s 5

Deaths in institutions—retention of records of dead person

s 100 sub A2005-54 amdt 1.97

Court seal

s 101 sub 2001 No 44 amdt 1.930
(4)-(7) exp 12 September 2002 (s 101 (7))
om A2004-60 amdt 1.95
ins A2005-60 amdt 1.33

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

Savings and transitionals

pt 11 hdg om A2006-42 amdt 3.20

Endnotes

4 Amendment history

Definitions for pt 11

s 104 om A2006-42 amdt 3.20
def **commencement date** om A2006-42 amdt 3.20
def **former Act** om A2006-42 amdt 3.20

Appointments and authorisations

s 105 om A2006-42 amdt 3.20

Inquests or inquiries part heard

s 106 am 2000 No 1 sch
om A2006-42 amdt 3.20

Determinations

s 107 am 2000 No 1 sch
om A2006-42 amdt 3.20

Saving of transitional provisions

s 108 ins A2006-42 amdt 3.19
om A2006-42 amdt 3.20

Oath or affirmation of office

sch 1 hdg sub A2006-42 amdt 3.21
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

Dictionary

dict ins A2005-60 amdt 1.34
am A2006-23 amdt 1.48; A2006-42 amdt 3.22; A2009-20
amdt 3.48
def **Aboriginal person** reloc from s 3 A2005-60 amdt 1.30
def **body** reloc from s 3 A2005-60 amdt 1.30
def **Chief Coroner** reloc from s 3 A2005-60 amdt 1.30
def **chief psychiatrist** ins A2006-23 amdt 1.49
def **coroner** reloc from s 3 A2005-60 amdt 1.30
def **court** reloc from s 3 A2005-60 amdt 1.30
def **custodial officer** am 1999 No 31 sch 2; 1999 No 64
sch 2; A2004-60 amdt 1.83; A2005-20 amdt 3.93
reloc from s 3 A2005-60 amdt 1.30
sub A2006-23 amdt 1.50
def **death** reloc from s 3 A2005-60 amdt 1.30
def **death in custody** ins A2005-60 amdt 1.34
sub A2006-23 amdt 1.51

def **disaster** reloc from s 3 A2005-60 amdt 1.30
 def **engage in conduct** ins A2005-54 amdt 1.90
 reloc from s 3 A2005-60 amdt 1.30
 def **hearing** reloc from s 3 A2005-60 amdt 1.30
 def **immediate family** am A2003-14 amdt 1.28, amdt 1.29
 reloc from s 3 A2005-60 amdt 1.30
 def **inquest** reloc from s 3 A2005-60 amdt 1.30
 def **inquiry** reloc from s 3 A2005-60 amdt 1.30
 def **mental health officer** ins A2006-23 amdt 1.52
 def **place** reloc from s 3 A2005-60 amdt 1.30
 def **registrar** reloc from s 3 A2005-60 amdt 1.30
 def **registrar-general** reloc from s 3 A2005-60 amdt 1.30
 om A2006-23 amdt 1.53
 def **Torres Strait Islander** reloc from s 3 A2005-60 amdt 1.30

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

Endnotes

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
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
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
R13 23 Nov 2005	23 Nov 2005– 23 Nov 2005	<u>A2005-54</u>	amendments by A2005-53
R14 24 Nov 2005	24 Nov 2005– 21 Dec 2005	A2005-54	amendments by A2005-54

Republication No and date	Effective	Last amendment made by	Republication for
R15 22 Dec 2005	22 Dec 2005– 1 June 2006	A2005-60	amendments by A2005-60
R16 2 June 2006	2 June 2006– 15 Nov 2006	A2006-23	amendments by A2006-23
R17 16 Nov 2006	16 Nov 2006– 18 Dec 2006	A2006-42	amendments by A2006-42
R18 19 Dec 2006	19 Dec 2006– 10 July 2007	A2006-55	amendments by A2006-55
R19 11 July 2007	11 July 2007– 8 Sept 2008	A2007-16	amendments by A2007-16
R20 9 Sept 2008	9 Sept 2008– 26 Feb 2009	<u>A2008-20</u>	amendments by A2008-20
R21 27 Feb 2009	27 Feb 2009– 22 Sept 2009	A2008-20	amendments by A2008-20

© Australian Capital Territory 2009