

Queensland



# **CORONERS ACT 2003**

**Reprinted as in force on 29 November 2004  
(includes commenced amendments up to 2004 Act No. 54)**

**Reprint No. 1C**

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- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
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# Queensland



## CORONERS ACT 2003

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# CORONERS ACT 2003

[as amended by all amendments that commenced on or before 29 November 2004]

## **An Act to provide for a coronial system, and for other purposes**

### **PART 1—PRELIMINARY**

#### **1 Short title**

This Act may be cited as the *Coroners Act 2003*.

#### **2 Commencement**

(1) The amendment of the *District Court of Queensland Act 1967* in schedule 1 commences on 1 May 2003.

(2) The remaining provisions commence on a day to be fixed by proclamation.

#### **3 Object of Act**

The object of this Act is to—

- (a) establish the position of the State Coroner; and
- (b) require the reporting of particular deaths; and
- (c) establish the procedures for investigations, including by holding inquests, by coroners into particular deaths; and
- (d) help to prevent deaths from similar causes happening in the future by allowing coroners at inquests to comment on matters connected with deaths, including matters related to—
  - (i) public health or safety; or
  - (ii) the administration of justice.

#### **4 Act binds all persons**

This Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

#### **5 Relationship with other Acts**

(1) This Act is subject to the *Commissions of Inquiry Act 1950*, section 4A.<sup>1</sup>

(2) This Act does not limit or otherwise affect the functions or powers of—

- (a) a police officer or other person to investigate a death under another Act; or
- (b) a police officer to do something other than an investigation under this Act.

*Example—*

A police officer helping a coroner to investigate a death may at the same time investigate whether the death was a homicide.

#### **6 Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

### **PART 2—REPORTING DEATHS**

#### **7 Duty to report deaths**

(1) This section applies if—

- (a) a person becomes aware of a death that appears to be a reportable death; and
- (b) the person does not reasonably believe that someone else has already reported, or is reporting, the death under subsection (2).

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<sup>1</sup> *Commissions of Inquiry Act 1950*, section 4A (Interaction of commission with courts etc.)

(2) The person must immediately report the death to—

- (a) if the death is a death in custody—the State Coroner or Deputy State Coroner; or
- (b) otherwise—a police officer or coroner.

Maximum penalty—25 penalty units.

(3) A police officer to whom a death is reported under this section must report the death to a coroner in writing.

(4) However, if a death is reported to a police officer because a cause of death certificate has not been issued and is not likely to be issued, the officer need not report the death to a coroner until satisfied that the cause of death certificate is not likely to be issued.

(5) A coroner to whom a death is reported must report the death to the State Coroner in writing.

(6) In this section—

“**report**” includes report by email or fax.

## 8 “Reportable death” defined

(1) A person’s death is a “**reportable death**” only if the death is a death to which subsection (2) and subsection (3) both apply.

(2) A death is a “**reportable death**” if—

- (a) the death happened in Queensland; or
- (b) although the death happened outside Queensland—
  - (i) the person’s body is in Queensland; or
  - (ii) at the time of death, the person ordinarily lived in Queensland; or
  - (iii) the person, at the time of death, was on a journey to or from somewhere in Queensland; or
  - (iv) the death was caused by an event that happened in Queensland.

(3) A death is a “**reportable death**” if—

- (a) it is not known who the person is; or
- (b) the death was a violent or otherwise unnatural death; or

- (c) the death happened in suspicious circumstances; or
- (d) the death was not reasonably expected to be the outcome of a health procedure; or
- (e) a cause of death certificate has not been issued, and is not likely to be issued, for the person; or
- (f) the death was a death in care; or
- (g) the death was a death in custody.

(4) However, a death that happened outside Queensland is not a reportable death if the death has been reported to a non-Queensland coroner.

## 9 “Death in care” defined

(1) A person’s death is a “**death in care**” if, when the person died—

- (a) the person had a disability mentioned in the *Disability Services Act 1992*, section 5,<sup>2</sup> and—
  - (i) was living in a level 3 accredited residential service; or
  - (ii) was receiving residential services operated, or wholly or partly funded, by the department in which the *Disability Services Act 1992* is administered; or
  - (iii) was living at a place—
    - (A) that is not a private dwelling or aged care facility; and
    - (B) that is wholly or partly funded by the department in which the *Health Services Act 1991* is administered or at which that department provides services; or
- (b) the person was, under the *Mental Health Act 2000*—
  - (i) being taken to a place where there is an authorised mental health service under section 25, 39, 292 or 508 of that Act;<sup>3</sup>  
or

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2 *Disability Services Act 1992*, section 5 (Disabilities covered by this Act)

3 *Mental Health Act 2000*, section 25 (Taking person to authorised mental health service), 39 (Taking of person to authorised mental health service for examination), 292 (Taking patient to authorised mental health service) or 508 (Taking patient to authorised mental health service)

- 
- (ii) being taken to, or detained in, a place where there is an authorised mental health service as an involuntary patient or under an emergency examination order; or
  - (iii) being detained because of a court order under section 101(2), 273(1)(b), 337(6) or 422(1)<sup>4</sup> of that Act; or
  - (iv) undertaking limited community treatment while accompanied by an employee of a health service; or
  - (c) the person was under the guardianship of the chief executive under the *Adoption of Children Act 1964*, section 27;<sup>5</sup> or
  - (d) the person was a child placed in the care of a licensed care service, approved foster carer, or other person under the *Child Protection Act 1999*, section 82;<sup>6</sup> or
  - (e) the person was a child in a placement with the consent of a parent or guardian.

(2) Subsection (1)(b) applies even if, immediately before the person was detained, the person was in the custody of the chief executive (corrective services) under the *Corrective Services Act 2000*.

(3) Subsection (1) applies even if the person died somewhere other than the place where the person ordinarily lived for the purposes of being in care.

*Example—*

A child placed in the care of an approved foster carer becomes ill and is taken to hospital. The child dies while in hospital. The child's death is a death in care.

(4) In this section—

**“level 3 accredited residential service”** means a residential service that has, or is required to apply for, a level 3 accreditation under the *Residential Services (Accreditation) Act 2002*.

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4 *Mental Health Act 2000*, section 101 (Court may order person's detention in authorised mental health service), 273 (Orders about custody), 337 (Appeal powers) or 422 (Court examination orders)

5 *Adoption of Children Act 1964*, section 27 (Guardianship of child awaiting adoption)

6 *Child Protection Act 1999*, section 82 (Placing child in care)

**10 “Death in custody” defined**

(1) A person’s death is a **“death in custody”** if, when the person died, the person was—

- (a) in custody; or
- (b) escaping, or trying to escape, from custody; or
- (c) trying to avoid being put into custody.

*Example of paragraph (c)—*

A suspected bank robber who dies in a car crash while being pursued by police.

(2) In this section—

**“custody”** means detention—

- (a) by a police officer; or
- (b) under the *Corrective Services Act 2000*—
  - (i) in a corrective services facility or watch-house; or
  - (ii) under the escort of a corrective services officer; or
  - (iii) by a law enforcement agency; or
  - (iv) by the proper officer of a court; or
- (c) under the *Corrective Services Act 2000*, section 104;<sup>7</sup> or
- (d) under the *Juvenile Justice Act 1992*, section 41, 43, 120 or 121.<sup>8</sup>

**“detention”** includes detention under—

- (a) arrest; or
- (b) the authority of a court order; or
- (c) the authority of an Act.

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<sup>7</sup> *Corrective Services Act 2000*, section 104 (Temporary detention for security offences)

<sup>8</sup> Sections 41, 43, 120 and 121 were renumbered as sections 54 (Custody of child pending court appearance), 56 (Custody of child if not released by court), 175 (Sentence orders—general) and 176 (Sentence orders—serious offences) under the *Juvenile Justice Act 1992*, section 341.

**10A State Coroner to notify children's commissioner of deaths**

(1) If the death of a child is reported to the State Coroner under section 7, the State Coroner must, within 30 days after receiving the report—

- (a) notify the children's commissioner of the death; and
- (b) if a report about the death was given under section 7(3) by a police officer to a coroner—give the children's commissioner a copy of the report unless the State Coroner considers that giving the report is likely to prejudice an investigation by a coroner or police officer.

(2) Before giving the children's commissioner a copy of a report under subsection (1)(b), the State Coroner must ensure that all information in the report that identifies anyone is obliterated.

(3) However, the State Coroner need not obliterate information if the State Coroner reasonably believes the person's identity is necessary for the children's commissioner's child death research functions.

**PART 3—CORONER'S INVESTIGATION, INCLUDING  
BY INQUEST, OF DEATHS***Division 1—Investigations generally***11 Deaths to be investigated**

(1) This section outlines—

- (a) the type of deaths that may be investigated under this Act; and
- (b) the type of coroner who conducts the investigations.

(2) A coroner must, and may only, investigate a death if the coroner—

- (a) considers the death is a reportable death, whether or not the death was reported under section 7;<sup>9</sup> and
- (b) is not aware that any other coroner is investigating the death.

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9 Section 7 (Duty to report deaths)

(3) Also, a coroner must investigate a death if the State Coroner directs the coroner to investigate the death.

(4) The State Coroner may direct a coroner to investigate a death if—

- (a) the State Coroner considers the death is a reportable death; or
- (b) the State Coroner has been directed by the Minister to have the death investigated, whether or not the death is a reportable death.

*Example—*

The Minister might direct the State Coroner to investigate the death of a Queensland person that happened overseas, even though the death was investigated by a coroner overseas, if the Minister is concerned that the overseas investigation was not comprehensive enough.

(5) Also, a coroner must investigate the suspected death of a person if the State Coroner directs the coroner to investigate the suspected death.

(6) The State Coroner may direct a coroner to investigate a suspected death if—

- (a) the State Coroner—
  - (i) suspects that the person is dead; and
  - (ii) considers the death is a reportable death; or
- (b) the Minister directs the State Coroner to have the suspected death investigated.

(7) Despite subsection (2), a death in custody must be investigated by the State Coroner or Deputy State Coroner.

## **12 Deaths not to be investigated or further investigated**

(1) A coroner must not investigate a death, unless directed to do so by the Minister, if—

- (a) the death happened in another State and has been reported to a non-Queensland coroner; or
- (b) the death happened outside Australia.

(2) A coroner must stop investigating a death if—

- (a) the coroner's investigation shows that the body is indigenous burial remains; or
- (b) the coroner's investigation of 1 of the following types of death shows that an autopsy of the body is not necessary and the



coroner decides to authorise a doctor to issue a cause of death certificate—

- (i) a death that was a violent or otherwise unnatural death; or
- (ii) a death that happened in suspicious circumstances; or
- (iii) a death that was not reasonably expected to be the outcome of a health procedure; or
- (iv) a death that was a death in care; or
- (c) an autopsy of the body, ordered by the coroner, shows that the body is that of a stillborn child; or
- (d) the State Coroner directs the coroner to stop the investigation; or
- (e) the coroner becomes aware that the death is a death mentioned in subsection (1), unless the Minister directs the coroner to continue the investigation.

(3) If the coroner stops investigating the death under subsection (2)(e), the coroner may give the results of the coroner's investigation, including any autopsy report, to a non-Queensland coroner who is investigating the death.

### **13 Coroner's powers of investigation**

(1) This section applies to a coroner who is investigating a death under this Act, whether before or during an inquest.

(2) The coroner may make, or arrange for, any examination, inspection, report or test that the coroner considers is necessary for the investigation.

(3) For the purposes of the investigation, the coroner may issue a search warrant under the *Police Powers and Responsibilities Act 2000*, section 371AD(1).<sup>10</sup>

(4) The coroner may be present while a police officer exercises powers under the search warrant.

### **14 Guidelines and directions for investigations**

(1) To ensure best practice in the coronial system, the State Coroner—

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<sup>10</sup> *Police Powers and Responsibilities Act 2000*, section 371AD (Coroner's search warrant)

- (a) may issue directions to the coroner investigating a particular death about a particular aspect of the investigation; and
- (b) must issue guidelines to all coroners about the performance of their functions in relation to investigations generally.

*Example—*

A guideline to help coroners make decisions about the release of documents under this Act.

(2) When preparing the guidelines, the State Coroner must have regard to the recommendations of the Royal Commission into Aboriginal Deaths in Custody that relate to the investigation of deaths in custody.

(3) The guidelines must—

- (a) deal with the investigations of deaths in custody; and
- (b) deal with investigations of deaths involving human remains found in a suspected traditional burial site, and in particular, must provide for the early notification and involvement of the Aboriginal or Torres Strait Islander community having a connection with the burial site; and
- (c) list the doctors who are approved by the State Coroner to conduct particular types of autopsies, either by name or by reference to particular qualifications.

(4) When investigating a death, a coroner must comply with the guidelines and any directions issued to the coroner to the greatest practicable extent.

(5) However, to the extent that a direction conflicts with the guidelines, a coroner must comply with the direction.

(6) In this section—

“**direction**” does not include a direction as to what finding a coroner may make for an investigation.

“**traditional burial site**” means a place that is a traditional Aboriginal or Torres Strait Islander burial site.

## **15 Help in investigation**

(1) During the investigation of a death, a coroner may seek the help of a lawyer or other person who the coroner reasonably believes can help the coroner investigate the death.

(2) The duty of a police officer to help a coroner is stated in the *Police Powers and Responsibilities Act 2000*, section 447A.<sup>11</sup>

## 16 Duty to help investigation

(1) This section applies if—

- (a) a coroner is investigating a death; and
- (b) the coroner reasonably believes a person may be able to give the coroner information that is relevant to the investigation.

(2) The coroner may require the person to give the coroner information that is relevant to the investigation.

(3) The requirement may be made orally or in writing.

(4) When making the requirement, the coroner must warn the person it is an offence to fail to give the information unless the person has a reasonable excuse.

(5) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—30 penalty units.

(6) It is, for example, a reasonable excuse for a person to fail to give the information if giving the information would tend to incriminate the person.

## 17 Disclosure of confidential information to Coroners Court

(1) This section applies to a provision in another Act that enables the release of confidential information to—

- (a) a court; or
- (b) a party to a proceeding before a court.

*Examples—*

*Juvenile Justice Act 1992*, section 224AR (Production of department's records)<sup>12</sup>

*Child Protection Act*, section 186 (Confidentiality of notifiers of harm) or 190 (Production of department's records)

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<sup>11</sup> *Police Powers and Responsibilities Act 2000*, section 447A (Assisting coroner to investigate a death)

<sup>12</sup> Section 224AR was renumbered as section 299 under the *Juvenile Justice Act 1992*, section 341.

(2) The provision is taken to enable the disclosure of the information to the Coroners Court as if—

- (a) a reference to the court is a reference to the Coroners Court; or
- (b) a reference to a proceeding is a reference to an inquest; or
- (c) a reference to a party is a reference to—
  - (i) a police officer, lawyer or other person helping the Coroners Court; or
  - (ii) a person who is to appear or is appearing at the inquest.

(3) To remove doubt, it is declared that this section does not negate anything in a provision that—

- (a) allows a person to refuse to release confidential information or produce a document containing confidential information; and

*Example—*

The *Health Rights Commission Act 1991*, section 141(2) (Preservation of confidentiality)

- (b) requires a person to consent before information may be released.

*Example—*

The *Health Rights Commission Act 1991*, section 91 (Conciliation privileged)

(4) A Coroners Court may only disclose information obtained under this section for a purpose connected with the inquest being conducted by the court.

(5) A person who has been given access to confidential information by a Coroners Court, including information in a document, must not directly or indirectly disclose the information—

- (a) other than for the inquest; or
- (b) unless the disclosure is permitted or required under this or another Act.

Maximum penalty for subsection (5)—100 penalty units or 2 years imprisonment.

***Division 2—Autopsies*****18 Transferring body to mortuary**

(1) This section applies if a body is to be taken to a mortuary at the direction of—

- (a) a coroner; or
- (b) a police officer under the *Police Powers and Responsibilities Act 2000*, section 371AB.<sup>13</sup>

(2) A person who is involved in taking the body to the mortuary must comply with—

- (a) any direction of the coroner or police officer; or
- (b) the guidelines issued by the State Coroner about—
  - (i) the dignity and respect to be accorded to persons who are at a place from which a body is to be taken, and their cultural traditions or spiritual beliefs; and
  - (ii) the way in which bodies are to be taken to a mortuary.

(3) However, to the extent that a direction conflicts with the guidelines, the person must comply with the direction.

(4) In this section—

“**mortuary**” means a mortuary where autopsies ordered by coroners are conducted.

**19 Order for autopsy**

(1) Unless a coroner has stopped investigating a death under section 12(2)(a), (b), (d) or (e),<sup>14</sup> the coroner must order a doctor to perform an autopsy—

- (a) as part of the investigation of a person’s death; or
- (b) to find out whether a body is that of a stillborn child.

(2) The autopsy may consist of—

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13 *Police Powers and Responsibilities Act 2000*, section 371AB (Powers for reportable deaths)

14 Section 12 (Deaths not to be investigated or further investigated)

- (a) for a body that has been cremated—an examination of the cremated remains of the body; or
- (b) for a body that has not been cremated—
  - (i) an external examination of the body; or
  - (ii) an external and partial internal examination of the body; or
  - (iii) an external and full internal examination of the body.

*Example of a partial internal examination—*

If the only apparent injuries to a deceased person's body are to the person's head, the coroner may consider it appropriate that only the person's head be examined internally.

(3) The coroner must state in the order the type of examination to be conducted.

(4) Before ordering an internal examination of the body, the coroner must, whenever practicable, consider at least the following—

- (a) that in some cases a deceased person's family may be distressed by the making of this type of order, for example, because of cultural traditions or spiritual beliefs;
- (b) any concerns raised by a family member, or another person with a sufficient interest, in relation to the type of examination to be conducted during the autopsy.

(5) If, after considering any concern mentioned in subsection (4)(b), the coroner decides it is still necessary to order the internal examination, the coroner must give a copy of the order to the person who raised the concern.

(6) The coroner must direct the order to 1 of the doctors who is listed in the guidelines and has the necessary skills to conduct the autopsy having regard to the particular circumstances of the case.

*Example—*

Particular doctors may have the necessary skills to conduct autopsies on adults but not on children.

(7) However, the coroner must not allow—

- (a) a person to conduct or help at the autopsy if the person is accused, by someone on oath before a coroner, of causing the deceased person's death; or
- (b) an attending doctor to conduct the autopsy, unless the coroner considers it is impracticable to do otherwise.

- (8) A coroner may make an order under this section even if—
- (a) an autopsy has previously been conducted on the body, either under this Act or under another lawful authority; or
  - (b) a cause of death certificate has issued for the deceased person; or
  - (c) the death has previously been investigated under the *Coroners Act 1958* or this Act.

## **20 Exhuming body or recovering cremated remains**

(1) This section applies if, after a body is buried or cremated, the State Coroner forms the belief that the death was a reportable death.

(2) To enable an autopsy of a body to be conducted, the State Coroner may order—

- (a) if the body was buried—the body to be exhumed; or
- (b) if the body was cremated and the cremated remains may be recovered—the cremated remains to be recovered.

(3) The State Coroner must give at least 2 days notice of the State Coroner's intention to make the order to—

- (a) the person in charge of the place where the body is, or the cremated remains are; and
- (b) any person who the State Coroner considers has a sufficient interest in the autopsy.

(4) Subsection (3) does not apply if—

- (a) after taking all reasonable steps, the State Coroner can not contact a person mentioned in subsection (3); or
- (b) the State Coroner considers it is not, in the circumstances, in the public interest to notify a person mentioned in subsection (3).

(5) If—

- (a) a person has raised a concern in relation to the order being made; but
- (b) after discussing the matter with the person, the State Coroner considers it is in the public interest for the order to be made;

the State Coroner must make the order and give a copy of it to the person.

(6) The order authorises a police officer to enter the place stated in the order and stay there for as long as reasonably necessary to exhume the body or recover the cremated remains.

(7) The officer must arrange for the body or cremated remains to be taken, in accordance with the directions in the order, to a place stated in the order.

(8) The State Coroner must, as soon as reasonably practicable after the autopsy, order the body or cremated remains to be returned to the place from where they were taken.

## **21 Observing an autopsy**

(1) The coroner may allow a person, or the person's representative, to observe the autopsy if the coroner considers the person has a sufficient interest in the autopsy.

(2) Before making the order, the coroner—

- (a) must, whenever practicable, consult with and consider the views of—
  - (i) a family member of the deceased person; and
  - (ii) the doctor who is to conduct the autopsy; and
- (b) may consult with, and consider the views of, anyone else the coroner considers appropriate.

(3) The coroner must give prior notice of the time and place of the autopsy to a person whom the coroner allows to observe the autopsy.

(4) The coroner, or a police officer who is investigating the death under this or another Act, is entitled to observe and participate in the autopsy.

(5) A person who is required to observe or participate in an autopsy for his or her vocational training may observe and participate in an autopsy with the consent of the doctor who is conducting the autopsy.

*Examples for subsection (5)—*

Medical students, mortuary staff, nurses and police officers.

## **22 Extra medical evidence for autopsy**

(1) If the coroner considers it necessary for the investigation of a death, the coroner may, by written notice, require—



- (a) an attending doctor—
  - (i) to be present at the autopsy; or
  - (ii) to give the coroner a written report to help the doctor who is to conduct the autopsy; or
- (b) a person who has any medical records of the deceased person, or tissue samples from the deceased person, to give them to the doctor who is to conduct the autopsy.

*Example—*

The coroner may require the person in charge of the nursing home in which the deceased person died to release the deceased person's medical records.

(2) The coroner may send the notice to a person by fax or another electronic means.

(3) The person may send a written report or medical records to the doctor by fax or other electronic means.

(4) The person to whom the notice is directed must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

*Example—*

An attending doctor may refuse to give the coroner a written report if the information in the report would tend to incriminate the attending doctor.

(5) The doctor who conducts the autopsy must return the medical records or tissue samples as soon as reasonably practicable after the autopsy, unless the coroner orders otherwise.

Maximum penalty—40 penalty units.

## **23 Autopsy testing**

(1) A coroner may order that the doctor who has been ordered to conduct an autopsy also conduct a particular test.

(2) Also, the doctor may conduct any test that is consistent with the type of autopsy ordered by the coroner if the doctor considers it necessary to investigate the death.

(3) For a test, the doctor may remove tissue from the deceased person's body.

(4) Regardless of the type of autopsy ordered, the doctor may take blood samples for testing.

(5) In this section—

“**conduct**” a test includes arrange for a test to be conducted.

“**coroner**” means the coroner who ordered the doctor to conduct an autopsy or another coroner.

## 24 Removing tissue for autopsy testing

(1) This section applies if during an autopsy of a body, the doctor conducting the autopsy removes tissue from the body for testing.

(2) If the tissue removed is a whole organ or foetus, the doctor must inform the coroner before the coroner orders the body’s release.

(3) The coroner, knowing that the tissue has been removed, may nevertheless order the release of the body.

(4) However, if a whole organ or foetus has been removed, the coroner must not order the release of the body unless satisfied that—

- (a) if practicable, a family member of the deceased person has been informed of the removal of the organ or foetus; and
- (b) the retention of the organ or foetus is necessary for the investigation of the death, despite any concerns raised with the coroner about the retention of the organ or foetus.

(5) If tissue kept for testing is an organ or foetus, the coroner must, at not more than 6 monthly intervals after the date of the order for the autopsy, decide whether the tissue—

- (a) still needs to be kept for—
  - (i) the investigation of the death; or
  - (ii) proceedings for an offence relating to the death; or
- (b) may be disposed of.

(6) Specimen tissue as defined under the *Transplantation and Anatomy Act 1979* must be kept indefinitely by the entity that turned the tissue into specimen tissue.

(7) A person must not dispose of any other tissue kept for testing, except under the order of a coroner.

Maximum penalty—100 penalty units.

(8) If a coroner orders the disposal of the tissue, the entity that has the tissue must—

- (a) if a family member of the deceased person has told the coroner that he or she wishes to bury the tissue—release the tissue to the family member, or the family member’s representative, for burial; or
- (b) otherwise—arrange for the tissue to be buried.

(9) Subject to any relevant local laws, a statement by the entity, in the approved form, to the effect that the coroner has ordered the disposal of the tissue is sufficient authority for the burial of the tissue.

(10) In this section—

“**coroner**” means—

- (a) the coroner who ordered the autopsy; or
- (b) if that coroner is not available, another coroner.

## **24A Autopsy certificate**

(1) This section applies to a doctor who conducts an autopsy.

(2) As soon as practicable after completing an autopsy, the doctor must—

- (a) complete an autopsy notice in the approved form; and
- (b) give the notice to the registrar under the *Births, Deaths and Marriages Registration Act 2003*.

(3) As soon as practicable after the doctor determines the cause of death, or the doctor finally decides that the doctor can not determine the cause of death, the doctor must—

- (a) complete an autopsy certificate in the approved form; and
- (b) give the certificate to the registrar under the *Births, Deaths and Marriages Registration Act 2003*.

*Example—*

After completing an autopsy, the doctor may decide that the doctor can not determine the cause of death until the doctor receives the results of toxicology tests. If the results of the toxicology tests are inconclusive, the doctor may finally decide that the doctor can not determine the cause of death.

(4) If, after completing an autopsy, the doctor determines the cause of death, or the doctor decides that the doctor can not determine the cause of death the doctor need not comply with subsection (2).

(5) However, if the doctor is unable to do something required by subsection (2) or (3), another appropriately qualified doctor can do the thing.

(6) In this section—

“**approved form**” means a form approved by the chief executive of the department in which the *Births, Deaths and Marriages Registration Act 2003* is administered.

“**autopsy**” includes a post-mortem examination under the *Coroners Act 1958*.

## 25 Autopsy reports

(1) As soon as practicable after completing an autopsy, the doctor who conducted the autopsy must—

- (a) prepare an autopsy report; and
- (b) give—
  - (i) the report to the coroner; and
  - (ii) a copy of the report to an investigating police officer who asks for a copy of the report.

(2) However, if the doctor is unable to do something required by subsection (1), another appropriately qualified doctor can do the thing.

(3) If the chief executive or health chief executive asks for a copy of an autopsy report, or a copy of a test report, the doctor who conducted the autopsy or the person who did the test, must give a copy of the report to—

- (a) a public service employee nominated by the chief executive; or
- (b) a public service employee, or health service employee, nominated by the health chief executive.

(4) The chief executive or health chief executive may ask a doctor who conducts autopsies for—

- (a) a copy of the autopsy report prepared by the doctor for a particular deceased person; or

- (b) all autopsy reports prepared by the doctor for deceased persons who—
- (i) died in similar circumstances; or
  - (ii) had similar characteristics; or
  - (iii) may be grouped by other criteria; or

*Example—*

The health chief executive could ask a doctor to give the health chief executive copies of all autopsy reports the doctor makes at any time relating to deaths of children under the age of 1.

- (c) copies of all autopsy reports prepared by the doctor.

(5) In this section—

**“health service employee”** means a health service employee under the *Health Services Act 1991*.

**“investigating police officer”** means a police officer who is investigating the death under this or another Act.

**“test report”** means a document containing the results of a test performed for an autopsy.

## 26 Control of body

(1) The coroner starts having control of a deceased person’s body when the coroner starts investigating the deceased person’s death.

(2) The coroner stops having control of the body when the coroner—

- (a) if the coroner stops investigating the death under section 12(2)(a)<sup>15</sup>—orders the release of the body to the Minister responsible for administering the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*; or
- (b) if the coroner stops investigating the death under section 12(2)(b)—authorises a doctor to issue a cause of death certificate for the deceased person; or
- (c) if the coroner stops investigating the death under section 12(2)(c) or (d)—orders the release of the body for burial; or

<sup>15</sup> See section 12 (Deaths not to be investigated or further investigated).

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- (d) if the coroner stops investigating the death under section 12(2)(e)—orders the release of the body to the other jurisdiction; or
- (e) transfers control of the body to another coroner; or
- (f) decides that it is not necessary for the coroner's investigation to keep the body after an autopsy and orders the release of the body for burial.

(3) For subsection (2)(f), the coroner must order the release of the body for burial as soon as reasonably practicable after the autopsy.

(4) However, the coroner must not order the release of a body for burial if it is not known whose body it is, unless the coroner believes it is necessary to bury the body in the particular circumstances.

(5) A doctor must not issue a cause of death certificate for a person if—

- (a) the death appears to the doctor to be a reportable death, unless a coroner advises the doctor that the death is not a reportable death; or
- (b) a coroner is investigating the death, unless the coroner authorises the issue of the certificate.

Maximum penalty for subsection (5)—100 penalty units.

### *Division 3—Inquests*

#### **27 When inquest must be held**

(1) The coroner investigating a death must hold an inquest if—

- (a) the coroner considers the death is—
  - (i) a death in custody; or
  - (ii) a death in care, in circumstances that raise issues about the deceased person's care; or
- (b) the Attorney-General directs the State Coroner to arrange for an inquest to be held into the death; or

- (c) the State Coroner, on the State Coroner's own initiative or on an application under section 30,<sup>16</sup> orders an inquest be held into the death; or
- (d) the District Court, on an application under section 30, orders an inquest be held into the death.

(2) Subsection (1)(b) to (d) applies despite any decision of the coroner investigating the death not to hold an inquest.

## **28 When inquest may be held**

(1) An inquest may be held into a reportable death if the coroner investigating the death considers it desirable to hold an inquest.

(2) In deciding whether it is desirable to hold an inquest, the coroner may consider—

- (a) the extent to which drawing attention to the circumstances of the death may prevent deaths in similar circumstances happening in the future; and
- (b) any guidelines issued by the State Coroner about the issues that may be relevant for deciding whether to hold an inquest for particular types of deaths.

## **29 When inquest must not be held or continued**

(1) This section applies if a coroner who is investigating a death is informed that someone has been charged with an offence in which the question of whether the accused caused the death may be in issue.

(2) If the coroner is informed before an inquest is started, the coroner must not start an inquest until after the end of the proceedings for the offence, including any appeal started within the time allowed for an appeal.

(3) If the coroner is informed after the start of an inquest, the coroner—

- (a) must adjourn the inquest; and
- (b) may resume or close the inquest after the end of the proceedings for the offence, including any appeal started within the time allowed for an appeal.

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16 Section 30 (Applying for inquest to be held)

**30 Applying for inquest to be held**

(1) A person may apply to the coroner investigating a person's death, in the approved form, to hold an inquest into the death.

(2) The coroner must, within 6 months after receiving the application, decide the application and give written reasons for the decision to—

- (a) the applicant; and
- (b) if the coroner is not the State Coroner—the State Coroner.

(3) If the coroner decides not to hold an inquest, the person may apply for an order that an inquest be held to—

- (a) if the coroner is not the State Coroner—the State Coroner; or
- (b) if the coroner is the State Coroner—the District Court.

(4) The application must be made within 14 days after the person receives the written reasons for the coroner's decision.

(5) If the State Coroner refuses an application, the person may apply to the District Court.

(6) The application must be made within 14 days after the person receives the written reasons for the State Coroner's decision.

(7) The State Coroner or District Court may order that an inquest be held if satisfied it is in the public interest to hold the inquest.

**31 Inquests to be held by the Coroners Court**

(1) An inquest must be held by the Coroners Court in open court, except when the coroner orders the court be closed while particular evidence is given.

(2) An inquest may be held on any day of the week.

**32 Notice of inquest**

(1) The Coroners Court must publish, in a daily newspaper circulating generally in the State, a notice of—

- (a) the matter to be investigated at the inquest; and
- (b) the date, time and place of the inquest set by the coroner.

(2) The notice must be published at least 14 days before the inquest is to be held.



(3) This section does not apply—

- (a) to an adjourned inquest; or
- (b) if the State Coroner directs that a notice not be published.

### **33 Inquest into multiple deaths**

The State Coroner may investigate, or direct a coroner to investigate, at an inquest—

- (a) a number of deaths that happened at different times and places, but which appear to have happened in similar circumstances; or
- (b) a number of deaths that happened at the same time and place.

*Example of paragraph (a)—*

The State Coroner may direct a coroner to investigate several deaths that are suspected of being caused by an overdose of methadone.

### **34 Pre-inquest conferences**

(1) The Coroners Court investigating a death may hold a conference before holding an inquest—

- (a) to decide—
  - (i) what issues are to be investigated at the inquest; or
  - (ii) who may appear at the inquest; or
  - (iii) which witnesses will be required at the inquest; or
  - (iv) what evidence will be required at the inquest; or
- (b) to work out how long the inquest will take; or
- (c) to hear any application under section 17;<sup>17</sup> or
- (d) to otherwise ensure the orderly conduct of the inquest.

(2) The Coroners Court may order a person concerned with the investigation to attend the conference.

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17 Section 17 (Disclosure of confidential information to Coroners Court)

### **35 Directions or orders about inquests**

(1) To the extent that the conduct of an inquest is not provided for by rules or practice directions, the Coroners Court may give the directions and make the orders the court considers appropriate for the conduct of the inquest.

*Example—*

The Coroners Court may make an order to close the court while a witness is giving evidence that the witness claims would tend to incriminate the witness.

(2) Subsection (1) does not limit the power of the Coroners Court to control an inquest.

### **36 Right to appear etc.**

(1) The following persons may appear, examine witnesses, and make submissions, at an inquest—

- (a) a police officer, lawyer or other person assisting the Coroners Court;
- (b) the Attorney-General;
- (c) a person who the Coroners Court considers has a sufficient interest in the inquest.

*Examples for paragraph (c)—*

- 1. A family member.
- 2. The representative of a department.
- 3. The representative of a company that manufactured a product that is believed to have killed the deceased person.

(2) The Attorney-General or a person who the Coroners Court considers has a sufficient interest may be represented by a lawyer.

(3) In this section—

**“examine”** includes cross-examine.

### **37 Evidence**

(1) The Coroners Court is not bound by the rules of evidence, but may inform itself in any way it considers appropriate.

(2) The Coroners Court may require a person to produce a document to the court before the start of an inquest.

(3) The Coroners Court may inspect anything produced at an inquest, copy it, or keep it for a reasonable period.

(4) The Coroners Court may do any of the following—

- (a) order a person to attend an inquest, until excused by the court—
  - (i) to give evidence as a witness; or
  - (ii) to produce something;
- (b) order a person called as a witness at an inquest—
  - (i) to take an oath; or
  - (ii) to answer a question.

(5) In addition to the ways in which something may be served under the *Acts Interpretation Act 1954*, section 39,<sup>18</sup> the Coroners Court may authorise service of an order in another way.

(6) A person must comply with an order of the Coroners Court, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(7) If a person fails to attend an inquest as ordered, the court may issue a warrant for the person's arrest.<sup>19</sup>

(8) However, the court may issue the warrant only if satisfied the person was served in time for it to be practical, in normal circumstances, for the person to appear before the court.

(9) The police officer must, as soon as practicable after the arrest, cause the person to be brought before the Coroners Court.

(10) Once arrested, the person may be detained in custody until the Coroners Court excuses the person from attending the inquest.

(11) The issue of a warrant, or the arrest of the person, does not relieve the person from liability incurred by the person for not complying with the order to attend.

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18 *Acts Interpretation Act 1954*, section 39 (Service of documents)

19 For particular police powers relating to the arrest of a person, see the *Police Powers and Responsibilities Act 2000*, section 19 (General power to enter to arrest or detain someone or enforce warrant), section 376 (Power to use force against individuals) and, for what happens if the person can not be taken before the coroner on the day of the arrest, section 226 (Duty of officer receiving custody of person arrested under warrant other than for offence).

### 38 Recording evidence

(1) The Coroners Court may decide whether or not proceedings in the court during a conference held under section 34<sup>20</sup> are to be recorded under the *Recording of Evidence Act 1962*.

(2) Despite any order made under section 41,<sup>21</sup> any other proceedings in the court must be recorded under the *Recording of Evidence Act 1962*.

(3) Subject to an order made under section 41 and the requirements of the *Recording of Evidence Act 1962*, anyone is entitled to obtain a copy of the record under that Act.

### 39 Incriminating evidence

(1) This section applies if a witness refuses to give oral evidence at an inquest because the evidence would tend to incriminate the person.

(2) The coroner may require the witness to give evidence that would tend to incriminate the witness if the coroner is satisfied that it is in the public interest for the witness to do so.

(3) The evidence is not admissible against the witness in any other proceeding, other than a proceeding for perjury.

(4) Derivative evidence is not admissible against the witness in a criminal proceeding.

(5) In this section—

**“derivative evidence”** means any information, document or other evidence obtained as a direct or indirect result of the evidence given by the witness.

**“proceeding for perjury”** means a criminal proceeding in which the false or misleading nature of the evidence is in question.

### 40 Exhibits

(1) This section applies to exhibits at inquests.

(2) The registrar or deputy registrar must hold exhibits in safe custody.

(3) A coroner may make an order about the custody of an exhibit.

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20 Section 34 (Pre-inquest conferences)

21 Section 41 (Prohibited publications relating to inquests)

**41 Prohibited publications relating to inquests**

(1) A coroner, either before, during or immediately after the holding of an inquest, may make an order prohibiting the publication of information relating to, or arising at, an inquest.

*Examples—*

A coroner may prohibit the publication of information that—

- (a) indicates a deceased person's death was, or may possibly have been, self-inflicted; or
- (b) would tend to incriminate a witness.

(2) A person must not contravene an order under subsection (1).

Maximum penalty—150 penalty units.

(3) A person must not publish, or allow someone else to publish—

- (a) a question disallowed by the Coroners Court at an inquest; or
- (b) an answer given to a question disallowed by the Coroners Court at an inquest.

Maximum penalty—150 penalty units.

(4) The coroner, by order, may prohibit a person—

- (a) immediately before, during or immediately after the holding of an inquest, from filming, photographing, sketching or recording anything—
  - (i) in the room or other place in which the inquest is about to be, is being or has been held; or
  - (ii) in a room or other place set aside by a coroner for a purpose connected with the holding of the inquest; or
  - (iii) in an entrance or passageway leading to or from a room or place mentioned in subparagraph (i) or (ii); or
- (b) publishing a film, photograph, sketch or record taken contrary to an order made under paragraph (a).

(5) A person must comply with the order, unless the person has a reasonable excuse.

Maximum penalty—150 penalty units.

(6) The Coroners Court may make an order prohibiting—

- (a) the issue of the whole or part of a copy of the record made under the *Recording of Evidence Act 1962*; or

(b) the publication of the whole or part of a copy of the record made under that Act.

(7) A person must comply with the order, unless the person has a reasonable excuse.

Maximum penalty—150 penalty units.

(8) In this section—

“**publish**” includes publish on radio, television or the internet.

“**record**” includes make an audio recording.

## **42 Contempt**

The *Magistrates Courts Act 1921*, section 50<sup>22</sup> applies to the Coroners Court in the same way that it applies to a Magistrates Court, with all necessary changes.

## **43 Excluding persons from inquest**

(1) The Coroners Court may order that a person be excluded from an inquest if the court considers it is in the interests of justice, the public or a particular person to do so.

*Examples—*

1. A person who commits an offence against section 41<sup>23</sup> may be excluded from an inquest.
2. A person may be excluded from an inquest until the person or someone else has given evidence at the inquest.

(2) If the person disobeys the order, the court may order the person be removed from the inquest.

## **44 Adjourning inquest**

The Coroners Court may adjourn an inquest to any time and place.

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22 *Magistrates Courts Act 1921*, section 50 (Contempt)

23 Section 41 (Prohibited publications relating to inquests)

**45 Coroner's findings**

(1) A coroner who is investigating a suspected death must, if possible, find whether or not a death in fact happened.

(2) A coroner who is investigating a death or suspected death must, if possible, find—

- (a) who the deceased person is; and
- (b) how the person died; and
- (c) when the person died; and
- (d) where the person died, and in particular whether the person died in Queensland; and
- (e) what caused the person to die.

(3) However, the coroner need not make the findings listed in subsection (2) if—

- (a) the coroner is unable to find that a suspected death in fact happened; or
- (b) the coroner stops investigating the death under section 12(1).<sup>24</sup>

(4) The coroner must give a written copy of the findings to—

- (a) a family member of the deceased person who has indicated that he or she will accept the document for the deceased person's family; and
- (b) if an inquest was held—any person who, as a person with a sufficient interest in the inquest, appeared at the inquest; and
- (c) if the deceased person was a child—the children's commissioner; and
- (d) if the coroner is not the State Coroner—the State Coroner.

(5) The coroner must not include in the findings any statement that a person is, or may be—

- (a) guilty of an offence; or
- (b) civilly liable for something.

(6) This section applies whether or not an inquest is held.

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24 Section 12 (Deaths not to be investigated or further investigated)

**46 Coroner's comments**

(1) A coroner may, whenever appropriate, comment on anything connected with a death investigated at an inquest that relates to—

- (a) public health or safety; or
- (b) the administration of justice; or
- (c) ways to prevent deaths from happening in similar circumstances in the future.

(2) The coroner must give a written copy of the comments to—

- (a) a family member of the deceased person who has indicated that he or she will accept the document for the deceased person's family; and
- (b) any person who, as a person with a sufficient interest in the inquest, appeared at the inquest; and
- (c) if the coroner is not the State Coroner—the State Coroner; and
- (d) if a government entity deals with the matters to which the comment relates—
  - (i) the Minister administering the entity; and
  - (ii) the chief executive officer of the entity; and
- (e) if the comments relate to the death of a child—the children's commissioner.

(3) The coroner must not include in the comments any statement that a person is, or may be—

- (a) guilty of an offence; or
- (b) civilly liable for something.

**47 Coroner's comments and findings for deaths in care or custody**

(1) This section applies to the findings, and any comments, of a coroner made in relation to the investigation of a death in care or death in custody.

(2) The coroner must give a written copy of the findings and comments to—

- (a) the Attorney-General; and
- (b) the appropriate chief executive; and



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(c) the appropriate Minister.

(3) In this section—

**“appropriate chief executive”** means the chief executive of the department in which the relevant Act is administered.

**“appropriate Minister”** means the Minister administering the relevant Act.

**“relevant Act”** means—

(a) for a death in care—

(i) for the death of a person mentioned in section 9(1)(a)(i)—the *Residential Services (Accreditation) Act 2002*; or

(ii) for the death of a person mentioned in section 9(1)(a)(ii)—the *Disability Services Act 1992*; or

(iii) for the death of a person mentioned in section 9(1)(a)(iii)—the *Health Services Act 1991*; or

(iv) for the death of a person mentioned in section 9(1)(b)—the *Mental Health Act 2000*; or

(v) for the death of a person mentioned in section 9(1)(c)—the *Adoption of Children Act 1964*; or

(vi) for the death of a person mentioned in section 9(1)(d)—the *Child Protection Act 1999*; or

(vii) for the death of a person mentioned in section 9(1)(e)—the *Child Protection Act 1999*; or

(b) for a death in custody—

(i) for the death of a person in the custody of a police officer or in a watch-house—the *Police Powers and Responsibilities Act 2000*; or

(ii) for the death of a person detained under the *Corrective Services Act 2000*—that Act; or

(iii) for the death of a person in the custody of the Crime and Misconduct Commission—the *Crime and Misconduct Act 2001*; or

- (iv) for the death of a person in the custody of any other law enforcement agency—the *Police Powers and Responsibilities Act 2000*; or
- (v) for the death of a person in the custody of the proper officer of a court—the *Justices Act 1886*; or
- (vi) for the death of a person in custody under the *Juvenile Justice Act 1992*, section 41, 43, 120 or 121—the *Juvenile Justice Act 1992*.

#### **48 Reporting offences or misconduct**

(1) A reference in this section to information does not include information obtained under section 39(2).<sup>25</sup>

(2) If, from information obtained while investigating a death, a coroner reasonably suspects a person has committed an offence, the coroner must give the information to—

- (a) for an indictable offence—the director of public prosecutions; or
- (b) for any other offence—the chief executive of the department in which the legislation creating the offence is administered.

(3) A coroner may give information about official misconduct or police misconduct under the *Crime and Misconduct Act 2001* to the Crime and Misconduct Commission.

(4) A coroner may give information about a person's conduct in a profession or trade, obtained while investigating a death, to a disciplinary body for the person's profession or trade if the coroner reasonably believes the information might cause the body to inquire into, or take steps in relation to, the conduct.

(5) In this section—

**“disciplinary body”** for a person's profession or trade means a body that—

- (a) licenses, registers or otherwise approves the carrying on of the profession or trade; or
- (b) can sanction, or recommend sanctions for, the person's conduct in the profession or trade.

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25 Section 39 (Incriminating evidence)

**49 Reporting to State Coroner**

At the request of the State Coroner, a coroner must give the State Coroner information about an investigation into a death that the coroner conducted or is conducting.

**50 Reopening inquests etc.**

(1) A person dissatisfied with a finding at an inquest may apply to the State Coroner or District Court to set aside the finding.

(2) The person may apply to the District Court even if, on an application based on the same or substantially the same grounds or evidence, the State Coroner has refused to set aside the finding.

(3) However, the person may not apply to the State Coroner if, on an application based on the same or substantially the same grounds or evidence, the District Court has refused to set aside the finding.

(4) The State Coroner may set aside a finding if satisfied—

- (a) new evidence casts doubt on the finding; or
- (b) the finding was not correctly recorded.

(5) The District Court may set aside a finding if satisfied—

- (a) new evidence casts doubt on the finding; or
- (b) the finding was not correctly recorded; or
- (c) there was no evidence to support the finding; or
- (d) the finding could not be reasonably supported by the evidence.

(6) If the State Coroner sets aside a finding—

- (a) the State Coroner may—
  - (i) reopen the inquest to re-examine the finding; or
  - (ii) hold a new inquest; or
- (b) the State Coroner may direct another coroner to—
  - (i) reopen the inquest to re-examine the finding; or
  - (ii) hold a new inquest.

(7) If the District Court sets aside a finding, the District Court may order—

- (a) the State Coroner to—

- (i) reopen the inquest to re-examine the finding; or
- (ii) hold a new inquest; or
- (b) the State Coroner to direct another coroner to—
  - (i) reopen the inquest to re-examine the finding; or
  - (ii) hold a new inquest.

(8) A coroner who has reopened an inquest, or is holding a new inquest, under this section may accept any of the evidence given, or findings made, at the earlier inquest as being correct.

### **51 Record of coroner's findings and comments**

(1) A coroner must keep a record of the coroner's findings and comments.

(2) The record of the coroner's findings and comments is not evidence in any court or tribunal of any fact asserted in the record.

(3) If a coroner becomes aware of a clerical mistake or omission in the record, the coroner must correct it.

### ***Division 4—Accessing investigation documents***

### **52 Documents that can not be accessed**

(1) A coroner must not give a person access to an investigation document to the extent that the document—

- (a) is subject to legal professional privilege; or
- (b) contains information that is likely to—
  - (i) prevent a person from receiving a fair trial; or
  - (ii) prejudice the investigation of a contravention or possible contravention of the law; or
  - (iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
  - (iv) endanger a person's life or physical safety; or

- (v) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or
  - (vi) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
  - (vii) facilitate a person's escape from lawful custody; or
  - (c) contains information about a living or dead person's personal affairs, including, for example, information about the person's health, unless the information is relevant to a matter mentioned in section 45(2);<sup>26</sup> or
  - (d) contains information that was obtained from a person under a requirement in another Act that compelled the person to give the information; or
  - (e) contains information that was given to the coroner under the *Transport Infrastructure Act 1994*, section 239AC.<sup>27</sup>
- (2) Sections 53 and 54<sup>28</sup> are subject to this section.

### **53 Access to investigation documents for research purposes**

(1) This section applies if a person wants access to an investigation document, that is in the possession of a coroner, for research purposes.

(2) The State Coroner must not give the person access to—

- (a) an investigation document, while a coroner is investigating the death to which the document relates; or
- (b) a document to the extent that it contains information obtained under section 17.<sup>29</sup>

(3) The person may access another investigation document only with the consent of the State Coroner.

(4) The State Coroner may consent only if—

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26 Section 45 (Coroner's findings)

27 *Transport Infrastructure Act 1994*, section 239AC (Authorisation of coroner to have access to restricted information)

28 Sections 53 (Access to investigation documents for research purposes) and 54 (Access to investigation documents for other purposes)

29 Section 17 (Disclosure of confidential information to Coroners Court)

*Coroners Act 2003*

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- (a) the State Coroner is satisfied that the person is a genuine researcher; and
- (b) the State Coroner is satisfied that the document is reasonably necessary for the research; and
- (c) for a police document in relation to which the State Coroner decides not to obliterate information that identifies someone—the commissioner of the police service agrees to the person having access to the document; and
- (d) for an investigation document that is not a coronial document or police document—the chief executive officer of the entity that prepared the document agrees to the person having access to the document.

(5) Before giving someone access to an investigation document for research purposes, the State Coroner must ensure that any information in the document that identifies anyone is obliterated.

(6) However, the State Coroner need not obliterate the information if the State Coroner reasonably believes—

- (a) the person’s identity is necessary for the research to be effective; and
- (b) the opportunity for increased knowledge that may result from the research outweighs the need to protect the privacy of any living or dead person.

(7) In this section—

**“genuine researcher”** means—

- (a) a person who is approved under the *Health Act 1937*, section 154M<sup>30</sup> to conduct scientific research and studies for the purpose of reducing morbidity or mortality in Queensland; or

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30 *Health Act 1937*, section 154M (Authority to conduct scientific research and studies)

- (b) a person who is a member of an approved quality assurance committee under the *Health Services Act 1991*, part 4, division 2;<sup>31</sup> or
- (c) another person who the chief executive considers to be a person conducting genuine research.

(8) This section is subject to section 56.<sup>32</sup>

#### **54 Access to investigation documents for other purposes**

(1) This section applies if a person wants access to 1 of the following documents, that is in the possession of a coroner, for purposes other than research purposes—

- (a) a coronial document;
- (b) another type of investigation document.

(2) The person may access the document with the consent of—

- (a) the coroner who is conducting, or had conducted, the investigation to which the document relates; or
- (b) if that coroner is not available—another coroner nominated by the State Coroner.

(3) The coroner may consent only if the coroner is satisfied that the person has a sufficient interest in the document.

*Example—*

A person with a sufficient interest in an investigation document might include—

- (a) an immediate member of the deceased person's family; or
- (b) a person authorised by the owner of a tissue bank under the *Transplantation and Anatomy Act 1979*; or
- (c) for a document that is relevant to assessing a potential threat to public health—the health chief executive.

(4) While a coroner is investigating a death to which a coronial document relates, a person may access the document only under this section.

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31 *Health Services Act 1991*, part 4 (Teaching hospitals and quality assurance), division 2 (Quality assurance)

32 Section 56 (Refusing access in the public interest)

(5) Despite subsection (2), if access to a coronial document is necessary for the investigation or prosecution of an offence relating to a death—

- (a) a police officer may access the document without a coroner's consent; and
- (b) the police officer may give someone else access to the document for the investigation or prosecution, without a coroner's consent.

(6) However, subsection (5) does not apply to a document to the extent that the document contains information that was obtained from a person under a provision of another Act that compelled the person to give the information.

*Example of a provision of another Act in subsection (6)—*

*The Coal Mining Safety and Health Act 1999, section 159 (Person must answer question about serious accident or high potential incident)*

(7) Despite anything in this section, a document to the extent that it contains confidential information obtained under section 17,<sup>33</sup> may only be accessed under section 17(4).

#### **54A Access to investigation documents by the children's commissioner**

(1) The chief executive may enter into an arrangement with the children's commissioner about giving the commissioner access to the following documents for the commissioner's child death research functions—

- (a) an investigation document, other than a report mentioned in section 7(3), that relates to the death of a particular child;
- (b) all investigation documents, other than reports mentioned in section 7(3), that relate to the deaths of children.

(2) Without limiting what may be included in an arrangement, the arrangement may provide for the following—

- (a) when investigation documents may be accessed by the children's commissioner, including, for example, whether access will be given to the children's commissioner while a coroner is investigating the death to which the document relates;
- (b) how and where the children's commissioner may access the investigation documents.

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33 Section 17 (Disclosure of confidential information to Coroners Court)



(3) The State Coroner may provide access to an investigation document to the children's commissioner under the arrangement.

(4) Sections 53, 54 and 55 do not apply in relation to access to an investigation document under the arrangement.

(5) However, access to an investigation document under the arrangement is subject to the other provisions of this division.

(6) In this section—

**“investigation document”** includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.

#### **54B Limitations on access under s 54A**

(1) This section contains particular provisions limiting access to investigation documents under an arrangement under section 54A.

(2) Before giving the children's commissioner access to an investigation document, the State Coroner must ensure that all information in the document that identifies anyone is obliterated.

(3) However, the State Coroner need not obliterate information if the State Coroner reasonably believes the person's identity is necessary for the children's commissioner's child death research functions.

(4) If the investigation document is a police document and the State Coroner decides under subsection (3) not to obliterate information that identifies someone, the State Coroner may give access to the document only if the commissioner of the police service agrees to the document being accessed under the arrangement.

(5) If the investigation document is not a coronial document for an investigation under this Act or a police document, the State Coroner may give access to the document only if the chief executive of the entity that prepared the document agrees to the document being accessed under the arrangement.

(6) In this section—

**“investigation document”** includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.

### **54C Fees for access under s 54A**

(1) The chief executive may charge the children’s commissioner a fee for access to investigation documents provided under section 54A that is not more than the actual cost of providing the access.

(2) A fee prescribed under a regulation for access to an investigation document does not apply to access to an investigation document provided under section 54A.

(3) In this section—

“**investigation document**” includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.

### **55 Conditions imposed on access**

(1) When consenting to give a person access to an investigation document, a coroner may impose conditions on the consent that the coroner considers are necessary to protect the interests of justice, the public or a particular person.

*Example—*

A coroner may give consent on the condition that the document not be used for any purpose other than the inquest.

(2) A person given access to an investigation document subject to a conditional consent must comply with the conditions, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—100 penalty units or 2 years imprisonment.

### **56 Refusing access in the public interest**

(1) A coroner may refuse to allow a person access to an investigation document if the coroner considers that disclosure of the information in the document would not be in the public interest when weighed against all relevant interests.

*Example—*

A coroner may refuse access to a document if the coroner considers the document contains—

- (a) defamatory information; or

- (b) unsubstantiated allegations of criminal conduct; or
- (c) information that may prejudice the coroner's investigation.

(2) Subsection (1) applies even if the person is otherwise eligible, under this division, to be given access to the document.

(3) Also, a coroner may refuse to give access to a coronial document until a stated time.

*Example—*

If a document contains information that is likely to prevent a person from receiving a fair trial, a coroner may refuse to give access to the document until the trial is over.

(4) A person may apply to a coroner who refused access to an investigation document under this section to amend or revoke the order containing the refusal.

*Example—*

A person who wants to produce the document in evidence in another proceeding might apply to the coroner to allow a copy of the document to be given to the judge in that proceeding.

(5) In this section—

“**document**” includes part of a document.

## **57 Coroner to pass on refused request for investigation document**

(1) This section applies to an investigation document that is not a coronial document.

(2) If a coroner is prevented, under section 52,<sup>34</sup> from giving a person access to the document, the coroner must—

- (a) advise the entity that prepared the document, in writing—
  - (i) that the person has requested access to the document; and
  - (ii) of any concerns that the coroner has about how the coroner's investigation may be affected if the document were released to the person; and
- (b) advise the person, in writing, that the coroner has forwarded the person's request to the entity.

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34 Section 52 (Documents that can not be accessed)

**58 Identifying coronial documents**

(1) This section applies if an entity gives a coroner an investigation document.

(2) The entity must inform the coroner whether or not the document was specifically prepared in connection with the investigation.

***Division 5—Physical evidence*****59 What division applies to**

(1) This division relates to physical evidence for a coroner's investigation of a death.

(2) However, this division does not apply to an investigation document, other than an investigation document that was seized by a police officer for the investigation.<sup>35</sup>

(3) In this section—

**“physical evidence”** for an investigation, means—

- (a) anything seized by a police officer for the investigation; or
- (b) any exhibits that were tendered at an inquest held by the coroner;  
or
- (c) any other property that came into the possession of a coroner, police officer, registrar or deputy registrar for the investigation.

**60 Returning physical evidence**

(1) The coroner must order the physical evidence be returned to its owner as soon as the coroner decides that the evidence is no longer required for—

- (a) the investigation; or
- (b) the investigation of another death under this Act; or
- (c) a proceeding for an offence relating to the death.

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<sup>35</sup> Investigation documents are dealt with under division 4.

(2) However, the coroner must not order the return of physical evidence to its owner if it is not lawful for the owner to possess the physical evidence.

(3) In this section—

“owner” means—

- (a) the person who appears to the coroner to be the lawful owner of the physical evidence; or
- (b) for something that was owned by a person who has died—the deceased person’s personal representative.

## **61 Forfeiting physical evidence to the State**

(1) The physical evidence becomes State property if the coroner—

- (a) can not, after making reasonable efforts, return the physical evidence to its owner; or

*Example of paragraph (a)—*

The coroner may not be able to return physical evidence to its owner because the owner has moved overseas and, despite reasonable efforts, can not be located by the coroner.

- (b) does not order the return of physical evidence to its owner because—
  - (i) it is not lawful for the owner to possess the physical evidence; or
  - (ii) given the nature, condition and value of the physical evidence, it is not desirable that the physical evidence be returned to its owner.

*Example of physical evidence mentioned in paragraph (b)(ii)—*

A cracked safety helmet that a deceased person was wearing when killed.

(2) In deciding what efforts are reasonable, the coroner must have regard to the nature, condition and value of the physical evidence.

(3) Once the physical evidence becomes State property, the coroner may arrange for the physical evidence to be dealt with in any way allowed under the guidelines issued by the State Coroner.

*Example—*

The coroner may arrange for the physical evidence to be destroyed.

(4) Subsection (3) does not apply to physical evidence that is in the possession of the police service.<sup>36</sup>

## **62 Access to physical evidence**

Until the physical evidence is returned or becomes State property, the coroner must allow its owner to inspect it and, if it is a document, to copy it, unless it is impracticable or would be unreasonable to allow the inspection or copying.

### *Division 6—Transferring investigation to another coroner*

## **63 Transferring investigation to another coroner**

(1) This section is about the State Coroner reassigning the investigation of a death from 1 coroner (the “**original coroner**”) to the State Coroner or another coroner (the “**new coroner**”).

(2) The State Coroner may reassign an investigation that has not gone to an inquest if the State Coroner considers it necessary for the efficient operation of the coronial system.

(3) Also, the State Coroner may reassign an investigation, whether or not it has not gone to an inquest, if the original coroner—

- (a) stops being a coroner; or
- (b) is not available to finish the investigation, because of absence or another reason.

(4) If the original coroner had started but not finished an inquest into the death, the new coroner may—

- (a) continue the inquest; or
- (b) rehear part of the evidence heard by the original coroner; or
- (c) hold a new inquest.

(5) For the investigation, the new coroner may—

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<sup>36</sup> For physical evidence that is in the possession of the police service, see the *Police Powers and Responsibilities Act 2000*, section 441.

- (a) consider any evidence that was before the original coroner; and
- (b) do anything the original coroner could do.

## **PART 4—ADMINISTRATION**

### *Division 1—Coroners Court*

#### **64 The Coroners Court**

- (1) The Coroners Court is established as a court of record.
- (2) The Coroners Court is constituted by a coroner.

#### **65 Jurisdiction of the court is exclusive**

Only the Coroners Court may hold an inquest.

#### **66 Where the court may be held**

- (1) The Coroners Court—
  - (a) may be held at any place; or
  - (b) may be held in more than 1 place at the same time.

(2) The Coroners Court held at a place may be referred to as the Coroners Court at the place.

*Example—*

The Coroners Court held at Toowoomba may be referred to as the Coroners Court at Toowoomba.

#### **67 Seals of the court**

- (1) The Coroners Court must have a seal for the court.
- (2) The seal must be kept under the State Coroner's direction.
- (3) The seal must be judicially noticed.

## **68 Rule-making power**

The Governor in Council may make rules for the practice and procedures of the Coroners Court, including, for example, the practice and procedures at conferences held under section 34.<sup>37</sup>

## **69 Practice directions**

(1) To the extent that a matter about the procedures of the Coroners Court is not provided for by this Act or the rules, the State Coroner may issue practice directions for the court about the court's general procedures.

*Example—*

The State Coroner may issue a practice direction about the procedures at conferences held under section 34.

(2) Subsection (1) does not limit any inherent or other power of a coroner to make practice directions for a particular inquest.

### *Division 2—State Coroner*

## **70 Appointment of State Coroner**

(1) The Governor in Council may appoint a magistrate, other than an acting magistrate, as the State Coroner.

(2) The appointment as the State Coroner—

- (a) is for an initial term of not more than 5 years; and
- (b) may be renewed once for a term of not more than 5 years.

(3) The State Coroner is entitled to the same salary, allowances and employment conditions as the Deputy Chief Magistrate.

## **71 Functions and powers of State Coroner**

(1) The State Coroner's functions are—

- (a) to oversee and coordinate the coronial system; and
- (b) to ensure the coronial system is administered and operated efficiently; and

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<sup>37</sup> Section 34 (Pre-inquest conferences)



- (c) to ensure deaths reported to coroners that are reportable deaths are investigated to an appropriate extent; and
- (d) to ensure an inquest is held if—
  - (i) the inquest is required to be held under this Act; or
  - (ii) it is desirable for the inquest to be held; and
- (e) to be responsible, together with the Deputy State Coroner, for all investigations into deaths in custody; and
- (f) to issue directions and guidelines about the investigation of deaths under this Act; and
- (g) any other function given to the State Coroner or a coroner under this or another Act.

(2) The State Coroner has power to do all things necessary or convenient to be done for, or in connection with, the performance of the State Coroner's functions.

(3) While a magistrate holds appointment as the State Coroner, the only functions and powers that the magistrate has are the functions and powers of the State Coroner.

(4) The State Coroner must devote the whole of his or her time to the duties of the State Coroner.

(5) Without limiting subsection (4), the State Coroner must not practise as a barrister or solicitor for fee or reward.

(6) Despite subsection (4), the State Coroner may be appointed as, and perform the functions of, a member of the Child Death Case Review Committee under the *Commission for Children and Young People and Child Guardian Act 2000*.

(7) The *Magistrates Act 1991*, section 41<sup>38</sup> does not apply in relation to the State Coroner.<sup>39</sup>

## 72 Resignation of State Coroner

(1) The person appointed as State Coroner may, by written notice to the Minister, resign as State Coroner.

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38 *Magistrates Act 1991*, section 41 (Functions of Magistrates generally)

39 *Magistrates Act 1991*, sections 12 (Functions of Chief Magistrate) and 41 (Functions of Magistrates generally)

(2) However, on resigning as State Coroner, the person does not stop being a magistrate.

### **73 When person stops being the State Coroner**

(1) A person stops being the State Coroner—

- (a) while the person is suspended as a magistrate; or
- (b) if the person stops being a magistrate.

(2) For a magistrate who is the State Coroner, the duties mentioned in the *Magistrates Act 1991*, section 43(4)<sup>40</sup> include the duties of the State Coroner.

### **74 Acting as State Coroner**

(1) This section applies if—

- (a) the State Coroner's position is vacant; or
- (b) the State Coroner is not available to perform the State Coroner's functions because of absence or another reason.

(2) The Governor in Council may appoint a magistrate to act as the State Coroner.

(3) The instrument of appointment must state the period of the appointment.

(4) The period of the appointment must not be longer than 6 months.

(5) However, the appointment may be renewed at any time.

(6) Despite subsection (2), the Deputy State Coroner may act as the State Coroner whenever—

- (a) no-one holds a current appointment from the Governor in Council to act as the State Coroner; or
- (b) someone holds a current appointment from the Governor in Council to act as the State Coroner, but is not immediately available to act under the appointment.

(7) In this section—

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40 *Magistrates Act 1991*, section 43 (Suspension of magistrate by Governor in Council)

**“Deputy State Coroner”** does not include a person who is acting as the Deputy State Coroner.

**“magistrate”** does not include a person who is acting as a magistrate.

## **75 Staff of the State Coroner**

The staff who are necessary to enable the State Coroner to perform his or her functions are to be appointed under the *Public Service Act 1996*.

## **76 Consulting with Chief Magistrate**

The State Coroner must consult with the Chief Magistrate about—

- (a) the resources necessary to ensure the efficient administration of the coronial system; and
- (b) the amount of work conducted by magistrates as coroners; and
- (c) any guidelines or practice directions the State Coroner wishes to issue.

## **77 Annual report**

**(1)** As soon as practicable after the end of each financial year, the State Coroner must give the Attorney-General a report for the year on the operation of this Act.

**(2)** The report must also contain—

- (a) the State Coroner’s guidelines that were operative in the year; and
- (b) a summary of the investigation, including the inquest, into each death in custody; and
- (c) a summary of the types of directions that the State Coroner has given to coroners under section 14.<sup>41</sup>

**(3)** The report may also contain a summary of any other investigation that the State Coroner considers should be brought to the Minister’s attention.

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41 Section 14 (Guidelines and directions for investigations)

***Division 3—Deputy State Coroner*****78 Appointment of Deputy State Coroner**

(1) The Governor in Council may appoint a magistrate as the Deputy State Coroner.

(2) The appointment—

- (a) is for an initial term of not more than 5 years; and
- (b) may be renewed once for a term of not more than 5 years.

**79 Functions and powers of Deputy State Coroner**

In addition to the functions and powers of a magistrate and coroner, the Deputy State Coroner has the functions and powers of the Deputy State Coroner under this or another Act.

**80 When person stops being the Deputy State Coroner**

(1) A person stops being the Deputy State Coroner—

- (a) while the person is suspended as a magistrate; or
- (b) if the person stops being a magistrate.

(2) For a magistrate who is the Deputy State Coroner, the duties mentioned in the *Magistrates Act 1991*, section 43(4)<sup>42</sup> include the duties of the Deputy State Coroner.

**81 Acting as Deputy State Coroner**

(1) This section applies if—

- (a) the Deputy State Coroner's position is vacant; or
- (b) the Deputy State Coroner is not available to perform the Deputy State Coroner's functions, because of absence or another reason.

(2) The State Coroner may appoint a magistrate to act as the Deputy State Coroner.

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<sup>42</sup> *Magistrates Act 1991*, section 43 (Suspension of magistrate by Governor in Council)

(3) However, before appointing a magistrate to act, the State Coroner must discuss the matter with the Chief Magistrate.

(4) The instrument of appointment must state the period of the appointment.

(5) The period of appointment must not be longer than 6 months.

(6) However, the appointment may be renewed at any time.

(7) In this section—

“**magistrate**” does not include a person who is acting as a magistrate.

#### *Division 4—Other coroners*

### **82 Local coroners**

(1) Every magistrate is a coroner (a “**local coroner**”).

(2) As well as the functions and powers of a magistrate, a local coroner has the functions and powers of a coroner under this or another Act.

(3) A person stops being a local coroner—

- (a) while the person is suspended as a magistrate; or
- (b) if the person stops being a magistrate.

(4) For a magistrate who is a local coroner, the duties of office mentioned in the *Magistrates Act 1991*, section 43(4)<sup>43</sup> include the duties of a coroner.

(5) In this section—

“**magistrate**” includes a person who is acting as a magistrate.

### **83 Appointed coroners**

(1) The Governor in Council may appoint a person as a coroner (an “**appointed coroner**”) if the person has been a lawyer for at least 5 years.

(2) An appointed coroner is entitled to the remuneration, allowances and employment conditions decided by the Governor in Council.

(3) The office of an appointed coroner is not subject to—

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43 *Magistrates Act 1991*, section 43 (Suspension of magistrate by Governor in Council)

(a) an industrial instrument under the *Industrial Relations Act 1999*;  
or

(b) a decision or rule of the industrial court or industrial commission.

(4) An appointed coroner has the functions and powers of a coroner under this or another Act.

### *Division 5—Registrar and deputy registrars*

#### **84 Registrar**

(1) The Governor in Council may, by gazette notice, appoint a person as the registrar.

(2) The registrar is employed under the *Public Service Act 1996*.

#### **85 Deputy registrars**

(1) The Governor in Council may, by gazette notice, appoint a person as a deputy registrar.

(2) Also, each clerk of the court under the *Justices Act 1886*, other than a police officer, is a deputy registrar.

(3) Each deputy registrar is employed under the *Public Service Act 1996*.

#### **86 Delegation of powers to registrar or deputy registrars**

(1) The State Coroner may delegate a power to—

(a) the registrar; or

(b) an appropriately qualified deputy registrar.

(2) Another coroner may, with the State Coroner's approval, delegate a power to—

(a) the registrar; or

(b) an appropriately qualified deputy registrar.

(3) Without limiting subsection (1) or (2), a coroner may delegate the act of receiving a report under section 7<sup>44</sup> to—

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44 Section 7 (Duty to report deaths)

- (a) the registrar; or
- (b) an appropriately qualified deputy registrar.

(4) The State Coroner must consult with the chief executive about the amount of work to be done by the deputy registrar under the delegation, before—

- (a) delegating a power to a deputy registrar; or
- (b) approving the delegation of a power to a deputy registrar.

(5) In this section—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to exercise the power.

**“power”**—

- (a) includes the power to issue a permission to cremate under the *Cremations Act 2003*; but
- (b) does not include—
  - (i) the power to conduct an inquest, including the power to make findings at the inquest; or
  - (ii) the power to require a person to give information relevant to an investigation under section 16;<sup>45</sup> or
  - (iii) the power to authorise a police officer to exercise a power under the *Police Powers and Responsibilities Act 2000*.

### *Division 6—Other general provisions about coroners*

## **87 Obstruction**

A person must not obstruct a coroner or other person performing a function under this Act, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

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<sup>45</sup> Section 16 (Duty to help investigation)

## **88 Immunity**

(1) When performing a function of a coroner under this or another Act, a coroner has the same protection and immunity as a Supreme Court judge in a Supreme Court proceeding.

(2) A person representing a person before the Coroners Court has the same protection and immunity as a lawyer appearing for a party in a Supreme Court proceeding.

(3) Subject to section 39,<sup>46</sup> a person appearing as a witness before the Coroners Court has the same protection and immunity as a witness appearing in a Supreme Court proceeding.

(4) In this section—

“**function**” includes an administrative function.

“**Supreme Court proceeding**” means a judicial proceeding in the Supreme Court.

## **89 Coroner as witness**

(1) A coroner can not be called to give evidence in a proceeding about anything that came to the coroner’s knowledge in performing a function of a coroner under this or another Act.

(2) However, this section does not apply to a proceeding relating to a coroner’s suspension as a magistrate.

## **90 Coroner’s orders**

A coroner’s order must be put into writing.

## **91 Coroner’s service counts as magistrate’s service**

When working out a coroner’s rights as a magistrate, service as a coroner counts as service as a magistrate.

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46 Section 39 (Incriminating evidence)



## **PART 5—MISCELLANEOUS**

### **92 Register of deaths**

(1) The State Coroner must establish a register of all deaths or suspected deaths investigated under this Act.

(2) The register must contain the following information for each death—

- (a) the date on which the person's death was reported or otherwise brought to the coroner's notice;
- (b) a summary of any findings of the investigation, including any inquest;
- (c) a summary of any comments made at any inquest.

(3) For each death or suspected death that a coroner investigates, the coroner must give the information mentioned in subsection (2) to the State Coroner.

### **93 National coronial database**

(1) This section applies if an entity, including a government entity, maintains a database about coronial investigations.

(2) The Minister may, for the State, enter into an arrangement with the entity for stated information obtained under this Act to be included in the database.

(3) The Minister may enter into the arrangement only if satisfied—

- (a) the entity has a legitimate interest in storing the information in the database; and
- (b) the entity will make the information available only to persons with a legitimate interest in obtaining it; and
- (c) the conditions for making the information available to database users are reasonable.

(4) This section does not affect, and is not affected by, section 53.<sup>47</sup>

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47 Section 53 (Access to investigation documents for research purposes)

**94 Evidentiary aids**

(1) In a proceeding, the following matters must be presumed unless a party to the proceeding, by reasonable notice, requires proof of the matter—

- (a) the appointment of a coroner, the registrar or a deputy registrar;
- (b) the power of a coroner, the registrar or a deputy registrar to do anything under this Act.

(2) A signature purporting to be the signature of a coroner is evidence of the signature it purports to be.

(3) A certificate purporting to be signed by a coroner, the registrar or a deputy registrar stating any of the following is evidence of the things it states—

- (a) a stated document is an order, direction, requirement or decision, or a copy of an order, direction, requirement or decision, given or made under this Act;
- (b) a stated document is a notice, or a copy of a notice, given under this Act;
- (c) a stated document is a record, or a copy of a record, kept under this Act;
- (d) a stated document is a document, or a copy of a document, kept under this Act.

**95 Authorising burial of body etc.**

(1) A person must not—

- (a) prepare a human body for burial; or
- (b) bury a human body; or
- (c) take a human body out of Queensland;

unless the person is authorised to do so under subsection (2).

Maximum penalty—120 penalty units.

(2) A person is authorised if—

- (a) for a death investigated by a coroner—

- 
- (i) a certificate of the cause of death under the *Births, Deaths and Marriages Registration Act 2003* has been issued with the coroner's consent; or
  - (ii) the coroner has ordered the release of the body under section 26;<sup>48</sup> or
  - (b) for a death investigated by a non-Queensland coroner—a non-Queensland coroner's release certificate has been issued; or
  - (c) otherwise—a cause of death certificate has been issued.
- (3) This section does not apply to—
- (a) part of a human body taken during an autopsy under—
    - (i) this Act, the *Coroners Act 1958* or the *Transplantation and Anatomy Act 1979*; or
    - (ii) an Act of another State or country that is similar in effect to an Act mentioned in subparagraph (i); or
  - (b) part of a human body taken during a medical procedure; or
  - (c) indigenous burial remains; or
  - (d) the taking of a human body to any type of mortuary.

## 96 Application of Act to stillborn child

Only sections 12(2)(c), 19(1)(b), 26(2)(c) and 95<sup>49</sup> of this Act apply to a stillborn child.

## 97 Notifying registrar when body is released and investigation ends

(1) When a coroner orders the release of a deceased person's body for burial, or to another jurisdiction, under section 26,<sup>50</sup> the coroner must give a copy of the order to the registrar under the *Births, Deaths and Marriages Registration Act 2003*.

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48 Section 26 (Control of body)

49 Sections 12 (Deaths not to be investigated or further investigated), 19 (Order for autopsy), 26 (Control of body) and 95 (Authorising burial of body etc.)

50 Section 26 (Control of body)

(2) On completion of an investigation into a death, a coroner must give the registrar under the *Births, Deaths and Marriages Registration Act 2003* a written notice, in the approved form, that states—

- (a) who the deceased person was; and
- (b) when the person died; and
- (c) where the person died, and in particular whether the person died in Queensland; and
- (d) what caused the person to die; and
- (e) the date of the coroner's findings; and
- (f) whether or not an inquest has been held into the death, and if an inquest has been held, the date and place of the inquest.

(3) In this section—

**“approved form”** means a form approved by the chief executive of the department in which the *Births, Deaths and Marriages Registration Act 2003* is administered.

## 98 Approval of forms

The State Coroner may approve forms for use under this Act.

## 99 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may—

- (a) prescribe offences for a contravention of a regulation, and fix a maximum penalty of not more than 20 penalty units for a contravention; or
- (b) prescribe fees payable under this Act, including for example—
  - (i) the fee payable to a doctor for an autopsy; or
  - (ii) the fee payable for a copy of an investigation document.

## PART 6—TRANSITIONAL PROVISIONS

### *Division 1—Transitionals for Act as enacted*

#### **100 When repealed Act still applies**

(1) The *Coroners Act 1958* continues to apply to the following, as if this Act had not been enacted—

- (a) a pre-commencement death;
- (b) a pre-commencement fire.

(2) However, despite subsection (1), this Act applies to—

- (a) the release of an investigation document relating to a pre-commencement death or fire for research purposes; and
- (b) the fees payable for the release of an investigation document for any purpose.

(3) For a pre-commencement death or pre-commencement fire, the State Coroner has the functions and powers of a coroner under the *Coroners Act 1958*.

(4) In this section—

**“investigation document”** includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined under this Act.

**“pre-commencement death”** means a death—

- (a) that was reported to a police officer or coroner before the commencement of this section; or
- (b) in relation to which an inquest was held before the commencement of this section, but reopened after the commencement.

**“pre-commencement fire”** means a fire in relation to which—

- (a) a coroner formed the opinion, before the commencement of this section, that an inquest should be held; or
- (b) the Minister has, before the commencement of this section, directed a coroner to hold an inquest; or

- (c) a person who requested that an inquest into the fire be held had complied with the *Coroners Act 1958*, section 8(1)(c) before the commencement of this section.

### **101 Appointments continue**

(1) A clerk of the court, or acting clerk of the court, who immediately before the commencement of this section was holding an inquest is taken to be a coroner for the purpose of the inquest.

(2) Another person who, immediately before the commencement of this section, held an appointment to a position under the *Coroners Act 1958* that is equivalent to a position under this Act is taken to hold the position under this Act.

(3) The person continues to hold the appointment subject to this Act until—

- (a) the end of the term of appointment; or
- (b) reappointed under this Act.

### **102 Orders continue**

An order of the Coroners Court, or a coroner, that is in force immediately before the commencement of this section continues to have effect after the commencement.

### **103 References to repealed Act**

A reference to the *Coroners Act 1958* in an Act or document may, if the context allows, be taken to be a reference to this Act.

### **104 Common law overridden**

(1) A rule of common law that, immediately before the commencement of this section, operated to impose a duty or confer a power on a coroner of the Coroners Court, has no effect after the commencement.

(2) In particular—

- (a) a coroner investigating a person's death need not view the person's body unless the coroner chooses to; and
- (b) a Coroners Court does not sit with a jury.

***Division 2—Transitionals for Births, Deaths and Marriages Registration Act 2003***

**106 Deaths reported under the old 3 month rule**

(1) This section applies to a death reported under section 8(3)(h) as in force immediately before the commencement of this section.

(2) This Act as in force immediately before the commencement of this section continues to apply to the death.

**SCHEDULE 2****DICTIONARY**

section 6

**“accessing”** a document includes getting a copy of the document.

**“appointed coroner”** see section 83.<sup>51</sup>

**“ATSI family member”**, for a deceased person who was an Aboriginal person or Torres Strait Islander, means a person who is an appropriate person according to the tradition or custom of the Aboriginal or Torres Strait Islander community to which the deceased person belonged.

**“attending doctor”** of a deceased person means a doctor who attended the deceased person professionally—

- (a) at or immediately before the deceased person’s death; or
- (b) during the deceased person’s last illness.

**“autopsy report”** means a written report prepared by a doctor, including a preliminary report, to record information about the autopsy on a deceased person, including for example—

- (a) the results of any tests that were conducted as part of the autopsy;  
or
- (b) the cause of the person’s death.

**“body”** means—

- (a) a human body; or
- (b) part of a human body.

**“burial”** includes cremation or other lawful disposal, either in Queensland or elsewhere.

**“cause of death certificate”** means—

- (a) a cause of death certificate under the *Births, Deaths and Marriages Registration Act 2003*; or

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51 Section 83 (Appointed coroners)



## SCHEDULE 2 (continued)

- (b) a similar certificate issued under a law of another State or country that is similar in effect to the *Births, Deaths and Marriages Registration Act 2003*.

**“chief executive (child safety)”** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

**“child death research functions”**, for the children’s commissioner, means the functions set out in the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 2.

**“child in a placement with the consent of a parent or guardian”** means a child—

- (a) about whom an authorised officer is investigating, or has investigated, alleged harm or alleged risk of harm under the *Child Protection Act 1999*, section 14; and
- (b) who is residing with someone other than the person with whom the child normally resides as a result of an agreement between a parent or guardian of the child and the chief executive (child safety).

**“children’s commissioner”** means the Commissioner for Children and Young People and Child Guardian appointed under the *Commission for Children and Young People and Child Guardian Act 2000*.

**“comment”** includes a recommendation.

**“confidential document”**—

- (a) means a document or part of a document obtained under section 17;<sup>52</sup> but
- (b) does not include an autopsy report.

**“coroner”** means—

- (a) the State Coroner; or
- (b) the Deputy State Coroner; or
- (c) a local coroner; or
- (d) an appointed coroner.

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52 Section 17 (Disclosure of confidential information to Coroners Court)

## SCHEDULE 2 (continued)

**“coronial document”**, for an investigation under this Act, means a document or part of a document—

- (a) prepared for the investigation, other than a record, or a copy of a record, of an inquest made under the *Recording of Evidence Act 1962*; or
- (b) seized by a police officer in connection with the investigation.

*Examples—*

- 1. An autopsy report.
- 2. A report from a police officer helping a coroner about the investigation into a reportable death.
- 3. A record of the coroner’s findings and comments.

**“death in care”** see section 9.<sup>53</sup>

**“death in custody”** see section 10.<sup>54</sup>

**“deputy registrar”** means a person who holds an appointment as a deputy registrar under section 85.<sup>55</sup>

**“direction”** see section 14.<sup>56</sup>

**“document”** includes part of a document.

**“exhume”** a body includes remove a body from a tomb.

**“family member”** of a deceased person means—

- (a) a spouse of the deceased person; or
- (b) if a spouse is not reasonably available—an adult child of the deceased person; or
- (c) if a spouse or adult child is not reasonably available—a parent of the deceased person; or
- (d) if a spouse, adult child or parent is not reasonably available—an adult sibling of the deceased person; or

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53 Section 9 (“Death in care” defined)

54 Section 10 (“Death in custody” defined)

55 Section 85 (Deputy registrars)

56 Section 14 (Guidelines and directions for investigations)

## SCHEDULE 2 (continued)

- (e) if a spouse, adult child, parent or adult sibling is not reasonably available—the next nearest adult relative of the deceased person; or
- (f) if the deceased person was an Aboriginal person or Torres Strait Islander and a spouse, adult child, parent or adult sibling is not reasonably available—an ATSI family member.

**“government entity”** see the *Public Service Act 1996*, section 21.

**“guideline”** see section 14.<sup>57</sup>

**“health chief executive”** means the chief executive of the department in which the *Health Act 1937* is administered.

**“health procedure”** means a dental, medical, surgical or other health related procedure, including for example the administration of an anaesthetic, analgesic, sedative or other drug.

**“human body”** includes the body of a stillborn child.

**“indigenous burial remains”** means burial remains to which the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*, section 34 applies.

**“inquest”** means a coronial inquest.

**“investigation”** includes the holding of an inquest.

**“investigation document”**, for an investigation under this Act, means—

- (a) a confidential document; or
- (b) a coronial document; or
- (c) a police document; or
- (d) another document or part of a document connected to the investigation that the coroner obtains under this Act; or
- (e) a document connected to the investigation that is given, under the *Child Protection Act 1999*, section 246H,<sup>58</sup> to the State Coroner for use by a coroner; or

<sup>57</sup> Section 14 (Guidelines and directions for investigations)

<sup>58</sup> *Child Protection Act 1999*, section 246H (Chief executive to give reports to State Coroner)

## SCHEDULE 2 (continued)

- (f) a document connected to the investigation that is given, under the *Ombudsman Act 2001*, section 57A,<sup>59</sup> to the State Coroner for use by a coroner.

**“local coroner”** see section 82.<sup>60</sup>

**“medical procedure”** means a diagnostic or surgical procedure.

**“non-Queensland coroner”**, in relation to a death, means a person who holds a position equivalent to a coroner at the place where the death happened.

**“non-Queensland coroner’s release certificate”** means a certificate that—

- (a) authorises the release of the body; and
- (b) is given by a non-Queensland coroner.

**“not reasonably available”**, in relation to a family member of a deceased person, means—

- (a) a family member of that particular type does not exist; or
- (b) the family member can not be reasonably contacted; or
- (c) the family member is unable or unwilling to act as a family member for this Act.

**“obstruct”** includes hinder, resist and attempt to obstruct.

**“police document”** means a document or part of a document prepared, or obtained, by a police officer for a police investigation of an offence that is related to a death being investigated by a coroner.

**“possess”** a document includes have control of a document.

**“reasonably believes”** means believes on reasonable grounds.

**“record”** made under the *Recording of Evidence Act 1962* includes a transcription of the record made under that Act.

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<sup>59</sup> *Ombudsman Act 2001*, section 57A (Copy of report may be given to particular persons)

<sup>60</sup> Section 82 (Local coroners)

## SCHEDULE 2 (continued)

“**registrar**” means a person who holds an appointment as a registrar under section 84.<sup>61</sup>

“**reportable death**” see section 8.<sup>62</sup>

“**stillborn child**” means a stillborn child as defined in the *Births, Deaths and Marriages Registration Act 2003*.

“**tissue**” means—

- (a) an organ, blood or part of a body or foetus; or
- (b) a substance extracted from an organ, blood or part of a body or foetus.

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61 Section 84 (Registrar)

62 Section 8 (“Reportable death” defined)

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 November 2004. Future amendments of the Coroners Act 2003 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Notes
0A	to 2003 Act No. 77	1 December 2003	
1	to 2003 Act No. 97	1 December 2003	
1A	to 2003 Act No. 97	1 February 2004	
1B	to 2004 Act No. 13	1 August 2004	
1C	to 2004 Act No. 54	29 November 2004	

## 5 List of legislation

### **Coroners Act 2003 No. 13**

date of assent 9 April 2003

ss 1–2 commenced on date of assent

amdt of the District Court of Queensland Act 1967 in sch 1 commenced 1 May 2003

(see s 2(1))

s 70 commenced 1 May 2003 (2003 SL No. 77)

remaining provisions commenced 1 December 2003 (2003 SL No. 296)

amending legislation—

### **Births, Deaths and Marriages Registration Act 2003 No. 31 ss 1–2, 59 sch 1**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2004 (2003 SL No. 360)

### **Justice and Other Legislation Amendment Act 2003 No. 77 ss 1–2(1), pt 9**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (see s 2(1) and 2003 SL No. 296)

### **Legal Profession Act 2003 No. 97 ss 1–2, 380 sch 1**

date of assent 3 December 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 30 November 2003 (see s 2(1))

### **Child Safety Legislation Amendment Act 2004 No. 13 ss 1–2(1), pt 6**

date of assent 24 June 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 2004 (2004 SL No. 141)

**Child Safety Legislation Amendment Act (No. 2) 2004 No. 36 pts 1, 6**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2(2))**Justice and Other Legislation Amendment Act 2004 No. 43 ss 1–3 sch**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)**Transport Infrastructure Amendment Act 2004 No. 54 ss 1, 11–12**

date of assent 29 November 2004

commenced on date of assent

## 6 List of annotations

**“Reportable death” defined**

s 8 amd 2003 No. 31 s 59 sch 1

**“Death in care” defined**

s 9 amd 2004 No. 13 s 89

**State Coroner to notify children’s commissioner of deaths**

s 10A ins 2004 No. 13 s 90

**Deaths not to be investigated or further investigated**

s 12 amd 2003 No. 31 s 59 sch 1

**Autopsy certificate**

s 24A ins 2003 No. 31 s 59 sch 1

**Autopsy reports**

s 25 amd 2003 No. 31 s 59 sch 1

**Coroner’s findings**

s 45 amd 2003 No. 31 s 59 sch 1; 2004 No. 13 s 91

**Coroner’s comments**

s 46 amd 2004 No. 13 s 92

**Coroner’s comments and findings for deaths in care or custody**

s 47 amd 2004 No. 13 s 93

**Documents that can not be accessed**

s 52 amd 2004 No. 54 s 12

**Access to investigation documents by the children’s commissioner**

s 54A ins 2004 No. 13 s 94

**Limitations on access under s 54A**

s 54B ins 2004 No. 13 s 94

**Fees for access under s 54A**

s 54C ins 2004 No. 13 s 94



**Functions and powers of State Coroner**

s 71 amd 2003 No. 97 s 380 sch 1; 2004 No. 13 s 95

**When person stops being the State Coroner**

s 73 amd 2003 No. 97 s 380 sch 1

**When person stops being the Deputy State Coroner**

s 80 amd 2003 No. 97 s 380 sch 1

**Local coroners**

s 82 amd 2003 No. 97 s 380 sch 1

**Authorising burial of body etc.**

s 95 amd 2003 No. 31 s 59 sch 1

**Application of Act to stillborn child**

s 96 amd 2003 No. 77 s 43

**Notifying registrar when body is released and investigation ends**

s 97 prev s 97 om 2003 No. 97 s 380 sch 1

pres s 97 ins 2003 No. 31 s 59 sch 1

**PART 6—TRANSITIONAL PROVISIONS****Division 1—Transitionals for Act as enacted**

div hdg ins 2003 No. 31 s 59 sch 1

**Repeal**

s 105 om 2003 No. 31 s 59 sch 1

**Division 2—Transitionals for Births, Deaths and Marriages Registration Act 2003**

div hdg ins 2003 No. 31 s 59 sch 1

**Deaths reported under the old 3 month rule**

s 106 prev s 106 om R1 (see RA s 40)

pres s 106 ins 2003 No. 31 s 59 sch 1

**PART 7—REPEAL**

pt hdg om 2003 No. 31 s 59 sch 1

**PART 8—MINOR AND CONSEQUENTIAL AMENDMENTS**

pt hdg om R1 (see RA s 7(1)(k))

**SCHEDULE 1—MINOR AND CONSEQUENTIAL AMENDMENTS**

amd 2003 No. 77 s 43A

om R1 (see RA s 40)

**SCHEDULE 2—DICTIONARY**

def “**cause of death certificate**” amd 2003 No. 31 s 59 sch 1

def “**chief executive (child safety)**” ins 2004 No. 13 s 96(1)

def “**child death research functions**” ins 2004 No. 13 s 96(1)

def “**child in a placement with the consent of a parent or guardian**” ins

2004 No. 13 s 96(1)

def “**children’s commissioner**” ins 2004 No. 13 s 96(1)

def “**de facto partner**” om 2003 No. 97 s 380 sch 1

def “**investigation document**” amd 2004 No. 13 s 96(2)

def “spouse” om 2003 No. 97 s 380 sch 1  
def “stillborn child” sub 2003 No. 31 s 59 sch 1

## **7 List of forms notified or published in the gazette**

**Form 1 Version 1—Police Notification of Death to Coroner**

pubd gaz 21 November 2003 p 955–6

**Form 1A Version 1—Notification of Reportable Death by Medical Practitioner and Authorisation of Coroner to Issue Cause of Death**

pubd gaz 21 November 2003 p 955–6

**Form 2 Version 1—Order for Autopsy and Autopsy Testing**

pubd gaz 21 November 2003 p 955–6

**Form 3 Version 1—Doctor’s Notice to Coroner after Autopsy**

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**Form 4 Version 1—Order Allowing Person to Observe Autopsy**

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**Form 5 Version 1—Notice Requiring Extra Medical Evidence for Autopsy**

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**Form 6 Version 1—Order for Disposal of Tissue kept for testing**

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**Form 7 Version 1—Statement that Coroner has Ordered Disposal of Tissue**

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**Form 8 Version 1—Autopsy Report**

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**Form 9 Version 1—Notice of Intention to Exhume Body or Recover Cremated Remains**

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**Form 10 Version 1—Order for Exhuming Body or Recovering Cremated Remains**

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**Form 11 Version 1—Order for Return of Exhumed Body or Cremated Remains**

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**Form 12 Version 1—Order for Release of Traditional Remains**

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**Form 13 Version 1—Order for Release of Body to Other Jurisdiction**

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**Form 15 Version 1—Application to Coroner to Hold an Inquest**

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**Form 19 Version 1—Coroners Court Warrant to Arrest Person Ordered to Attend Inquest**

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**Form 20 Version 1—Record of Coroners Findings and Comments**

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**Form 22 Version 1—Order Prohibiting Publication Relating to an Inquest**

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**Form 23 Version 1—Coroners Court Order Excluding Person from Inquest**

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**Form 25 Version 1—Requirement by Coroner for Information**

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**Form 26 Version 1—Decision by Coroner whether to Hold an Inquest**

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**Form 27 Version 1—Advice to Doctor whether Death a Reportable Death**

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