

# NORTHERN TERRITORY OF AUSTRALIA

## CORONERS ACT

As in force at 1 August 2006

### Table of provisions

#### **Part 1 Preliminary**

1	Short title .....	1
2	Commencement .....	1
3	Definitions .....	1

#### **Part 2 Coroners, &c.**

4	Coroners .....	2
4A	Functions of territory coroner .....	3
5	Deputy coroners .....	3
6	Jurisdiction of Coroners and Deputy Coroners .....	3
7	Protection of coroner .....	4
8	Delegation .....	4
9	Appointment of coroner's clerk .....	4
10	Functions and powers of coroners' clerks .....	4
11	Records of findings, &c. ....	5

#### **Part 3 Reporting deaths**

12	Obligation to report deaths .....	5
13	Information to coroner .....	7

#### **Part 4 Investigation of deaths**

##### **Division 1 Coroners' general powers and duties**

14	Coroners' jurisdiction to investigate deaths .....	8
15	Coroners' jurisdiction to hold inquest into death .....	8
16	Decision not to hold inquest to be notified .....	9
17	Control of body, certificate permitting burial, &c. ....	9
18	Aid to coroners in other places .....	9

##### **Division 2 Coroners' powers of investigation**

19	Powers of entry, &c. ....	10
20	Autopsies .....	10
21	Application for autopsy .....	11
22	Senior next of kin of deceased to be notified .....	11
23	Objections to autopsy .....	11
24	Exhumation .....	12

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## **Division 3        Deaths in custody**

25	Coroner may give directions to police.....	12
26	Report on additional matters by coroner.....	13
27	Coroner to send report, &c., to Attorney-General .....	13

## **Part 5               Investigation of disasters**

### **Division 1        Coroners' general powers and duties**

28	Coroners' jurisdiction to investigate disasters.....	13
29	Referral by Attorney-General for investigation.....	13
30	Jurisdiction to hold inquest into disaster .....	13
31	Police to report to coroner .....	14

### **Division 2        Coroners' powers of investigation**

32	Restriction of access to disaster area.....	14
33	Powers of entry, &c. ....	14

## **Part 6               Investigations and inquests into deaths and disasters**

34	Coroners' findings and comments .....	15
35	Coroners' reports.....	16
36	Compliance with coroner's direction .....	16
37	Advertisement of inquest .....	16
38	Statements made by witnesses.....	16
39	Rules of evidence not binding.....	17
40	Rights of interested persons.....	17
41	Coroner's powers at inquest.....	17
42	Exclusion from inquest .....	18
43	Restriction on publication of reports .....	18
44	New inquests and re-opening inquests.....	19
44A	Coroner may re-open inquest.....	19
45	Coroner not to be called as witness.....	20
46	Contempt.....	20

## **Part 7               Miscellaneous**

46A	Reports etc. under section 27 or 35 to be forwarded to Agencies etc.....	20
46B	Response to reports .....	21
47	Regulations.....	21
48	Repeal .....	22
49	Transitional.....	22

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## **Schedule 1**

## **Schedule 2      Repealed Acts**

## **ENDNOTES**



# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 August 2006

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## CORONERS ACT

An Act to provide for the office of coroner, the holding of inquests into the manner and cause of deaths, inquiring into the cause and origin of disasters and for related purposes

### Part 1 Preliminary

#### 1 Short title

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

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Definitions

In this Act unless the contrary intention appears:

**Attorney-General** means the Minister responsible for the Agency administering this Act.

**Chief Executive Officer** has the same meaning as in the *Public Sector Employment and Management Act*.

**coroner** includes a deputy coroner.

**death** includes suspected death.

**disaster** means an occurrence due to natural or other causes that:

- (a) causes or threatens to cause:
  - (i) substantial loss of life or property; or
  - (ii) substantial injury to persons or property; or
- (b) in any way substantially endangers the safety of the public in any part of the Territory.

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**disposal**, in relation to a body, includes burial, cremation and disposal at sea.

**investigation** includes an inquest.

**married** includes being in a de facto relationship.

**person held in care** has the same meaning as in section 12(1).

**person held in custody** has the same meaning as in section 12(1).

**reportable death** means a death referred to in section 12(1).

**senior next of kin**, in relation to a deceased person, means:

- (a) where a person was, immediately before death, married – the person's spouse;
- (b) where the person was not, immediately before death, married or, if married, the spouse is not available – the person's son or daughter of or over 18 years;
- (c) where a spouse, son or daughter is not available – the person's parent;
- (d) where a spouse, son, daughter or parent is not available – the person's brother or sister of or over 18 years;
- (e) where a person is an Aborigine – a person who, according to the customs and tradition of the community or group to which the person belongs, is an appropriate person; or
- (f) where paragraphs (a) to (e) inclusive do not apply or a person who would be the senior next of kin under those paragraphs is not available – a person who immediately before the death of the deceased person had a relationship with the deceased person that, in the opinion of the coroner, is sufficient for the purpose of being the senior next of kin.

**spouse** includes a person's de facto partner.

## **Part 2                      Coroners, &c.**

### **4                      Coroners**

- (1) There shall be an office of coroner.
- (2) The Administrator may appoint a magistrate to be the Territory Coroner.

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- (3) A person who is a magistrate shall be a coroner.

#### **4A Functions of territory coroner**

- (1) The functions of the Territory Coroner are to:
- (a) ensure that the coronial system in the Territory is administered and operates efficiently;
  - (b) oversee and co-ordinate coronial services in the Territory;
  - (c) ensure that all reportable deaths reported to a coroner are investigated; and
  - (d) ensure that an inquest into a death is held where there is a duty to do so under this Act or where it is desirable that an inquest be held.
- (2) The Territory Coroner has the power to do all things necessary and convenient to be done for or incidental to the performance of his or her functions.

#### **5 Deputy coroners**

- (1) The Administrator may appoint a person to be a deputy coroner.
- (2) An appointment under subsection (1) may be:
- (a) limited in duration;
  - (b) subject to terms and conditions; or
  - (c) terminated at any time.
- (3) A deputy coroner shall take an oath or affirmation of office in accordance with Schedule 1 before proceeding to exercise the powers or discharge the duties of office.
- (4) A deputy coroner may resign by notice in writing given to the Attorney-General.

#### **6 Jurisdiction of Coroners and Deputy Coroners**

- (1) A coroner has jurisdiction to investigate a death or disaster, or to hold an inquest into a death or disaster, in accordance with this Act.
- (2) A coroner has:
- (a) jurisdiction conferred by any other Act; and
  - (b) jurisdiction and power conferred by the common law.

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- (3) Subject to subsection (4) and a limitation or condition referred to in section 5(2), a deputy coroner has the same jurisdiction, powers and duties as a coroner.
  - (4) A deputy coroner shall not conduct an inquest into:
    - (a) the death of a person:
      - (i) held in custody;
      - (ii) caused or contributed to by injuries sustained while the person was held in custody; or
      - (iii) held in care; or
    - (b) a suspected unlawful killing.

## **7 Protection of coroner**

A person exercising the jurisdiction of a coroner has the same protection and immunity as a magistrate has in the performance of his or her duties as a magistrate.

## **8 Delegation**

- (1) A coroner may, by instrument in writing, dele-gate to a coroner's clerk any of his or her powers and functions under this Act other than the power to conduct an inquest and this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by a coroner.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by a coroner.

## **9 Appointment of coroner's clerk**

- (1) A coroner may appoint a person to be a coroner's clerk.
- (2) A Registrar of the Local Court may act as a coroner's clerk.

## **10 Functions and powers of coroners' clerks**

- (1) The function of the coroner's clerk is to assist a coroner to exercise his or her jurisdiction.
- (2) A coroner's clerk may:
  - (a) on behalf of a coroner, receive information about a death or disaster;

- (b) administer an oath or take an affidavit; and
- (c) issue a summons requiring a witness to attend an inquest to give oral evidence or to produce documents.

## **11 Records of findings, &c.**

- (1) A coroner or a coroner's clerk shall keep a record of findings, evidence and comments in relation to each investigation into a death or disaster.
- (2) A record referred to in subsection (1) is not admissible as evidence of a matter contained in it.

## **Part 3 Reporting deaths**

### **12 Obligation to report deaths**

- (1) In this section:

***person held in care*** means:

- (a) a child who, pursuant to the *Community Welfare Act*, is under the control or care of a person; or
- (b) a patient who, pursuant to the *Mental Health and Related Services Act* is in custody whether in a hospital or temporarily removed from a hospital.

***person held in custody*** means:

- (a) a person in the custody or control of:
  - (i) a member of the Police Force;
  - (ii) a member of the Police Force of a State or another Territory of the Commonwealth or of the Australian Federal Police;
  - (iii) a prison officer within the meaning of the *Prisons (Correctional Services) Act*; or
  - (iv) a sheriff appointed under the *Sheriff Act*; or
- (b) a person detained in:
  - (i) a prison or police prison declared under the *Prisons (Correctional Services) Act*; or

- (ii) a detention centre approved under the *Youth Justice Act*,

and includes a person in the process of being taken into or escaping from:

- (c) the custody or control of a person referred to in paragraph (a); or
- (d) detention in a place referred to in paragraph (b).

**reportable death** means:

- (a) a death where:
  - (i) the body of a deceased person is in the Territory;
  - (ii) the death occurred in the Territory; or
  - (iii) the cause of the death occurred in the Territory,being a death:
  - (iv) that appears to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from an accident or injury;
  - (v) that occurred during an anaesthetic;
  - (vi) that occurred as a result of an anaesthetic and is not due to natural causes;
  - (vii) of a person who, immediately before death, was a person held in care or custody;
  - (viii) that was caused or contributed to by injuries sustained while the person was held in custody; or
  - (ix) of a person whose identity is unknown; or
- (b) the death of a person who ordinarily resided in the Territory at the time of death that occurred at a place outside the Territory where the cause of death is not certified by a person who, under a law in force in the place, is a legally qualified medical practitioner.

(1A) For the definition of ***person held in custody*** in subsection (1), a person is also taken to be held in custody if he or she:

- (a) is detained anywhere in the Territory by a person authorised to do so under any Act or law in force in the Territory, including a law of the Commonwealth; or
- (b) is in the process of escaping from detention referred to in paragraph (a).

(2) A person who has reasonable grounds to believe that a reportable death has not been reported shall report the death as soon as possible to a coroner or to a member of the Police Force.

Penalty: \$5,000.

(3) A medical practitioner who is present at or after the death of a person shall report the death as soon as possible to a coroner if:

- (a) the death is a reportable death;
- (b) the medical practitioner does not view the body of the deceased person; or
- (c) the medical practitioner is unable to determine the cause of death.

Penalty: \$5,000.

(4) If more than one medical practitioner is present at or after a death and one of them reports it to a coroner, the other medical practitioners need not report the death but shall give to the coroner investigating the death any information that may help the investigation.

(5) The death of a person held in care or custody immediately before death shall be reported to a coroner as soon as possible by the person under whose care or in whose custody the deceased person was held.

Penalty: \$5,000.

### **13 Information to coroner**

(1) A person who reports a death shall give to the coroner investigating the death any information that may help the investigation.

Penalty: \$5,000.

- (2) A member of the Police Force who has information relevant to an investigation shall report it to the coroner investigating the death.

## **Part 4 Investigation of deaths**

### **Division 1 Coroners' general powers and duties**

#### **14 Coroners' jurisdiction to investigate deaths**

- (1) A coroner has jurisdiction to investigate a death if it appears to the coroner that the death is or may be a reportable death.
- (2) A coroner to whom a death is reported shall, if it appears to the coroner that the death is or may be a reportable death, investigate it.
- (3) A coroner need not investigate a death if an investigation or inquest is held in another State or Territory of the Commonwealth.
- (4) A coroner may direct that more than one death be investigated at one inquest.

#### **15 Coroners' jurisdiction to hold inquest into death**

- (1) Where a coroner has jurisdiction to investigate a death and either the body of the deceased person is in the Territory or it appears to the coroner that the death or the cause of the death occurred in the Territory, the coroner must hold an inquest if:
- (a) the deceased was, immediately before death, a person held in care and custody;
  - (b) the death was caused or contributed to by injuries sustained while the deceased was held in custody; or
  - (c) the identity of the deceased is not known.
- (1A) Where a coroner has jurisdiction to investigate a death, the coroner may, if he or she thinks fit, hold an inquest if:
- (a) the body of the deceased person is in the Territory or it appears to the coroner that the death, or the cause of death, occurred in the Territory; and
  - (b) the coroner suspects unlawful killing.
- (2) A coroner who has jurisdiction to investigate a death may hold an inquest as the coroner thinks fit.

- (3) A coroner who has jurisdiction to investigate a death may hold an inquest notwithstanding that:
- (a) the body of the deceased person is not in the Territory or is in a place from which it cannot be recovered or has been destroyed; or
  - (b) the cause of death occurred outside the Territory.

**16 Decision not to hold inquest to be notified**

- (1) Where a coroner who has jurisdiction to hold an inquest into a death makes a decision not to hold an inquest, the coroner:
- (a) shall record the decision in writing;
  - (b) shall specify the reasons for the decision; and
  - (c) as soon as practicable after making the decision:
    - (i) shall notify the senior next of kin of the deceased person; and
    - (ii) may notify any person,  
of the decision, in writing, including the reasons for the decision.
- (2) Within 14 days after receiving notice of the decision referred to in subsection (1)(b), the person may apply to the Supreme Court for an order that an inquest be held.
- (3) The Supreme Court may if it thinks fit, make an order that an inquest be held.

**17 Control of body, certificate permitting burial, &c.**

- (1) Where a reportable death has occurred and the body of a deceased person is in the Territory, the body is under the control of the coroner investigating the death until the coroner or coroner's clerk has issued a certificate permitting its disposal.
- (2) Where the Supreme Court makes an order under section 16(3), a coroner or coroner's clerk shall not issue a certificate referred to in subsection (1).

**18 Aid to coroners in other places**

A coroner may use his or her powers under this Act to help a coroner of a State or of another Territory of the Commonwealth to investigate a death.

## **Division 2 Coroners' powers of investigation**

### **19 Powers of entry, &c.**

- (1) A coroner who has jurisdiction to investigate a death may, with such assistance as the coroner thinks fit:
  - (a) enter, if necessary with such force as is reasonable, and inspect a place and anything in it;
  - (b) take a copy of a document relevant to an investigation; and
  - (c) take possession of a thing that the coroner reasonably believes is relevant to an investigation and keep it until the investigation is finished.
- (2) A coroner may, in writing, authorise a member of the Police Force, at or between specified times or during a specified period, to do one or more of the following:
  - (a) enter, if necessary with such force as is reasonable, a specified place;
  - (b) inspect a specified place and any thing in it;
  - (c) take a copy of specified documents or classes of documents;
  - (d) take possession of specified things or classes of things.
- (3) A member of the Police Force shall, on request, produce a copy of the authority referred to in subsection (2) to the owner or occupier of the place or the person in possession of the document or thing inspected, copied or taken.
- (4) A coroner may release a thing kept under sub-section (2)(d) and may require a person to whom the thing is released to give an undertaking to comply with a reasonable condition of release and the person shall comply with the undertaking.

Penalty for an offence against this subsection: \$5,000.

### **20 Autopsies**

- (1) If a coroner reasonably believes that it is necessary for an investigation of a death, the coroner may direct a medical practitioner to perform an autopsy on the body of the deceased person.

- (2) A medical practitioner performing an autopsy may cause to be preserved any material that appears to the coroner or the medical practitioner to bear on the cause of death.

## **21 Application for autopsy**

- (1) If a coroner has jurisdiction to investigate a death, a person may ask a coroner to direct that an autopsy be performed on the body of the deceased person.
- (2) If a coroner refuses a person's request under subsection (1), the coroner shall immediately give to the person notice in writing including reasons for the refusal.
- (3) Within 48 hours after a person receives a notice of refusal referred to in subsection (2), the person may apply to the Supreme Court for an order for an autopsy.
- (4) The Supreme Court shall, if it thinks fit, make an order:
  - (a) directing the coroner to require a medical practitioner to perform an autopsy; and
  - (b) prohibiting disposal of the body of the deceased person until the coroner has the results of the autopsy and has ordered its disposal.

## **22 Senior next of kin of deceased to be notified**

Where the coroner directs a medical practitioner to perform an autopsy on a deceased person who was a person held in custody, the coroner shall take reasonable steps to advise the senior next of kin of the deceased person of the direction.

## **23 Objections to autopsy**

- (1) Where the senior next of kin of the deceased person asks a coroner not to direct that an autopsy be performed but the coroner decides that an autopsy is necessary, the coroner shall immediately give notice in writing of the decision to the senior next of kin.
- (2) Unless the coroner believes that an autopsy needs to be performed immediately, where a request has been made under subsection (1), an autopsy shall not be performed until 48 hours after the senior next of kin of the deceased person has been given notice of the coroner's decision under that subsection.

- (3) Within 48 hours after receiving notice of the coroner's decision under subsection (1), the senior next of kin of the deceased person may apply to the Supreme Court for an order that an autopsy not be performed and the Court, in its discretion, may make an order that no autopsy be performed.

## **24                      Exhumation**

- (1) The coroner may order that the body of a deceased person be exhumed if the coroner reasonably believes that it is necessary for an investigation of a death.
- (2) The coroner shall ensure that at least 48 hours notice in writing is given to the senior next of kin of the deceased person and to the trustees or owners of the cemetery, burial ground or place of burial where the body of the deceased person is buried before the body is exhumed unless the coroner is satisfied it is not possible to give the notice.
- (3) If the senior next of kin of the deceased person asks the coroner not to exhume the body of the deceased person, the body shall not be exhumed until 48 hours after the request has been made.
- (4) Within 48 hours after receiving notice of the order under subsection (2), the senior next of kin of the deceased person may apply to the Supreme Court for an order that the body of the deceased person not be exhumed and the Supreme Court may, in its discretion, make an order that the body not be exhumed.

## **Division 3                      Deaths in custody**

### **25                      Coroner may give directions to police**

- (1) A coroner may give directions to a member of the Police Force for the purpose of investigating the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody.
- (2) A member of the Police Force shall not refuse or fail to comply with a lawful direction by a coroner given under subsection (1).

Penalty:                \$5,000 or imprisonment for 6 months.

**26 Report on additional matters by coroner**

- (1) Where a coroner holds an inquest into the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody, the coroner:
  - (a) shall investigate and report on the care, supervision and treatment of the person while being held in custody or caused or contributed to by injuries sustained while being held in custody; and
  - (b) may investigate and report on a matter connected with public health or safety or the administration of justice that is relevant to the death.
- (2) A coroner who holds an inquest into the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody shall make such recommendations with respect to the prevention of future deaths in similar circumstances as the coroner considers to be relevant.

**27 Coroner to send report, &c., to Attorney-General**

- (1) The coroner shall cause a copy of each report and recommendation made in pursuance of section 26 to be sent without delay to the Attorney-General.

**Part 5 Investigation of disasters**

**Division 1 Coroners' general powers and duties**

**28 Coroners' jurisdiction to investigate disasters**

A coroner has jurisdiction to investigate a disaster if it occurred in or partly in the Territory.

**29 Referral by Attorney-General for investigation**

The Attorney-General may refer a disaster to the Coroner and the Coroner shall carry out an investigation into the disaster.

**30 Jurisdiction to hold inquest into disaster**

A coroner who has jurisdiction to investigate a disaster may, if the coroner thinks fit, hold an inquest.

**31 Police to report to coroner**

A member of the Police Force who has information relevant to an investigation of a disaster shall report it to the coroner investigating the disaster.

**Division 2 Coroners' powers of investigation**

**32 Restriction of access to disaster area**

- (1) A coroner investigating a disaster may take reasonable steps to restrict access to the place where the disaster occurred and for that purpose may cause a prescribed notice to be put up at the place.
- (2) A person shall not, without good reason, enter or interfere with an area to which access is restricted under subsection (1).

Penalty for an offence against this subsection:      \$5,000 or  
imprisonment for 6 months.

**33 Powers of entry, &c.**

- (1) A coroner who has jurisdiction to investigate a disaster may, with such assistance as the coroner thinks fit:
  - (a) enter, if necessary with such force as is reasonable, and inspect a place and a thing in it;
  - (b) take a copy of a document relevant to the investigation; and
  - (c) take possession of a thing that the coroner reasonably believes is relevant to the investigation and keep it until the investigation is finished.
- (2) A coroner may, in writing, authorise a member of the Police Force, at or between specified times during a specified period, to do one or more of the following:
  - (a) enter, if necessary with such force as is reasonable, a specified place;
  - (b) inspect a specified place and any thing in it;
  - (c) copy specified documents or classes of documents;
  - (d) take possession of specified things or classes of things.

- (3) A member of the Police Force shall, on request, produce a copy of the authority referred to in subsection (2) to the owner or occupier of the place or the person in possession of the document or thing inspected, copied or taken pursuant to that subsection.
- (4) A coroner may release a thing kept under subsection (2)(d) and may require a person to whom the thing is released to give an undertaking to comply with reasonable conditions of release and the person shall comply with the undertaking.

Penalty for an offence against this subsection:      \$5,000.

## **Part 6                      Investigations and inquests into deaths and disasters**

### **34                      Coroners' findings and comments**

- (1) A coroner investigating:
  - (a) a death shall, if possible, find:
    - (i) the identity of the deceased person;
    - (ii) the time and place of death;
    - (iii) the cause of death;
    - (iv) the particulars needed to register the death under the *Births, Deaths and Marriages Registration Act*; and
    - (v) any relevant circumstances concerning the death; or
  - (b) a disaster shall, if possible, find:
    - (i) the cause and origin of the disaster; and
    - (ii) the circumstances in which the disaster occurred.
- (2) A coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.
- (3) A coroner shall not, in an investigation, include in a finding or comment a statement that a person is or may be guilty of an offence.
- (4) A coroner shall ensure that the particulars referred to in subsection (1)(a)(iv) are provided to the Registrar, within the meaning of the *Births, Deaths and Marriages Registration Act*.

**35 Coroners' reports**

- (1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.
- (2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.
- (3) A coroner shall report to the Commissioner of Police and the Director of Public Prosecutions appointed under the Director of *Public Prosecutions Act* if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.

**36 Compliance with coroner's direction**

- (1) Where a coroner believes on reasonable grounds that a person has information relevant to an investigation, the coroner may direct the person to give the information to a coroner, a coroner's clerk or a member of the Police Force.
- (2) A person shall not, without reasonable excuse, refuse or fail to comply with a lawful direction by a coroner given under subsection (1).

Penalty: \$5,000.

**37 Advertisement of inquest**

A coroner's clerk shall, not less than 14 days before an inquest, publish in a newspaper circulating generally in the area, the date, time, place and subject of the inquest.

**38 Statements made by witnesses**

- (1) If:
  - (a) a person summoned to attend at an inquest as a witness declines to answer a question on the ground that his or her answer will criminate or tend to criminate him or her; and
  - (b) it appears to the coroner expedient for the purposes of justice that the person be compelled to answer the question,

the coroner may tell the person that, if the person answers the question and other questions that may be put to him or her, the coroner will grant the person a certificate under this section.

- (2) A person who has been offered a certificate under subsection (1) is no longer entitled to refuse to answer questions on the ground that his or her answers will criminate or tend to criminate him or her and, when the person has given evidence, the coroner must give the person a certificate to the effect that the person was summoned to attend at an inquest as a witness, the person's evidence was required for the purposes of justice and the person gave evidence.
- (3) Where a person is given a certificate under this section in respect of evidence given at an inquest, a statement by the person as part of that evidence in answer to a question is not admissible in evidence in criminal or civil proceedings, or in proceedings before a tribunal or person exercising powers and functions in a judicial manner, against the person other than on a prosecution for perjury.

### **39 Rules of evidence not binding**

A coroner holding an inquest is not bound by the rules of evidence and may be informed, and conduct the inquest, in a manner the coroner reasonably thinks fit.

### **40 Rights of interested persons**

- (1) The Attorney-General may, at an inquest, appear or be represented, call and examine or cross-examine witnesses, and make submissions.
- (2) A coroner may make available a statement that the coroner intends to consider at an inquest to a person who, in the opinion of the coroner, has a sufficient interest.
- (3) A person who, in the opinion of the coroner, has a sufficient interest may, at an inquest, appear or be represented, call and examine or cross-examine witnesses, and make submissions.

### **41 Coroner's powers at inquest**

- (1) A coroner may:
  - (a) summon a person to attend at an inquest as a witness or to produce a document or materials;
  - (b) inspect, copy and keep for a reasonable period a thing produced at an inquest;
  - (c) order a witness to take an oath or affirmation or, subject to section 38, to answer questions; and
  - (d) give directions and do anything as the coroner thinks fit.

- (2) A coroner:
  - (a) may appoint a person to assist the coroner for the purpose of an inquest; or
  - (b) shall appoint a person to assist the coroner for the purpose of an inquest into a death in custody.

- (3) A person shall obey a summons, order or direction under subsection (1).

Penalty: \$5,000 or imprisonment for 6 months.

- (4) If a person to whom a summons is issued does not appear, the coroner may issue a warrant to arrest the person.

## **42 Exclusion from inquest**

- (1) Subject to this section, a coroner shall conduct an inquest in open court.
- (2) A coroner may, if he or she thinks fit, for the administration of justice or national security or personal security at an inquest, order that all or any persons shall go and remain outside and beyond the hearing of an inquest.
- (3) The coroner's clerk shall place a copy of an exclusion order under subsection (2) in a conspicuous place on or in the building where the inquest is held.
- (4) A coroner:
  - (a) shall order the removal from an inquest of a person who disobeys an exclusion order under subsection (2); and
  - (b) may order the imprisonment of the person for not more than 24 hours if the coroner reasonably believes that the person will continue to disobey the exclusion order.

## **43 Restriction on publication of reports**

- (1) A coroner shall order that a report of an inquest or of part of the proceedings, or of evidence given at an inquest, shall not be published if the coroner reasonably believes that, to publish the report, would:
  - (a) be likely to prejudice a person's fair trial;
  - (b) be contrary to the administration of justice, national security or personal security; or

- (c) involve the disclosure of details of sensitive personal matters including, where the senior next of kin of the deceased have so requested, the name of the deceased.
- (2) A person shall not publish a report in contravention of an order under subsection (1).

Penalty for an offence against this subsection: \$10,000 or imprisonment for 2 years.

#### **44 New inquests and re-opening inquests**

- (1) A person may apply to the Supreme Court for an order that some or all the findings of an inquest are void.
- (2) The Supreme Court may declare that some or all the findings of an inquest are void and may order a coroner:
  - (a) to hold a new inquest, or direct a coroner, other than the coroner who held the first inquest, to hold a new inquest; or
  - (b) to re-open (or direct another coroner to re-open) an inquest and to re-examine a finding.
- (3) The Supreme Court may make an order under subsection (2) if it is satisfied that:
  - (a) it is necessary because of fraud, consideration of evidence, failure to consider evidence, irregularity of proceedings or insufficiency of inquiry;
  - (b) there is a mistake in the record of the findings;
  - (c) there are new facts or evidence; or
  - (d) the findings are against the evidence and the weight of evidence.

#### **44A Coroner may re-open inquest**

- (1) If:
  - (a) a coroner has under section 16 decided not to hold an inquest into a death; and
  - (b) a coroner (who may be the coroner who made the decision not to hold the inquest or another coroner who has jurisdiction to hold an inquest) is satisfied, despite the decision under section 16, that there are new facts or there is new evidence that make it necessary or desirable to hold an inquest into the

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death,

the coroner referred to in paragraph (b) may hold an inquest into the death.

- (2) A coroner who has jurisdiction to hold an inquest may, on the coroner's own initiative, re-open an inquest if the coroner is satisfied that new facts or evidence make it necessary or desirable to re-open the inquest.

#### **45 Coroner not to be called as witness**

- (1) A coroner shall not be called to give evidence in a court or judicial proceedings about anything coming to his or her knowledge in carrying out a coroner's powers, duties or functions under this Act.
- (2) Subsection (1) does not apply in relation to proceedings against a coroner for an offence.

#### **46 Contempt**

A person shall not:

- (a) insult a coroner in relation to the exercise of his or her powers or functions as a coroner;
- (b) interrupt an inquest; or
- (c) create a disturbance or take part in creating or continuing a disturbance in or near a place where an inquest is being held.

Penalty: \$5,000 or imprisonment for 6 months.

### **Part 7 Miscellaneous**

#### **46A Reports etc. under section 27 or 35 to be forwarded to Agencies etc.**

- (1) If the Attorney-General receives a report or recommendation from a coroner under section 27 or 35 that contains comment relating to an Agency or the Police Force of the Northern Territory, the Attorney-General must, without delay, give a copy of the report or recommendation to the Chief Executive Officer of the Agency or the Commissioner of Police, as the case requires.
- (2) If the Attorney-General receives a report or recommendation from a coroner under section 27 or 35 that contains comment relating to a Commonwealth department or agency, the Attorney-General, must without delay, give a copy of the report or recommendation to the

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Commonwealth Minister responsible for the administration of the department or agency.

#### **46B Response to reports**

- (1) If a Chief Executive Officer or the Commissioner of Police receives a copy of a report or recommendation under section 46A(1), the Chief Executive Officer or Commissioner must, within 3 months after receiving the report or recommendation, give to the Attorney-General a written response to the findings in the report or to the recommendation.
- (2) The response of the Chief Executive Officer or the Commissioner of Police is to include a statement of the action that the Agency or the Police Force is taking, has taken or will take with respect to the coroner's report or recommendation.
- (3) On receiving the response of the Chief Executive Officer or the Commissioner of Police, the Attorney-General:
  - (a) must, without delay, report on the coroner's report or recommendation and the response to the coroner's report or recommendation;
  - (b) may give a copy of his or her report to the coroner; and
  - (c) must lay a copy of his or her report before the Legislative Assembly within 3 sitting days after completing the report.
- (4) The coroner may give a copy of the Attorney-General's report to:
  - (a) the senior next of kin of a deceased person mentioned in the report (or a representative of the senior next of kin);
  - (b) a witness who appeared at the inquest the subject of the report (if any); and
  - (c) any other person who the coroner considers has sufficient interest in the inquest or investigation the subject of the report.

#### **47 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) Without limiting the generality of subsection (1), the Regulations may prescribe:
- (a) the qualifications of a medical practitioner who may be requested by the coroner to conduct an autopsy;
  - (b) the persons to be notified of an autopsy requested by the coroner;
  - (c) conditions relating to the conduct of an autopsy;
  - (d) issue of burial certificates;
  - (e) rules for the conduct of an investigation or inquest, including adjournment and resumption of an investigation or inquest;
  - (f) methods of dealing with exhibits;
  - (g) circumstances in which death or events causing or threatening to cause death shall be reported by a person to a coroner;
  - (h) the manner of complying with obligations imposed by this Act or the Regulations;
  - (j) forms issued under or for the purposes of this Act; and
  - (k) fees payable for a matter or thing under this Act.

#### **48 Repeal**

The Acts specified in Schedule 2 are repealed.

#### **49 Transitional**

- (1) In this section the **former Act** means the *Coroners Act* as in force immediately before the commencement of this Act.
- (2) An inquest or inquiry commenced under the former Act and not completed before the commencement of this Act shall, on that commencement, be deemed to be an investigation under this Act and the coroner conducting the investigation has the jurisdiction, powers and functions vested under this Act.

## **Schedule 1**

section 5

### **OATH**

I, A.B., do swear that I will well and truly serve in the office of deputy coroner and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. So help me God!

### **AFFIRMATION**

I, A.B., do solemnly and sincerely affirm and declare that I will well and truly serve in the office of deputy coroner and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

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## Schedule 2 Repealed Acts

section 48

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Ordinance, Act	Number and year
<i>Coroners Ordinance 1974</i>	No. 51, 1974
<i>Coroners Ordinance 1975</i>	No. 6, 1975
<i>Coroners Amendment Act 1982</i>	No. 60, 1982
<i>Coroners Amendment Act 1986</i>	No. 36, 1986

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Coroners Act 1993 (Act No. 30, 1993)***

Assent date	9 July 1993
Commenced	3 April 1994 ( <i>Gaz</i> S24, 31 March 1994)

***Statute Law Revision Act 1994 (Act No. 50, 1994)***

Assent date	20 September 1994
Commenced	20 September 1994

***Statute Law Revision Act 1995 (Act No. 14, 1995)***

Assent date	23 June 1995
Commenced	23 June 1995

***Births, Deaths and Marriages Registration (Consequential Amendments) Act 1996 (Act No. 27, 1996)***

Assent date	28 June 1996
Commenced	1 January 1997 (s 2, s 2 <i>Births, Deaths and Marriages Registration Act 1996</i> (Act No. 26, 1996) and <i>Gaz</i> G49, 4 December 1996, p 5)

***Coroners Amendment Act 1998 (Act No. 22, 1998)***

Assent date	30 March 1998
Commenced	s 8: 3 April 1994; rem: 29 April 1998; ( <i>Gaz</i> G16, 29 April 1998, p 2)

***Mental Health and Related Services (Consequential Amendments) Act 1999 (Act No. 11, 1999)***

Assent date	25 March 1999
Commenced	1 February 2000 (s 2, s 2 <i>Mental Health and Related Services Act 1998</i> (Act No. 63, 1998) and <i>Gaz</i> G3, 26 January 2000, p 2)

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**Coroners Amendment Act 2002 (Act No. 6, 2002)**

Assent date 28 March 2002  
Commenced 8 May 2002 (*Gaz* G18, 8 May 2002, p 7)

**Law Reform (Gender, Sexuality and De Facto Relationships Act 2003 (Act No. 1, 2004)**

Assent date 7 January 2004  
Commenced 17 March 2004 (*Gaz* G11, 17 March 2004, p 8)

**Coroners Amendment Act 2004 (Act No. 48, 2004)**

Assent date 13 September 2004  
Commenced 27 October 2004 (*Gaz* G43, 27 October 2004, p 3)

**Youth Justice (Consequential Amendments) Act 2005 (Act No. 33, 2005)**

Assent date 22 September 2005  
Commenced 1 August 2006 (s 2, s 2 *Youth Justice Act 2005* (Act No. 32, 2005) and *Gaz* G30, 26 July 2006, p 3)

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 67 *Law Reform (Gender, Sexuality and De Facto Relationships Act 2003*  
(Act No. 1, 2004)

### 4 LIST OF AMENDMENTS

s 3	amd No. 14, 1995, s 3; No. 22, 1998, s 4; No. 6, 2002, s 4; No. 1, 2004, s 62
s 4	amd No. 22, 1998, s 5
s 4A	ins No. 22, 1998, s 6
s 5	amd No. 22, 1998, s 7
s 12	amd No. 11, 1999, s 4; No. 48, 2004, s 3; No. 33, 2005, s 5
s 15	amd No. 22, 1998, s 8
s 27	amd No. 6, 2002, s 5
s 34	amd No. 27, 1996, s 3
s 38	sub No. 6, 2002, s 6
s 41	amd No. 6, 2002, s 7
s 42	amd No. 50, 1994, s 16
s 44A	ins No. 6, 2002, s 8
ss 46A – 46B	ins No. 6, 2002, s 9