

Queensland



CORONERS ACT 2003

Act No. 13 of 2003

Queensland



CORONERS ACT 2003

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Queensland



Coroners Act 2003

Act No. 13 of 2003

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

[Assented to 9 April 2003]

The Parliament of Queensland enacts—

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.¹

(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).

(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.

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

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; or
- (h) the person had not consulted a doctor within 3 months before the person's death.

Examples of paragraph (b)—

Death as a consequence of asphyxiation, drowning, electrocution, fire, poisoning or trauma.

Examples of paragraph (d)—

1. A person's bowel is mistakenly perforated during an operation. Because of this, the person develops peritonitis and dies. Death from peritonitis was not reasonably expected to be the outcome of the operation.

2. A person is injected with a drug as part of a medical procedure. The person has an adverse reaction to the drug and dies. The death was not reasonably expected to be the outcome of the procedure.

(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 5,² 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*—

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

-
- (i) being taken to a place where there is an authorised mental health service under section 25, 39, 292 or 508 of that Act;³ or
 - (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)⁴ 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;⁵ 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 82.⁶

(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—

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)

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)

“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*.

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;⁷ or
- (d) under the *Juvenile Justice Act 1992*, section 41, 43, 120 or 121.⁸

“detention” includes detention under—

- (a) arrest; or

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

⁸ *Juvenile Justice Act 1992*, section 41 (Custody of child pending court appearance), 43 (Custody of child if not released by court), 120 (Sentence orders—general) or 121 (Sentence orders—serious offences)

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

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;⁹ and
- (b) is not aware that any other coroner is investigating the death.

(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.

9 Section 7 (Duty to report deaths)

(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
 - (v) a death where the person had not consulted a doctor within 3 months before the person's death; 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).¹⁰

(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—

- (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—

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

- (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.¹¹

16 Duty to help investigation

(1) This section applies if—

- (a) a coroner is investigating a death; and

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

(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)

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

(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.¹²

(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

¹² *Police Powers and Responsibilities Act 2000*, section 371AB (Powers for reportable deaths)

(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)¹³, 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—

- (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.

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

(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.

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), the doctor may arrange for another appropriately qualified doctor to 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)¹⁴—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
- (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—

14 See section 12 (Deaths not to be investigated or further investigated)

- (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 30,¹⁵ 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—

15 Section 30 (Applying for inquest to be held)

- (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.

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;¹⁶ 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.

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;

¹⁶ Section 17 (Disclosure of confidential information to Coroners Court)

- (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 39,¹⁷ 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.

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

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.¹⁸

(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.

38 Recording evidence

(1) The Coroners Court may decide whether or not proceedings in the court during a conference held under section 34¹⁹ are to be recorded under the *Recording of Evidence Act 1962*.

(2) Despite any order made under section 41,²⁰ 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.

18 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).

19 Section 34 (Pre-inquest conferences)

20 Section 41 (Prohibited publications relating to inquests)

(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.

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 50²¹ 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 41²² 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.

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
- (e) what caused the person to die.

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

22 Section 41 (Prohibited publications relating to inquests)

(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).²³

(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 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.

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

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

- (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.

(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
- (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
- (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).²⁴

(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.

²⁴ Section 39 (Incriminating evidence)

(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.

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);²⁵ or
- (d) contains information that was obtained from a person under a requirement in another Act that compelled the person to give the information.

(2) Sections 53 and 54²⁶ are subject to this section.

25 Section 45 (Coroner's findings)

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

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 17.²⁷

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

(4) The State Coroner may consent only if—

- (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.

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

(7) In this section—

“**genuine researcher**” means—

- (a) a person who is approved under the *Health Act 1937*, section 154M²⁸ to conduct scientific research and studies for the purpose of reducing morbidity or mortality in Queensland; or
- (b) a person who is a member of an approved quality assurance committee under the *Health Services Act 1991*, part 4, division 2;²⁹ or
- (c) another person who the chief executive considers to be a person conducting genuine research.

(8) This section is subject to section 56.³⁰

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

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

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

30 Section 56 (Refusing access in the public interest)

- (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.

(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 17,³¹ may only be accessed under section 17(4).

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.

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

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 52,³² 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.

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.³³

(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

32 Section 52 (Documents that can not be accessed)

33 Investigation documents are dealt with under division 4.

- (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.

(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.³⁴

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.

³⁴ For physical evidence that is in the possession of the police service, see the *Police Powers and Responsibilities Act 2000*, section 441.

(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—

- (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 34.³⁵

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.

³⁵ Section 34 (Pre-inquest conferences)

(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
- (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) The *Magistrates Act 1991*, sections 10(8) and 13 do not apply in relation to the State Coroner.³⁶

72 Resignation of State Coroner

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

(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 15(4)³⁷ 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.

36 *Magistrates Act 1991*, sections 10 (Functions of Chief Magistrate) and 13 (Functions of Magistrates generally)

37 *Magistrates Act 1991*, section 15 (Suspension of Magistrate)

(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—

“**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 14.³⁸

(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.

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 15(4)³⁹ include the duties of the Deputy State Coroner.

38 Section 14 (Guidelines and directions for investigations)

39 *Magistrates Act 1991*, section 15 (Suspension of Magistrate)

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.

(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 15(4),⁴⁰ include the duties of a coroner.

(5) In this section—

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

⁴⁰ *Magistrates Act 1991*, section 15 (Suspension of 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—

(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 7⁴¹ to—

- (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;⁴² or
 - (iii) the power to authorise a police officer to exercise a power under the *Police Powers and Responsibilities Act 2000*.

41 Section 7 (Duty to report deaths)

42 Section 16 (Duty to help investigation)

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.

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 39,⁴³ 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.

43 Section 39 (Incriminating evidence)

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.

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 53.⁴⁴

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;

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

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 medical certificate of the cause of death, or perinatal death, under the *Registration of Births, Deaths and Marriages Act 1962* has been issued with the coroner's consent; or
- (ii) the coroner has ordered the release of the body under section 26;⁴⁵ 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) and 26(2)(c)⁴⁶ of this Act apply to a stillborn child.

45 Section 26 (Control of body)

46 Sections 12 (Deaths not to be investigated or further investigated), 19 (Order for autopsy) and 26 (Control of body)

97 Meaning of “de facto partner”

(1) In this Act, a reference to a “**de facto partner**” is a reference to either 1 of 2 persons who are living together as a couple on a genuine domestic basis but who are not married to each other or related by family.

(2) In deciding whether 2 persons are living together as a couple on a genuine domestic basis, any of their circumstances may be taken into account, including, for example, any of the following circumstances—

- (a) the nature and extent of their common residence;
- (b) the length of their relationship;
- (c) whether or not a sexual relationship exists or existed;
- (d) the degree of financial dependence or interdependence, and any arrangement for financial support;
- (e) their ownership, use and acquisition of property;
- (f) the degree of mutual commitment to a shared life, including the care and support of each other;
- (g) the care and support of children;
- (h) the performance of household tasks;
- (i) the reputation and public aspects of their relationship.

(3) No particular finding in relation to any circumstance is to be regarded as necessary in deciding whether 2 persons are living together as a couple on a genuine domestic basis.

(4) Two persons are not to be regarded as living together as a couple on a genuine domestic basis only because they have a common residence.

(5) For subsection (1)—

- (a) the gender of the persons is not relevant; and
- (b) a person is related by family to another person if the person and the other person would be within a prohibited relationship within the meaning of the *Marriage Act 1961* (Cwlth), section 23B, if they were parties to a marriage to which that section applies.⁴⁷

(6) This section, and the definitions “**de facto partner**” and “**spouse**” in the dictionary, expire on the commencement of the *Acts Interpretation Act 1954*, section 32DA.

47 *Marriage Act 1961* (Cwlth), section 23B (Grounds on which marriages are void)

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**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.

PART 7—REPEAL**105 Repeal**

The *Coroners Act 1958* is repealed.

**PART 8—MINOR AND CONSEQUENTIAL
AMENDMENTS****106 Minor and consequential amendments**

Schedule 1 amends the Acts it mentions.

SCHEDULE 1**MINOR AND CONSEQUENTIAL AMENDMENTS**

section 106

DIRECTOR OF PUBLIC PROSECUTIONS ACT 1984

- 1 Section 10(1)(d), after ‘1958’—**
insert—
‘or the *Coroners Act 2003*’.

DISTRICT COURT OF QUEENSLAND ACT 1967

- 1 Section 61(2)(b), after ‘208’—**
insert—
‘, 210(3) or (4)’.

EVIDENCE ACT 1977

- 1 Section 39C, definition “Queensland court”, paragraph (b)—**
omit, insert—
‘(b) the Coroners Court; or’.
- 2 Section 39E(1), after ‘on the’—**
insert—
‘court’s own initiative or on the’.

SCHEDULE 1 (continued)

FIRE AND RESCUE SERVICE ACT 1990**1 Section 130—**

omit.

FREEDOM OF INFORMATION ACT 1992**1 Section 7—**

insert—

‘**“coroner”** means the State Coroner or another coroner under the *Coroners Act 2003*.’.

2 After section 11B—

insert—

‘11C Application of Act to coronial documents

‘**(1)** This section applies to a document of an agency that is a coronial document under the *Coroners Act 2003*.

‘**(2)** This Act applies to a coronial document obtained by the agency under the *Coroners Act 2003*, section 25 or 54(4).⁴⁸

‘**(3)** This Act does not apply to another coronial document if a coroner is investigating the death to which the document relates.’.

HEALTH SERVICES ACT 1991**1 Part 6, division 1—**

insert—

48 *Coroners Act 2003*, section 25 (Autopsy reports) or 54 (Access to investigation documents for other purposes)

SCHEDULE 1 (continued)

‘57A Application of section 57 to person under Coroners Act 2003

‘Section 57 does not apply to the disclosure of information to a person who requires the information to perform a function under the *Coroners Act 2003*, other than the preparation of an annual report.’.

2 After section 63—

insert—

‘63A Application of section 63 to person under Coroners Act 2003

‘Section 63 does not apply to the giving of information to a person who requires the information to perform a function under the *Coroners Act 2003*, other than the preparation of an annual report.’.

POLICE POWERS AND RESPONSIBILITIES ACT 2000**1 Chapter 9—**

insert—

‘PART 4A—POWERS FOR ASSISTING CORONERS**‘371AA Entry of place on suspicion of death or injury**

‘(1) This section applies if a police officer reasonably suspects someone in a place is dead or in need of urgent medical treatment.

Example—

A police officer may form a reasonable suspicion because of a person’s concerns about an elderly neighbour who has not been seen for several days and whose absence can not otherwise be explained.

‘(2) The police officer may enter the place to find out whether someone in the place is dead or in need of urgent medical treatment.

‘(3) If a person at the place is found dead or in need of urgent medical treatment, the police officer may remain at the place for only as long as is necessary to ensure that anything necessary to be done for the person is done.

SCHEDULE 1 (continued)

Examples for subsection (3)—

1. It may be necessary for a body to be taken to a mortuary.
2. It may be necessary for an ambulance to be called to take a person to hospital.
3. It may be necessary for a police photographer to photograph a body or other thing that may help a coroner establish the cause of death of the person.
4. It may be necessary to take steps to secure the premises.

‘371AB Powers for reportable deaths

‘(1) This section applies if—

- (a) a police officer attends a place where there is the body of a deceased person; and
- (b) the officer reasonably believes the person’s death is a death that must, under the *Coroners Act 2003*, be reported to a coroner.

‘(2) The officer may arrange for the person’s body to be taken to a mortuary where autopsies ordered by coroners are conducted.⁴⁹

‘(3) The officer may take reasonable steps to restrict entry to the place for as long as is necessary to arrange for the person’s body to be taken to the mortuary.

‘(4) The officer may seize anything at the place that the officer reasonably suspects may be relevant to an investigation of the death by a coroner.

‘(5) The officer may photograph the body, or anything else at the place that the officer reasonably suspects may be relevant to an investigation of the death by a coroner.

‘(6) The officer may stay on the place and re-enter it for the time reasonably necessary to do something permitted under this section.

‘371AC Restricting entry to place to allow investigation

‘(1) This section applies if—

- (a) a coroner is investigating a death at a place where—

⁴⁹ See the *Coroners Act 2003*, section 18(2)(a) for the power of a police officer to give directions to a person taking the body to a mortuary.

SCHEDULE 1 (continued)

- (i) the death is believed to have happened; or
 - (ii) something that caused or contributed to the death is believed to have happened; and
 - (b) the place is not a crime scene; and
 - (c) the coroner directs a police officer to restrict entry to the place.
- ‘(2) The officer may take reasonable steps to restrict entry to the place by anyone other than—
- (a) a police officer or another person who is helping the coroner investigate the death; or
 - (b) a person whose presence is needed to preserve life or property at the place; or
 - (c) someone who has the coroner’s permission to be at the place.
- ‘(3) The officer must not restrict entry to the place for any longer than is necessary for the investigation.
- ‘(4) A person must not enter a place to which entry is restricted, unless the person has a reasonable excuse.
- Maximum penalty for subsection (4)—120 penalty units.

‘371AD Coroner’s search warrant

- ‘(1) A coroner may, on his or her own initiative, issue a search warrant for a place if the coroner reasonably suspects that there is evidence at the place that may be relevant to the coroner’s investigation.
- ‘(2) The search warrant must state—
- (a) that a police officer may exercise the powers mentioned in subsection (4) at the place; and
 - (b) brief particulars that identify the death that the coroner is investigating; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) if the warrant is to be executed at night, the hours when the place may be entered; and
 - (e) the day and time the search warrant ends, being no more than 7 days after the search warrant is issued.

SCHEDULE 1 (continued)

‘(3) The ways that a coroner may send the search warrant to a police officer include by fax or other electronic means.

‘(4) Under the search warrant, a police officer has—

- (a) the powers described in section 74(1)(a) to (e) and (g); and
- (b) power to seize a thing found at the place, or on a person found at the place, that the police officer reasonably suspects may be relevant to the coroner’s investigation; and

Example of paragraph (b)—

A suicide note.

- (c) power to inspect, measure, photograph or film the place or anything at the place; and
- (d) power to take a thing, or a sample of a thing, from the place for testing; and
- (e) power to copy a document at the place; and
- (f) power to require a person at the place to give the police officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).

‘(5) A police officer must comply with section 75 when executing the search warrant.

‘(6) A police officer must not exercise a power under subsection (4)(c) to (f) unless the police officer reasonably suspects that the exercise of the power is necessary for the coroner’s investigation.

‘371AE Dealing with seized things

‘(1) This section applies if a police officer seizes something under—

- (a) section 371AB(4); or
- (b) a search warrant issued under section 371AD.

‘(2) Having seized something, the officer may—

- (a) move the thing from the place; or
- (b) leave the thing at the place, but take reasonable action to restrict access to it; or

SCHEDULE 1 (continued)

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted.

(c) deal with the thing in another way that a coroner directs.

‘(3) If the police officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without the approval of a police officer.

Maximum penalty—120 penalty units.

‘371AF Power to require information

‘(1) This section applies if—

- (a) a police officer is helping a coroner to investigate a death; and
- (b) the officer reasonably believes a person may be able to give information relevant to the investigation.

‘(2) The officer may require the person to give information relevant to the investigation.

‘(3) When making the requirement, the officer must inform the person that the person may—

- (a) fail to give the information if the information would tend to incriminate the person; and
- (b) seek legal advice before giving the information.

‘371AG Use of evidence obtained under Coroners Acts

‘To remove doubt, it is declared that a thing obtained by a police officer under this part may be used in a criminal proceeding.’.

2 Section 381(1), after ‘justice’—

insert—

‘or coroner’.

SCHEDULE 1 (continued)

3 Section 420—

insert—

‘(3) Also, this part, apart from section 441, does not apply to something seized under chapter 9, part 4A⁵⁰ if a coroner decides the death is a reportable death.’.

4 Chapter 12, part 2—

insert—

‘447A Assisting coroner to investigate a death

‘(1) It is the duty of police officers to assist coroners in the performance of a function, or exercise of a power, under the *Coroners Act 2003*, including—

- (a) the investigation of deaths; and
- (b) the conduct of inquests.

‘(2) Without limiting subsection (1), it is the duty of police officers to comply with every reasonable and lawful request, or direction, of a coroner.’.

5 Schedule 1—

insert—

‘*Coroners Act 2003*’.

6 Schedule 4—

insert—

‘“**coroner**” means a coroner under the *Coroners Act 2003*.’

7 Schedule 4, definition “enforcement act”—

insert—

50 Chapter 9, part 4A (Powers for assisting coroners)

SCHEDULE 1 (continued)

(1) the entry of a place under section 371AA⁵¹ to find out whether someone in the place is dead or in need of urgent medical treatment.’

8 Schedule 4, definition “search warrant”—

omit, insert—

‘**“search warrant”** see section 68 or 371AD.⁵²’.

PRIVATE HEALTH FACILITIES ACT 1999**1 After section 147—**

insert—

‘147A Application of section 147 to person under Coroners Act 2003

‘Section 147 does not apply to the disclosure of information to a person who requires the information to perform a function under the *Coroners Act 2003*, other than the preparation of an annual report.’.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES ACT 1962**1 Section 5(1)—**

insert—

‘**“Coroners Act”** means the *Coroners Act 1958* or *Coroners Act 2003*.

“inquiry” by a coroner includes an investigation by the coroner under the *Coroners Act 2003*.

“post-mortem examination” includes an autopsy under the *Coroners Act 2003*.’.

51 Section 371AA (Entry of place on suspicion of death or injury)

52 Section 68 (Search warrant application) or 371AD (Coroner’s search warrant)

SCHEDULE 1 (continued)

2 Sections 5(1), definition “coroner”, 24(4), 31(1), 34(1) and 39, ‘Coroners Act 1958’—*omit, insert—*

‘Coroners Act’.

3 Section 21—*insert—*

‘(2) For a death that was investigated by a coroner under the *Coroners Act 2003*, if—

- (a) the registrar general has received a certificate under section 31;⁵³ and
- (b) the registration of death, apart from the entry of the results of the coroner’s investigation, is complete;

the registrar general or a district registrar may give an applicant a certified copy of the entry for the death.’.

4 Section 32, after ‘recommendation of the coroner’—*insert—*‘, or a coroner under the *Coroners Act 2003*’.**5 Section 33, from ‘Where’ to ‘of the State,’—***omit, insert—*

‘If a coroner issues an order or certificate for disposal’.

6 Section 33—*insert—*

‘(2) In this section—

“order or certificate for disposal” means—

53 Section 31 (Post-mortem examination certificate)

SCHEDULE 1 (continued)

- (a) an order for the burial, a certificate for the cremation, or an order for the removal out of the State, of the body of a deceased person under the *Coroners Act 1958*; or
- (b) an order under the *Coroners Act 2003*, section 26(2)(a), (d) or (f).⁵⁴.

7 Section 34(1), from ‘under the’ to ‘removal out of the State’—*omit, insert—*

‘for disposal’.

8 Section 34(2), after ‘section 21’—*insert—*‘or the *Coroners Act 2003*, section 95⁵⁵’.**9 Section 34—***insert—*

‘(3) In this section—

“order for disposal” means—

- (a) an order for the removal out of the State of the body of a deceased person under the *Coroners Act 1958*; or
- (b) an order under the *Coroners Act 2003*, section 26(2)(d).⁵⁶.

TRANSPLANTATION AND ANATOMY ACT 1979**1 Sections 4(1) and 29(8), definition “coroner”—***omit, insert—*

54 *Coroners Act 2003*, section 26 (Control of body)

55 *Coroners Act 2003*, section 95 (Authorising burial of body etc.)

56 *Coroners Act 2003*, section 26 (Control of body)

SCHEDULE 1 (continued)

‘**“coroner”** means a coroner under the *Coroners Act 1958* or *Coroners Act 2003*.’.

2 Sections 24(1)(a), 28(1)(a) and 34(1)(a)—

omit, insert—

‘(a) whose death must be reported under the *Coroners Act 1958*, section 12 or 13⁵⁷ or the *Coroners Act 2003*, section 7;⁵⁸ or’.

3 Sections 24(1)(b), 28(1)(b) and 34(1)(b), after ‘of the death’—

insert—

‘or is directed by the Minister under the *Coroners Act 2003*, section 11⁵⁹ to investigate’.

4 Section 29(5), after ‘any period’—

insert—

‘, but apply subject to the *Coroners Act 2003*, section 24⁶⁰’.

5 Section 29(8), definition “examination order”, ‘under the’—

omit, insert—

‘under—

(a) the’.

57 *Coroners Act 1958*, section 12 (Duty to notify discovery of dead body) or 13 (Medical practitioner to notify coroner)

58 *Coroners Act 2003*, section 7 (Duty to report deaths)

59 *Coroners Act 2003*, section 11 (Deaths to be investigated)

60 *Coroners Act 2003*, section 24 (Removing tissue for autopsy testing)

SCHEDULE 1 (continued)

- 6 Section 29(8), definition “examination order”, ‘person.’—**
omit, insert—
‘person; or’.
- 7 Section 29(8), definition “examination order”—**
insert—
‘(b) the *Coroners Act 2003*, section 19 or 23.⁶¹’.
- 8 Section 48(3)(a), after ‘1958’—**
insert—
‘or the *Coroners Act 2003*’.

61 *Coroners Act 2003*, section 19 (Order for autopsy) or 23 (Autopsy testing)

SCHEDULE 2

DICTIONARY

section 6

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

“appointed coroner” see section 83.⁶²

“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.

62 Section 83 (Appointed coroners)

SCHEDULE 2 (continued)

“cause of death certificate” means—

- (a) a medical certificate of the cause of death, or perinatal death, under the *Registration of Births, Deaths and Marriages Act 1962*; or
- (b) a similar certificate issued under a law of another State or country that is similar in effect to the *Registration of Births, Deaths and Marriages Act 1962*.

“comment” includes a recommendation.

“confidential document”—

- (a) means a document or part of a document obtained under section 17;⁶³ 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.

“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 9.⁶⁴

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

64 Section 9 (“Death in care” defined)

SCHEDULE 2 (continued)

“death in custody” see section 10.⁶⁵

“de facto partner” see section 97.⁶⁶

“deputy registrar” means a person who holds an appointment as a deputy registrar under section 85.⁶⁷

“direction” see section 14.⁶⁸

“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
- (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 14.⁶⁹

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

65 Section 10 (“Death in custody” defined)

66 Section 97 (Meaning of “de facto partner”)

67 Section 85 (Deputy registrars)

68 Section 14 (Guidelines and directions for investigations)

69 Section 14 (Guidelines and directions for investigations)

SCHEDULE 2 (continued)

“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.

“local coroner” see section 82.⁷⁰

“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

70 Section 82 (Local coroners)

SCHEDULE 2 (continued)

(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.

“registrar” means a person who holds an appointment as a registrar under section 84.⁷¹

“reportable death” see section 8.⁷²

“spouse” includes de facto partner.

“stillborn child” means a child not born alive as defined in the *Registration of Births, Deaths and Marriages Act 1962*, section 5(2)(b).

“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.

71 Section 84 (Registrar)

72 Section 8 (“Reportable death” defined)