



AUSTRALIAN CAPITAL TERRITORY

**Coroners (Amendment) Act (No. 2) 1994**

**No. 66 of 1994**

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AUSTRALIAN CAPITAL TERRITORY

## Coroners (Amendment) Act (No. 2) 1994

No. 66 of 1994

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### **An Act to amend the *Coroners Act 1956* and for related purposes**

*[Notified in ACT Gazette S197: 11 October 1994]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Coroners (Amendment) Act (No. 2) 1994*.

#### **Commencement**

2. This Act commences on the day on which it is notified in the *Gazette*.

#### **Principal Act**

3. In this Act, “Principal Act” means the *Coroners Act 1956*.<sup>1</sup>

#### **Repeal**

4. Section 3 of the Principal Act is repealed.

#### **Interpretation**

5. Section 4 of the Principal Act is amended—

(a) by omitting the definitions of “chief executive”, “offence”, “the Coroner” and “the Territory”;

(b) by inserting the following definitions:

“ ‘Aboriginal person’ means a person who is descended from, identifies as, and is accepted by an Aboriginal community as, an Aboriginal person;

‘body’ includes a part of a body;

‘Chief Coroner’ means the person who is the Chief Coroner by virtue of the operation of section 5B;

‘chief police officer’ means the police officer who is responsible to the Commissioner of Police for the day-to-day administration of police;

‘Coroner’ includes a Deputy Coroner appointed under section 6;

‘Court’ means the Coroner’s Court;

‘custodial officer’ means—

- (a) a member of the police force;
- (b) a person appointed under section 6 or 6A of the *Remand Centres Act 1976*;
- (c) an authorised officer or a supervisor within the meaning of the *Supervision of Offenders (Community Service Orders) Act 1985*;
- (d) the Director of Mental Health Services, or a Mental Health Officer appointed under section 12 of the *Mental Health Act 1983*;
- (e) the Director of Family Services, or an officer appointed by the Director to be an officer for the purposes of the *Children’s Services Act 1986*; or
- (f) the Sheriff, a Deputy Sheriff, or a person appointed to assist the Sheriff, under the *Supreme Court Act 1933*;

‘death’ includes a suspected death;

‘inquest’ means an inquest concerning the death of a person;

‘inquiry’ means an inquiry concerning a fire;

‘legal practitioner’ means a legal practitioner (however described) of the High Court, of another federal court or of the Supreme Court of the Territory, a State or another Territory;

‘place’ includes a vehicle, vessel or aircraft;

‘Torres Strait Islander’ means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands;”and

(c) by adding at the end the following subsection:

“(2) A reference in this Act to a death in custody is to be read as a reference to the death of a person—

- (a) in a prison, lock-up or remand centre;
- (b) while performing work pursuant to a community service order under the *Supervision of Offenders (Community Service Orders) Act 1985*;
- (c) while detained by or in the custody of the Director of Mental Health Services under the *Mental Health Act 1983*;
- (d) while the subject of an order, detained, or in custody, or otherwise being provided with care, under the *Children's Services Act 1986*; or
- (e) while in, or being taken into, or after being taken into, or while escaping or attempting to escape from, the custody of a custodial officer;

and includes death as a result of a fatal injury sustained in a place or in any of the circumstances referred to in paragraphs (a) to (e), inclusive.”.

### **Insertion**

6. After section 5A of the Principal Act the following sections are inserted:

#### **Chief Coroner**

“5B. The person for the time being holding or occupying the office of Chief Magistrate is the Chief Coroner.

#### **Arrangement of business of Court**

“5C. The Chief Coroner is responsible for ensuring the orderly and expeditious discharge of the business of the Court and, in particular the holding of inquests into deaths in custody, and may, subject to—

- (a) this Act; and
- (b) such consultation with the Coroners and Deputy Coroners as is appropriate and practicable;

make arrangements as to the Coroner or Deputy Coroner who is to constitute the Court in particular matters or classes of matters.”.

### **Substitution**

7. Sections 6 and 7 of the Principal Act are repealed and the following sections substituted:

#### **Deputy Coroners**

“6. The Executive may, by instrument, appoint a person to be a Deputy Coroner.

**Powers of Deputy Coroners**

“7. (1) Subject to the directions of the Chief Coroner, a Deputy Coroner has and may exercise the powers of a Coroner.

“(2) The Chief Coroner shall not direct a Deputy Coroner to hold an inquest into a death in custody.”.

**Repeal**

8. Section 9 of the Principal Act is repealed.

**Substitution**

9. Section 10A of the Principal Act is repealed and the following section substituted:

**Registrar and Deputy Registrars of Coroner’s Court**

“10A. (1) The Registrar of the Magistrates Court is the Registrar of the Coroner’s Court.

“(2) Each Deputy Registrar of the Magistrates Court is a Deputy Registrar of the Coroner’s Court.

“(3) The Registrar of the Coroner’s Court may appoint such Deputy Registrars of the Coroner’s Court as the Registrar considers necessary for the purposes of this Act.”.

**Jurisdiction of Coroner’s Court**

10. Section 11 of the Principal Act is amended—

- (a) by omitting sub-subparagraph (1) (i) (i);
- (b) by omitting from sub-subparagraph (1) (i) (ii) “or” (last occurring);
- (c) by adding at the end of paragraph (1) (j) “or”;
- (d) by adding at the end of subsection (1) the following paragraph:
  - “(k) dies in custody.”;
- (e) by omitting from paragraph (3) (b) “or”;
- (f) by adding at the end of paragraph (3) (c) “or”; and
- (g) by adding at the end of subsection (3) the following paragraph:
  - “(d) in the case of a suspected death—the dead body of the person can not be found.”.

### **Circumstances in which Coroner may dispense with inquest or inquiry**

**11.** Section 12 of the Principal Act is amended—

(a) by omitting subsection (2) and substituting the following subsection:

“(2) A Coroner shall not dispense with the holding of an inquest under subsection (1) if the Coroner has reasonable grounds for relieving that the person died—

(a) in custody; or

(b) while under, or as a result of the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation.”; and

(b) by omitting from subsection (3) “Attorney-General” and substituting “Chief Coroner”.

### **Substitution**

**12.** Section 12A of the Principal Act is repealed and the following sections are substituted:

#### **Obligation to report death**

“12A. (1) A person shall report a death to a Coroner or a police officer if the person has reasonable grounds for believing that—

(a) the death is one in respect of which a Coroner would have jurisdiction under section 11 or 12; and

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

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

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

#### **Control of body**

“12B. Where a death occurs in respect of which a Coroner may hold an inquest and the body is in the Territory, a Coroner (other than a Deputy Coroner) has control of the body until the Coroner has issued a certificate authorising the disposal of the body.

#### **Assistance to State Coroners**

“12C. (1) A Coroner may exercise any of his or her powers under this Act to assist a Coroner of a State or another Territory in relation to a death in that State or other Territory.

“(2) If the Attorney-General directs, a Coroner shall exercise any of his or her powers under this Act to assist a Coroner of a State or another Territory in relation to a death in that State or other Territory.”.

**Insertion**

13. After Division 2 of Part III of the Principal Act the following Division is inserted in that Part:

***“Division 3—Requirements relating to deaths in custody***

**Interpretation**

“13A. In this Division—

‘immediate family’, in relation to the person the subject of an inquest, means—

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

**Obligation to appoint counsel**

“13B. The Coroner holding an inquest into a death in custody shall appoint a legal practitioner to assist him or her, either generally or in relation to a particular matter.

**Consideration of deceased’s family etc.**

“13C. (1) The Coroner shall not hold an inquest into a death in custody unless he or she is satisfied that—

- (a) a member of the immediate family of the deceased person has been notified of the time and place of the inquest; or
- (b) reasonable efforts to notify a member of the immediate family of the deceased have been made but were unsuccessful;

and, if the deceased person was an Aboriginal person or Torres Strait Islander, the Aboriginal Legal Service Ltd. has been notified.

“(2) Nothing in subsection (1) prevents a Coroner from holding an inquest if the Coroner believes, on reasonable grounds, that it would be in the public interest or the interests of justice to do so.

**Viewing of body etc.**

“13D. (1) The Coroner holding an inquest into a death in custody shall, if requested to do so by a member of the immediate family of the deceased person or a representative of that member—

- (a) authorise the viewing of the body of the deceased person by the member or a representative of that member;

- (b) authorise an inspection of the scene of the death by the member or a representative of that member;
- (c) authorise the member or a representative of that member to be present at any post-mortem examination conducted on the body; or
- (d) authorise the same or another medical practitioner to conduct a further post-mortem examination on the body;

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

“(2) Where a Coroner does not give an authorisation under subsection (1) because the Coroner believes, on reasonable grounds, that it would not be in the interests of justice to do so, the Coroner shall, in writing, notify the person by whom the request was made and, if the deceased person was an Aboriginal person or Torres Strait Islander, the Aboriginal Legal Service Ltd., of his or her decision and the reasons on which the decision was based.

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

“13E. The Coroner holding an inquest into a death in custody shall, whenever practicable, direct a post-mortem examination to be made of the body by a pathologist who has not less than 2 years experience in the conduct of post-mortem examinations.

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

“13F. The Coroner holding an inquest into a death in custody shall keep a record of the inquest for a period of not less than 7 years after the completion of the inquest.

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

“13G. The Coroner holding an inquest into a death in custody shall include in a record of the proceedings of the inquest findings as to the quality of care, treatment and supervision of the deceased person which, in the opinion of the Coroner, contributed to the cause of death.

#### **Copies of reports of findings**

“13H. (1) After the Coroner has completed an inquest into a death in custody, he or she shall, in writing, report his or her findings to—

- (a) the Attorney-General;
- (b) the custodial agency in whose custody the death occurred and to the Minister responsible for that agency;
- (c) the Australian Institute of Criminology;
- (d) if the deceased was an Aboriginal person or Torres Strait Islander—to the Aboriginal Legal Service Ltd.; and

(e) any other person whom the Coroner considers appropriate.

“(2) The Coroner shall make available a copy of a report of his or her findings into a death in custody to—

- (a) a member of the immediate family of the deceased or a representative of that member; and
- (b) a witness who appeared at an inquest into the death.

### **Response to reports**

“13J. (1) The custodial agency to which a report is given under section 13H shall, not later than 3 months after the date of receipt of the report, give to the Minister responsible for the custodial agency a written response to the findings contained in the report.

“(2) A written response under subsection (1) shall include a statement of the action (if any) which has been, or is being, taken with respect to any aspect of the findings contained in the report.

“(3) The Minister to whom a copy of a response is given under subsection (2) shall give a copy of the response to the Coroner in respect of whose findings the report relates.

“(4) The Coroner shall give a copy of the response to each person or agency to whom a copy of his or her report was given under section 13H.

### **Obligations on custodial officers**

“13K. (1) A custodial officer shall report a death in custody to a Coroner as soon as is reasonably practicable after becoming aware of the fact.

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

### **Post-mortem examinations**

14. Section 14 of the Principal Act is amended—

- (a) by omitting from subsection (1) “The Coroner” and substituting “Subject to section 13E, a Coroner”; and
- (b) by omitting from subsection (2) “of opinion that is” and substituting “of the opinion that it is”.

### **Substitution**

15. Section 20 of the Principal Act is repealed and the following section substituted:

### **Report by medical practitioner**

“20. Where, under section 13D or 14, a post-mortem examination of the body, or the remains of the body, of a deceased person is carried out, the

person carrying out the examination shall, as soon as practicable after the examination is completed, furnish a report to—

- (a) the Coroner by whom the order was made; and
- (b) if a request has been made under section 13D—the person who made the request, or his or her representative or a representative (if any) of the deceased person.”.

### **Insertion**

16. Before section 22 of the Principal Act the following heading is inserted in Part V:

*“Division 1—Inquests and inquiries”.*

### **Time and place of inquest or inquiry**

17. Section 22 of the Principal Act is amended by omitting from subsection (4) all the words after “held” and substituting “at a place the property of the Territory”.

### **Insertion**

18. After section 22 of the Principal Act the following sections are inserted:

### **Taking evidence**

“22A. (1) At an inquest or inquiry, a Coroner may take evidence on oath or affirmation and, for that purpose—

- (a) a Coroner may require a witness at the inquest or inquiry either to take an oath or to make an affirmation; and
- (b) a Coroner or authorised person may administer an oath or affirmation to a witness at the hearing.

“(2) At an inquest or inquiry, a Coroner may—

- (a) require a witness to answer a question put to the witness; and
- (b) require a person appearing at the inquest or inquiry pursuant to a summons to produce a document specified in the summons.

### **Inquests and inquiries to be in public**

“22B. Subject to section 22C, an inquest and an inquiry are each open to the public.

### **Powers of Coroner at inquest or inquiry**

“22C. (1) A Coroner holding an inquest or inquiry may, if he or she believes on reasonable grounds that it is desirable in the public interest or the interests of justice to do so, require any person to leave and remain outside the room or building in which the inquest or inquiry is being held for such period as the Coroner directs.

“(2) A Coroner may order that no report or publication, or no further report or publication, of proceedings be made of an inquest or inquiry if the Coroner is of the opinion that it is desirable in the public interest or the interests of justice to do so.

Penalty for contravention of subsection (2): \$10,000 or imprisonment for 12 months, or both.

### **Request for inquest or inquiry**

“22D. (1) A person may, in writing, request the Coroner to hold an inquest or inquiry into a death or fire.

“(2) A request under subsection (1) shall set out the grounds on which the person relies.

### **Refusal to hold inquest or inquiry**

“22E. (1) Subject to section 11, if a request under section 22D is made in relation to a death or fire in respect of which the Coroner may hold an inquest or inquiry, the Coroner shall, within 14 days after receipt of the request, by notice in writing notify the person who made the request that—

- (a) the death or fire is one in respect of which the Coroner intends to hold an inquest or inquiry; or
- (b) he or she refuses to hold an inquest or inquiry into the death or fire.

“(2) Where, under paragraph (1) (b), the Coroner refuses to hold an inquest or inquiry, the Coroner shall—

- (a) serve the notice on the person who made the request; and
- (b) set out the grounds on which the Coroner bases his or her refusal.

“(3) A person on whom a notice referred to in subsection (2) is served may, within 30 days after receipt of the notice, apply to the Supreme Court for an order that an inquest or inquiry be held.

### **Supreme Court—general**

“22F. The Supreme Court may on application by a person, if it is of the opinion that it would be in the interests of justice to do so, make an order directing a Coroner to hold an inquest or inquiry into a death or fire.

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

“22G. Where the Supreme Court, on an application made by, or under the authority of, the Attorney-General, is satisfied—

- (a) that the Coroner has refused or neglected to hold an inquest into the cause of the death of a person or an inquiry into the cause of a fire; and
- (b) that it is in the interests of justice that an inquest into the cause of the death, or an inquiry into the cause of the fire, should be held;

the Supreme Court may order that an inquest into the death or fire be held.

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

“22H. Where—

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

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

**Notice relating to holding of inquest or inquiry**

“22J. A Coroner shall, where practicable, not less than 14 days before holding an inquest or inquiry, publish in a daily newspaper published and circulating in the Territory the date, time and place of the holding of the inquest or inquiry.

**Non-custodial deaths and fires—discretion to appoint counsel**

“22K. A Coroner holding an inquiry into a fire or an inquest into a death (other than a death in custody), may appoint a legal practitioner to assist the Coroner, either generally or in relation to a particular matter.

**Police assistance**

“22L. (1) A Coroner may, in writing, request the chief police officer for the assistance of a police officer in an investigation for the purpose of an inquest or inquiry.

“(2) The chief police officer shall, as far as practicable, comply with a request under subsection (1).”.

**Repeal**

**19.** Section 25 of the Principal Act is repealed.

**Recording of proceedings**

**20.** Section 29 of the Principal Act is amended by adding at the end the following subsection:

“(3) Except in relation to proceedings under Part VA, a record of evidence made at an inquest or inquiry is not, by reason only that it is such a record, admissible in any court as evidence that any person made the depositions included in that record.”.

**Substitution**

21. Sections 30, 31 and 32 of the Principal Act are repealed and the following sections substituted:

**Coroner's findings**

“30. (1) A Coroner holding an inquest shall find, if possible—

- (a) the identity of the deceased;
- (b) how, when and where the death occurred;
- (c) the cause of death;
- (d) the identity of any person who contributed to the death; and
- (e) in the case of the suspected death of a person—that the person has died.

“(2) A Coroner holding an inquiry shall find, if possible—

- (a) the cause and origin of the fire;
- (b) the circumstances in which the fire occurred; and
- (c) the identity of any person who contributed to the cause of the fire.

“(3) At the conclusion of an inquest or inquiry, the Coroner shall record his or her findings in writing.

“(4) A Coroner may comment on any matter connected with the death or fire, including public health or safety or the administration of justice.

**Coroner not to be called as witness**

“31. (1) A Coroner shall not be called to give evidence in a court or judicial proceedings about anything coming to his or her knowledge in exercising a power or performing a function or duty under this Act.

“(2) Subsection (1) does not apply in relation to proceedings against a Coroner for an offence.

**Report after inquest or inquiry**

“32. (1) A Coroner may report to the Attorney-General on an inquest or inquiry which the Coroner has held.

“(2) A Coroner may make recommendations to the Attorney-General on any matter connected with an inquest or inquiry, including matters relating to public health or safety or the administration of justice.”.

**Procedure where evidence of indictable offence**

22. Section 33 of the Principal Act is amended—

- (a) by omitting subsections (1) and (2);
- (b) by inserting in paragraph (3) (a) “the *Bail Act 1992* or” after “under”;

- (c) by inserting in subsection (6) “the *Bail Act 1992* or” after “under”; and
- (d) by omitting from subsection (7) “Parts VI and XIII A” and substituting “the *Bail Act 1992* and Part VI”.

### **Adjournment of inquests etc. in certain cases**

**23.** Section 34 of the Principal Act is amended by inserting in subsection (3) “the” before “opinion”.

### **Insertion**

**24.** After section 34 of the Principal Act the following Division and Part is inserted:

#### ***“Division 2—Powers of entry and search etc.***

### **Search warrants**

“34A. (1) A Coroner may issue a warrant if the Coroner believes on reasonable grounds that it is necessary for the purposes of an inquest or inquiry.

“(2) A warrant shall authorise a police officer named in the warrant with such assistance, and by such force, as is necessary and reasonable—

- (a) to enter a place;
- (b) to search the place for things relevant to the inquest or inquiry;
- (c) to take any measurements or photographs of the place or any thing in or on the place;
- (d) to inspect, or take copies of, or extracts from, any document in or on the place that is, or is reasonably believed to be, relevant to the inquest or inquiry;
- (e) to seize any thing that the Coroner believes on reasonable grounds to be relevant to the inquest or inquiry; and
- (f) to deliver any thing so seized to the Coroner.

“(3) A warrant shall—

- (a) state the purpose for which it is issued;
- (b) specify particular hours during which the entry is authorised or state that the entry is authorised at any time of the day or night;
- (c) include a description of the kind of things in relation to which the powers under the warrant may be exercised; and
- (d) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.

“(4) A warrant may be executed, in accordance with its terms, at any time during the period commencing on the date of issue of the warrant and

ending at the expiration of the date specified for the purpose of paragraph (3) (d).

“(5) Before exercising a power under a warrant, the person executing the warrant shall give a copy of the warrant to the owner or occupant of the place to which it relates.

“(6) If, in the course of searching under a warrant for a thing relevant to an inquest or inquiry—

- (a) the person executing the warrant finds a thing that the person believes on reasonable grounds to be connected with the matter into which the Coroner is inquiring, although not of a kind specified in the warrant; and
- (b) the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its being concealed, lost, mutilated, destroyed or disposed of;

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

### **Restriction of access**

“34B. (1) A Coroner holding an inquiry or inquest into a death or fire may take reasonable steps to restrict access to the place of death or to where the fire occurred.

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

Penalty: \$10,000 or imprisonment for 12 months, or both.

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

“34C. (1) A Coroner may—

- (a) inspect a document or other thing produced before, or delivered to, the Coroner;
- (b) retain possession of the document or thing for such period as is necessary for the purposes of the inquest or inquiry to which the document or thing relates; and
- (c) in the case of a document produced before, or delivered to, the Coroner—make copies of, or take extracts from, such parts of the document as are relevant to a matter the subject of the inquest or inquiry.

“(2) Where a document is retained under paragraph (1) (b)—

- (a) the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Coroner to be a true copy, and the certified copy shall be received in all courts as evidence as if it were the original; and

- (b) until the certified copy is supplied, the Coroner shall, at such times and places as it thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

“(3) Where the retention of a document or other thing by a Coroner ceases to be necessary for the purposes of an inquest or inquiry, the Coroner shall, if a person who appears to the Coroner to be entitled to the document or thing so requests, cause the document or thing to be delivered to the person.

“(4) On the completion of an inquest or inquiry, a Coroner shall take all reasonably practical steps to give any thing taken or seized under this Division to the person whom the Coroner reasonably believes to be entitled to it.

#### **“PART VA—OFFENCES**

##### **Failure of witnesses to attend or produce documents**

“34D. (1) A person served with a summons to appear as a witness at an inquest or inquiry shall not, without reasonable excuse—

- (a) fail to appear as required by the summons; or
- (b) fail to attend from day-to-day unless excused, or released from further attendance, by the Coroner holding the inquest or inquiry.

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

“(2) A person shall not, without reasonable excuse, refuse or fail to produce a document or other thing that the person was required to produce by the Coroner.

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

“(3) It is a defence to a prosecution for an offence against subsection (2) that the document or other thing was not relevant to the matter into which the Coroner was inquiring.

“(4) A person is not excused from producing a document or other thing on the ground that the production of the document or thing might tend to incriminate the person, but any document obtained as a direct or indirect consequence of subsection (2) is not admissible in evidence against the person in proceedings, other than proceedings for an offence against section 34F.

**Refusal to be sworn or give evidence**

“34E. A person appearing as a witness at an inquest or inquiry before a Coroner shall not, without reasonable excuse—

- (a) refuse or fail to comply with a requirement under paragraph 22A (1) (a) to take an oath or make an affirmation; or
- (b) having taken an oath or made an affirmation—refuse or fail to answer a question that the person is required by the Coroner to answer.

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

**False evidence**

“34F. A person shall not, at an inquest or inquiry, knowingly give evidence that is false or misleading in a material particular.

Penalty: \$50,000 or imprisonment for 5 years, or both.

**Improper dealings with documents**

“34G. A person, knowing or having reasonable grounds for believing that a document or other thing is or may be required in evidence at an inquest or inquiry, shall not wilfully—

- (a) conceal, mutilate, destroy or alter the document or thing;
- (b) render the document or other thing incapable of identification; or
- (c) in the case of a document—render it illegible or indecipherable.

Penalty: \$20,000 or imprisonment for 2 years, or both.

**Improper dealings with bodies**

“34H. A person shall not, if the person has reason to believe that a post-mortem examination of the body, or the remains of the body, of a deceased person has been, or may be, ordered under this Act, interfere with or remove, the body or the remains of the body of the deceased person with intent to prevent or hinder the holding of the post-mortem examination.

Penalty: \$20,000 or imprisonment for 2 years, or both.

**Intimidation or dismissal of witnesses**

“34J. (1) A person shall not use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage on or to a person—

- (a) because the person appeared or is to appear as a witness at an inquest or inquiry; or
- (b) because of any evidence given by the person at an inquest or inquiry.

Penalty: \$50,000 or imprisonment for 5 years, or both.

“(2) An employer shall not dismiss an employee from employment or prejudice an employee in employment—

- (a) because the employee appeared or is to appear as a witness at an inquest or inquiry; or
- (b) because of any evidence given by the employee at an inquest or inquiry.

Penalty: \$50,000 or imprisonment for 5 years, or both.

“(3) If all the elements of an offence against subsection (2), other than the reason for the employer’s action are proved, the onus of proving that the dismissal or prejudice was not because the employee appeared or was to appear as a witness or gave evidence is on the employer.

### **Preventing witnesses from attending**

“34K. A person shall not wilfully prevent a person who has been summoned to attend at an inquest or inquiry—

- (a) from so attending;
- (b) from answering a question that the person is required by a Coroner to answer; or
- (c) from producing a document or other thing referred to in the summons.

Penalty: \$10,000 or imprisonment for 1 year, or both.

### **Bribery of witnesses**

“34L. A person shall not—

- (a) give, confer or procure, or promise or offer to give, confer or procure any property or benefit of any kind to, on or for, any person on any agreement or understanding that any person called or to be called as a witness at an inquest or inquiry will give false testimony or withhold true testimony;
- (b) induce a person called or to be called as a witness before a Coroner to give false testimony or to withhold true testimony; or
- (c) ask for, receive or obtain, or agree to receive or obtain, any property or benefit of any kind, whether for the person or for another person, on any agreement or understanding that any person called or to be called as a witness at an inquest or inquiry will give false testimony or withhold true testimony.

Penalty: \$50,000 or imprisonment for 5 years, or both.

### **Fraud on witnesses**

“34M. A person shall not practise any fraud or deceit, or knowingly make or exhibit any false statement, representation, token or writing, to any

person called or to be called as a witness at an inquest or inquiry with intent to affect the testimony of that person as a witness.

Penalty: \$20,000 or imprisonment for 2 years, or both.

### **Contempt**

“34N. (1) A person shall not—

- (a) wilfully threaten, disturb or insult the Court;
- (b) wilfully interrupt, interfere with or obstruct the proceedings of the Court; or
- (c) commit any other act that is a wilful contempt of the Court.

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

“(2) Subsection (1) only applies to acts in the face, or within the hearing, of the Court.

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

“(4) Where—

- (a) a person has been charged under subsection (3) but the matter has not been disposed of;
- (b) a Coroner has reasonable grounds to believe that the person has committed an offence against subsection (1); and
- (c) the Coroner considers that it is reasonable in all the circumstances—
  - (i) to order that the person be taken into custody to appear before the Court;
  - (ii) to order that the person be remanded in custody from time to time for periods not exceeding 15 clear days at any 1 time;
  - (iii) to release the person on bail; or
  - (iv) to make an order in respect of the person under subsection (8) before the alleged offence has been heard;

the Coroner may make such an order.

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

“(6) Failure to comply with subsection (5) does not invalidate an order.

“(7) Where a person is convicted of an offence against subsection (1), the Court, in addition to any penalty provided for under that subsection that it imposes, may make an order in relation to the person under subsection (8).

“(8) An order under this subsection may provide for—

- (a) the exclusion of the person from any building in which the Court sits or the environs of such a building;
- (b) prohibiting the person from approaching a Coroner, an officer of the Court or a witness; or
- (c) the imposition of any reasonable condition on the person.

“(9) In this section—

‘Court’ includes a Coroner when exercising the jurisdiction of the Court.”.

### **Substitution**

25. Sections 35 and 36 of the Principal Act are repealed and the following section substituted:

#### **Access to documents etc.**

“35. A Coroner may make available to any person with sufficient interest—

- (a) any document that the Coroner intends to consider; and
- (b) any evidence relevant to the inquest or inquiry to which the Coroner intends to have regard.”.

### **Retention of records of deceased patient**

26. Section 37A of the Principal Act is amended—

- (a) by omitting “chief executive” and substituting “person in charge of the hospital or institution”; and
- (b) by adding at the end the following subsection:

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

Penalty: \$5,000.”.

### **Amendment of order directing post-mortem examination**

27. Section 39 of the Principal Act is amended by omitting from paragraph (a) “this Act” and substituting “Part IV”.

### **Forms**

28. Section 43 of the Principal Act is amended by inserting “Chief” before “Coroner”.

**Substitution**

**29.** Section 44 of the Principal Act is repealed and the following sections are substituted:

**Protection of Coroners**

“44. An action or other proceeding, civil or criminal, does not lie against a Coroner for or in relation to any act or thing done or omission made in good faith in his or her capacity as Coroner.

**Annual report**

“44A. (1) The Chief Coroner shall furnish to the Attorney-General for presentation to the Legislative Assembly a report relating to the activities of the Court during each financial year.

“(2) A report under this section is a periodic report for the purposes of section 30A of the *Interpretation Act 1967*.

“(3) An annual report prepared under this section shall include particulars of—

- (a) reports prepared by Coroners into deaths in custody and findings contained in those reports;
- (b) certificates given under subsection 12 (3);
- (c) responses of agencies under section 13J, including correspondence in relation to those responses; and
- (d) any recommendations made under section 32.”.

**Substitution**

**30.** Section 46 of the Principal Act is repealed and the following section substituted:

**Regulations**

“46. (1) The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

“(2) Without limiting the generality of subsection (1), the regulations may make provision regulating the practice and procedures to be followed in inquests and inquiries.”.

**Further amendments**

**31.** The Principal Act is amended as set out in the Schedule.

**Renumbering of provisions**

**32. (1)** The amended Act is amended as provided by this section.

**(2)** The Parts of the amended Act are renumbered in a single series so that they bear consecutive Roman numerals.

**(3)** The sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.

**(4)** The subsections of the amended Act are renumbered in a single series so that, within their respective sections, they bear consecutive Arabic numerals.

**(5)** Any provision of the amended Act that refers to a provision of that Act that has been renumbered by subsection (2), (3) or (4) is amended by omitting that reference and substituting a reference to the provision as so renumbered.

**(6)** A reference in a provision of another law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a provision of the amended Act that has been renumbered by subsection (2), (3) or (4) shall (except as regards the operation of the provision before it was so renumbered or relettered) be construed as a reference to that provision as so renumbered or relettered.

**(7)** In this section, “amended Act” means the Principal Act as amended by sections 4 to 31 (inclusive).

**Consequential amendment—*Magistrates Court Act 1930***

**33. (1)** Section 10G of the *Magistrates Court Act 1930* is amended by omitting “, the Childrens Court and the Coroner’s Court” and substituting “and the Childrens Court”.

**(2)** Section 255 of the *Magistrates Court Act 1930* is amended by omitting paragraph (4) (a) and substituting the following paragraph:

“(a) a person has been charged under subsection (3) but the matter has not been disposed of;”.

**Consequential amendment—*Registration of Births, Deaths and Marriages Act 1963***

**34.** Section 34 of the *Registration of Births, Deaths and Marriages Act 1963* is amended by omitting subsections (5) and (5A) and substituting the following subsection:

“(5) A medical practitioner who forwards to the Registrar-General a certificate in relation to the death of a person referred to in this section shall report the death to the Coroner if the death is one to which subsection 11 (1), other than paragraph (1) (j), of the *Coroners Act 1956* applies.”.

**SCHEDULE**  
**FURTHER AMENDMENTS**

Section 31

**Subsection 5 (2)**—

Omit “the”, substitute “a”.

**Subsection 10 (1)**—

- (a) Omit “her or his”, substitute “his or her”.
- (b) Omit “she or he”, substitute “he or she”.
- (c) Omit “to this Act”.

**Subsection 10 (2)**—

Omit “the last preceding subsection”, substitute “subsection (1)”.

**Subsection 11 (1)**—

Omit “The Coroner”, substitute “A Coroner”.

**Paragraph 11 (1) (g)**—

- (a) Omit “three”, substitute “3”.
- (b) Omit “her or his”, substitute “his or her”.

**Subsection 11 (2)**—

- (a) Omit “The Coroner”, substitute “A Coroner”.
- (b) Omit “the last preceding subsection”, substitute “subsection (1)”.

**Subsection 11 (3)**—

Omit “The Coroner”, substitute “A Coroner”.

**Subsection 12 (1)**—

- (a) Omit “her or him”, substitute “him or her”.
- (b) Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Subsection 12 (3)**—

- (a) Omit “the Coroner” (first occurring), substitute “a Coroner”.
- (b) Omit “of this section”.
- (c) Omit “she or he”, substitute “he or she”.
- (d) Omit “her or his”, substitute “his or her”.

**Subsection 12 (4)**—

Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Section 13**—

Omit “the Coroner”, substitute “a Coroner”.

**SCHEDULE**—continued

**Paragraph 13 (a)**—

Omit “she or he”, substitute “the Coroner”.

**Paragraph 13 (b)**—

Omit “her or him so to do”, substitute “the Coroner to do so”.

**Subsection 14 (1)**—

- (a) Omit “her or his”, substitute “his or her”.
- (b) Omit “(1) of section eleven of this Act”, substitute “11 (1)”.

**Subsection 14 (2)**—

- (a) Omit “the Coroner” (first occurring), substitute “a Coroner”.
- (b) Omit “her or his”, substitute “his or her”.

**Subsection 14 (3)**—

- (a) Omit “the Coroner” (first occurring), substitute “a Coroner”.
- (b) Insert “or an institution” after “hospital”.
- (c) Omit “chief executive”, substitute “person in charge”.

**Subsection 14 (4)**—

- (a) Omit “chief executive”, substitute “person in charge”.
- (b) Insert “or institution” after “hospital”.

**Subsection 15 (1)**—

- (a) Omit “the Coroner” (first occurring), substitute “a Coroner”.
- (b) Omit “her or him”, substitute “him or her”.

**Subsection 15 (2)**—

Omit “she or he” (first occurring), substitute “he or she”.

**Paragraph 15 (2) (a)**—

Omit “she or he”, substitute “he or she”.

**Subsection 16 (1)**—

- (a) Omit “the Coroner”, substitute “a Coroner”.
- (b) Omit “she or he”, substitute “he or she”.
- (c) Omit “(1) of section eleven of this Act”, substitute “11 (1)”.
- (d) Omit “her or his”, substitute “his or her”.

**Subsection 16 (2)**—

- (a) Omit “the Coroner”, substitute “a Coroner”.
- (b) Omit “she or he is of”, substitute “he or she is of the”.
- (c) Omit “her or his”, substitute “his or her”.

**SCHEDULE**—continued**Paragraph 17 (b)**—

Omit “the Coroner”, substitute “a Coroner”.

**Section 17**—

Omit “her or his”, substitute “his or her”.

**Paragraph 19 (b)**—

Omit “the Coroner is informed by a Coroner”, substitute “a Coroner is informed by the coroner”.

**Section 21**—

(a) Insert “by whom the warrant was issued” after “the Coroner”.

(b) Omit “she or he”, substitute “he or she”.

(c) Omit “her or his”, substitute “his or her”.

**Section 21A**—

Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Subsection 22 (1)**—

Omit “The Coroner”, substitute “A Coroner”.

**Subsection 22 (2)**—

Omit “The Coroner”, substitute “A Coroner”.

**Subsection 22 (3)**—

(a) Omit “The Coroner”, substitute “A Coroner”.

(b) Omit “her or his”, substitute “his or her”.

**Paragraph 22 (3) (b)**—

Omit “the last preceding subsection”, substitute “subsection (2)”.

**Section 23**—

Omit “the Coroner”, substitute “a Coroner”.

**Section 24**—

(a) Omit “the Coroner”, substitute “a Coroner”.

(b) Omit “she or he”, substitute “he or she”.

**Subsection 26 (1)**—

(a) Omit “The Coroner”, substitute “A Coroner”.

(b) Omit “her or his”, substitute “his or her”.

**Subsection 26 (3)**—

(a) Omit “her or his”, substitute “his or her”.

(b) Omit “sixteen”, substitute “16”.

**SCHEDULE**—continued

**Paragraph 26 (5) (a)**—

Omit “the last preceding subsection”, substitute “subsection (4)”.

**Subsection 26 (5)**—

Omit “her or his”, substitute “his or her”.

**Subsection 26 (6)**—

(a) Omit “the last preceding subsection”, substitute “subsection (5)”.

(b) Omit “her or him”, substitute “him or her”.

**Subsection 26 (7)**—

Omit “of this section”.

**Subsection 26 (8)**—

Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Subsection 26 (9)**—

Omit “(b) of the last preceding subsection”, substitute “(8) (b)”.

**Paragraphs 26 (9) (a) and (b)**—

Omit “her or his”, substitute “his or her”.

**Subparagraph 26 (9) (b) (i)**—

Omit “two hundred and fifty-four”, substitute “254”.

**Subsection 26 (10)**—

Omit the subsection.

**Section 27**—

Omit “The Coroner”, substitute “A Coroner”.

**Subsection 28 (1)**—

Omit “The Coroner”, substitute “A Coroner”.

**Subsection 28 (2)**—

Omit “the Coroner”, substitute “a Coroner”.

**Paragraph 29 (2) (a)**—

Omit “the Coroner”, substitute “a Coroner”.

**Paragraph 29 (2) (d) (substituted subsection 255C (2))**—

Omit “she or he” (wherever occurring), substitute “he or she”.

**Subsection 33 (3)**—

Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Paragraph 33 (3) (a)**—

**SCHEDULE**—continued

Omit “her or him”, substitute “him or her”.

**Paragraph 33 (3) (b)**—

(a) Omit “her or him”, substitute “him or her”.

(b) Omit “her or his”, substitute “a”.

**Subsection 33 (4)**—

Omit “her or him”, substitute “him or her”.

**Subsection 33 (5)**—

Omit “the Coroner”, substitute “a Coroner”.

**Subsections 33 (6) and (7)**—

Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Subsection 34 (1)**—

(a) Omit “Commissioner of Police”, substitute “chief police officer”.

(b) Insert “holding the inquest or inquiry” after “Coroner” (first occurring).

(c) Omit “her or his”, substitute “his or her”.

(d) Omit “(a)” and “(b)” (last occurring), substitute “(c)” and “(d)”, respectively.

**Paragraph 34 (1) (c) (as renumbered)**—

Omit “her or his”, substitute “his or her”.

**Subsection 34 (2)**—

(a) Omit “The Coroner”, substitute “A Coroner”.

(b) Omit “she or he”, substitute “he or she”.

**Subsection 34 (3)**—

Omit “the Coroner” (first occurring), substitute “a Coroner”.

**Paragraph 34S (2) (b)**—

Omit “the Coroner”, substitute “a Coroner”.

**Subsection 34S (4)**—

Omit “the Coroner”, substitute “a Coroner”.

**Section 37**—

Omit “she or he”, substitute “he or she”.

**Section 37A**—

Omit “the Coroner”, substitute “a Coroner”.

**SCHEDULE**—continued

**Subsection 38 (1)**—

- (a) Omit “The Coroner”, substitute “A Coroner”.
- (b) Insert “the” before “opinion”.

**Subsection 38 (2)**—

- (a) Omit “the Coroner”, substitute “a Coroner”.
- (b) Omit “her or his”, substitute “his or her”.

**Subsection 38 (3)**—

Omit “The Coroner”, substitute “A Coroner”.

**Paragraph 39 (a)**—

Omit “the Coroner”, substitute “a Coroner”.

**Section 40**—

- (a) Omit “The Coroner”, substitute “A Coroner”.
- (b) Omit “her or him”, substitute “him or her”.

**Section 41**—

Omit “the Coroner”, substitute “a Coroner”.

**Section 42**—

Omit “the Coroner”, substitute “a Coroner”.

**Section 45**—

Omit “the Coroner”, substitute “a Coroner”.

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**NOTE**

1. Reprinted as at 31 August 1991. See also Act No. 44, 1991.

*[Presentation speech made in Assembly on 16 December 1993]*

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