



Australian Capital Territory

# Coroners Act 1997

A1997-57

**Republication No 40**

**Effective: 29 June 2016 – 10 December 2016**

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Last amendment made by [A2016-37](#)

## About this republication

### The republished law

This is a republication of the *Coroners Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 29 June 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 29 June 2016.

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

### Kinds of republications

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

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Coroners Act 1997

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Australian Capital Territory

## Coroners Act 1997

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

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## Part 1 Preliminary

### Division 1.1 Introduction

#### 1 Name of Act

This Act is the *Coroners Act 1997*.

#### 2 Dictionary

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

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

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

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

#### 3A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

### **3B Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## **Division 1.2 Objects and important concepts**

### **3BA Objects of Act**

- (1) The main objects of this Act are to—
- (a) establish the Coroner’s Court and position of Chief Coroner; and
- Note* Establish includes continue in existence (see [Legislation Act](#), dict, pt 1, def *establish*).
- (b) provide—
    - (i) that a person who is a magistrate (other than a special magistrate) is also a coroner; and
    - (ii) that the Chief Coroner may appoint a special magistrate as a coroner; and
    - (iii) for the appointment of deputy coroners; and
  - (c) give the following functions to coroners:
    - (i) to hold inquests into particular kinds of deaths or suspected deaths, and to make findings about the deaths,

- including the identities of deceased people and causes of death;
- (ii) to hold inquiries into, and make findings about, the cause and origin of—
    - (A) fires that have destroyed or damaged property; and
    - (B) disasters; and
  - (d) allow a coroner, based on the coroner’s findings in an inquest or inquiry, to make recommendations about the following:
    - (i) the prevention of deaths;
    - (ii) the promotion of general public health and safety including occupational health and safety;
    - (iii) the administration of justice;
    - (iv) the need for a matter to be investigated or reviewed by an entity.
- (2) As far as practicable, the objects of this Act must be carried out in a way that—
- (a) for an inquest into a person’s death—recognises the interests of the person’s immediate family—
    - (i) to have all reasonable questions about the circumstances of the person’s death answered; and
    - (ii) to be kept informed of important developments throughout the inquest; and
  - (b) maintains the inquisitorial, non-adversarial nature of the Coroner’s Court, and its function to inquire into and publicly examine the causes of death, fire and disaster; and
  - (c) promotes the development of a systematic and comprehensive public record of findings made by a coroner and any associated recommendations made by the coroner; and

- (d) increases public awareness of a coroner's findings about—
  - (i) violent or unusual deaths; and
  - (ii) serious risks to public health and safety; and
  - (iii) ways to protect public health and safety by reducing the risk of death, fire or disaster; and
- (e) promotes public understanding about the function of the Coroner's Court.

### **3C Meaning of *death in custody***

- (1) For this Act, *death in custody* means the death of a person—
  - (a) at a correction centre, lockup or detention place; or
  - (b) while performing work under a community service condition of a good behaviour order under the *Crimes (Sentencing) Act 2005*; or
  - (c) while being taken into or detained in custody, or subject to an order, under the *Mental Health Act 2015*; or
  - (d) while subject to an accommodation order under the *Crimes (Sentencing) Act 2005*, section 133Z (Accommodation orders—convicted young offenders only); or
  - (e) while subject to a transfer arrangement under the *Children and Young People Act 2008*, division 5.2.1 (Interstate transfer generally) or, while in custody under that Act, section 128 (Lawful custody for transit through ACT); or
  - (f) while at a licensed place under the *Intoxicated People (Care and Protection) Act 1994*; or
  - (g) while in, being taken into, or after being taken into, the custody of a custodial officer; or

- (h) while escaping, or attempting to escape, from the custody of a custodial officer, other than a carer under the *Intoxicated People (Care and Protection) Act 1994*.
- (2) Also, **death in custody** includes death because of a fatal injury sustained in a place, or in circumstances, mentioned in subsection (1).
- (3) For subsection (1) (d) and (e), a person is **subject to** an order or arrangement—
  - (a) while being taken into, or detained in, custody under the order or arrangement; or
  - (b) while being restrained, or otherwise being provided with care, under the order or arrangement; or
  - (c) while otherwise subject to the order or arrangement.

### 3D Who is a **custodial officer**?

In this Act:

**custodial officer** means any of the following:

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

## **Part 2                    The Coroner's Court**

### **Division 2.1            Establishment**

#### **4                    Establishment**

- (1) The Coroner's Court established under the *Coroners Act 1956*, section 3 continues in force as the Coroner's Court.
- (2) The court is constituted by a single coroner.
- (3) The court is a court of record.

### **Division 2.2            Appointment etc of coroners**

#### **5                    Coroners**

- (1) A magistrate, other than a special magistrate, is a coroner for the Territory.
- (2) The Chief Coroner may appoint a special magistrate as a coroner for the Territory.

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

#### **6                    Chief Coroner**

The person for the time being occupying the office of Chief Magistrate is the Chief Coroner.

#### **7                    Chief Coroner's functions**

- (1) The Chief Coroner is responsible for ensuring the orderly and expeditious discharge of the business of the court.
- (2) Subject to this Act, and after such consultation with the coroners of the court as is appropriate and practicable, the Chief Coroner must make such arrangements about the coroner who is to constitute a

court in a particular matter or class of matters as the Chief Coroner thinks fit.

## **8            Deputy coroners**

- (1) The Executive may, by instrument, appoint a person to be a deputy coroner.
- (2) The appointment is on the conditions not provided for by this Act or another territory law that are stated in the deputy coroner's instrument of appointment.

## **9            Deputy coroners' functions**

- (1) Subject to the directions of the Chief Coroner, a deputy coroner has and may exercise the functions of a coroner.
- (2) The Chief Coroner must not direct a deputy coroner to hold an inquest into a death in custody.
- (3) A deputy coroner who is a doctor is not competent or compellable to hold an inquest into the cause of the death of a person whom the deputy coroner attended professionally at or immediately before the death of the person or during the last illness of the person.

## **10          Oath to be taken by coroner or deputy coroner**

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

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

## **11          Registrar and deputy registrars**

- (1) The registrar of the Magistrates Court is the registrar of the court.



- (2) Each deputy registrar of the Magistrates Court is a deputy registrar of the court.
- (3) The registrar of the court may appoint such deputy registrars of the court as the registrar considers necessary for this Act.

### **11A Coroner for matter not available**

- (1) This section applies if a person who is a coroner constituting a court in a particular matter ceases to hold office as a coroner, or ceases to be available, before the coroner finishes dealing with the matter.
- (2) The Chief Coroner must arrange for another coroner to constitute the court in the matter.
- (3) The other coroner may deal with the matter as the other coroner considers appropriate.

#### **Example**

deal with the matter afresh

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

- (4) In this section:

***ceases to be available***—a person ***ceases to be available*** for a matter if the person is unable to act as a coroner in relation to the matter because of illness, absence or an inability or unwillingness to deal with the matter.

***matter*** includes a class of matters.

## **Part 3 Jurisdiction of coroners**

### **Division 3.1 Inquests into deaths**

#### **12 General functions and jurisdiction of coroner**

- (1) A coroner has the functions and jurisdiction given by this Act or any other territory law.
- (2) Except as otherwise provided by this Act, a coroner also has all the functions and jurisdiction that were vested in a coroner immediately before the commencement of the *Coroners Act 1956*.

#### **13 Coroner's jurisdiction in relation to deaths**

- (1) A coroner must hold an inquest into the manner and cause of death of a person who—
  - (a) dies violently, or unnaturally, in unknown circumstances; or
  - (b) dies under suspicious circumstances; or
  - (c) dies and the death appears to be completely or partly attributable to an operation or procedure (other than an operation or procedure prescribed by regulation for this paragraph); or
  - (d) dies after having undergone an operation or procedure and in circumstances that, in the opinion of the Chief Coroner, should be better ascertained; or
  - (e) dies and a doctor has not given a certificate about the cause of death; or
  - (f) dies not having been attended by a doctor at any time within the period commencing 6 months before the death; or
  - (g) dies after an accident where the cause of death appears to be directly attributable to the accident; or

- (h) dies, or is suspected to have died, in circumstances that, in the opinion of the Attorney-General, should be better ascertained; or
  - (i) dies in custody.
- (2) A coroner has jurisdiction to hold an inquest into the manner and cause of death, outside the ACT, of a person, if—
- (a) the person was ordinarily resident in the ACT; and
  - (b) the death happened in any of the circumstances referred to in subsection (1).
- (3) A coroner has jurisdiction to hold an inquest even though—
- (a) the body of the deceased—
    - (i) is not within the ACT; or
    - (ii) has been destroyed; or
    - (iii) is in a place from which it cannot be recovered; or
  - (b) in the case of a suspected death—the body of the deceased cannot be found.
- (4) In this section:
- operation or procedure*** means—
- (a) an operation of a medical, surgical, dental or similar nature; or
  - (b) an invasive medical or diagnostic procedure.

*Note* A coroner may, or may not, conduct a hearing into a death (see div 5.1 (Hearings)).

## **15 Control and release of body of deceased**

- (1) This section applies if—
- (a) a death happens in relation to which a coroner is required to hold an inquest; and

(b) the body of the deceased is in the ACT.

- (2) A coroner has control of the body of the deceased until a certificate authorising its release is given under subsection (3).
- (3) A coroner may give a certificate authorising the release of the body of the deceased if satisfied there is no reason why the body should not be buried, cremated, or taken out of the ACT for burial or cremation.
- (4) A deputy coroner may not give a certificate under subsection (3).

#### **17 Assistance to State and other Territory coroners**

- (1) A coroner may exercise any of the coroner's powers under this Act to assist a coroner of a State or another Territory in relation to a death in that State or other Territory.
- (2) If the Attorney-General requests, a coroner must exercise any of the coroner's powers under this Act to assist a coroner of a State or another Territory in relation to a death in that State or other Territory.

### **Division 3.2 Inquiries into fires**

#### **18 Coroner's jurisdiction in relation to fires**

- (1) A coroner must hold an inquiry into the cause and origin of a fire that has destroyed or damaged property if asked to do so by the Attorney-General.
- (2) A coroner may (at the request of the owner or occupier of destroyed or damaged property or on the coroner's own initiative) hold an inquiry into the cause and origin of a fire if the coroner considers that an inquiry should be held.
- (3) Where—

- (a) the owner or occupier of destroyed or damaged property requests a coroner to hold an inquiry into the cause and origin of a fire; and
- (b) the coroner is of the opinion that an inquiry into the cause and origin of the fire should not be held;

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

### **Division 3.3                      Inquiries into disasters**

#### **19                      Coroner's jurisdiction in relation to disasters**

- (1) The Chief Coroner must, if requested to do so by the Attorney-General, cause an inquiry to be held into the cause and origin of a disaster.
- (2) The Chief Coroner must not cause an inquiry to be held into the cause and origin of a disaster except with the consent of the Attorney-General.

## **Part 4 Post-mortem examinations and exhumations**

### **20 Dispensing with post-mortem examination**

- (1) A coroner may dispense with a post-mortem examination of a body if the coroner, after considering the information given to the coroner relating to the death, is satisfied that the manner and cause of death are sufficiently disclosed.
- (2) A coroner may dispense with a post-mortem examination of a body if, on the request of a member of the immediate family of the deceased or a representative of that person, the coroner is satisfied that the manner and cause of death are sufficiently disclosed.

### **21 Directions to doctors to conduct post-mortem examinations**

- (1) Subject to section 28, a coroner may, by order, direct a doctor to conduct a post-mortem examination of the body of a person who has died in any of the circumstances in relation to which the coroner has jurisdiction to hold an inquest.
- (2) A coroner may, by order, direct the same or another doctor to conduct a further or more complete post-mortem examination of a body if satisfied that it is desirable to do so.
- (3) Where a coroner makes an order under subsection (1) or (2) in relation to a person who has died in a hospital or an institution, the coroner may, by order, direct the person in charge of the hospital or institution to give the medical records relating to that person to the doctor specified in the order.
- (4) Unless otherwise directed by the coroner by order, the doctor to whom the records are given must return the records to the person in charge of the hospital or institution as soon as practicable after the completion of the post-mortem.

- (5) An order under subsection (1), (2) or (4) must be in writing.

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

If a doctor specified in an order under section 21 (1) or (2) is, for any reason, unable to conduct the post-mortem examination, the coroner may—

- (a) amend the order by substituting the name of another doctor; or
- (b) direct that a specified doctor conduct the post-mortem.

**23 Consideration of immediate family**

- (1) A coroner holding an inquest into a death (other than a death in custody) may, if requested to do so by a member of the immediate family of the deceased or a representative of that person, authorise—
- (a) the viewing of the body of the deceased by the member or a representative of that member; or
  - (b) an inspection of the scene of the death by the member or a representative of that member; or
  - (c) an inspection of the scene of an event which, in the opinion of the coroner, may have resulted in the death of the person; or
  - (d) the member or a representative of that member to be present at any post-mortem examination conducted on the body; or
  - (e) the same or another doctor to conduct a further post-mortem examination on the body.
- (2) If a coroner refuses to give an authorisation under subsection (1) on the ground that the coroner believes that it would not be in the public interest or the interests of justice to do so, the coroner must give to the person who made the request written notice of the refusal and an explanation for the refusal.

- (3) A notice under subsection (2) must include a statement that the person who made the request may apply to the Chief Coroner requesting that the coroner who made the decision reconsider the decision.

## **24 Reconsideration of decisions**

- (1) Where—
- (a) a coroner refuses to give an authorisation under section 23 (1); and
  - (b) the Chief Coroner receives a written application requesting that the coroner who refused to give the authorisation be requested to reconsider the decision;

the Chief Coroner must, if satisfied that the applicant has sufficient interest in the decision, request the coroner to whom the application relates to reconsider the decision.

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

## **25 Previous attending doctor entitled to observe post-mortem examination**

A doctor who attended a person professionally at or immediately before the person's death or during the person's last illness is entitled, on request, to be present as an observer at a post-mortem examination of the body of the deceased.

## **26 Removal of body to place of post-mortem examination**

- (1) Subject to section 28, if a coroner has reasonable grounds for believing that a person has died in circumstances in relation to which the coroner has jurisdiction to hold an inquest, the coroner may issue a warrant to a police officer named in the warrant authorising the police officer, with the assistance the police officer



considers necessary, to take and remove the body to a stated place for post-mortem examination.

- (2) A police officer named in the warrant may, at any time of the day or night, with the assistance the police officer considers necessary—
- (a) enter into and search, and, where necessary, break open, any house, building, premises or place, where the police officer has reasonable cause to suspect the body may be found; and
  - (b) remove the body to the place where the post-mortem examination is to be conducted.

## **27 Warrant for exhumation of body or recovery of ashes**

- (1) Subject to section 28, a coroner may issue a warrant for—
- (a) the exhumation for post-mortem examination of a body that has been buried; or
  - (b) if the body of the deceased has been cremated—the recovery of the ashes;

if the coroner is satisfied that—

- (c) there is reasonable cause to believe that the person died in circumstances in relation to which the coroner has jurisdiction to hold an inquest; and
  - (d) a post-mortem examination of the body or an analysis of the ashes of the deceased should be made.
- (2) If—
- (a) the body of a deceased person has been buried or cremated and the inquest concerning the death of that person has not been completed; or
  - (b) the Supreme Court has quashed an inquest and has directed that a fresh inquest be held;

a coroner may, if of the opinion that—

- (c) a post-mortem examination or a more complete post-mortem examination should be made of the body; or
- (d) an analysis or more complete analysis should be made of the ashes of the deceased;

issue a warrant for the exhumation of the body or, if practicable, for the recovery of the ashes for the post-mortem examination or analysis or the more complete post-mortem examination or analysis.

(3) Where—

- (a) the body of a person who died outside the ACT has been buried in the ACT or the ashes of a person who so died are in the ACT; and
- (b) a coroner having jurisdiction in the place where the person died informs a coroner that—
  - (i) an inquest is to be, or is being, held into the cause of the death of the person; and
  - (ii) it is desirable that a post-mortem examination or a more complete post-mortem examination should be made of the body or an analysis or more complete analysis be made of the ashes;

the coroner may issue a warrant for the exhumation of the body or for the recovery of the ashes of the deceased for a post-mortem examination or a more complete post-mortem examination or an analysis or more complete analysis of the ashes.

**28 Prior considerations before directing post-mortem examinations**

In deciding whether to—

- (a) make an order under section 21 (1); or

- (b) issue a warrant under section 26 or section 27;

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

## **29 Form of warrant for exhumation**

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

- (a) authorise the police officer to whom it is directed to exhume the body or recover the ashes of the person named in the warrant; and
- (b) direct the person to whom it is directed to take the body or ashes to the place specified in the warrant as the place for the post-mortem examination of the body or analysis of the ashes.

## **30 Reinterment of remains or ashes**

- (1) A coroner by whom a warrant for the exhumation of the body or the recovery of the ashes of a person was issued must, as soon as the coroner is satisfied that the exhumed body should be reinterred or the ashes returned to the person entitled to them, by order, direct a person named in the order to reinter the body or return the ashes.
- (2) The coroner must give a copy of an order under subsection (1) to a member of the immediate family of the deceased or a representative of that member.

## **31 Removal of body or ashes for purposes of inquest outside the ACT**

- (1) If—
- (a) the body of a person who has died outside the ACT is lying, or the ashes of a deceased are, in the ACT; and

- (b) a coroner is informed by a coroner having jurisdiction in the place where the person died that an inquest is to be held in that place into the manner and cause of the death of the person;

the coroner may make an order directing a person named in the order to remove the body or ashes to the place where the inquest is to be held.

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

### **32 Report by doctor or analyst**

If, under section 21, section 27 or section 71, a post-mortem examination of the body, or an analysis of the ashes, of a deceased is carried out, the person carrying out the examination or analysis must, as soon as practicable after the examination or analysis is completed—

- (a) give a report to the coroner by whom the order was made; and
- (b) if a request has been made under section 71—give a report to the person who made the request, or the person's representative or a representative (if any) of the deceased.

### **33 Assistance at post-mortems etc**

A coroner who—

- (a) makes an order for a post-mortem examination, reinterment or analysis of ashes; or

(b) issues a warrant for an exhumation of a body or the recovery of the ashes of a deceased;

may, by instrument, appoint a person or persons to assist in the examination, reinterment, exhumation, analysis or recovery.

## **Part 5 Inquests and inquiries**

### **Division 5.1 Hearings**

#### **34 Hearings**

For an inquest or inquiry, a coroner may conduct a hearing.

#### **34A Decision not to conduct hearing**

- (1) A coroner may decide not to conduct a hearing into a death if, after consideration of information given to a coroner relating to the death of a person, the coroner is satisfied that—
  - (a) the manner and cause of death are sufficiently disclosed; and
  - (b) a hearing is unnecessary.
- (2) A coroner must not dispense with a hearing into a death if the coroner has reasonable grounds for believing that the person died—
  - (a) in custody; or
  - (b) while under, or as a result of the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation.
- (3) A coroner who decides not to conduct a hearing into a death must give to the Chief Coroner and a member of the immediate family of the deceased written notice of the decision including the grounds for the decision.

#### **35 Time and place of hearing**

A coroner must fix the time and place of a hearing.

#### **36 Adjournment of hearing**

A coroner may, by order made in or outside the court, adjourn a hearing from time to time and from place to place.

### **37 Notification of immediate family**

- (1) Before conducting a hearing for an inquest into a death (other than a death in custody), the coroner must have regard to—
  - (a) whether a member of the immediate family of the deceased has been notified of the time and place of the hearing; or
  - (b) if a member of the immediate family of the deceased has not been notified of the time and place of the hearing—whether reasonable efforts have been made to do so.
- (2) Nothing in subsection (1) prevents a coroner from conducting a hearing if the coroner believes, on reasonable grounds, that it would be in the public interest or the interests of justice to do so.

### **38 Notice relating to conduct of hearing**

A coroner must, where practicable, not less than 14 days before conducting a hearing, give public notice of the date, time and place of the hearing.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

### **39 Inquests into non-custodial deaths and inquiries— discretion to appoint counsel assisting**

- (1) A coroner may appoint a lawyer as counsel to assist the coroner (*counsel assisting*) in an inquest (other than for a death in custody) or inquiry if the coroner is satisfied that—
  - (a) it is in the interests of justice to have a lawyer assist the coroner—
    - (i) in the inquest or inquiry; or
    - (ii) by appearing at a hearing in the inquest or inquiry; and
  - (b) the lawyer appointed—

- (i) has the appropriate skills and experience necessary to assist the coroner in the inquest or inquiry; and
- (ii) does not have an actual or perceived conflict of interest (based on the lawyer's personal or professional circumstances) that would prevent the lawyer from properly carrying out the functions of counsel assisting under this Act.

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

- (2) An appointment under subsection (1) may be made either generally or in relation to a particular matter.
- (3) If a coroner appoints the director of public prosecutions as counsel assisting in an inquest or inquiry, the director may, unless the appointment states otherwise, authorise a lawyer who meets the requirements mentioned in subsection (1) (b) to act in the director's name.

*Note* A coroner must appoint a lawyer as counsel assisting in an inquest into a death in custody, see s 72 (Inquest into death in custody—obligation to appoint counsel assisting).

### **39A Functions of counsel assisting**

- (1) The functions of counsel assisting include the following:
  - (a) assisting the coroner as required by the coroner in the inquest or inquiry;
  - (b) if there is a hearing for the inquest or inquiry—
    - (i) appearing at the hearing; and
    - (ii) presenting evidence and examining witnesses at the hearing;
  - (c) making submissions to the coroner on any matter relevant to the inquest or inquiry, including any findings that the coroner may make at the end of the inquest or inquiry;



- (d) acting in the public interest and the interests of justice to assist the coroner to decide matters of fact or law relevant to the inquest or inquiry.
- (2) Counsel assisting must tell the coroner as soon as practicable, in writing, if he or she becomes aware of any matter that could affect his or her eligibility to be appointed as, or ability to exercise the functions of, counsel assisting.
- (3) In this section:

*counsel assisting* means a lawyer appointed under section 39 or section 72.

*examining*, a witness, includes cross-examining and re-examining the witness.

### **39B Counsel assisting—revocation of appointment**

A coroner must revoke a lawyer's appointment under section 39 or section 72—

- (a) if satisfied on reasonable grounds that the lawyer is not, or is no longer, eligible for appointment under the section, or is unable to properly exercise the functions of counsel assisting; or
- (b) for any other reason prescribed by regulation.

### **40 Hearing in public except in certain cases**

- (1) Subject to subsection (2), a hearing must be in public.
- (2) If a coroner is of the opinion that it is desirable in the public interest or in the interests of justice to do so, the coroner may, by order—
  - (a) direct that a hearing or part of it must take place in private and give directions about the people who may be present; and
  - (b) give directions prohibiting or restricting the publication or disclosure of evidence whether or not a hearing has been held.

- (3) A person commits an offence if the person engages in conduct that contravenes an order.

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

**41 Hearing to be held without jury**

A hearing for an inquest or inquiry must be conducted without a jury.

**42 Representation at hearing**

A coroner may grant leave to a person—

- (a) who has been summoned to give evidence in relation to an inquest or inquiry; or
- (b) who, in the opinion of the coroner, has a sufficient interest in the subject matter of the inquest or inquiry;

to appear in person at a hearing or to be represented by a lawyer and, at the hearing, to examine and cross-examine witnesses on matters relevant to the inquest or inquiry to which the hearing relates.

**42A Appearance by audiovisual or audio links**

- (1) This section applies if, in relation to an inquest or inquiry, or a part of an inquest or inquiry (the relevant proceedings), the coroner has given a direction under the *Evidence (Miscellaneous Provisions) Act 1991*, section 20 (1) (Territory courts may take evidence and submissions from participating States) or section 32 (1) (Territory courts may take evidence and submissions from place other than participating State).
- (2) If this section applies, a person who in the relevant proceedings—
  - (a) is required or entitled to appear personally, whether under section 42 or as a witness; or

- (b) is entitled to appear for another person;  
may appear in the relevant proceedings and participate or give evidence in accordance with the direction.
- (3) A person who appears in relevant proceedings in accordance with this section is taken to be before the coroner.

## **Division 5.2                      Witnesses**

### **43                      Power of coroner to subpoena witnesses etc**

- (1) If a coroner is satisfied that—
  - (a) a person may be able to give evidence or produce a relevant document or other thing to the coroner; or
  - (b) a person who may be able to give evidence before a coroner will not voluntarily, or does not, appear at a particular time and on a particular date;the coroner may issue a subpoena requiring the person to appear before the coroner at a time and on a date specified in the subpoena—
  - (c) to give that evidence or produce that document or thing; or
  - (d) to give that evidence and produce a document or thing in the possession, custody or control of the person that is mentioned in the subpoena; or
  - (e) to produce a document or thing in the possession, custody or control of the person that is mentioned in the subpoena.
- (2) A person is taken to have complied with a subpoena under subsection (1) (a) if the person delivers the document or thing to the court before the date specified in the subpoena.

- (3) A person cannot rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to produce a document or other thing required under a subpoena.

*Note* The [Legislation Act](#), s 171 deals with client legal privilege.

- (4) However, any information, document or other thing obtained, directly or indirectly, because of the production of the document or other thing, is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for—
- (a) an offence in relation to the falsity or the misleading nature of the document or thing; or
  - (b) an offence against the [Criminal Code](#), chapter 7 (Administration of justice offences).

#### **44 Service of subpoena on witness**

- (1) A subpoena may be served on a witness—
- (a) personally; or
  - (b) by sending it to the witness's last-known place of residence or employment by a form of post that requires a signature on receipt; or
  - (c) by leaving it with a responsible adult at the witness's last-known place of residence or employment.
- (2) The subpoena must be accompanied by—
- (a) an undertaking to appear for signature by the person and return to a coroner by the date specified in the subpoena; and
  - (b) a form to be completed by the person to claim the person's reasonable costs and expenses of attendance at the inquest or inquiry.

- (3) A person is not entitled to refuse to comply with a subpoena because of a failure at the time the subpoena was served to give the person the form.
- (4) Service of a subpoena on a witness may be proved by the oath of the person who served it or by affidavit.

#### **45 Arrest of witness**

- (1) If—
  - (a) a subpoena under section 43 has been served on the person to whom it is directed; and
  - (b) the person fails to attend at the time and place specified in the subpoena;the coroner may issue a warrant for the arrest of the person.
- (2) A warrant under subsection (1) may be directed to all police officers, and any police officer may execute the warrant as if it had been directed specifically to the police officer by name.
- (3) The police officer who executes a warrant under subsection (2) must, as soon as possible after the arrest of the person named in the warrant, cause the person to be brought before a coroner.
- (4) Where a person so arrested is brought before a coroner, the coroner—
  - (a) may direct that the person remain in custody as the coroner directs; or
  - (b) may release the person upon the person entering into a recognisance, with or without sureties, in such sum as the coroner determines that the person will attend at a time and place specified in the recognisance.

- (5) If a person who has been released under subsection (4) (b) fails to attend at the time and place specified in the recognisance—
- (a) the coroner may issue a warrant for the arrest of the person; and
  - (b) the coroner may declare the recognisance of the person and the recognisance of the person's surety to be forfeited and—
    - (i) the declaration is taken to be the declaration of the forfeiture of a recognisance under the *Magistrates Court Act 1930*, section 254 (Enforcement of recognisance); and
    - (ii) the provisions of that section apply to the declaration accordingly.

**46 People about to leave ACT—examination and production of documents etc**

- (1) If, by evidence on oath, a coroner is satisfied that—
- (a) a person is able to give material evidence or to produce a relevant or material document or thing relating to an inquest or inquiry; and
  - (b) the person is likely to be absent from the ACT during the conduct of a hearing;

the coroner may order that the evidence of that person be taken or the document or thing be produced before the coroner, at any time before the hearing, in the same manner as the evidence would be taken or the document or thing be produced at the hearing.

- (2) When an order under subsection (1) is served on a person, it must be accompanied by a form to be completed by the person to claim the person's reasonable costs and expenses of attending the examination or production.

- (3) A person is not entitled to refuse to comply with an order under subsection (1) because of a failure at the time the order was served to give the person the form.

## **Division 5.3 Evidence and procedure**

### **47 Rules of evidence do not apply**

The rules of evidence do not apply to a proceeding before the Coroner's Court.

### **48 Evidence**

- (1) For an inquest or inquiry, a coroner may take evidence on oath and, for that purpose—

- (a) the coroner may require a witness to take an oath; and
- (b) the coroner, registrar or other appropriate officer of the court may administer an oath to a witness.

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

- (2) A coroner may—

- (a) require a witness to answer a question put to the witness; and
- (b) if a person appears before a coroner under a subpoena—require the person to give evidence or produce a document or thing stated in the subpoena.

- (3) A record of evidence made for an inquest or inquiry is not, only because it is such a record, admissible in any court as evidence that a person made the depositions included in the record.

- (4) Subsection (3) does not apply in relation to a prosecution for an offence against part 7 or the [Criminal Code](#), chapter 7 (Administration of justice offences).

## 49 Record of proceedings

(1) In this section:

*relevant provisions* means the following provisions of the *Magistrates Court Act 1930*:

- section 314 (Registrar to give directions for preparation of transcript)
- section 315 (Applications for transcripts)
- section 316 (Record of proceedings)
- section 317 (Record of proceedings and transcript).

(2) The relevant provisions apply in relation to the depositions of a witness who gives evidence at a hearing as if the depositions were depositions in a proceeding in the Magistrates Court and as if—

- (a) a reference to the Magistrates Court were a reference to a coroner; and
- (b) a reference to the registrar of the Magistrates Court were a reference to the registrar of the Coroner's Court; and
- (c) in section 315—the following subsection were substituted for subsection (2):

‘(2) A person is entitled to a copy of a record made at an inquest or inquiry only if the person has satisfied the registrar or a coroner that the person has good reason for applying for the copy.’; and
- (d) in section 316 (6)—proceedings at an inquest or inquiry were proceedings mentioned in that subsection; and
- (e) all other necessary changes, and any changes prescribed by regulation, were made.



**50 Informal request for evidence**

- (1) A coroner may, on being requested by a person having sufficient interest in an inquest or inquiry, request another person to give evidence relevant to the inquest or inquiry.
- (2) The request may be made to the coroner during an inquest or inquiry, or before or after a hearing.

**51 Access to documents etc**

A coroner may make available to any person with sufficient interest in an inquest or inquiry—

- (a) any document or thing that is produced at, or the coroner intends to consider in relation to, an inquest or inquiry; and
- (b) any evidence relevant to the inquest or inquiry to which the coroner intends to have regard.

**51A Practice and procedure for inquests and inquiries**

- (1) An inquest or inquiry must be conducted in accordance with any practice or procedure for taking a step in the inquest or inquiry that is prescribed under this Act or another territory law under which the step is to be taken.
- (2) However, if a practice or procedure for taking a step in an inquest or inquiry is not prescribed under this Act or another territory law—
  - (a) the Chief Coroner may give directions for the practice or procedure (a *coronial practice direction*) to be followed for the step; or
  - (b) if the Chief Coroner has not given a coronial practice direction for the step—the coroner holding the inquest or inquiry may give directions about the practice or procedure to be followed in the inquest or inquiry.

- (3) The rules may prescribe matters in relation to the practice and procedure for a hearing.
- (4) In this section:  
*rules* means rules under the *Court Procedures Act 2004* applying in relation to the Coroner's Court.

**51B Privilege in relation to self-incrimination in coronial inquest or inquiry**

- (1) This section applies if a witness for an inquest or inquiry objects to giving particular evidence, or evidence on a particular matter, on the ground that the evidence may tend to prove that the witness—
  - (a) has committed an offence against or arising under an Australian law or a law of a foreign country; or
  - (b) is liable to a civil penalty.
- (2) The coroner for the inquest or inquiry must decide whether or not there are reasonable grounds for the objection.
- (3) Subject to subsection (4), if the coroner decides that there are reasonable grounds for the objection, the coroner must not require the witness to give the evidence and must tell the witness—
  - (a) that the witness need not give the evidence unless required by the coroner to do so under subsection (4); and
  - (b) that the coroner will give a certificate under this section if the witness—
    - (i) willingly gives the evidence without being required to do so under subsection (4); or
    - (ii) gives the evidence after being required to do so under subsection (4); and
  - (c) of the effect of the certificate.

- (4) The coroner may require the witness to give the evidence if the coroner is satisfied that—
- (a) the evidence does not tend to prove that the witness has committed an offence against or arising under, or is liable to a civil penalty under, a law of a foreign country; and
  - (b) the interests of justice require that the witness give the evidence.
- (5) If the witness either willingly gives the evidence without being required to do so under subsection (4), or gives it after being required to do so under that subsection, the coroner must give the witness a certificate under this section in relation to the evidence.
- (6) The coroner must also give a witness a certificate under this section if—
- (a) the objection has been overruled; and
  - (b) after the evidence has been given, the coroner finds that there were reasonable grounds for the objection.
- (7) In any proceeding in an ACT court or before any entity authorised by a territory law, or by consent of parties, to hear, receive and examine evidence, the following evidence cannot be used against a person:
- (a) evidence given by the person in relation to which a certificate under this section has been given;
  - (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given evidence.
- (8) However, subsection (7) does not apply to a criminal proceeding in relation to the falsity of the evidence.
- (9) Subsection (7) has effect despite any challenge, review, quashing or calling into question on any ground of the decision to give, or the validity of, the certificate.

- (10) A reference in this section to doing an act includes a reference to failing to act.
- (11) A certificate under this section may only be given to a witness who is an individual.

## **Division 5.4 Findings and reports**

### **52 Coroner's findings**

- (1) A coroner holding an inquest must find, if possible—
  - (a) the identity of the deceased; and
  - (b) when and where the death happened; and
  - (c) the manner and cause of death; and
  - (d) in the case of the suspected death of a person—that the person has died.
- (2) A coroner holding an inquiry must find, if possible—
  - (a) the cause and origin of the fire or disaster; and
  - (b) the circumstances in which the fire or disaster happened.
- (3) At the conclusion of an inquest or inquiry, the coroner must record the coroner's findings in writing.
- (4) The coroner, in the coroner's findings—
  - (a) must—
    - (i) state whether a matter of public safety is found to arise in connection with the inquest or inquiry; and
    - (ii) if a matter of public safety is found to arise—comment on the matter; and
  - (b) may comment on any matter about the administration of justice connected with the inquest or inquiry.

**53 Interim findings**

A coroner may, at any time before concluding an inquest or inquiry, make an interim finding on any matter connected with the inquest or inquiry.

**54 Requests for copies of reports of findings**

- (1) A coroner holding an inquest (other than an inquest into a death in custody) must, on the request of a member of the immediate family of the deceased or a representative of that member, make available a copy of the coroner's findings to that member or representative.
- (2) A coroner holding an inquiry into a fire must, on the request of the owner of the property damaged or destroyed by the fire, make available a copy of the coroner's findings to the owner.

**55 Adverse comment in findings or reports**

- (1) A coroner must not include in a finding or report under this Act (including an annual report) a comment adverse to a person identifiable from the finding or report unless the coroner has, making the finding or report, taken all reasonable steps to give to the person a copy of the proposed comment and a written notice advising the person that, within a specified period (being not more than 28 days and not less than 14 days after the date of the notice), the person may—
  - (a) make a submission to the coroner in relation to the proposed comment; or
  - (b) give to the coroner a written statement in relation to it.
- (2) The coroner may extend, by not more than 28 days, the period of time specified in a notice under subsection (1).
- (3) If the person so requests, the coroner must include in the report the statement given under subsection (1) (b) or a fair summary of it.

## 56 Notification of registrar-general

- (1) A coroner must give notice, in writing, to the registrar-general of an inquest being held.
- (2) The coroner must—
  - (a) if—
    - (i) an inquest is adjourned because of a notice under section 58 (3) (a) or the presentation of an indictment under section 58 (4); or
    - (ii) the coroner decides that an inquest so adjourned is, or is not, to proceed further;give notice, in writing, to the registrar-general; or
  - (b) if the inquest—
    - (i) is adjourned (otherwise than as referred to in paragraph (a))—give written notice to the registrar-general of the particulars of any interim findings; or
    - (ii) is completed—give written notice to the registrar-general of the coroner's findings;

together with any particulars that are required to be entered by the registrar-general in the register under the *Births, Deaths and Marriages Registration Act 1997* that have come to the knowledge of the coroner.

## 57 Report after inquest or inquiry

- (1) A coroner may report to the Attorney-General on an inquest or an inquiry into a fire held by the coroner.
- (2) A coroner must report to the Attorney-General on an inquiry into a disaster.

- (3) A report by a coroner to the Attorney-General—
- (a) must be in writing; and
  - (b) must set out the coroner's findings about any serious risks to public safety that were revealed in the inquest or inquiry to which the report relates; and
  - (c) may make recommendations about matters of public safety if the recommendations—
    - (i) relate to the coroner's findings about a cause of death, fire or disaster; and
    - (ii) would, in the coroner's opinion, improve public safety.
- (4) If the coroner reports to the Attorney-General under this section, the coroner must give a copy of the report to the responsible Minister.
- (5) A responsible Minister who receives a report under subsection (4) must—
- (a) present the report to the Legislative Assembly not later than the first sitting week after the end of 6 months after the day the responsible Minister receives the report; and
  - (b) present a statement of the responsible Minister's response to the report on the same day the report is presented to the Legislative Assembly.
- (6) In this section:
- responsible Minister*** means the Minister responsible for the matter that is the subject of the inquest or inquiry to which a report under this section relates.

## Division 5.5 Indictable offences

### 58 Procedure where evidence of indictable offence or indictment to be presented

- (1) Subsection (3) applies if, during an inquest or inquiry, a coroner has reasonable grounds for believing that, having regard to the evidence given at the inquest or inquiry, a person mentioned at the inquest or inquiry has committed an indictable offence.
- (2) For subsection (1), the coroner must have regard to—
  - (a) the admissibility at trial of the evidence given at the inquest or inquiry; and
  - (b) whether the director of public prosecutions, or a person who may be affected by the referral to the director of public prosecutions of evidence relevant to the alleged offence, is, or has been, given the opportunity to present or give evidence in connection with the alleged offence.
- (3) The coroner—
  - (a) must, by written notice, tell the director of public prosecutions about the coroner's belief; and
  - (b) for a related indictable offence—must not proceed further with the inquest or inquiry until the day worked out under section 58A, other than to establish the following facts:
    - (i) for an inquest—the death of a person, the person's identity and the date and place of the person's death;
    - (ii) for an inquiry—the date and place of a fire or disaster.



- (4) Subsection (5) applies if, during an inquest or inquiry—
- (a) the director of public prosecutions, by written notice, tells the coroner holding the inquest or inquiry that an indictment will be presented against a person for a related indictable offence in relation to—
    - (i) the death of a person who is the subject of the inquest; or
    - (ii) the matter the subject of the inquiry; or
  - (b) the Attorney-General presents an indictment against the person for a related indictable offence.

*Note* **Indictment** includes information, and **present** an indictment includes lay an information (see [Legislation Act](#), dict, pt 1).

- (5) The coroner must not proceed further with the inquest or inquiry until the day worked out under section 58A unless the coroner limits the inquest or inquiry to establishing only the facts mentioned in subsection (3) (b) (i) or (ii).
- (6) A coroner must not continue holding an inquest or inquiry if satisfied that the inquest or inquiry should not be continued.
- (7) In this section:

**related indictable offence**, in relation to an inquest or inquiry, means an indictable offence that raises the issue of whether a person caused a death, suspected death, fire or disaster the subject of the inquest or inquiry.

## **58A When inquest or inquiry may proceed—s 58**

- (1) For section 58 (3) or (5), the coroner may proceed with the inquest or inquiry—
- (a) if a prosecution is not started on or before the day after the day that is 3 months after the day the coroner—
    - (i) gave notice to the director of public prosecutions under section 58 (3) (a); or

- (ii) received notice from the director of public prosecutions under section 58 (4) (a); or
  - (b) on a day after—
    - (i) the day the director of public prosecutions gives notice to the coroner that—
      - (A) no indictment is to be presented in relation to the related indictable offence; or
      - (B) if an indictment was presented in relation to the offence—the director of public prosecutions has discontinued or intends to discontinue the proceeding started by the indictment; or
    - (ii) if the person is not committed to stand trial for the offence (the person is *discharged*), and is not indicted for the offence by the director of public prosecutions or the Attorney-General within 28 days after the day the person is discharged—30 days after the day the person is discharged; or
    - (iii) if the person is committed for trial or indicted for the offence—the day after the day the director of public prosecutions gives notice to the coroner that the proceeding for the offence has been finally decided; or
    - (iv) if the person is found guilty of the offence, and the director of public prosecutions has not given notice under subparagraph (iii) that the proceeding for the offence is finally decided—30 days after the proceeding is finally decided.
- (2) A coroner may continue an inquest or inquiry after the day mentioned in subsection (1), but must not make a finding inconsistent with the judgment or verdict of the court that finally determined the guilt or innocence of the person for the related indictable offence.

## **Division 5.6            General powers of coroners**

### **59            Investigators**

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

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

- (2) An investigator appointed under subsection (1) must—
- (a) inquire into; and
  - (b) report in writing to the coroner on;  
any matter referred to the investigator by the coroner by the investigator's instrument of appointment.
- (3) The investigator's instrument of appointment must state—
- (a) details of the matters into which the investigator must inquire and report; and
  - (b) any conditions of the appointment; and
  - (c) any remuneration the investigator is entitled to receive.
- (4) An investigator who is a public servant is not entitled to be paid remuneration under subsection (3).
- (5) The coroner holding the inquest or inquiry in relation to which the investigations are made must have regard to the report of the investigator and give it the weight the coroner thinks fit.

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

- (1) A coroner must not be called to give evidence in a court or judicial proceedings about anything coming to the coroner's knowledge in exercising a function under this Act.
- (2) Subsection (1) does not apply in relation to proceedings against a coroner for an offence.

**61 Coroner not required to view the subject matter of inquest or inquiry**

Unless a coroner considers it advisable to do so, it is not necessary for the coroner—

- (a) to view the body or ashes of a person; or
- (b) to inspect the scene of an event, being an event that, in the opinion of the coroner, may have resulted in the death of the person; or
- (c) to view the scene of a fire or disaster.

**62 Coroner may act on a Sunday**

- (1) A coroner may hold an inquest, inquiry or hearing on a Sunday if of the opinion that it is necessary or desirable to do so.
- (2) A coroner may do any act or issue any subpoena, warrant or order on a Sunday.

**63 Police assistance**

- (1) A coroner may, in writing, request the chief police officer for the assistance of a police officer in an investigation for an inquest or inquiry.
- (2) The chief police officer must, as far as practicable, comply with a request under subsection (1).
- (3) Any act or thing done by a police officer pursuant to subsection (1) is taken to have been done by or on behalf of the coroner who made the request.

**64 Request for hearing or for reconsideration of certain decisions**

- (1) The Chief Coroner may, on application in writing by a person, arrange for a hearing to be conducted for an inquest or an inquiry into a fire.
- (2) Subject to subsection (3), the Chief Coroner must—
  - (a) on application by a person requesting that a coroner who made a decision to dispense with or to conclude a hearing, reconsider the decision; and
  - (b) if satisfied that the applicant has sufficient interest in the inquest or inquiry into a fire to which the hearing relates; request the coroner to whom the application relates to reconsider the decision.
- (3) If the application relates to a decision of the Chief Coroner, the Chief Coroner must, if satisfied that the applicant has sufficient interest in the inquest or inquiry into a fire, reconsider the decision.
- (4) An application made to the Chief Coroner must—
  - (a) be in writing; and
  - (b) set out the grounds on which the person relies.
- (5) The coroner must respond to the Chief Coroner's request within 14 days after receipt of the request.
- (6) If—
  - (a) after reconsidering the original finding, the coroner who made it notifies the Chief Coroner that the coroner does not intend to conduct a hearing or to alter the finding; or

- (b) the coroner in relation to whose finding the request was made is unavailable (for whatever reason) to reconsider the finding;  
the Chief Coroner must arrange for a hearing to be conducted, if satisfied that a hearing should be conducted.
- (7) The Chief Coroner, within 14 days after receiving the coroner's response under subsection (5), must—
- (a) if the coroner intends to conduct a hearing, or the Chief Coroner is satisfied under subsection (6) that a hearing should be conducted—give the applicant notice in writing that a hearing will be conducted; or
  - (b) if the Chief Coroner is not satisfied under subsection (6) that a hearing should be conducted—give the applicant the following:
    - (i) notice in writing that a hearing will not be conducted;
    - (ii) if the coroner was available to reconsider the original finding—a written statement setting out any comments by the coroner in response to the applicant's request, and the coroner's reasons for not conducting a hearing or altering the original finding;
    - (iii) a written statement setting out the Chief Coroner's reasons for not being satisfied that a hearing should be conducted.
- (8) An explanation under subsection (7) (b) (ii) must include a statement to the effect that application may be made to the Supreme Court, within 30 days after receipt of the notice, for an order that a hearing be conducted.

**65 Restriction of access**

(1) A coroner holding an inquest or an inquiry may take reasonable steps to restrict access to the scene of the death of a person, the scene of an event that, in the opinion of the coroner, may have resulted in the death, or the place where the fire or disaster happened.

(2) A person commits an offence if the person enters or interferes with an area to which access is restricted under subsection (1).

Maximum penalty: 100 penalty units.

(3) An offence against this section is a strict liability offence.

(4) This section does not apply to a police officer, a member of an emergency service or a person assisting the coroner unless the coroner orders otherwise.

**66 Search warrants**

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

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

(a) to enter a place; and

(b) to search the place for a document or thing relevant to the inquest or inquiry; and

(c) to take any measurements or photographs of the place or any thing in or on the place; and

(d) to inspect, or take copies of, or extracts from, any document in or on the place that is, or is reasonably believed to be, relevant to the inquest or inquiry; and

- (e) to seize any document or thing that the coroner believes on reasonable grounds to be relevant to the inquest or inquiry; and
  - (f) to deliver anything so seized to the coroner.
- (3) A warrant may authorise an investigator to accompany the police officer named in the warrant and to exercise any of the powers under subsection (2) that are specified in the warrant.
- (4) A warrant must—
  - (a) state the purpose for which it is issued; and
  - (b) specify particular hours during which the entry is authorised or state that the entry is authorised at any time of the day or night; and
  - (c) include a description of the kind of things in relation to which the powers under the warrant may be exercised; and
  - (d) specify the date, being a date not later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.
- (5) A warrant may be executed, in accordance with its terms, at any time during the period commencing on the date of issue of the warrant and ending at the expiration of the date specified for the purpose of subsection (4) (d).
- (6) Before exercising a power under a warrant, the person executing the warrant must give a copy of the warrant to the owner or occupier of the place to which it relates.
- (7) If, in the course of searching under a warrant for a thing relevant to an inquest or inquiry—
  - (a) the person executing the warrant finds a thing that the person believes on reasonable grounds to be connected with the matter into which the coroner is inquiring, although not of a kind specified in the warrant; and



- (b) the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its being concealed, lost, mutilated, destroyed or disposed of;

the person may seize that thing and must deliver it to the coroner.

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

- (1) A coroner may—
  - (a) inspect a document or other thing produced before, or delivered to, the coroner and make copies of, or take extracts from, any parts of the document that are relevant to a matter the subject of the inquest or inquiry; and
  - (b) retain possession of the document or thing for the period necessary for the inquest or inquiry to which the document or thing relates.
- (2) A person otherwise entitled to possession of a document retained under subsection (1) (b) is entitled to be supplied with a copy of the document certified by the coroner to be a true copy.
- (3) A certified copy of a document must be received in all courts as evidence as if it were the original.
- (4) Until the certified copy is supplied, the coroner must, at any times and places the coroner thinks appropriate, permit—
  - (a) the person otherwise entitled to possession of the document; or
  - (b) a person authorised by that person;to inspect and make copies of, or take extracts from, the document.
- (5) If the retention of a document or other thing by a coroner ceases to be necessary for an inquest or inquiry, the coroner must, if a person who appears to the coroner to be entitled to the document or thing requests, give the document or thing to the person.

- (6) On the completion of an inquest or inquiry, a coroner must take all reasonably practical steps to give any thing taken or seized under this division to the person whom the coroner reasonably believes to be entitled to it.

**68 Chief Coroner—power to hold fresh inquest or inquiry**

- (1) Even though an inquest or an inquiry into a fire has been completed, the Chief Coroner may—
- (a) of the Chief Coroner’s motion; or
  - (b) at the request of a person;
- arrange for the holding of a fresh inquest or an inquiry into the fire.
- (2) The Chief Coroner must not arrange for the holding of an inquest or inquiry under subsection (1) unless satisfied that—
- (a) by reason of the discovery of new facts or evidence of material significance to the inquest or inquiry that was not available to be put before a coroner at the time of the previous inquest or inquiry; and
  - (b) it is desirable in the public interest or the interests of justice to do so.

**Division 5.7 Other requirements**

**68A Coroner to give information to immediate family**

- (1) A coroner required to hold an inquest must tell a member of the immediate family of a deceased person (a *family representative*) to whom the inquest relates that an inquest will be held.
- (2) After the inquest has begun, the coroner holding the inquest must take reasonable steps to ensure that any information prescribed by regulation is given to a family representative.

- (3) However, a requirement under subsection (1) or (2) does not apply if the coroner is satisfied on reasonable grounds that—
- (a) for subsection (1)—no member of the immediate family wishes to be told about the holding of an inquest, or it is impracticable to tell any of the members of the immediate family; or
  - (b) for subsection (2)—no member of the immediate family wishes to be given information prescribed for the subsection, or it is impracticable to give the information to any of the members of the immediate family.
- (4) When carrying out a requirement under this section—
- (a) the coroner must, as far as practicable, select a family representative who is in a position to give members of the immediate family information from the coroner; and
  - (b) the coroner may select more than 1 family representative.

## Part 5A Coronial investigation scenes

### 68B Definitions—pt 5A

In this part:

*coronial investigation scene* means a coronial investigation scene established under section 68D.

*coronial investigation scene declaration* means a declaration made under section 68F (2).

*coronial investigation scene order* means an order issued under section 68C (1), and includes an order extended under section 68C (4).

*coronial investigation scene power* means a power mentioned in section 68E.

### 68C Coronial investigation scene order

- (1) If a coroner is satisfied that an investigation for an inquest or inquiry should be carried out at a particular place, the coroner may issue an order to a police officer or other person to—
  - (a) establish a coronial investigation scene at a stated place; and
  - (b) exercise coronial investigation scene powers at the place stated in the order; and
  - (c) enter and stay at the place for those purposes.
- (2) A coronial investigation scene order—
  - (a) may be issued at any time before the end of an inquest or inquiry; and
  - (b) must state—
    - (i) the date and time the order is issued; and

- (ii) the date, within 30 days after the order was made, the order ends; and
  - (iii) any conditions applying under the order.
- (3) A coroner may, before a coronial investigation order ends (a *current order*), order an extension of the current order for an additional period (an *extension period*) if—
  - (a) the date the extension period ends is within 30 days after the day the current order ends; and
  - (b) the coroner is satisfied that an extension of the current order is in the interests of justice.
- (4) A coroner may make an order under subsection (3)—
  - (a) more than once; and
  - (b) whether or not the coroner issued the current order.
- (5) A coronial investigation scene order may be issued to a police officer in writing or orally or to anyone else in writing.
- (6) However, an order that is issued to a police officer orally must, as soon as practicable, be given to the police officer in writing.
- (7) A police officer acting under a coronial investigation scene order may obtain the assistance of anyone else for the purpose of exercising powers under section 68E (Coronial investigation scene powers).
- (8) In this section:

*place* means a place of any kind, whether or not a public place.

**68D Establishment of coronial investigation scene**

- (1) A police officer may establish a coronial investigation scene under a coronial investigation scene order in any way that is reasonably appropriate in the circumstances.
- (2) A police officer who establishes a coronial investigation scene at a place must, if reasonably appropriate in the circumstances, tell the public that the place is a coronial investigation scene.

**68E Coronial investigation scene powers**

A police officer may, in accordance with a coronial investigation scene order, exercise any of the following powers at, or in relation to, a coronial investigation scene if the police officer suspects on reasonable grounds that it is necessary to do so to preserve evidence related to the coronial investigation:

- (a) direct a person to leave the scene or remove a vehicle, vessel or aircraft from the scene;
- (b) remove from the scene—
  - (i) a person who fails to comply with a direction to leave the scene; or
  - (ii) a vehicle, vessel or aircraft if a person fails to comply with a direction to remove it from the scene;
- (c) direct a person not to enter the scene;
- (d) prevent a person from entering the scene;
- (e) prevent a person from removing evidence from, or otherwise interfering with, the scene or anything in it and, for that purpose, detain and search the person;
- (f) remove an obstruction from the scene;

- (g) perform any necessary investigation;

**Examples**

- 1 search the scene
- 2 inspect anything in the scene to obtain evidence in relation to an inquest or inquiry

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

- (h) conduct any necessary examination or process;
- (i) open anything at the scene that is locked;
- (j) take electricity, gas or any other utility, for use at the scene;
- (k) photograph or otherwise record the scene and anything in it;
- (l) seize and detain all or part of a thing that might provide evidence in relation to an inquest or inquiry or provide evidence of the commission of an offence;
- (m) dig up anything at the scene;
- (n) remove wall or ceiling linings or floors of a building, or panels of a vehicle;
- (o) take possession of the remains of a deceased person on behalf of the coroner, including body tissue, clothing and items apparently in the possession of the deceased person;
- (p) remove or cause the removal of the remains of a deceased person to any location nominated by the coroner;
- (q) anything else reasonably necessary or incidental to the investigation.

**68F Senior police officer may establish scene for expected coronial investigation**

- (1) This section applies if—
  - (a) a coroner is not available to decide whether to issue a coronial investigation scene order for a particular place; and
  - (b) a senior police officer believes on reasonable grounds that—
    - (i) a coroner is likely to issue a coronial investigation scene order for the place; and
    - (ii) it is necessary to preserve the integrity of anything found at the place that appears relevant to the death of a person.
- (2) The senior police officer may make a coronial investigation scene declaration for the place.
- (3) A coronial investigation scene declaration—
  - (a) comes into force when it is made by the senior police officer; and
  - (b) ends when whichever of the following happens first:
    - (i) a coronial investigation order is issued for the place;
    - (ii) the period of 24 hours after the declaration was made ends; and
  - (c) may include any conditions on the exercise of a power mentioned in subsection (4) that the senior police officer considers appropriate.
- (4) While a declaration is in force, a police officer at the place may, subject to any condition in the declaration, exercise any power mentioned in section 68E (Coronial investigation scene powers) as if the declaration were a coronial investigation scene order.
- (5) A coronial investigation scene declaration may be made in writing or orally.



(6) However, a declaration made orally must, as soon as practicable, be made in writing.

(7) In this section:

*senior police officer* means the chief police officer or another police officer of or above the rank of superintendent.

### **68G Exercise of investigation scene powers under pt 5A**

(1) Investigation scene powers given to a police officer under this part may be exercised by the police officer in any way that—

(a) the officer considers reasonable in the circumstances; and

(b) is consistent with—

(i) if a coronial investigation scene order applies—the order; and

(ii) if a coronial investigation scene declaration applies—the declaration.

(2) If a police officer secures a place, the officer must, if it is reasonable in the circumstances, give notice to members of the public that the place is an investigation scene.

(3) In this section:

*investigation scene power*, under this part, means a power exercisable by a police officer, under section 68E or section 68F (4).

### **68H Part does not limit other powers**

Nothing in this part limits any power that a police officer has under another law in force in the Territory to enter a place or do anything else when at the place.

## Part 6 Deaths in custody—additional provisions

### 69 Consideration of deceased's family etc

- (1) The coroner must not conduct a hearing into a death in custody unless satisfied that—
  - (a) a member of the immediate family of the deceased has been notified of the time and place of the hearing; or
  - (b) reasonable efforts to notify a member of the immediate family of the deceased have been made but were unsuccessful;and, if the deceased was an Aboriginal or Torres Strait Islander person, the appropriate local Aboriginal legal service has been notified.
- (2) Nothing in subsection (1) prevents a coroner from conducting a hearing if the coroner believes, on reasonable grounds, that it would be in the public interest or the interests of justice to do so.

### 70 Viewing of body etc

- (1) The coroner holding an inquest into a death in custody must, if requested to do so by a member of the immediate family of the deceased or a representative of that member, authorise—
  - (a) the viewing of the body of the deceased by the member or a representative of that member; or
  - (b) an inspection of the scene of the death by the member or a representative of that member; or
  - (c) the member or a representative of that member to be present at any post-mortem examination conducted on the body; or

(d) the same or another doctor to conduct a further post-mortem examination on the body;

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

- (2) If a coroner does not give an authorisation under subsection (1) the coroner must give written notice of the decision and the reasons for the decision—
- (a) to the person by whom the request was made; and
  - (b) if the deceased was an Aboriginal or Torres Strait Islander person—to an appropriate local Aboriginal legal service.

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

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

## **72 Inquest into death in custody—obligation to appoint counsel assisting**

- (1) The coroner holding an inquest into a death in custody must appoint a lawyer as counsel to assist the coroner (*counsel assisting*).

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

- (2) An appointment under subsection (1) may be made either generally or in relation to a particular matter.
- (3) A lawyer appointed under subsection (1)—
- (a) must have the appropriate skills and experience necessary to assist the coroner in the inquest; and

- (b) must not have an actual or perceived conflict of interest (based on the lawyer's personal or professional circumstances) that would prevent the lawyer from properly carrying out the functions of counsel assisting under this Act.

*Note* Section 39A (Functions of counsel assisting) and s 39B (Counsel assisting—revocation of appointment) apply to counsel assisting in an inquest into a death in custody.

- (4) If a coroner appoints the director of public prosecutions as counsel assisting in an inquest into a death in custody, the director may, unless the appointment states otherwise, authorise a lawyer who meets the requirements mentioned in subsection (3) to act in the director's name.

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

The registrar must keep a record of the inquest into a death in custody for a period of not less than 7 years after the completion of the inquest.

### **74 Findings about quality of care, treatment and supervision**

The coroner holding an inquest into a death in custody must include in a record of the proceedings of the inquest findings about the quality of care, treatment and supervision of the deceased that, in the opinion of the coroner, contributed to the cause of death.

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

- (1) After the coroner has completed an inquest into a death in custody, the coroner must, in writing, report the findings to—
  - (a) the Attorney-General; and
  - (b) the custodial agency in whose custody the death happened and to the Minister responsible for that agency; and
  - (c) the Australian Institute of Criminology; and

- (d) if the deceased was an Aboriginal or Torres Strait Islander person—an appropriate local Aboriginal legal service; and
  - (e) any other person whom the coroner considers appropriate.
- (2) The coroner must make available a copy of a report of the findings into a death in custody to—
- (a) a member of the immediate family of the deceased or a representative of that member; and
  - (b) a witness who appeared at an inquest into the death.

## **76 Response to reports**

- (1) The custodial agency to which a report is given under section 75 must, not later than 3 months after the date of receipt of the report, give to the Minister responsible for the custodial agency a written response to the findings contained in the report.
- (2) A written response under subsection (1) must include a statement of the action (if any) that has been, or is being, taken in relation to any aspect of the findings contained in the report.
- (3) The Minister who receives a response under subsection (1) must give a copy of the response to the coroner in relation to whose findings the response relates—
- (a) as soon as practicable after receiving it; or
  - (b) if a response under section 57 (5) (b) is required to be presented to the Legislative Assembly in relation to the same inquest, and the Minister believes it is necessary to delay giving the response—no later than the day the response under section 57 (5) (b) is presented to the Legislative Assembly.
- (4) The coroner must give a copy of the response to each person or agency to whom a copy of the report was given under section 75.

## Part 7 Offences

### 76A Application of Criminal Code, ch 7

- (1) A proceeding before the coroner is a legal proceeding for the [Criminal Code](#), chapter 7 (Administration of justice offences).

*Note* That chapter includes offences (eg perjury, falsifying evidence, failing to attend and refusing to be sworn) applying in relation to coronial proceedings.

- (2) To remove any doubt, a decision or action the coroner takes under any of the following provisions is a legal proceeding for that chapter:
- (a) section 34A (Decision not to conduct hearing);
  - (b) section 20 (Dispensing with post-mortem examination);
  - (c) section 27 (Warrant for exhumation of body or recovery of ashes).

### 77 Obligation to report death

- (1) A person commits an offence if the person—
- (a) knows that a death has happened; and
  - (b) has reasonable grounds to believe that—
    - (i) a coroner would have jurisdiction to hold an inquest in relation to the death; and
    - (ii) the death has not been reported to a coroner or a police officer; and
  - (c) does not report the death to a coroner or a police officer as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A police officer commits an offence if the police officer—
- (a) knows that a death has happened; and
  - (b) has reasonable grounds to believe that—
    - (i) a coroner would have jurisdiction to hold an inquest in relation to the death; and
    - (ii) the death has not been reported to a coroner; and
  - (c) does not report the death to a coroner as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **78 Death in custody—obligation to report**

A custodial officer commits an offence if the custodial officer—

- (a) knows of a death in custody; and
- (b) has reasonable grounds to believe that the death has not been reported to a coroner; and
- (c) does not report the death to a coroner as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **83 Improper dealing with body or ashes of dead person**

A person commits an offence if—

- (a) the person has reasonable grounds to believe that a post mortem examination of the body, or an analysis of the ashes, of a dead person has been, or may be, ordered under this Act; and

- (b) the person interferes with or removes the body or ashes of the dead person with the intention of preventing or hindering the holding of a post-mortem examination of the body, or an analysis of the ashes, being conducted under this Act.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

## **89 Acts and omissions of representatives**

- (1) In this section:

*person* means an individual.

*Note* See the [Criminal Code](#), pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
  - (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
    - (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
    - (b) the representative had the state of mind.



- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

## Part 8 Powers of Supreme Court

### 90 Application to hold hearing for inquest or inquiry into fire

A person to whom notice under section 64 (7) (b) (i) has been given may, within 30 days after receipt of the notice, apply to the Supreme Court for an order that a hearing into a death or fire be conducted.

### 91 Supreme Court—general

The Supreme Court may, on application by a person, if it is of the opinion that it would be in the interests of justice to do so, make an order directing a coroner to conduct a hearing into a death or fire.

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

- (1) The Supreme Court may make an order directing a coroner to conduct a hearing into a death or fire if, on an application made by or under the authority of the Attorney-General or by anyone else, it is satisfied that—
  - (a) a coroner does not intend to conduct a hearing into a death or fire; and
  - (b) it is in the public interest or the interests of justice that a hearing into a death or fire should be conducted.
- (2) If an application is made under subsection (1) by a person (other than the Attorney-General or someone acting under the Attorney-General's authority), the application must be served on the Attorney-General.
- (3) The Attorney-General may appear on the hearing of any application under subsection (1).

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

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

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

- (2) If an application is made under subsection (1) by a person (other than the Attorney-General or someone acting under the Attorney-General's authority), the application must be served on the Attorney-General.
- (3) The Attorney-General may appear on the hearing of any application under subsection (1).

## Part 9 Witness expenses and other amounts

### 98 Witness expenses

A coroner may allow a witness who gives evidence before the coroner, whether or not the witness was subpoenaed to attend, witness expenses assessed in accordance with the *Court Procedures Rules 2006*, schedule 4.

### 99 Amounts payable to assistants

A person who, for this Act, assists—

- (a) in the exhumation of a body; or
- (b) in the conduct of a post-mortem examination or the analysis of the ashes of the deceased; or
- (c) in the reintering of a body;

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

## Part 10 Miscellaneous

### 99A Contempt of Coroner's Court

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

**Examples—par (b)**

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

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

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

**99B Protection if information given to coroner**

- (1) An entity may give information to a coroner if—
- (a) a coroner asks the entity for the information in connection with the exercise of the coroner's functions under this Act; or
  - (b) the entity believes on reasonable grounds that the information is relevant to the exercise of the coroner's functions under this Act.

**Example**

information from a theatre nurse who was present during an operation where the patient died unexpectedly

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

- (2) If an entity gives information to a coroner under this section—
- (a) giving the information is not—
    - (i) a breach of confidence; or
    - (ii) a breach of professional etiquette or ethics; or
    - (iii) a breach of a rule of professional conduct; and
  - (b) the entity does not incur civil or criminal liability only because of giving the information; and
  - (c) for an entity who is a public servant—the entity is not liable to administrative action (including disciplinary action or dismissal) only because of giving the information.

**100 Deaths in institutions—retention of records of dead person**

- (1) If a person dies while a patient in a hospital or other institution in circumstances in which a coroner has jurisdiction to hold an inquest, the person in charge of the hospital or institution must ensure that all records relating to the person who died are kept for at least 3 years after the day of the death.

Maximum penalty: 50 penalty units.

- (2) If a person dies in custody, the responsible person must ensure that all records relating to the person who died are kept for at least 7 years after the day of the death.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) In subsection (2):

*responsible person*, in relation to a person who died in custody, means—

- (a) if the person died in a hospital or other institution—the person in charge of the hospital or institution; or
- (b) in any other case—the person in charge of the custodial agency in whose custody the person was when the person died.

**101 Court seal**

The Coroner's Court must have a seal.

**102 Annual report of court**

- (1) The Chief Coroner must give a report relating to the activities of the court during each financial year to the Attorney-General for presentation to the Legislative Assembly.

- (2) The report must include particulars of—
  - (a) reports prepared by coroners into deaths in custody and findings contained in the reports; and
  - (b) notices given under section 34A (3) (Decision not to conduct hearing); and
  - (c) recommendations made under section 57 (3) (Report after inquest or inquiry); and
  - (d) responses of agencies under section 76 (Response to reports) including correspondence about the responses.
- (3) The Chief Coroner must give the report to the Attorney-General as soon as practicable after the end of the financial year and, in any event, within 6 months after the end of the financial year.
- (4) If the Chief Coroner considers that it will not be reasonably practicable to comply with subsection (3), the Chief Coroner may within that period apply, in writing, to the Attorney-General for an extension of the period.
- (5) The application must include a statement of reasons for the extension.
- (6) The Attorney-General may give the extension (if any) the Attorney-General considers reasonable in the circumstances.
- (7) If the Attorney-General gives an extension, the Attorney-General must present to the Legislative Assembly, within 3 sitting days after the day the extension is given—
  - (a) a copy of the application given to the Attorney-General under subsection (4); and
  - (b) a statement by the Attorney-General stating the extension given and the Attorney-General's reasons for giving the extension.



- (8) The Attorney-General must present a copy of a report under this section to the Legislative Assembly within 6 sitting days after the day the Attorney-General receives the report.
- (9) If the Chief Coroner fails to give a report to the Attorney-General in accordance with this section, the Chief Coroner must give the Attorney-General a written statement explaining why the report was not given to the Attorney-General.
- (10) The statement must be given to the Attorney-General within 14 days after the end of the period within which the report was required to be given to the Attorney-General.
- (11) The Attorney-General must present a copy of the statement to the Legislative Assembly within 3 sitting days after the day the Attorney-General receives the statement.

### **103 Regulation-making power**

- (1) The Executive may make regulations for this Act.  
*Note* Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).
- (2) A regulation may make provision in relation to the practice and procedures to be followed in inquests and inquiries.

## Part 12 Transitional—Courts Legislation Amendment Act 2015 (No 2)

### 120 Special magistrates

- (1) A special magistrate under the *Magistrates Court Act 1930* who is a coroner immediately before this part commences continues to be a coroner as if the *Courts Legislation Amendment Act 2015 (No 2)* had not been enacted.
- (2) This part expires 1 year after the day it commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

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## Schedule 1 Oath or affirmation of office

(see s 10)

### Part 1.1

#### Oath

I, [name], do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

#### Affirmation

I, [name], do solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

## Part 1.2

### Oath

I, [name], do swear that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.

### Affirmation

I, [name], do solemnly and sincerely affirm that I will well and truly serve in the office of [insert name of office] and that I will do right to all manner of people according to law, without fear or favour, affection or ill will.

## Dictionary

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- Act
- ACT
- appoint
- Attorney-General
- Chief Magistrate
- child
- clerk
- correctional centre
- corrections officer
- Deputy Speaker
- director-general (see s 163)
- director of public prosecutions
- doctor
- domestic partner (see s 169 (1))
- establish
- Executive
- exercise
- function
- give
- indictable offence
- individual
- in relation to
- instrument
- law
- lawyer
- magistrate

- Minister (see s 162)
- oath
- occupy
- parent
- person (see s 160)
- police officer
- power
- proceeding
- property
- public servant
- registrar-general
- regulation
- sitting day
- Speaker
- Supreme Court
- the Territory
- under.

***Aboriginal or Torres Strait Islander person*** means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and
- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

***body*** includes part of a body, and the remains of a body.

***Chief Coroner*** means the person who is Chief Coroner under section 6.

***chief psychiatrist***—see the [Mental Health Act 2015](#), dictionary.

***coroner*** includes a deputy coroner appointed under section 8.

**coronial investigation scene**, for part 5A (Coronial investigation scenes)—see section 68B.

**coronial investigation scene declaration**, for part 5A (Coronial investigation scenes)—see section 68B.

**coronial investigation scene order**, for part 5A (Coronial investigation scenes)—see section 68B.

**coronial investigation scene power**, for part 5A (Coronial investigation scenes)—see section 68B.

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

**custodial officer**—see section 3D.

**death** includes a suspected death.

**death in custody**—see section 3C.

**disaster** means an occurrence in the ACT due to natural or other causes that—

- (a) caused or threatened to cause substantial—
  - (i) loss of life or property; or
  - (ii) injury or distress to persons or damage to property or the environment; or
- (b) in any way substantially endangered the safety of the public in any part of the ACT.

**engage in conduct** means—

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

**hearing** means a hearing for an inquest or inquiry under division 5.1.

**inquest** means an inquest concerning the death of a person.

***inquiry*** means an inquiry concerning a disaster or fire.

***member of the immediate family***, for a deceased person the subject of an inquest, means—

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

*Note* For the meaning of ***domestic partner***, see the [Legislation Act](#), s 169.

***mental health officer***—see the [Mental Health Act 2015](#), dictionary.

***place*** includes a vehicle, a vessel or an aircraft.

***post-mortem examination*** means the inspection of a body to determine the cause of death and may, but need not, include dissection of the body.

**Examples**

- external post-mortem examination, including taking skin or other samples
- post-mortem examination using computed tomography (CT)
- post-mortem examination using magnetic resonance imaging (MRI)

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

***registrar*** means the registrar of the Coroner’s Court appointed under section 11, and includes a deputy registrar.



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Coroners Act 1997 A1997-57**

notified 9 October 1997 ([Gaz 1997 No S300](#))

commenced 9 October 1997 (s 2)

as amended by

#### **[Legal Practitioners \(Consequential Amendments\) Act 1997 A1997-96](#) sch 1**

notified 1 December 1997 ([Gaz 1997 No S380](#))

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch 1 commenced 1 June 1998 (s 2 (2))

#### **[Statute Law Revision \(Penalties\) Act 1998 A1998-54](#) sch**

notified 27 November 1998 ([Gaz 1998 No S207](#))

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and [Gaz 1998 No 49](#))

#### **[Custodial Escorts \(Consequential Provisions\) Act 1998 A1998-67](#) pt 3**

notified 23 December 1998 ([Gaz 1998 No S212](#))

s 1, s 2 commenced 23 December 1998 (s 2 (1))

pt 3 commenced 23 December 1998 (s 2 (2) and [Gaz 1998 No 51](#))

#### **[Courts and Tribunals \(Audio Visual and Audio Linking\) Act 1999](#) A1999-22 pt 5**

notified 14 April 1999 ([Gaz 1999 No S16](#))

s 1, s 2 commenced 14 April 1999 (s 2 (1))

pt 5 commenced 1 September 1999 (s 2 (2) and [Gaz 1999 No 35](#))

#### **[Mental Health \(Treatment and Care\) \(Amendment\) Act 1999 A1999-31](#) sch 2**

notified 25 June 1999 ([Gaz 1999 No S34](#))

s 1, s 2 commenced 25 June 1999 (s 2 (1))

sch 2 commenced 1 October 1999 (s 2 (2))

#### **[Children and Young People \(Consequential Amendments\) Act 1999](#) A1999-64 sch 2**

notified 10 November 1999 ([Gaz 1999 No 45](#))

s 1, s 2 commenced 10 Nov 1999 (s 2 (1))

sch 2 commenced 10 May 2000 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2000****A2000-1 sch**

notified 9 March 2000 ([Gaz 2000 No 10](#))  
s 1, s 2 commenced 9 March 2000 (IA s 10B)  
amdt to repeal ss 94-97 commenced 9 September 2000 (IA s 10E)  
remaining amdts commenced 9 March 2000 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2000****(No 3) A2000-17 sch 1**

notified 1 June 2000 ([Gaz 2000 No 22](#))  
commenced 1 June 2000 (s 2)

**Coroners Amendment Act 2001 A2001-6**

notified 8 March 2001 ([Gaz 2001 No 10](#))  
commenced 8 March 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 A2001-44 pt 84**

notified 26 July 2001 ([Gaz 2001 No 30](#))  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 84 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

**Supreme Court Amendment Act 2001 (No 2) 2001 No 54 sch 2 pt 2.3**

notified 15 August 2001 ([Gaz 2001 No S57](#))  
s 1, s 2 commenced 15 August 2001 (IA s 10B)  
sch 2 pt 2.3 commenced 15 August 2001 (s 2)

**Legislation Amendment Act 2002 A2002-11 pt 2.11**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.11 commenced 28 May 2002 (s 2 (1))

**Cemeteries and Crematoria Act 2003 A2003-11 sch 1 pt 1.2**

notified LR 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
sch 1 pt 1.2 commenced 27 September 2003 (s 2 and LA s 79)

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003****A2003-14 sch 1 pt 1.8**

notified LA 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
sch 1 pt 1.8 commenced 28 March 2003 (s 2)

## Endnotes

3 Legislation history

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**Evidence (Miscellaneous Provisions) Amendment Act 2003 A2003-48  
sch 2 pt 2.3**

notified LR 31 October 2003  
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))  
sch 2 pt 2.3 commenced 30 April 2004 (s 2 and LA s 79)

**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 1 pt 1.7**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.7 commenced 9 April 2004 (s 2 (1))

**Health Professionals Legislation Amendment Act 2004 A2004-39  
sch 5 pt 5.5**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 5 pt 5.5 commenced 7 July 2005 (s 2 and see [Health Professionals Act 2004 A2004-38](#), s 2 and [CN2005-11](#))

**Court Procedures (Consequential Amendments) Act 2004 A2004-60  
sch 1 pt 1.15**

notified LR 2 September 2004  
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))  
sch 1 pt 1.15 commenced 10 January 2005 (s 2 and see [Court Procedures Act 2004 A2004-59](#), s 2 and [CN2004-29](#))

**Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.11**

notified LR 12 May 2005  
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))  
sch 3 pt 3.11 commenced 2 June 2005 (s 2 (1))

**Criminal Code (Administration of Justice Offences) Amendment  
Act 2005 A2005-53 sch 1 pt 1.5**

notified LR 26 October 2005  
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))  
sch 1 pt 1.5 commenced 23 November 2005 (s 2)

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.17**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.17 commenced 24 November 2005 (s 2)

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

notified LR 1 December 2005

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

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

notified LR 18 May 2006

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

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

notified LR 26 October 2006

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

**Court Legislation Amendment Act 2006 A2006-55 pt 2**

notified LR 18 December 2006

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

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

notified LR 20 June 2007

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

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

notified LR 17 July 2008

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

## Endnotes

3 Legislation history

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

notified LR 1 September 2009

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

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

**Justice and Community Safety Legislation Amendment Act 2010  
(No 3) A2010-40 sch 2 pt 2.3**

notified LR 5 October 2010

s 1, s 2 commenced 5 October 2010 (LA s 75 (1))

s 3 commenced 6 October 2010 (s 2 (1))

sch 2 pt 2.3 commenced 2 November 2010 (s 2 (2))

**Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.10**

notified LR 22 February 2011

s 1, s 2 commenced 22 February 2011 (LA s 75 (1))

sch 3 pt 3.10 commenced 1 March 2011 (s 2)

**Administrative (One ACT Public Service Miscellaneous Amendments)  
Act 2011 A2011-22 sch 1 pt 1.36**

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.36 commenced 1 July 2011 (s 2 (1))

**Coroners Amendment Act 2011 A2011-36**

notified LR 27 September 2011

s 1, s 2 commenced 27 September 2011 (LA s 75 (1))

remainder commenced 1 February 2012 (s 2 and [CN2012-3](#))

**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.12**

notified LR 28 November 2011

s 1, s 2 commenced 28 November 2011 (LA s 75 (1))

sch 3 pt 3.12 commenced 12 December 2011 (s 2)

**Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.7**

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

sch 3 pt 3.7 commenced 5 June 2012 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2013  
(No 3) A2013-20 sch 1 pt 1.1**

notified LR 13 June 2013  
s 1, s 2 commenced 13 June 2013 (LA s 75 (1))  
sch 1 pt 1.1 commenced 14 June 2013 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2013  
(No 4) A2013-45 sch 1 pt 1.1**

notified LR 11 November 2013  
s 1, s 2 commenced 11 November 2013 (LA s 75 (1))  
sch 1 pt 1.1 commenced 12 November 2013 (s 2)

**Courts Legislation Amendment Act 2014 A2014-1 pt 4**

notified LR 5 March 2014  
s 1, s 2 commenced 5 March 2014 (LA s 75 (1))  
pt 4 commenced 2 April 2014 (s 2)

**Justice and Community Safety Legislation Amendment Act 2014  
A2014-17 sch 1 pt 1.4**

notified LR 13 May 2014  
s 1, s 2 taken to have commenced 25 November 2013 (LA s 75 (2))  
sch 1 pt 1.4 commenced 14 May 2014 (s 2 (1))

**Courts Legislation Amendment Act 2015 A2015-10 pt 6**

notified LR 7 April 2015  
s 1, s 2 commenced 7 April 2015 (LA s 75 (1))  
pt 6 commenced 21 April 2015 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2015  
A2015-11 sch 1 pt 1.3**

notified LR 20 May 2015  
s 1, s 2 commenced 20 May 2015 (LA s 75 (1))  
sch 1 pt 1.3 commenced 21 May 2015 (s 2 (1))

**Red Tape Reduction Legislation Amendment Act 2015 A2015-33  
sch 1 pt 1.15**

notified LR 30 September 2015  
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))  
sch 1 pt 1.15 commenced 14 October 2015 (s 2)

## Endnotes

3 Legislation history

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**Mental Health Act 2015 A2015-38 sch 2 pt 2.4 div 2.4.3**

notified LR 7 October 2015

s 1, s 2 commenced 7 October 2015 (LA s 75 (1))

sch 2 pt 2.4 div 2.4.3 commenced 1 March 2016 (s 2 (1) and see Mental Health (Treatment and Care) Amendment Act 2014 [A2014-51](#), s 2 (as am by [A2015-38](#) amdt 2.54))

**Courts Legislation Amendment Act 2015 (No 2) A2015-52 pt 4**

notified LR 26 November 2015

s 1, s 2 commenced 26 November 2015 (LA s 75 (1))

pt 4 commenced 10 December 2015 (s 2 (2))

**Crimes (Sentencing and Restorative Justice) Amendment Act 2016  
A2016-4 sch 1 pt 1.4**

notified LR 24 February 2016

s 1, s 2 commenced 24 February 2016 (LA s 75 (1))

sch 1 pt 1.4 commenced 2 March 2016 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2016  
A2016-37 sch 1 pt 1.8**

notified LR 22 June 2016

s 1, s 2 commenced 22 June 2016 (LA s 75 (1))

sch 1 pt 1.8 commenced 29 June 2016 (s 2)



## 4 Amendment history

### Introduction

div 1.1 hdg ins [A2011-36](#) s 4

### Name of Act

s 1 sub [A2005-60](#) amdt 1.28

### Dictionary

s 2 hdg ins [A2005-60](#) amdt 1.29  
 s 2 om R2 LRA  
 ins [A2005-60](#) amdt 1.31  
 am [A2006-23](#) amdt 1.45

### References to *death in custody*

s 3 hdg ins [A2005-60](#) amdt 1.31  
 s 3 am [A1999-64](#) sch 2; [A2005-20](#) amdt 3.94  
 defs reloc to dict [A2005-60](#) amdt 1.30  
 am [A2005-60](#) amdt 1.32  
 om [A2006-23](#) amdt 1.46  
 def *chief police officer* om [A2004-60](#) amdt 1.82  
 def *legal practitioner* om [A1997-96](#) sch 1  
 def *medical practitioner* om [A2004-39](#) amdt 5.7  
 def *spouse* om [A2003-14](#) amdt 1.30

### Notes

s 3A ins [A2005-54](#) amdt 1.91

### Offences against Act—application of Criminal Code etc

s 3B ins [A2005-54](#) amdt 1.91

### Objects and important concepts

div 1.2 hdg ins [A2011-36](#) s 5

### Objects of Act

s 3BA ins [A2011-36](#) s 5  
 am [A2015-52](#) s 9

### Meaning of *death in custody*

s 3C ins [A2006-23](#) amdt 1.47  
 am [A2008-20](#) amdt 2.11, amdt 2.12, amdts 4.8-4.11  
 (1) (b) notes, (4) exp 2 June 2011 (s 3C (4))  
 am [A2015-38](#) amdt 2.67; [A2016-4](#) amdt 1.8; pars renum R39  
 LA

### Who is a *custodial officer*?

s 3D ins [A2006-23](#) amdt 1.47  
 am [A2008-20](#) amdt 2.13; [A2011-22](#) amdt 1.107

### Establishment

div 2.1 hdg (prev pt 2 div 1 hdg) renum R3 LA

## Endnotes

4 Amendment history

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### **Appointment etc of coroners**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R3 LA

### **Coroners**

s 5 sub [A2015-52](#) s 10

### **Chief Coroner**

s 6 am [A2011-3](#) amdt 3.114

### **Chief Coroner's functions**

s 7 hdg sub [A2011-36](#) s 6

### **Deputy coroners**

s 8 am [A2011-3](#) amdt 3.115

### **Deputy coroners' functions**

s 9 hdg am [A2011-36](#) s 7

s 9 am [A2006-42](#) amdt 3.25; [A2011-3](#) amdt 3.116; [A2011-36](#) s 7

### **Oath to be taken by coroner or deputy coroner**

s 10 am [A2001-6](#) s 4; [A2006-42](#) amdt 3.16

sub [A2007-16](#) amdt 3.22

### **Coroner for matter not available**

s 11A ins [A2013-45](#) amdt 1.1

### **Inquests into deaths**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R3 LA

### **General functions and jurisdiction of coroner**

s 12 sub [A2003-11](#) amdt 1.3

### **Coroner's jurisdiction in relation to deaths**

s 13 am [A2006-42](#) amdt 3.25; [A2011-36](#) s 8; [A2014-1](#) s 18, s 19;  
[A2015-10](#) s 17, s 18; pars renum R34 LA; [A2015-52](#) s 11,  
s 12; pars renum R37 LA

### **Decision not to conduct hearing**

s 14 reloc and renum as s 34A

### **Control and release of body of deceased**

s 15 am [A2001-44](#) amdt 1.926

sub [A2014-17](#) amdt 1.21

### **Release of body**

s 16 hdg sub [A2001-44](#) amdt 1.927

s 16 am [A2001-44](#) amdt 1.928, amdt 1.929; [A2004-60](#) amdt 1.84  
om [A2014-17](#) amdt 1.21

### **Assistance to State and other Territory coroners**

s 17 am [A2011-3](#) amdt 3.117

### **Inquiries into fires**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R3 LA

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s 18 am [A2015-10](#) s 19; ss renum R34 LA

**Inquiries into disasters**

div 3.3 hdg (prev pt 3 div 3 hdg) renum R3 LA

**Dispensing with post-mortem examination**

s 20 am [A2011-3](#) amdt 3.118

**Directions to doctors to conduct post-mortem examinations**

s 21 hdg sub [A2006-42](#) amdt 3.17

s 21 am [A2006-42](#) amdt 3.25

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

s 22 hdg am [A2006-42](#) amdt 3.25

s 22 am [A2006-42](#) amdt 3.25

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s 23 am [A2006-42](#) amdt 3.25; [A2011-3](#) amdt 3.119

**Reconsideration of decisions**

s 24 am [A2011-3](#) amdt 3.120

**Previous attending doctor entitled to observe post-mortem examination**

s 25 hdg am [A2006-42](#) amdt 3.25

s 25 am [A2006-42](#) amdt 3.25

**Removal of body to place of post-mortem examination**

s 26 am [A2011-3](#) amdts 3.121-3.124

**Warrant for exhumation of body or recovery of ashes**

s 27 am [A2014-1](#) s 20

**Reinterment of remains or ashes**

s 30 am [A2011-3](#) amdt 3.125

**Report by doctor or analyst**

s 32 hdg am [A2006-42](#) amdt 3.25; [A2011-3](#) amdt 3.126

**Hearings**

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**Decision not to conduct hearing**

s 34A (prev s 14) reloc and renum as s 34A [A2011-36](#) s 9

**Notice relating to conduct of hearing**

s 38 am [A2009-20](#) amdt 3.47; [A2015-33](#) amdt 1.36

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s 39 hdg am [A2006-42](#) amdt 3.24

s 39 am [A2006-42](#) amdt 3.24; [A2007-16](#) amdt 3.23

sub [A2011-36](#) s 10

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### **Functions of counsel assisting**

s 39A ins [A2011-36](#) s 10

### **Counsel assisting—revocation of appointment**

s 39B ins [A2011-36](#) s 10

### **Hearing in public except in certain cases**

s 40 am [A2005-54](#) amdt 1.92

### **Representation at hearing**

s 42 am [A2006-42](#) amdt 3.24

### **Appearance by audiovisual or audio links**

s 42A ins [A1999-22](#) s 10  
am [A2000-17](#) sch 1; [A2003-48](#) amdt 2.3; [A2010-40](#) amdt 2.3

### **Witnesses**

div 5.2 hdg (prev pt 5 div 2 hdg) renum R3 LA

### **Power of coroner to subpoena witnesses etc**

s 43 hdg sub [A2004-60](#) amdt 1.85  
s 43 am [A2004-60](#) amdt 1.86; [A2005-53](#) amdt 1.28, amdt 1.29

### **Service of subpoena on witness**

s 44 hdg am [A2004-60](#) amdt 1.86  
s 44 am [A2004-60](#) amdt 1.86; [A2005-53](#) amdt 1.30; [A2011-3](#)  
amdt 3.127

### **Arrest of witness**

s 45 am [A1998-67](#) s 12; [A2004-60](#) amdts 1.86-1.89; [A2011-3](#)  
amdt 3.128, amdt 3.129

### **People about to leave ACT—examination and production of documents etc**

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sub [A2011-36](#) s 11

### **Rules of evidence do not apply**

s 47 sub [A2011-36](#) s 12

### **Evidence**

s 48 am [A2004-60](#) amdt 1.90; [A2005-53](#) amdt 1.32, amdt 1.33

### **Record of proceedings**

s 49 sub [A2004-60](#) amdt 1.91  
am [A2005-20](#) amdt 3.95

### **Practice and procedure for inquests and inquiries**

s 51A ins [A2011-36](#) s 13

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s 51B ins [A2015-11](#) amdt 1.23

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div 5.4 hdg (prev pt 5 div 4 hdg) renum R3 LA

**Coroner's findings**

s 52 am [A2011-3](#) amdt 3.132; [A2011-36](#) s 14

**Requests for copies of reports of findings**

s 54 am [A2011-3](#) amdt 3.132

**Adverse comment in findings or reports**

s 55 am [A2011-3](#) amdt 3.133

**Notification of registrar-general**

s 56 am [A2011-3](#) amdt 3.134; [A2011-36](#) s 15

**Report after inquest or inquiry**

s 57 am [A2011-36](#) s 16; [A2013-45](#) amdts 1.2-1.5; ss renum R31 LA; [A2016-37](#) amdt 1.20; amdt 1.21

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**Procedure where evidence of indictable offence or indictment to be presented**

s 58 am [A2001-54](#) amdt 2.3, amdt 2.4; [A2011-3](#) amdt 3.134, amdt 3.135  
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s 58A ins [A2011-36](#) s 17

**General powers of coroners**

div 5.6 hdg (prev pt 5 div 6 hdg) renum R3 LA

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s 59 am [A2007-16](#) amdt 3.24; [A2011-3](#) amdt 3.136, amdt 3.137

**Coroner not to be called as witness**

s 60 am [A2006-42](#) amdt 3.18; [A2011-3](#) amdt 3.138

**Coroner not required to view the subject matter of inquest or inquiry**

s 61 am [A2011-3](#) amdt 3.139

**Coroner may act on a Sunday**

s 62 am [A2004-60](#) amdt 1.92

**Request for hearing or for reconsideration of certain decisions**

s 64 am [A2011-3](#) amdts 3.140-3.143; [A2011-36](#) s 18, s 19;  
ss renum R28 LA

**Restriction of access**

s 65 am [A2005-54](#) amdt 1.93

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### **Chief Coroner—power to hold fresh inquest or inquiry**

s 68 am [A2011-3](#) amdt 3.144

### **Other requirements**

div 5.7 hdg ins [A2011-36](#) s 20

### **Coroner to give information to immediate family**

s 68A ins [A2011-36](#) s 20

### **Coronial investigation scenes**

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def *coronial investigation scene order* ins [A2015-10](#) s 20  
def *coronial investigation scene power* ins [A2015-10](#) s 20

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s 68C ins [A2015-10](#) s 20

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s 68D ins [A2015-10](#) s 20

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s 68E ins [A2015-10](#) s 20

### **Senior police officer may establish scene for expected coronial investigation**

s 68F ins [A2015-10](#) s 20

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s 68G ins [A2015-10](#) s 20

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### **Consideration of deceased's family etc**

s 69 am [A2011-52](#) amdt 3.52

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s 70 am [A2006-42](#) amdt 3.25; [A2011-52](#) amdt 3.52

### **Inquest into death in custody—obligation to appoint counsel assisting**

s 72 hdg am [A2006-42](#) amdt 3.24  
s 72 am [A2006-42](#) amdt 3.24; [A2007-16](#) amdt 3.25; [A2011-3](#)  
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### **Copies of reports of findings**

s 75 am [A2011-3](#) amdt 3.146; [A2011-52](#) amdt 3.52

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s 77 sub [A2005-54](#) amdt 1.94

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s 78 sub [A2005-54](#) amdt 1.95

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

s 79 am [A2004-60](#) amdt 1.92  
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s 81 am [A1998-54](#) sch  
om [A2005-53](#) amdt 1.35

**Improper dealings with documents**

s 82 am [A1998-54](#) sch  
om [A2005-53](#) amdt 1.35

**Improper dealing with body or ashes of dead person**

s 83 sub [A2005-54](#) amdt 1.96

**Intimidation or dismissal of witnesses**

s 84 om [A2005-53](#) amdt 1.36

**Preventing witnesses from attending**

s 85 am [A2004-60](#) amdt 1.93, amdt 1.94  
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**Bribery of witnesses**

s 86 om [A2005-53](#) amdt 1.36

**Fraud on witnesses**

s 87 om [A2005-53](#) amdt 1.36

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s 88 am [A2005-53](#) amdt 1.37; ss renum R13 LA (see [A2005-53](#)  
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### **Application to hold hearing for inquest or inquiry into fire**

s 90 hdg sub [A2011-36](#) s 23  
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### **Supreme Court—power to order inquest or inquiry**

s 92 am [A2000-1](#) sch

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

s 93 am [A2000-1](#) sch

### **Witness expenses and other amounts**

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### **Determination**

s 94 om [A2000-1](#) sch

### **Payment**

s 95 om [A2000-1](#) sch

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s 96 om [A2000-1](#) sch

### **Review of decisions**

s 97 om [A2000-1](#) sch

### **Witness expenses**

s 98 am [A2004-60](#) amdt 1.94  
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### **Contempt of Coroner's Court**

s 99A ins [A2006-55](#) s 5

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### **Deaths in institutions—retention of records of dead person**

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### **Court seal**

s 101 sub [A2001-44](#) amdt 1.930  
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### **Annual report of court**

s 102 sub [A2002-11](#) amdt 2.20  
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### **Regulation-making power**

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def **former Act** om [A2006-42](#) amdt 3.20

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**Inquests or inquiries part heard**

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**Saving of transitional provisions**

s 108 ins [A2006-42](#) amdt 3.19  
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**Transitional—Courts Legislation Amendment Act 2015 (No 2)**

pt 12 hdg ins [A2015-52](#) s 15  
exp 10 December 2016 (s 120 (2))

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am [A2006-23](#) amdt 1.48; [A2006-42](#) amdt 3.22; [A2009-20](#)  
amdt 3.48; [A2011-3](#) amdt 3.147; [A2011-22](#) amdt 1.108;  
[A2011-36](#) s 26; [A2013-45](#) amdt 1.8; [A2015-33](#) amdt 1.37  
def **Aboriginal or Torres Strait Islander person** ins  
[A2011-52](#) amdt 3.54  
def **Aboriginal person** reloc from s 3 [A2005-60](#) amdt 1.30  
om [A2011-52](#) amdt 3.53  
def **body** reloc from s 3 [A2005-60](#) amdt 1.30  
def **Chief Coroner** reloc from s 3 [A2005-60](#) amdt 1.30  
am [A2012-21](#) amdt 3.29  
def **chief psychiatrist** ins [A2006-23](#) amdt 1.49  
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def **coroner** reloc from s 3 [A2005-60](#) amdt 1.30  
def **coronial investigation scene** ins [A2015-10](#) s 21  
def **coronial investigation scene declaration** ins [A2015-10](#)  
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def **coronial investigation scene order** ins [A2015-10](#) s 21  
def **coronial investigation scene power** ins [A2015-10](#) s 21  
def **court** reloc from s 3 [A2005-60](#) amdt 1.30  
def **custodial officer** am [A1999-31](#) sch 2; [A1999-64](#) sch 2;  
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reloc from s 3 [A2005-60](#) amdt 1.30  
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def **death** reloc from s 3 [A2005-60](#) amdt 1.30  
def **death in custody** ins [A2005-60](#) amdt 1.34  
sub [A2006-23](#) amdt 1.51  
def **disaster** reloc from s 3 [A2005-60](#) amdt 1.30  
def **engage in conduct** ins [A2005-54](#) amdt 1.90  
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def **hearing** reloc from s 3 [A2005-60](#) amdt 1.30  
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def **immediate family** am [A2003-14](#) amdt 1.28, amdt 1.29  
reloc from s 3 [A2005-60](#) amdt 1.30  
am [A2011-52](#) amdt 3.55  
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def **inquest** reloc from s 3 [A2005-60](#) amdt 1.30  
def **inquiry** reloc from s 3 [A2005-60](#) amdt 1.30  
def **member of the immediate family** ins [A2011-36](#) s 28  
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def **mental health officer** ins [A2006-23](#) amdt 1.52  
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def **place** reloc from s 3 [A2005-60](#) amdt 1.30

def **post-mortem examination** am [A2014-1](#) s 21  
def **registrar** reloc from s 3 [A2005-60](#) amdt 1.30  
def **registrar-general** reloc from s 3 [A2005-60](#) amdt 1.30  
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def **Torres Strait Islander** reloc from s 3 [A2005-60](#) amdt 1.30  
om [A2011-52](#) amdt 3.56

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 (RI) 7 Aug 2003	23 Dec 1998– 31 Aug 1999	<a href="#">A1998-67</a>	amendments by <a href="#">A1997-96</a> , <a href="#">A1998-54</a> and <a href="#">A1998-67</a> reissue of printed version
R1A 7 Aug 2003	1 Sept 1999– 9 May 2000	<a href="#">A1999-31</a>	amendments by <a href="#">A1999-22</a> and <a href="#">A1999-31</a>
R1B 7 Aug 2003	1 June 2000– 8 Aug 2000	<a href="#">A2000-17</a>	amendments by <a href="#">A1999-64</a> and <a href="#">A2000-17</a>
R2 (RI) 7 Aug 2003	9 Sept 2000– 7 Mar 2001	<a href="#">A2000-17</a>	amendments by <a href="#">A2000-1</a> reissue of printed version
R2A 7 Aug 2003	8 Mar 2001– 14 Aug 2001	<a href="#">A2001-6</a>	amendments by <a href="#">A2001-6</a>
R3 23 Nov 2001	12 Sept 2001– 27 May 2002	<a href="#">A2001-54</a>	amendments by <a href="#">A2001-44</a> and <a href="#">A2001-54</a>
R4 30 May 2002	28 May 2002– 12 Sept 2002	<a href="#">A2002-11</a>	amendments by <a href="#">A2002-11</a>
R5 13 Sept 2002	13 Sept 2002– 27 Mar 2003	<a href="#">A2002-11</a>	commenced expiry
R6 28 Mar 2003	28 Mar 2003– 26 Sept 2003	<a href="#">A2003-14</a>	amendments by <a href="#">A2003-14</a>

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R7 27 Sept 2003	27 Sept 2003– 8 Apr 2004	<a href="#">A2003-14</a>	amendments by <a href="#">A2003-11</a>
R8 9 Apr 2004	9 Apr 2004– 29 Apr 2004	<a href="#">A2004-15</a>	amendments by <a href="#">A2004-15</a>
R9* 30 Apr 2004	30 Apr 2004– 9 Jan 2005	<a href="#">A2004-15</a>	amendments by <a href="#">A2003-48</a>
R10 10 Jan 2005	10 Jan 2005– 1 June 2005	<a href="#">A2004-60</a>	amendments by <a href="#">A2004-60</a>
R11 2 June 2005	2 June 2005– 6 July 2005	<a href="#">A2005-20</a>	amendments by <a href="#">A2005-20</a>
R12 7 July 2005	7 July 2005– 22 Nov 2005	<a href="#">A2005-20</a>	amendments by <a href="#">A2004-39</a>
R13 23 Nov 2005	23 Nov 2005– 23 Nov 2005	<a href="#">A2005-54</a>	amendments by <a href="#">A2005-53</a>
R14 24 Nov 2005	24 Nov 2005– 21 Dec 2005	<a href="#">A2005-54</a>	amendments by <a href="#">A2005-54</a>
R15 22 Dec 2005	22 Dec 2005– 1 June 2006	<a href="#">A2005-60</a>	amendments by <a href="#">A2005-60</a>
R16 2 June 2006	2 June 2006– 15 Nov 2006	<a href="#">A2006-23</a>	amendments by <a href="#">A2006-23</a>
R17 16 Nov 2006	16 Nov 2006– 18 Dec 2006	<a href="#">A2006-42</a>	amendments by <a href="#">A2006-42</a>
R18 19 Dec 2006	19 Dec 2006– 10 July 2007	<a href="#">A2006-55</a>	amendments by <a href="#">A2006-55</a>
R19 11 July 2007	11 July 2007– 8 Sept 2008	<a href="#">A2007-16</a>	amendments by <a href="#">A2007-16</a>
R20 9 Sept 2008	9 Sept 2008– 26 Feb 2009	<a href="#">A2008-20</a>	amendments by <a href="#">A2008-20</a>
R21 27 Feb 2009	27 Feb 2009– 22 Sept 2009	<a href="#">A2008-20</a>	amendments by <a href="#">A2008-20</a>
R22* 22 Sept 2009	22 Sept 2009– 1 Nov 2010	<a href="#">A2009-20</a>	amendments by <a href="#">A2009-20</a>

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R23 2 Nov 2010	2 Nov 2010– 28 Feb 2011	<a href="#">A2010-40</a>	amendments by <a href="#">A2010-40</a>
R24 1 Mar 2011	1 Mar 2011– 2 June 2011	<a href="#">A2011-3</a>	amendments by <a href="#">A2011-3</a>
R25 3 June 2011	3 June 2011– 30 June 2011	<a href="#">A2011-3</a>	expiry of provision
R26 1 July 2011	1 July 2011– 11 Dec 2011	<a href="#">A2011-22</a>	amendments by <a href="#">A2011-22</a>
R27 12 Dec 2011	12 Dec 2011– 31 Jan 2012	<a href="#">A2011-52</a>	amendments by <a href="#">A2011-52</a>
R28 1 Feb 2012	1 Feb 2012– 4 June 2012	<a href="#">A2011-52</a>	amendments by <a href="#">A2011-36</a>
R29 5 June 2012	5 June 2012– 13 June 2013	<a href="#">A2012-21</a>	amendments by <a href="#">A2012-21</a>
R30 14 June 2013	14 June 2013– 11 Nov 2013	<a href="#">A2013-20</a>	amendments by <a href="#">A2013-20</a>
R31 12 Nov 2013	12 Nov 2013– 1 April 2014	<a href="#">A2013-45</a>	amendments by <a href="#">A2013-45</a>
R32 2 Apr 2014	2 Apr 2014– 13 May 2014	<a href="#">A2014-1</a>	amendments by <a href="#">A2014-1</a>
R33 14 May 2014	14 May 2014– 20 Apr 2015	<a href="#">A2014-17</a>	amendments by <a href="#">A2014-17</a>
R34 21 Apr 2015	21 Apr 2015– 20 May 2015	<a href="#">A2015-10</a>	amendments by <a href="#">A2015-10</a>
R35 21 May 2015	21 May 2015– 13 Oct 2015	<a href="#">A2015-11</a>	amendments by <a href="#">A2015-11</a>
R36 14 Oct 2015	14 Oct 2015– 9 Dec 2015	<a href="#">A2015-33</a>	amendments by <a href="#">A2015-33</a>
R37 10 Dec 2015	10 Dec 2015– 29 Feb 2016	<a href="#">A2015-52</a>	amendments by <a href="#">A2015-52</a>
R38 1 Mar 2016	1 Mar 2016– 1 Mar 2016	<a href="#">A2015-52</a>	amendments by <a href="#">A2015-38</a>

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<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R39 2 Mar 2016	2 Mar 2016– 28 Jun 2016	<a href="#">A2016-4</a>	amendments by <a href="#">A2016-4</a>

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