

# **CORONERS BILL 2016**

## **SAMOA**

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2016, No.

**A BILL INTITULED**

**AN ACT to provide a coronial system to investigate sudden or unexplained deaths or deaths in special circumstances through inquiries and inquests to help prevent deaths in circumstances similar to those deaths and for related purposes.**

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

## PART 1

### PRELIMINARY

**1. Short title and commencement:**

This Act may be cited as the Coroners Act 2016, and commences on a date nominated by the Minister.

**2. Interpretation:**

In this Act, unless the context otherwise requires:

**“approved form”** means a form approved under section 85;

**“bodily sample”**, in relation to a body:

- (a) means a sample or specimen (whether of a body part, or of any other thing that is in or on the body, or of both) taken from the body by a pathologist after the death of the person concerned; and
- (b) includes a sample or specimen so taken of blood or tissue, urine or other bodily fluids, or contents of the stomach or bowel, and a sample or specimen so taken that is, or is part of, the following -
  - (i) a thing that is, or is in or on, an item of clothing on the body;
  - (ii) a weapon, or other foreign item or substance (for example, a surgical implant, including a cardiac pacemaker or other biomechanical aid), that is in or on the body.

**“body”:**

- (a) means the body of a dead person that is subject to this Act; and
- (b) includes a part of a person (whether or not the person’s identity is known when the part is discovered or is later determined) -
  - (i) without which no person can live; or
  - (ii) discovered in any circumstance or state that it is probable that the person is dead; but
- (c) does not include any body part or bodily sample retained pursuant to section 25(2), for the purposes of an authorisation for release under section 20.

**“body part”,** in relation to a body:

- (a) means any part of the body (whether separated from the body before, on, or after the death concerned); and
- (b) includes a part so received or removed that is an organ, limb, hand, foot, or digit.

**“coroner”** means a person appointed as such under section 3;

**“coronial inquiry”** or **“inquiry”** means an inquiry carried out pursuant to this Act;

**“coronial inquest”** or **“inquest”** means an inquest hearing relating to an inquiry;

**“craft”** includes any aircraft, ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water;

**“death”:**

- (a) means -
  - (i) death that appears to have been without known cause, or suicide, or unnatural or violent;

- (ii) death for which no doctor has given a doctor's certificate certifying the death;
  - (iii) death that occurred while the person was affected by anaesthetic or undergoing medical, surgical, dental or similar operation or procedure or death that appears to have been the result of any medical, surgical, dental or similar operation or procedure or administration of an anaesthetic or medicine;
  - (iv) death of a person in official custody, including being detained or kept in a prison, or by the Police, or any mental institution or any other prescribed State institution where a person is required to be detained under any law (whether or not the death occurred within the prison, Police or institution premises); and
- (b) includes -
- (i) two (2) or more deaths arising out of the same incident or series of incidents, including a natural disaster; or
  - (ii) a person presumed dead for missing for at least seven (7) years; or
  - (iii) a person presumed dead for being lost at sea for at least two (2) years;
  - (iv) death occurring outside Samoa on a Samoan craft;
  - (v) death occurring outside Samoa of a citizen who has been brought back to Samoa without coronial investigation, inquiry or inquest at the place of death.

**“death report”** means a report of finding a body or of the death of a person made under section 12;

**“doctor”** means a person registered as a medical practitioner under the Medical Practitioners Act 2007;

**“family member”** or **“family”** of a dead person:

- (a) means the spouse, de facto partner, child, parent, guardian, grandparent, brother, sister, step-child, stepparent, stepbrother, stepsister; and
- (b) includes the aiga or the aiga potopoto of the dead person (or the family or extended family of the dead person).

**“family representative”** means the person authorised by the family under section 15;

**“inquiry”**, includes the related inquest;

**“healthcare professional”** has the meaning in the Healthcare Professions Registration and Standards Act 2007;

**“investigation”**, in relation to a death and a coroner, means any function, power, or duty the coroner may or must perform or exercise in relation to the death, including, without limitation, the coroner’s functions, powers, or duties relating to:

- (a) a post-mortem of the body concerned; and
- (b) an inquiry into the death; and
- (c) an inquest related to an inquiry into the death.

**“irrecoverable”** means impossible or impracticable to recover;

**“lawyer”** has the meaning in the Lawyers and Legal Practice Act 2014;

**“medicine”** means any substance or article, other than a medical device, that is manufactured, imported, sold, or supplied wholly or principally:

- (a) for administering to one (1) or more individuals for a therapeutic purpose; or

- (b) for use as an ingredient in the preparation of any substance or article that is to be administered to one or more individuals for a therapeutic purpose, where it is so used -
  - (i) in a pharmacy or a hospital; or
  - (ii) by a healthcare professional; or
  - (iii) in the course of any business that consists of or includes the retail sale, or the supply in circumstances corresponding to retail sale, of herbal remedies; or
- (c) for use as a pregnancy test; but
- (d) does not include -
  - (i) substances used in dental surgery for filling dental cavities; or
  - (ii) bandages and other surgical dressings, except medicated dressings where the medication has a curative function that is not limited to sterilising the dressing; or
  - (iii) any radioactive material; or
  - (iv) any animal food in which a medicine is incorporated; or
  - (v) any animal remedy.

**“Ministry”** means the Ministry responsible for this Act;

**“natural disaster”** includes a natural disaster declared as such under an enactment;

**“pathologist”** means a registered medical practitioner who is competent to perform post-mortems;

**“police officer”** means a sworn member of the Police;

**“post-mortem”** means post-mortem examination directed or ordered under this Act, and includes any of the following examinations:

- (a) full external and internal examination;

- (b) full external examination and partly internal examination;
- (c) partly external examination and full internal examination;
- (d) partly external examination and partly internal examination.

**“recommendations or comments”**, in relation to a death, means recommendations or comments by the coroner about:

- (a) the avoidance of circumstances similar to those in which the death occurred; or
- (b) the way in which a person should act in circumstances of that kind.

**“Samoan craft”**, means a craft licensed or registered under the Civil Aviation Act 1998 or the Shipping Act 1998;

**“vehicle”** has the same meaning as “motor vehicle” under the Land Transport Authority Act 2007;

**“working day”** does not include a Saturday, Sunday or public holiday.

## PART 2 CORONERS

**3. Appointment of the coroners:**

The Head of State, acting on the advice of the Judicial Service Commission, may appoint a person qualified under section 4 as a coroner.

**4. Qualifications:**

A person is qualified for appointment as a coroner if the person is a lawyer who is qualified for appointment as a District Court Judge.

**5. Terms of office:**

A coroner:

- (a) may be appointed for up to five (5) years; and
- (b) is eligible for reappointment; and
- (c) on expiry of term, continues in office until reappointed or a successor is appointed; and
- (d) is appointed on other terms determined by the Judicial Service Commission.

**6. Oath of office:**

A coroner must, before assuming the office of a coroner, take and subscribe before the Chief Justice the oath or affirmation set out as follows:

*"I..... [swear by Almighty God/affirm] that I will well and truly serve the Independent State of Samoa in the office of a coroner, in accordance with the Constitution and the law; and I will do right to all manner of persons, without fear or favour, affection or ill will."*

**7. Salaries and allowances:**

- (1) A coroner is entitled to salaries or allowances fixed under the Remuneration Tribunal Act 2003.
- (2) A coroner is taken to be an officer whose salary and allowances are fixed under that Act.

**8. Resignation and removal:**

- (1) A coroner may resign the office by written notice to the Head of State.
- (2) The Head of State, acting on the advice of the Judicial Service Commission, may remove a coroner from office:
  - (a) for misconduct in office; or
  - (b) for neglect of duty, including neglect of duty due to mental or physical incapacity; or
  - (c) for conviction of a criminal offence;
  - (d) for bankruptcy;
  - (e) for any other prescribed grounds.
- (3) A coroner has the right to be heard before the Judicial Service Commission before it advises the Head of State on whether or not to remove the coroner.

**9. Vacancy of office:**

The office of a coroner becomes vacant if:

- (a) the coroner -
  - (i) resigns;
  - (ii) is removed from office; or
  - (iii) dies;
- (b) subject to section 5(c), the term of office expires.

**10. Functions:**

A coroner has the following functions:

- (a) to receive death reports from the Police;
- (b) to open a coronial inquiry into a death reported to a coroner or ordered by the Supreme Court under this Act;
- (c) when a death report is received, to decide whether a coronial inquiry is to be conducted and to determine whether a post-mortem be carried out and if so to authorise certain persons (other than a pathologist) to attend;
- (d) after carrying out coronial inquiry, to authorise release of body (including retention of body parts and samples by pathologist after post-mortem);
- (e) to decide, after conducting coronial inquiry, whether a coronial inquest is to be conducted;
- (f) to notify the family members of the dead person of the objectives, powers and processes of carrying out a coronial inquiry or inquest under this Act;
- (g) to make recommendations and comments that, if drawn to public attention, reduces the chance of deaths in circumstances similar to those in which the death occurred;
- (h) to determine whether the public interest would be served by the death being investigated by other authorities and to refer the matter to them for investigation;
- (i) to carry out other prescribed functions, including prescribed preventative and educational functions or prescribed function for proposing any emergency plan (in particular for cases of multiple deaths) as part of any plan prepared under the Disaster and Emergency Management Act 2007.

**11. Privileges and other powers:**

- (1) When carrying out any functions, duties or powers under this Act, a coroner:
  - (a) has the same powers, privileges, authorities, and immunities of a Judge of the Supreme Court; and
  - (b) has the following powers -
    - (i) to maintain order at a coronial inquiry or inquest;
    - (ii) to administer oaths and examine witnesses;
    - (iii) to punish for contempt;
    - (iv) to regulate other procedures of proceedings, including procedures for preliminary proceedings and adjournments.
- (2) A coroner may require the Registrar or a Deputy Registrar of the District Court to issue summonses required by the coroner to be issued under this Act.

**PART 3**  
**REPORTING OF DEATHS**  
**AND POST-MORTEMES**

**Division 1 - Reporting of deaths**  
**and custody of body**

**12. Reporting of deaths:**

- (1) A person who finds a body in Samoa or learns of a death must report the finding or death to a police officer unless the person knows or has reasonable grounds to believe that the finding or death is already known or will be reported to the Police.
- (2) A police officer must immediately report the finding or death to a coroner if the police officer:
  - (a) finds a body or learns of a death as specified under subsection (1); or
  - (b) receives a report from a person under subsection (1), unless the police officer knows or has reasonable grounds to believe that the finding or death is known or will be reported by another police officer to a coroner.
- (3) Without limiting section 61, if a death has been reported to a coroner under this section, the Commissioner of Police must make inquiries or cause to be made all investigations:
  - (a) necessary for the purpose of this Act in relation to the death; or
  - (b) directed by the coroner.

**13. Right to exclusive custody of body:**

- (1) The Police has the exclusive custody of the body from the time when they first suspect on reasonable ground that the death to which this Act applies may have occurred until the time the death report is received by a coroner.

- (2) A coroner has exclusive custody of the body from the time the coroner receives the death report until the coroner:
  - (a) authorises the release of the body to the family of the dead person; or
  - (b) does not require to view the body; or
  - (c) has been ordered by the Supreme Court pursuant to this Act.
- (3) A coroner is not required to view the body of a dead person.

**14. Direction for removal of body:**

For the purpose of post-mortem, a coroner may give written directions to remove the body from the coroner's custody.

## **Division 2 - Family rights**

**15. Rights of family:**

- (1) The family of the dead person must, in writing, provide to a coroner the name and contact of a family member who will be liaising with the coroner as the family representative.
- (2) Non-compliance with subsection (1) does not affect or delay the carrying out of the functions, duties and powers of a coroner.
- (3) A coroner must inform the family representative of the following:
  - (a) the right of the different members of the family under the law;
  - (b) the directions and reasons for post-mortem;

- (c) retention of body parts or sample;
  - (d) the right to a post-mortem report;
  - (e) the process after post-mortem;
  - (f) processes and procedures for inquiry and inquest;
  - (g) completion of inquiry and inquest;
  - (h) any other matter the coroner considers relevant.
- (4) A coroner may approve the family representative or a family member to view (touch or remain near) the body in custody of the coroner.
- (5) The family of the deceased has the right to be informed generally or through the family representative of the venue, date and time of any post-mortem or coronial inquiry or inquest and the right to the post-mortem report.
- (6) The family of the deceased has the right to object to carrying out of a post-mortem if:
- (a) the death does not appear to have been and is unlikely to appear later to have been, a result of conduct that constitutes a criminal offence; or
  - (b) the international legal obligation of Samoa or any other law does not require post-mortem to be performed.
- (7) If the objection under subsection (6) is not allowed by the coroner, the family of the deceased may apply for a review of the decision of the coroner by a Judge of the Supreme Court who may dismiss the application, confirm the decision of the coroner or decide whether the objection should be allowed.

### **Division 3 - Post-mortem**

#### **16. Power to direct post-mortem:**

- (1) Subject to section 15(6), a coroner may direct a pathologist to perform a post-mortem of a body:
  - (a) for the purpose of enabling the coroner to decide whether to open an inquiry into the death concerned; or
  - (b) if the coroner is to open, or has opened and not completed, a coronial inquiry into the death concerned.
- (2) If the death of a person is or will be subject to police investigation, the coroner must direct a post-mortem of the body.
- (3) The pathologist must not be the doctor who attended to the person immediately before death.
- (4) The coroner must take into account the following when directing a post-mortem under subsection (1) or (2):
  - (a) the matters, required under this Act to be established by an inquiry, are not already disclosed by information available to or by any investigation or examination made by the coroner but are likely to be disclosed by post-mortem;
  - (b) whether a government Ministry or agency has ordered or likely to order under any enactment the post-mortem of the body;

- (c) whether the death appears to have been unnatural or violent, and if so, whether the death appears to have been due to the actions or inaction of other persons;
  - (d) the existence and extent of any allegations, rumours, suspicions, or public concern about the cause of death;
  - (e) the desirability of minimising the causing of distress to the family, by reason of their ethnic origins, social attitudes or customs, or spiritual beliefs, customarily require bodies to be available to family members as soon as possible after death;
  - (f) the desirability of minimising the causing of offence to the family, by reason of their ethnic origins, social attitudes or customs, or spiritual beliefs, find post-mortems of bodies offensive;
  - (g) the desire of any family member that a post-mortem should not be performed;
  - (h) any other matters the coroner considers relevant.
- (5) If the coroner directs a partial post-mortem examination, the coroner must consult:
- (a) the Police on any evidential matter that may make a full examination necessary; or
  - (b) the pathologist to carry out the post-mortem as to whether a lesser examination would limit the ability of the pathologist to determine the cause of death.
- (6) A coroner may direct the pathologist to do the post-mortem immediately if the coroner is satisfied that:
- (a) any delay would or may limit the ability of the pathologist to determine the cause of death;

- (b) the dead person is an infant;
  - (c) persons having the ethnic origins, social attitudes or customs, or spiritual beliefs of, or of a member of the immediate family of, the person concerned, customarily require bodies to be available to family members as soon as possible after death.
- (7) As soon as practicable after completing the post-mortem, the pathologist must give the coroner a written report on the results of the post-mortem.

**17. Doctor's report:**

- (1) A coroner may, by written notice, require the doctor who attended to the person before death to provide:
- (a) a written report;
  - (b) any medical file (including doctor's notes, x-ray films, computerised tomography scan and other medical records) relating to the person; and
  - (c) any other information set out in the notice relating to the person.
- (2) The doctor's report provided under subsection (1) is to be given to:
- (a) the pathologist performing the post-mortem; and
  - (b) the Commissioner of Police, if the death of the person is under police investigation.

**18. Who may attend post-mortem:**

The following persons are entitled to attend a post-mortem:

- (a) the appointed pathologist;
- (b) the doctor who attended to the person before death;
- (c) the family doctor or a family representative;

- (d) the doctor of the person charged or who may be charged with the death of the dead person;
- (e) a police officer;
- (f) any other person approved by the coroner.

**19. Supreme Court may order post-mortem:**

- (1) The Attorney General may apply to a Judge of the Supreme Court for an order that a pathologist be directed pursuant to section 16 to perform a post-mortem of a body if:
  - (a) the post-mortem of the body is necessary or desirable under this Act; and
  - (b) the coroner has failed or refused to direct a post-mortem to be carried out.
- (2) When the order is made, a coroner must direct a pathologist to carry out the post-mortem.
- (3) The body held for post-mortem under this section must not be released from the custody of the coroner until the Attorney General has obtained an order from the Supreme Court for the body to be released to the family.

**Division 4 - Release of body and  
retention of body parts, etc.**

**20. Release of body:**

- (1) A coroner who receives a death report must, if not prohibited from doing so by section 21 or 22, authorise the release of the body concerned as soon as he or she is satisfied that it is no longer necessary to withhold it from family members.

- (2) The coroner may, if not prohibited from doing so by section 21 or 22 and in the approved form signed by the coroner, authorise the release of the body.

**21. Restriction on release if no post-mortem directed:**

- (1) A coroner who decides not to direct a pathologist to perform a post-mortem of a body must not authorise its release under section 20 earlier than 24 hours after notifying the Commissioner of Police of the decision.
- (2) Subsection (1) does not apply if the Commissioner of Police consents for the coroner to authorise the release of the body within the 24-hour period referred to in that subsection.
- (3) The coroner may review the decision under subsection (1) not to direct a post mortem if the Commissioner of Police or the Attorney General provides information, within that 24-hour period, that relates to any matter to be taken into account under section 16(4).

**22. Restriction on release if parts or samples to be retained:**

A coroner who:

- (a) directs a pathologist to perform a post-mortem of a body; and
- (b) knows the pathologist wishes to retain a body part or bodily sample under section 25(2),

must not authorise the release of the body under section 20 without first having determined as soon as practicable whether the retention of the part or sample is permitted by section 25(2).

**23. Release of body of still-born child:**

A coroner may authorise the release of a child under section 20 (and references in this Act to the body is taken to include a reference to the child) if:

- (a) the coroner directed a pathologist to perform a post-mortem of the child; and
- (b) the pathologist concluded, as a result of the post-mortem, that the child is a still-born child; and
- (c) the coroner therefore determines that the only jurisdiction he or she has to act further on the child is to authorise the release of the child under this section.

**24. Body parts and samples:**

- (1) A pathologist may, with no further authority than this section, receive or remove a body part, take a bodily sample, or both, if the pathologist believes on reasonable grounds that the receipt, removal, or taking concerned is necessary for the purposes of a post-mortem of a body.
- (2) A body part removed, or bodily sample taken, by a pathologist for the purposes of the post-mortem must be as small as possible for the kind of analysis or examination for which the part is removed or the sample is taken.
- (3) The number of body parts received or removed, bodily samples taken, or both, must be minimal and be no greater than is necessary for the purposes of the post-mortem.

- (4) This section does not prevent any other receipt, removal, or taking of a part or sample authorised by law.

**25. Retention of body parts and samples on release of body:**

- (1) This section applies to a body if:
  - (a) a coroner has directed under section 16 that a post-mortem of the body be performed, and proposes to authorise the release of the body under section 20; and
  - (b) the pathologist has removed a body part or taken a bodily sample, or has received a body part separately from other parts of the body concerned.
- (2) The pathologist is, when the body is released, permitted to retain the body part or bodily sample, but only if:
  - (a) the part or sample is a minute one received, removed, or taken for microscopic analysis, or other analysis that requires only a minute part or sample, and is, in the pathologist's opinion, necessary for the purposes of the post-mortem; or
  - (b) the retention is, in the pathologist's opinion, necessary for the purposes of the post-mortem; or
  - (c) the pathologist explained to the family members or other persons to whom the body is to be released that the pathologist proposed to retain the part or sample for a specified purpose and none of those members or persons objected to the pathologist's proposal.
- (3) A coroner may impose other conditions and requirements for the release or retention of body parts, including requirements for consulting:

- (a) the family members;
- (b) any other person to whom the body is to be released; and
- (c) if so required, the Commissioner of Police.

**PART 4**  
**CORONIAL INQUIRIES AND INQUESTS**

**Division 1 - Coronial inquiries**

**26. Purpose:**

- (1) The purpose of a coronial inquiry is to conduct a preliminary investigation or inquiry into a death:
  - (a) to establish (so far as possible) -
    - (i) that the person has died (for coronial inquiry into a missing person, is presumed dead);
    - (ii) the identity of the person;
    - (iii) when and where the person died;
    - (iv) the cause of death;
    - (v) the circumstances of death;
  - (b) to make recommendations and comments;
  - (c) to decide whether public interest would be served if the death is referred to be investigated by the Police or another government authority.
- (2) It is not the purpose of a coronial inquiry or inquest to determine civil, criminal or disciplinary liability.

**27. Adverse comments:**

- (1) A coroner may, in the course of, or as part of the findings of, an inquiry, comment on the conduct, in relation to the circumstances of the death concerned, of any person.
- (2) The coroner must not comment adversely on a dead person without:
  - (a) indicating an intention to do so; and

- (b) adjourning the inquiry for at least five (5) working days; and
  - (c) notifying every member of the person's immediate family who during the adjournment requests the coroner to do so in relation to the proposed comment; and
  - (d) giving every such member a reasonable opportunity to be heard, either personally or by a lawyer, in relation to the proposed comment.
- (3) The coroner must not comment adversely on any other person without:
- (a) taking all reasonable steps to notify the person of the proposed comment; and
  - (b) giving the person a reasonable opportunity to be heard, either personally or by a lawyer, in relation to the proposed comment.
- (4) Notifications, or opportunities to be heard, required to be given to the person that is a body corporate (including an unincorporated body) must be given to an officer or other representative of the body corporate who is, or appears to be, authorised by the body corporate for the purpose.
- (5) This section overrides section 26, but is subject to section 30.

**28. Coroner to open inquiry:**

- (1) After a coroner receives a death report, the coroner may open and conduct a coronial inquiry if:
- (a) the body of the person concerned is in Samoa; or
  - (b) the coroner is satisfied that it is likely that the person concerned is dead, and that the person's body -
    - (i) is destroyed, irrecoverable, or lost; but

- (ii) was in Samoa immediately before it was destroyed, or became irrecoverable or lost; or
- (c) the body of the person concerned is not in Samoa, but -
  - (i) the death occurred outside Samoa on or from a Samoa craft; and
  - (ii) the Attorney General has authorised the coroner to open a coronial inquiry into the death.
- (2) Subject to subsection (1) and section 29, a coroner who receives a death report must conduct a coronial inquiry into the death:
  - (a) if the death appears to have been -
    - (i) self-inflicted; or
    - (ii) a death within paragraph (a)(iv) of the definition of “death”; or
  - (b) if the coroner is not satisfied that the matters required by this Act to be established by a coronial inquiry are already adequately disclosed in respect of the death by information arising from investigations or examinations the coroner has made or caused to be made.
- (3) In deciding whether to open and conduct a coronial inquiry, a coroner must have regard to the following matters:
  - (a) whether or not the causes of the death concerned appear to have been natural; and
  - (b) for a death that appears to have been unnatural or violent, whether or not it appears to have been due to the actions or inaction of any other person; and
  - (c) the existence and extent of any allegations, rumours, suspicions, or public concern, about the death; and

- (d) the extent to which the drawing of attention to the circumstances of the death may be likely to reduce the chances of the occurrence of other deaths in similar circumstances; and
- (e) the desire of any members of the immediate family of the person who is or appears to be the person concerned that an inquiry should be conducted; and
- (f) any other matters the coroner thinks fit.

**29. Coroner may decide not to open inquiries:**

- (1) Subject to sections 55 to 57, the coroner who has received a death report may decide not to open a coronial inquiry into the death if satisfied that:
  - (a) the death occurred outside Samoa, or was caused by matters arising outside Samoa; and
  - (b) a coronial inquiry into the death has been or will be conducted outside Samoa.
- (2) Subject to sections 55 to 57, the coroner who has received a death report may decide not to open a coronial inquiry into the death if satisfied that the death occurred outside Samoa, and otherwise than on or from a Samoan craft.
- (3) A coroner who decides not to open an inquiry into a death must notify the Attorney General of the decision in the approved form.
- (4) The approved form must:
  - (a) contain or have attached to it (as the case requires) the prescribed information (which must include the coroner's reasons for the decision); and
  - (b) be accompanied by a written statement as to the identity of the person concerned and that -

- (i) is signed by the person making it; and
  - (ii) shows that the person's signature has been witnessed either by a police officer or a person authorised under section 21 of the Oaths, Affidavits and Declarations Act 1963.
- (5) A coroner who, after deciding not to open a coronial inquiry, becomes satisfied (whether because of information not available at the time of deciding, or for any other reason) that it is desirable to open the inquiry into the death concerned, may do so.

**30. Procedure if person is charged with offence:**

- (1) This section applies to a coroner who has received a death report and who:
  - (a) has been informed that some person has been, or may be, charged with a criminal offence for the death or its circumstances; and
  - (b) is satisfied that to open or (as the case requires) proceed with a coronial inquiry might prejudice the person.
- (2) The coroner may:
  - (a) postpone opening a coronial inquiry into the death; or
  - (b) open a coronial inquiry into the death and then adjourn the inquiry; or
  - (c) adjourn a coronial inquiry already opened into the death.
- (3) A coronial inquiry postponed or adjourned under subsection (2) must not proceed or be opened until any criminal proceedings against a person relating to the death has been finally concluded as specified in subsection (5).
- (4) As an exception to subsection (3), a coroner who has under subsection (2) postponed or adjourned an inquiry may later open or resume it if satisfied that:

- (a) a person is no longer to be charged with a criminal offence for the death or its circumstances; or
  - (b) to open or resume the inquiry would not prejudice the person charged, or thought likely to be charged, with a criminal offence for the death or its circumstances.
- (5) In subsection (3), criminal proceedings are finally concluded if no appeal (or, as the case requires, no further appeal) can be made in the course of the proceedings unless the Supreme Court or the Court of Appeal grants an extension of time.

**31. Other investigations:**

- (1) A coroner may postpone opening, or adjourn a current, coronial inquiry if the coroner is satisfied that:
- (a) an investigation into the death concerned or its circumstances is being or likely to be conducted under any other enactment; and
  - (b) the matters set out in section 26 are likely to be established by the investigation; or
  - (c) to open or continue with the current inquiry would be likely to prejudice the investigation or any person interested in it.
- (2) A coroner who has under subsection (1) postponed or adjourned an inquiry may open or resume it if satisfied that:
- (a) an investigation into the death or the circumstances in which it occurred is not likely to be conducted under any enactment other than this Act; or
  - (b) an investigation of that kind is being or is to be conducted, but -

- (i) the matters specified in section 26 are unlikely to be established in respect of the death by the investigation; and
  - (ii) to open or resume the inquiry will not prejudice the investigation or any person interested in it.
- (3) Without limiting subsection (1), a coroner conducting an inquiry may refer the death concerned to any other investigating authority if the coroner determines that the public interest would be served by the death concerned being investigated by it when carrying out its functions, duties or powers.
- (4) A referral under subsection (3) does not limit or affect the coroner's role, or the functions, powers, and duties of the investigating authority, in relation to the death concerned.

**32. Coroner may decide not to open or resume inquiry:**

- (1) This subsection applies to an inquiry postponed or adjourned under section 30 or 31.
- (2) A coroner:
  - (a) may decide not to open or resume an inquiry to which subsection (1) applies if satisfied that the matters specified in section 26 have been adequately established in respect of the death concerned in the course of the criminal proceedings or investigation concerned; and
  - (b) must send a copy of the decision to the Attorney General.
- (3) Subsection (2) applies whether or not the criminal proceedings are finally concluded (as specified in section 30(5)) and overrides section 28.

**33. Restrictions on making public of details of self-inflicted deaths:**

- (1) A person must not, without the prior approval of a coroner, make public any detail relating to the manner in which a death occurred if:
  - (a) the death occurred in Samoa after the commencement of this Act; and
  - (b) there is reasonable cause to believe the death was self-inflicted; and
  - (c) a coronial inquiry into the death has not been completed.
- (2) If a coroner has found a death to be self-inflicted, a person must not, without the prior approval of a coroner, make public a detail of the death other than:
  - (a) the name, address, and occupation of the person concerned; and
  - (b) the fact that the coroner has found the death to be self-inflicted.
- (3) The only ground on which a coroner may under this section approve the making public of details of the death (other than those specified in subsection (2)) is that the making public of detail of that kind is unlikely to be detrimental to public safety.
- (4) In determining whether the ground specified in subsection (3) is made out, a coroner must have regard to:
  - (a) the characteristics of the person who is, or is suspected to be, the dead person concerned; and
  - (b) matters specified in any relevant practice notes issued under section 81; and
  - (c) any other matters the coroner considers relevant.
- (5) In this section:  
**“make public”** means publish by means of:

- (a) broadcasting under the Broadcasting Act 2010; or
- (b) a newspaper; or
- (c) a book, journal, magazine, newsletter, or other similar document; or
- (d) a sound or visual recording; or
- (e) an Internet site that is generally accessible to the public, or some other similar electronic means.

“**detail**”, for a death, means a detail about the manner in which the death occurred, the circumstances of the death, or a coronial inquiry into the death.

**34. Coroner may prohibit making public of evidence given at any part of inquiry proceedings:**

If satisfied that it is in the interests of justice, decency, public order, or personal privacy to do so, a coroner may prohibit the making public of:

- (a) any evidence given or submissions made at or for the purposes of any part of the proceedings of an inquiry; and
- (b) the name, and any name or details likely to lead to the identification, of any witness.

**35. Review of coroner’s decision as to making public of details, evidence, etc.:**

- (1) A person may apply to a Judge of the Supreme Court for a review of the refusal or prohibition if the person is affected by:
  - (a) a refusal to approve the making public of details of a death under section 33; or
  - (b) a prohibition under section 34.

- (2) Until the Judge reaches a decision on the application, the refusal or prohibition concerned continues in effect.
- (3) The Judge may:
  - (a) confirm the refusal, or revoke it and issue, with or without conditions, an approval; or
  - (b) confirm, modify, or revoke the prohibition.

**36. Persons from whom evidence generally to be heard:**

- (1) Except as provided in other sections of this Act, for the purposes of a coronial inquiry, a coroner must (at an inquest or otherwise) receive evidence from a person:
  - (a) who offers, in respect of the death concerned, evidence relevant to any matter required by section 26(1)(a) to be established; or
  - (b) whom the coroner thinks appropriate to examine.
- (2) The evidence received may be expert evidence.

**37. Hearing on papers and chambers findings:**

- (1) This subsection applies to a coroner who is satisfied that no person who, under section 36, is a person from whom evidence is generally to be heard for the purposes of an inquiry wishes to give evidence in person for the purposes of the inquiry.
- (2) A coroner to whom subsection (1) applies may, instead of holding an inquest, hold a hearing on the papers and make chambers findings if the coroner:

- (a) gives notice under section 41 of the coroner's proposal to hold a hearing on the papers and make chambers findings, as if that proposal were an inquest; and
  - (b) has, at or after the end of the period referred to in subsection (3), received no notification of an intention to give evidence in person from a person who, under section 36, is a person from whom evidence is generally to be heard for the purposes of an inquiry.
- (3) The notice given under subsection (2)(a) must state the period (which must be a period that the coroner considers reasonable in the circumstances) within which a person to whom the notice is to be given may notify the coroner of an intention to give evidence in person.
- (4) A coroner who has given notice under subsection (2)(a) must hold an inquest instead of holding a hearing on the papers and making chambers findings if the coroner receives no notification under subsection (2)(b).

**38. Protection for witnesses and lawyers:**

The following have the same privileges and immunities as witnesses and lawyers in Courts:

- (a) witnesses giving evidence (whether at inquests or otherwise) for the purposes of inquiries opened under this Act;
- (b) a person being heard, under section 27(2) or (3), on a proposed adverse comment by a coroner in the course, or as part of the findings, of an inquiry;
- (c) lawyers appearing before coroners (whether at inquests or otherwise) for the purposes of this Act.

**39. Admission and verification of evidence:**

- (1) A coroner may, for the purposes of an inquiry, admit any evidence the coroner thinks fit, whether or not it would be admissible in court.
- (2) As an exception to subsection (1), a coroner must not admit any evidence for the purposes of an inquiry unless satisfied that its admission is necessary or desirable for the purposes stated in section 26.
- (3) Evidence given by a witness for the purposes of an inquiry must, if the evidence is admitted by the coroner and not given at an inquest held for the purposes of the inquiry, be put into writing, read over by or to the witness, and signed by the witness.

**Division 2 - Conduct of inquests****40. Decision to hold inquest:**

- (1) A coroner conducting a coronial inquiry into a death:
  - (a) must decide to hold a coronial inquest if the death is a death within the meaning of paragraph (a)(iv) of the definition of "death"; or
  - (b) may decide to hold a coronial inquest if the death does not appear to have been a death specified under paragraph (a).
- (2) Inquest may not be held if post-mortem or preliminary inquiry reveals death by natural causes.

**41. Date, etc., and notice of inquest:**

- (1) A coroner who decides to hold an inquest must:

- (a) fix a date, time, and place for the inquest; and
  - (b) comply with section 15 on the date, time, and place fixed for the inquest and at least 10 working days before the date fixed; and
  - (c) give notice, at least 10 working days before the date fixed, of the date, time, and place fixed for the inquest to every person (not being a person to be notified under section 15) who has a sufficient interest in the subject or outcome of the inquiry concerned.
- (2) A coroner who becomes aware before or during the inquest that the person who has a sufficient interest in the inquiry concerned includes a person who was not given notice under subsection (1) must:
- (a) adjourn the inquest so as to permit the person to prepare for, and attend, the inquest; and
  - (b) fix a new date, time, and place for the inquest and ensure that a notice for the new date, time, and place for the inquest is given to the person.
- (3) Without affecting or limiting sections 55 to 57, a failure to comply with subsection (1) or (2) does not affect the validity of any action taken by or on behalf, or at the direction, of a coroner.

**42. Inquests usually to be before coroner alone:**

Except as provided in section 43, an inquest must be held before a coroner sitting alone.

**43. Specialist advisers to sit with and help coroners:**

- (1) If satisfied that it is desirable to do so, a coroner may appoint a cultural, legal, medical, or other specialist adviser to sit with to help and advise the coroner at an inquest by giving advice.

- (2) The coroner's recommendation that a specialist adviser be appointed must be made after having regard to any relevant practice notes issued under section 81.
- (3) The specialist adviser must give the advice:
  - (a) on any questions referred to the specialist adviser; and
  - (b) in any manner the coroner may direct.
- (4) The appointment of a specialist adviser ends when the coroner conducting the inquest concerned completes and signs a certificate of findings in relation to the death concerned.
- (5) Advice given by a specialist adviser may be given any weight the coroner thinks fit.

**44. Joint inquests:**

- (1) This section applies to a coroner who opens two (2) or more separate coronial inquiries relating to two (2) or more deaths arising out of the same incident or series of incidents or same natural disaster.
- (2) A coroner to whom subsection (1) applies may, if the coroner thinks fit to do so, decide to hold a single coronial inquest for the purposes of the separate coronial inquiries referred to in that subsection.
- (3) A joint coronial inquest held pursuant to a decision under subsection (2) is conducted in the same way as any other inquest, except that in holding the inquest the coroner must have regard to any relevant practice notes issued under section 81.

**45. Inquests usually to be public:**

Subject to sections 34, 46, and 47, an inquest must be held in a place that is open to the public.

**46. Coroner may exclude person from inquest:**

A coroner may exclude any person from all or any part of an inquest.

**47. Coroner may exclude witness until the witness gives evidence:**

A coroner may direct any witness whose evidence has not yet been heard at an inquest to remain, or go and remain, outside the place where the inquest is being held until required to give evidence.

**48. Evidence:**

A person who gives evidence at an inquest:

- (a) must (unless doing so by a written statement under section 50) do so orally on oath or affirmation; and
- (b) may be cross-examined (either personally or by a lawyer) by the coroner or a person specified in section 49(1).

**49. Others who may cross-examine at inquest:**

- (1) The following persons may, personally or by a lawyer, attend an inquest (and, with leave of the coroner, cross-examine a witness):
  - (a) any person to be given notice under section 15; and

- (b) any person notified of the date, time, and place of the inquest under section 41(1)(b) (either alone, or as applied by section 41(2)(c)).
- (2) A question asked during cross-examination of a witness must be relevant to any of the purposes in section 26.
- (3) This section:
  - (a) is subject to sections 46 and 47; and
  - (b) does not affect the coroner's powers to regulate the procedure of, or maintain order at, the inquest.

**50. Evidence by written statement confirmed by witness:**

- (1) A witness at an inquest may give any evidence by tendering a previously prepared written statement and confirming it on oath or affirmation if:
  - (a) the coroner is satisfied that there is no reason making it desirable for the witness to give the evidence orally; and
  - (b) no person attending the inquest who is entitled to cross-examine the witness objects.
- (2) A witness who gives evidence at an inquest under subsection (1) may be cross-examined as if the written statement had been given orally; and the written statement concerned forms part of the depositions of the inquest.

**51. Evidence at distance for purposes of inquest:**

- (1) This subsection applies to a coroner who:
  - (a) intends to hold, or is holding, an inquest; and

- (b) is satisfied that it is necessary or desirable to have any evidence taken at a place other than the place where the inquest is to be, or is being, held.
- (2) A coroner to whom subsection (1) applies may, by written notice signed by the coroner, authorise some other coroner or, if no other coroner is available, a lawyer (of at least five (5) years practice) to take the evidence.
- (3) A coroner or lawyer taking evidence under subsection (2):
  - (a) has the same powers on taking of the evidence as the coroner holding the inquest concerned; and
  - (b) must give notice under section 41 of the taking of the evidence as if it were the inquest concerned.
- (4) Sections 36, 39, 48, 49 and 50 apply to the taking of evidence under subsection (2) as if it were being taken at an inquest.
- (5) Evidence given by a witness under subsection (2) and admitted by a coroner or lawyer must be put into writing, read over to or by the witness, and signed by the witness and the coroner or lawyer, who must send the evidence to the coroner holding the inquest concerned; and that coroner must receive the evidence and act upon the evidence as if the evidence had been given and admitted at the inquest concerned.

### **Division 3 - Completion of inquiry**

#### **52. Body must be viewed before certain inquiries concluded:**

- (1) A coroner must not issue a certificate of interim findings, or conclude an inquiry, unless satisfied the body concerned:

- (a) has been viewed in Samoa; or
- (b) is destroyed, irrecoverable, or lost, but was in Samoa immediately before the body -
  - (i) was destroyed; or
  - (ii) became irrecoverable or lost.
- (2) Subsection (1) does not apply to an inquiry the opening of which was authorised by the Attorney General under section 28(1)(c).

**53. Interim certificate of findings:**

Before concluding a coronial inquiry or inquest, the coroner conducting it:

- (a) may, after considering all the evidence admitted to date for the purposes of the inquiry, and in the light of the purposes stated in section 26, complete and sign an interim certificate of findings, in the approved form, recording the fact and cause of death concerned; and
- (b) must state the reasons for the findings or cause of death; and
- (c) must send a copy of the interim findings to the Attorney General.

**54. Final certificate of findings:**

- (1) When a coronial inquiry or inquest is completed, the coroner completing the coronial inquiry must:
  - (a) consider all the evidence admitted for the purposes of the inquiry or inquest and, in the light of the purposes stated in section 26, complete and sign a final certificate of findings in the approved form in relation to the death concerned;
  - (b) state in writing the reasons for the findings;
  - (c) send a copy of the final certificate to the Attorney General, together with the following -

- (i) all depositions of evidence admitted for the purposes of the inquiry or inquest;
  - (ii) a certificate of the registration of the death (if applicable);
  - (iii) if the inquiry or inquest was opened pursuant to the authority of the Attorney General given under section 28(1)(c), a copy of the Attorney General's authority; and
  - (iv) any recommendations or comments made under section 26(1)(b).
- (2) At the conclusion of a trial for an offence under Part IX of the Crimes Act 2013 involving the death of a person, the Judge may issue a final certificate of fact and cause of death of the deceased unless the Judge has good reason not to issue the certificate.
- (3) A final certificate supersedes an interim certificate of findings issued under section 53.

#### **Division 4 - Inquiries or further inquiries ordered by Supreme Court**

**55. Inquiry if coroner has failed or refused to open one:**

Except as provided in section 29, if the Supreme Court is satisfied that:

- (a) a coronial inquiry is necessary or desirable; and
- (b) the coroner by whom the inquiry should be opened has failed or refused to open one,

the Court may order a coronial inquiry to be opened; and in that case a coronial inquiry must be opened and conducted.

**56. Inquiry if new facts discovered:**

Except as provided in section 28, if the Supreme Court is satisfied that:

- (a) since a coroner decided not to open a coronial inquiry into a death, new facts have been discovered that make it desirable to open one; and
  - (b) a coronial inquiry has not been opened under section 28,
- the Supreme Court may order one to be opened; and in that case a coronial inquiry must be opened and conducted.

**57. Further inquiry if sufficient reason:**

Except as provided in section 29, if the Supreme Court is satisfied that:

- (a) one (1) or more coronial inquiries have been conducted into a death; but
  - (b) another should be conducted because of fraud, rejection of evidence, irregularity of proceedings, or discovery of new facts, or for any other sufficient reason,
- the Supreme Court may order another to be opened; and in that case another coronial inquiry must be opened and conducted.

**58. Exercise of powers under sections 55 to 57:**

The powers under sections 55 to 57 may be exercised only on an application made for the purpose by the Attorney General.

**59. Form and service of orders under sections 55 to 57:**

- (1) An order under any of sections 55 to 57 must:
  - (a) be in writing;

- (b) specify the coroner who is to open and conduct the coronial inquiry; and
  - (c) be served on that coroner.
- (2) The coroner on whom an order is served under subsection (1) must open and conduct the coronial inquiry concerned accordingly.

**60. Procedure at inquiries ordered under sections 55 to 57:**

- (1) The findings of a coronial inquiry conducted pursuant to any of sections 55 to 57 replace the findings at any previous inquiry (if any) conducted for the death concerned.
- (2) Except to the extent that the Supreme Court may have ordered otherwise under section 55, 56 or 57, all depositions taken for the purposes of any former coronial inquiry into a death is treated to have been taken for the purposes of an inquiry into the death held pursuant to that section.
- (3) Except as provided in this section and sections 55 to 57, an inquiry held pursuant to any of those sections must be held in the same manner as any other inquiry.

## PART 5

### OTHER DUTIES AND POWERS

**61. Police to help coroners' investigations, etc:**

Without limiting section 12(5), the Commissioner of Police must cause police officers to help coroners' investigations, inquiries and inquests under this Act.

**62. Ministry to provide administrative support:**

- (1) The Ministry must provide administrative support necessary to enable coroners to carry out efficiently and effectively their functions, duties and powers under this Act, including costs for transportation of bodies by the Police.
- (2) The Chief Executive Officer of the Ministry must determine the nature of that support under this section.

**63. Coroner may call for investigations, etc.:**

- (1) A coroner may cause to be made by other persons any investigations or examinations, or commission from them any reports, medical or otherwise, the coroner thinks proper:
  - (a) for the purpose of deciding whether to open an inquiry; or
  - (b) if the coroner is to open an inquiry, or has opened and not completed one.
- (2) Before acting under this section, a coroner must have regard to any relevant practice notes issued under section 81.
- (3) This section does not limit or affect a coroner's powers under any other enactment.

**64. Coroner may refer death to other investigating authorities:**

- (1) Without limiting section 31, a coroner conducting an inquiry may refer the death concerned to one (1) or more other investigating authorities if the coroner determines that the public interest would be served by the death concerned being investigated by them in the performance or exercise of their functions, powers, or duties.
- (2) A referral under this section does not limit or affect the coroner's role, or the functions, powers, and duties of the other investigating authorities, in relation to the death concerned.

**65. Coroner may by written notice require person to supply information, etc.:**

- (1) A coroner who considers it necessary for the purposes of an inquiry the coroner has opened under this Act may, by written notice served on a person, require that person, within a time specified in the notice:
  - (a) to give the coroner any information or class of information specified in the notice; or
  - (b) to produce to the coroner, or to a person specified in the notice acting on the coroner's behalf in accordance with the notice, any document or class of documents or other thing specified in the notice.
- (2) The person on whom the notice is served must give or produce a thing (whether the thing is information, a class of information, a document, a class of documents, or any other thing) sought by the notice, except to the extent that the person is excused from doing so by section 66.

- (3) Information given in response to a notice under subsection (1)(a) must be given in writing and:
  - (a) if given by an individual, must be signed by the individual; or
  - (b) if given by a body corporate, must be signed by an officer authorised to sign on behalf of the body corporate.
- (4) This section does not limit or affect a coroner's powers under any other enactment.

**66. Grounds for refusing to comply with written notice:**

- (1) A person on whom a notice under section 65 is served is not required by that section to give or produce a thing sought by the notice if, and to the extent that:
  - (a) the person claims within five (5) working days after service of the notice that any or all of the grounds in subsection (2) apply to the thing; and
  - (b) the person's claim has not been considered and dismissed by the coroner who issued the notice or by another coroner acting in his or her place, or has been so considered and dismissed, but the dismissal is the subject of, or has been revoked on, an application for review (whether under section 71 or otherwise).
- (2) The grounds referred to in subsection (1) are that the giving or production of the thing sought by the notice:

- (a) would, if the thing were sought from the person as a witness giving evidence in a court of law, be prevented by a privilege or immunity that the person would have as a witness, or as a lawyer, in that court; or
- (b) is prevented by an enactment, rule of law, or order or direction of a court that prohibits or restricts the making available of the thing, or the manner in which the thing may be made available; or
- (c) would be likely to prejudice the maintenance of the law (including the prevention, detection, investigation, prosecution, and punishment of offences, and the right to a fair trial).

**67. Warrant for information, etc.:**

- (1) A District Court Judge may issue a warrant to search a specified place (including, without limitation, a dwelling house), craft, or vehicle if satisfied on an application in writing made on oath by a police officer that:
  - (a) a coroner has issued and had served on a person a notice under section 65; and
  - (b) the person has failed to comply with the notice (other than because the person is excused from doing so by section 66); and
  - (c) there are reasonable grounds to believe that there is in or on that place, craft, or vehicle any information, class of information, document, class of documents, or other thing, specified in the notice.
- (2) A District Court Judge may also issue a warrant to search a specified place (including, without limitation, a dwelling house), craft, or vehicle if satisfied on an application in writing made on oath by a police officer that:
  - (a) a coroner has prepared, for issuing and serving on a person, a notice under section 65, but has not issued and served the notice because paragraph (b) applies; and

- (b) there are reasonable grounds to believe that a notice of that kind would not be complied with, and that the purpose of a warrant of that kind would be defeated if the warrant were granted after a notice of that kind was issued and served under subsection (1); and
  - (c) there are reasonable grounds to believe that there is in or on that place, craft, or vehicle any information, class of information, document, class of documents, or other thing, specified in the notice.
- (3) A warrant under this section must be in the approved form, and must be:
    - (a) directed to and executed by a police officer; or
    - (b) directed to the Police and executed by any police officer.
  - (4) A warrant under this section may be issued subject to any reasonable conditions the Judge specifies in it.
  - (5) Those conditions may include conditions intended to ensure that things to which the grounds in section 66(2) apply are, in the execution of the warrant, identified and not obtained.

**68. Entry and search under warrant under section 67:**

- (1) A warrant under section 67 authorises a police officer executing the warrant, except as provided in subsection (2):
  - (a) to enter and search the specified place, craft, or vehicle on one occasion within 10 working days of the date of issue of the warrant at any time that is reasonable in the circumstances, but subject to any conditions imposed by the Judge under section 67(4); and

- (b) to use any assistance that is reasonable in the circumstances; and
  - (c) to use any force for making entry (whether by breaking open doors or otherwise) as is reasonable in the circumstances; and
  - (d) to use any force for breaking open a thing and for searching for, or removing from the place, craft, or vehicle any information, class of information, document, class of documents, or other thing, specified in the relevant notice under section 65, as is reasonable in the circumstances; and
  - (e) to take originals of, copies of, or extracts from, or to reproduce in usable form any information in, any documents specified in the relevant notice under section 65; and
  - (f) to require a person at or in the place, craft, or vehicle at the time of entry to do, or to help the police officer executing the warrant to do, what is specified in paragraph (e).
- (2) A warrant under section 67 does not authorise a police officer to take any action in respect of a thing that is being withheld pursuant to section 70.

**69. Duties when executing warrant under section 67:**

- (1) A police officer executing a warrant under section 67 must:
- (a) produce it for inspection upon initial entry and in response to any reasonable request after that; and
  - (b) when requested by or on behalf of the owner or an occupier of the place, person-in-charge of the craft, or driver of the vehicle, provide a copy of the warrant no later than five (5) working days after the making of the request.

- (2) If the owner or an occupier of the place, person-in-charge of the craft, or driver of the vehicle being searched is not present at the time of the search, the police officer executing the warrant must leave in a prominent position at or in the place, craft, or vehicle being searched a written notice stating the date and time of the execution of the warrant and the name of the police officer-in-charge of the search.
- (3) A police officer executing the warrant and who removes from the place, craft, or vehicle being searched any information, class of information, document, class of documents, or other thing, must, within five (5) working days after the removal, take all reasonable steps to give the person from whose possession or control the information, class of information, document, class of documents, or other thing was taken written notice of:
  - (a) what has been removed; and
  - (b) the reasons why it has been removed; and
  - (c) where it will be kept until it is returned.

**70. Grounds for withholding thing sought by warrant:**

A person may withhold a thing sought by a warrant under section 67 if, and to the extent that:

- (a) the person claims, when the warrant is executed, that any or all of the grounds in section 66(2) apply to the thing; and
- (b) the person's claim has not been considered and dismissed by the District Court Judge who issued the warrant, or by another coroner who is not the coroner who issued, or proposed to issue, the relevant notice under section 65, or has been so considered and dismissed, but the dismissal is the subject of, or has been revoked on, an application for review (whether under section 71 or otherwise).

**71. Review of dismissal of claim under section 66(2):**

- (1) A person may, within five (5) working days of the dismissal, apply to a Supreme Court Judge for a review of the dismissal if:
  - (a) the person made a claim of the kind specified in section 66(1)(a), 70(a) or 72(4); and
  - (b) the claim was dismissed by a coroner or a District Court Judge, as provided in section 66(1)(b), 70(b) or 72(4)(a)(i) or (ii).
- (2) The claim must, for the purposes of sections 66 and 70 and 72, be treated as not having been dismissed by the coroner for the five (5) working days referred to in subsection (1).
- (3) The Supreme Court Judge may, on any ground the Judge thinks fit, confirm, modify, or revoke the dismissal.

**72. Limits on use of information, etc., given or produced pursuant to section 65 or 67:**

- (1) This section applies to any information, document, or other thing given or produced by a person in response to a notice under section 65, or obtained through the execution of a warrant issued under section 67 (the thing).
- (2) The thing may be used only for the purposes of the inquiry concerned, and may be used for those purposes only if that use is not prohibited by subsection (4).

- (3) In particular, the thing is not admissible as evidence against any person in any court or at any other inquiry or in any other proceedings except:
  - (a) on a prosecution of the person for an offence against section 77(1)(b) in relation to the document; or
  - (b) on the trial of the person for perjury under the Crimes Act 2013 for evidence given on oath or affirmation by the person.
- (4) However, the thing cannot be used for the purposes of the inquiry concerned if the person who gave or produced it, or from whom it was obtained, claims, within five (5) working days after it was given, produced, or obtained, that any or all of the grounds in section 66(2) apply to it, and that person's claim:
  - (a) has not been considered and dismissed by -
    - (i) the District Court Judge who issued the warrant, or by another coroner who is not the coroner who issued, or proposed to issue, the relevant notice under section 65, if the thing was obtained through the execution of a warrant issued under section 67; or
    - (ii) the coroner who issued the notice or by another coroner acting in his or her place, if the thing was given or produced in response to a notice under section 65; or
  - (b) has been so considered and dismissed, but the dismissal is the subject of, or has been revoked on, an application for review (whether under section 71 or otherwise).
- (5) The thing must be returned to the person who gave or produced it, or from whom it was obtained, once it is no longer needed for the purposes of the inquiry concerned or for the purposes of a prosecution or trial referred to in subsection (3).

**73. Warrant for removal of body:**

- (1) A District Court Judge may issue a warrant to remove a body from a specified place (including, without limitation, a dwelling house), craft, or vehicle if satisfied on an application in writing made on oath by a police officer that:
  - (a) a coroner has given directions about the removal of the body under section 14; and
  - (b) there are reasonable grounds to believe that the body is being held in or on that place, craft, or vehicle contrary to the directions; and
  - (c) the Police has, despite having already used negotiation and all other means that are reasonable in the circumstances, failed to secure the release of the body from that place, craft, or vehicle in accordance with the directions.
- (2) The warrant must be in the approved form, and must be:
  - (a) directed to and executed by a police officer; or
  - (b) directed to the Police and executed by any police officer.
- (3) The warrant may be issued subject to any reasonable conditions the Judge specifies in it.

**74. Entry and search under warrant under section 73:**

A warrant under section 73 authorises a police officer executing the warrant:

- (a) to enter and search the specified place, craft, or vehicle on one occasion within two (2) working days of the date of issue of the warrant at any time that is reasonable in the circumstances, but subject to any conditions imposed under section 73(3); and

- (b) to use any assistance that is reasonable in the circumstances; and
- (c) to use any force for making entry (whether by breaking open doors or otherwise), or for breaking open a thing, as is reasonable in the circumstances; and
- (d) to use any force that is reasonable in the circumstances for searching for the body in or on, or for removing the body or for preventing the removal of the body from, the place, craft, or vehicle.

**75. Warrant under section 73 to be produced:**

- (1) A police officer executing a warrant under section 73 must:
  - (a) produce it for inspection upon initial entry and in response to any reasonable request after that; and
  - (b) when requested by or on behalf of the owner or an occupier of the place, person-in-charge of the craft, or driver of the vehicle, provide a copy of the warrant no later than five (5) working days after the making of the request.
- (2) If:
  - (a) the owner or an occupier of the place; or
  - (b) the person-in-charge of the craft; or
  - (c) the driver of the vehicle,being searched is not present at the time of the search, the police officer executing the warrant must leave in a prominent position at or in the place, craft, or vehicle being searched a written notice stating the date and time of the execution of the warrant and the name of the police officer-in-charge of the search.

**76. Power to seize evidence relevant to post-mortem:**

- (1) A police officer complying with, or helping to ensure compliance with, a direction about the removal of a body under section 14, or executing a warrant for the removal of a body under section 73, may, using any force reasonably necessary in the circumstances, seize a thing:
  - (a) on, or in the immediate vicinity of, the body as found in the place, craft, or vehicle from which it is being removed; and
  - (b) that the police officer believes on reasonable grounds is or may be relevant to the post-mortem of the body directed under section 16.
- (2) Within five (5) working days after seizing a thing under subsection (1), the police officer must inform the owner or occupier of the place, person-in-charge of the craft, or driver of the vehicle from which the body is removed, or the person from whose possession or control the thing was seized, of the fact that the thing was seized and of the place from where it was seized.
- (3) The police officer may inform the owner or occupier, person-in-charge, or driver by delivering to him or her a written notice containing that information, or by leaving a notice of that kind in a prominent position at or in the place, craft, or vehicle from which the body is removed.
- (4) A thing seized under subsection (1) must:
  - (a) be delivered to the coroner who directed under section 16 the post-mortem of the body; and
  - (b) if practicable, be returned promptly once it is no longer needed for the purposes of that post-mortem.

## PART 6

### MISCELLANEOUS

**77. Offences:**

- (1) A person commits an offence who:
  - (a) without reasonable excuse, fails to comply with a notice under section 65 to the extent that the person is capable of complying with it; or
  - (b) makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes the document false or misleading in a material particular; or
  - (c) fails or refuses to comply with a direction about the removal of a body under section 14; or
  - (d) hinders or prevents any person from complying with a direction about the removal of a body under section 14; or
  - (e) without reasonable excuse, fails or refuses to give to a coroner a report required under section 16(7) or 17; or
  - (f) publishes a report of any proceedings in contravention of this Act; or
  - (g) obstructs a coroner or other person carrying out any function, duty or power under this Act, unless the person has a reasonable excuse; or
  - (h) publishes any question or inquiry at any inquest which the coroner -
    - (i) has forbidden or disallowed; or
    - (ii) has warned the witness he or she is not obliged to answer, and has ordered not to be published; or

- (i) makes a written statement as to the identity of a person for the purposes of section 29(4) -
  - (i) knowing the statement to be false; and
  - (ii) intending to mislead any person who might rely upon it.
- (2) Subsection (1)(b) applies to the following documents:
  - (a) a doctor's report required under section 17;
  - (b) a witness's evidence put into writing, read over to or by the witness, and signed by the witness, in accordance with section 39(3);
  - (c) reports commissioned by a coroner under section 63;
  - (d) documents prepared under section 65(1)(a).
- (3) A person is liable:
  - (a) to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding six (6) months, or both, if the person is convicted of an offence under any of paragraphs (a) to (h) of subsection (1); and
  - (b) to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding five (5) years, or both, if the person is convicted of an offence under subsection (1)(i).

**78. Inquests may be held on Sunday:**

A coroner may hold an inquest on a Sunday if the coroner is of the opinion that it is expedient to hold the inquest on that day.

**79. Fees and allowances:**

The Coroner may award reasonable payment for the expenses and loss of time to be paid to any witness attending an inquest, and to any medical practitioner, analyst, or pathologist (not being an employee of the Government or other public office or body) giving evidence at an inquest or performing any function under this Act.

**80. Exemption from personal liability:**

A coroner or any other person is not personally liable for carrying out in good faith any function, duty or power under this Act.

**81. Practice notes:**

- (1) The Chief Justice may issue written practice notes (not inconsistent with this Act) to help to inform, and to achieve consistency in, coronial decision-making and other coronial conduct.
- (2) A coroner, in carrying out any function, duty or power under this Act, must have regard to any practice note that is relevant to the performance or exercise of the function, duty or power.
- (3) Practice notes may also specify matters to which coroners must have regard in:
  - (a) determining whether to approve the making public of certain details of self-inflicted deaths (see section 33(4)(b));
  - (b) recommending to the coroner that a specialist adviser be appointed to sit with and help the coroner at an inquest (see section 43(2));
  - (c) holding joint inquests (see section 44(3));
  - (d) calling for investigations or examinations, or commissioning reports (see section 63(2)).

**82. Inquiries concerning fires:**

- (1) The Commissioner of Police, the Chief Fire Officer, or the Chief Executive Officer of a Ministry may, in writing, request a coroner to hold an inquiry as to the cause and origin of a fire and as to the effectiveness or otherwise of the measures taken to deal with the fire, and all other incidental matters in connection with the fire.

- (2) The coroner:
  - (a) must make a preliminary investigation as to the necessity for the inquiry; and
  - (b) may order that the inquiry be held or not to be held.
- (3) This Act applies, with necessary modifications, to any inquiry ordered under subsection (2)(b).

**83. Members of visiting forces:**

- (1) If a death has been reported to a coroner and the coroner is satisfied that the person was a member of a visiting force, a member of its civilian component, or a dependant, then, unless the Attorney General otherwise directs, the following provisions apply:
  - (a) if the coroner has not opened an inquiry into the death, the coroner must not open an inquiry into the death;
  - (b) if an inquiry has been opened but is not then completed, the coroner must adjourn the inquiry.
- (2) As soon as practicable after becoming aware of a death to which subsection (1) applies, the Commissioner of Police must ensure that the Attorney General is notified of the death.
- (3) The Attorney General may direct that a coroner or any other authority open or proceed with an inquest or other inquiry into a death to which subsection (1) applies. Without limiting the matters the Attorney General may take into account in deciding whether to give the direction, the Attorney General must take into account:
  - (a) the wishes of the sending State; and
  - (b) the terms of any applicable agreement.

- (4) If a death has been reported to a coroner and the coroner is informed that a member of a visiting force, a member of its civilian component, or a dependant has been or may be charged with an offence against the service law of the sending State relating to the death or its circumstances, then, unless the Attorney General otherwise directs, the following provisions apply:
  - (a) if the coroner has not opened an inquiry into the death, the coroner must not open an inquiry into the death until the criminal or disciplinary proceedings against the person have been finally concluded;
  - (b) if an inquiry has been opened but is not then completed, the coroner must adjourn the inquiry until the criminal or disciplinary proceedings against the person have been finally concluded.
- (5) Subsection (4) does not prevent a coroner from:
  - (a) taking evidence of the fact that the person has died, of the person's identity, and of the place and date of death; or
  - (b) providing information under the Births, Deaths and Marriages Registration Act 2002 for the purpose of registering the death; or
  - (c) authorising the release of the body.

**84. Persons with diplomatic privileges:**

If a death has been reported to a coroner and the coroner is informed that the dead person was a person who has diplomatic privileges, the coroner must not carry out any investigation, inquiry or inquest unless:

- (a) the sending state or organisation agrees; or
- (b) the person's diplomatic privileges has been removed by the sending state or organisation.

**85. Approved forms:**

The Chief Justice may approve forms for use under this Act.

**86. Information by Attorney General or Police to assist inquiry or inquest:**

Any information provided to a coroner by the Attorney General or the Police, as *amicus*, to assist any inquiry or inquest is not to be disclosed to any other interested party in the inquiry or inquest.

**87. Regulations:**

The Head of State acting on the advice of Cabinet may make regulations to give effect to the provisions or for the purposes of this Act, and in particular may make the following regulations:

- (a) for other procedures for post-mortem or for retention and return of body parts;
- (b) for fees and charges, subject to the approval of the National Revenue Board established under the Public Finance Management Act 2001.

**88. Repeal and transitional provisions:**

- (1) The Coroners Ordinance 1959 is repealed (“Ordinance”).
  - (2) The repeal of the Ordinance does not affect any document made or anything done under the provision so repealed or under another corresponding former provision, and the document or thing so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act continues and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.
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