

# Coroners Act

## **Purpose:**

The purpose of this act is to provide for the appointment of coroners and a Chief Coroner. The Act requires persons to notify a coroner or police of any death in certain circumstances so that a coroner may do all things necessary to investigate the death to determine the cause of death and the circumstances surrounding the death. An inquest into a death shall determine the cause of death and the jury may make recommendations which it considers may be of assistance in preventing similar deaths.

## **Where the Act Applies:**

The Act applies to all deaths that occur in Nunavut or deaths that occur as a result of events in Nunavut.

## **How the Act Works**

The Minister may appoint coroners for Nunavut, for a term of three years. The Minister may also appoint a Chief Coroner for Nunavut. Every person has a duty to report deaths which occur in circumstances which require investigation and a coroner will then investigate the death. A coroner must hold an inquest where he or she forms the opinion that an inquest is necessary for the public good.

### *Duties of the Chief Coroner*

The Chief Coroner is responsible for administering this Act and the regulations and supervising all coroners in the performance of their duties and exercising their powers. The Chief Coroner may:

- assist coroners in obtaining medical and other experts where necessary;
- establish and conduct programs for the instruction of coroners;
- bring the findings and recommendations of coroners and juries to the attention of appropriate persons, agencies, or departments of governments;
- issue public reports;
- prepare, publish, and distribute a code of ethics for coroners and guidelines on the performance of their duties and the exercise of their powers; and
- make recommendations to the Minister respecting the appointment and removal of coroners.

### *Reporting of Deaths*

Every person has a duty to immediately notify a coroner or police officer of any death which he or she knows of which occurs in Nunavut, or as a result of events in Nunavut, where the death occurs in the following circumstances:

- as a result of apparent violence, accident, suicide, or other apparent cause other than disease, sickness, or old age;
- as a result of apparent negligence, misconduct, or malpractice;
- where the death occurs suddenly and unexpectedly when the dead person was in apparent good health;
- where the death occurs within 10 days after a medical procedure or while the dead person was under or recovering from anesthesia;
- where the death occurs as a result of or in the course of any employment, or occupation of the dead person as a result of: a) disease or sickness contracted by the dead person; b) an injury suffered by the dead person; or c) the dead person coming into contact with a harmful substance;
- where the death is a still birth that occurs without the presence of a doctor;
- where the death occurs while the deceased person is being held or kept by force in a jail, correctional centre, health facility, or any other place;
- where the death occurs while the dead person is being held or kept by a police officer.

These kinds of deaths are called reportable deaths.

### *Duties of Coroners*

Where a coroner becomes aware of a death which must be reported, where the body is in Nunavut, the coroner must issue a warrant to take possession of the body of the dead person and must conduct an investigation to determine the cause of death and the circumstances of the death. A coroner must not take possession of a body or begin an investigation where the coroner is disqualified because:

- the coroner or an associate or employee was a doctor for the dead person within six months before the death;
- the conduct of the coroner or an associate might be questioned in relation to the death.
- the death occurred in a hospital where the coroner works as a doctor;
- the death occurred at a place, business, or work in which the coroner has a financial interest.

In conducting an investigation or inquest, a coroner who has reasonable and probable grounds to believe that it is necessary, has the power to:

- enter and inspect any place where the dead person was before death;
- protect and keep people away from an area where the death is believed to have occurred for up to 48 hours or a longer period authorized by the Chief Coroner;
- under the authority of a warrant issued by a Justice of the Peace seize anything that the coroner believes will help with the investigation;
- order the digging up of a body where authorized to do so by the Chief Coroner or the Minister.

The coroner may authorize a doctor or policeman to exercise any of the powers of investigation of the coroner, but where a power depends on the belief of the coroner, that belief must be that of the coroner personally.

The coroner must ensure that evidence received by the jury at an inquest is recorded. The witnesses' evidence must be recorded by audiotape or by a trained note taker, who must swear to record the evidence fairly and accurately.

Where a dead person was in a home at the time of death, a coroner may not enter the house without a warrant. The warrant may be issued to a coroner or a police officer by a justice of the peace on application when the justice of the peace hears evidence in court and is satisfied that entry into the house is necessary for the coroner to do his or her duties under this Act, or where the justice of the peace hears evidence in court and believes that entry to the house has been refused or will be refused. The coroner may only use force to enter the house if accompanied by a police officer and if the warrant of the justice of the peace allows force to be used to enter the home.

A justice of the peace may also permit any place to be searched if evidence is heard in court that satisfies the justice of the peace that the search will help the coroner to understand how the death occurred. The coroner must make sure that anything which is taken as a result of a search is kept in a safe place and returned to the person it was seized from as soon as possible after the coroner's work is done.

### ***Examining the Body of the Dead Person After Death***

While investigating a death, a coroner may at any time, arrange for examination of the body of the dead person and may permit the body to be moved out of Nunavut for that purpose. The examination of the dead person must be performed by a doctor specializing in causes of death except where the examination is not for a coroner's inquest. Also, the coroner may agree to permit an ordinary medical doctor to examine the dead person.

If a person who examines a dead person believes that the dead person has not objected and if that person has no reason to believe that the immediate family of the dead person objects to the gland being removed, then the pituitary gland may be taken out and delivered to any person or agency approved by the Chief Coroner for the treatment of people who have hormone growth deficiency. This can be done even though no written consent, otherwise required by law, was given.

### ***Digging up a Body***

The Minister or the Chief Coroner may order that a body be dug up for the purpose of investigating or inquiring into the death. If a body is to be dug up, the coroner who ordered that the dead person be dug up must tell the spouse of the dead person or any adult close relative, as well as the person in charge of the cemetery where the body is buried, at least 72 hours beforehand. Where a coroner is inquiring into a death, and the

coroner believes that it will not help in the investigation if the body is dug up, the investigation can take place without digging up the body.

### ***Police Officers to Assist Coroners***

A coroner may get help from police officers, other persons, or experts in investigating a death or conducting an inquest and where police officers have made a report into a death, which then the report must be given to the coroner.

It is against the law for any person, in any way, to interfere with a coroner or person assisting the coroner in looking into death. It is also against the law for any person to interfere with or alter the body of a dead person unless the coroner gives approval.

### ***When a Coroner Decides Not to Hold an Inquest***

When a coroner looks into a death and decides that an inquest is not necessary, the coroner must complete a report, which must have certain information in it, must explain why the inquest is not necessary and must then send the report to the Chief Coroner. The coroner may then allow the body of the dead person to be given to the family. The coroner may also decide that the body of the dead person may be given to the family before the holding of an inquest. If the body of the dead person is to be examined, the coroner may allow the body to be given to the family after the examination is complete.

A coroner must not hold an inquest where the death is not a reportable death. A coroner must not hold an inquest for purpose of deciding who should be taken to court and held responsible for the costs of death or charged with a criminal offence as a result of the death.

Where a coroner decides that an inquest is not necessary, a close member of the family or other concerned person may ask the coroner to hold an inquest by sending the coroner a written request or meeting with the coroner or having his or her representative meet with the coroner to explain why there should be an inquest. The coroner must think about the request and must answer the request in writing within 24 days. If the person who made the request for the inquest is refused by a coroner, then the person can make an appeal to the Chief Coroner and ask that the case be reviewed again. The person making the appeal must write to the Chief Coroner giving reasons why they are appealing and may also meet with the Chief Coroner to personally explain the reasons. When an appeal is made to the Chief Coroner, the Chief Coroner will consider the appeal and give a written answer with reasons within 10 days. In most cases, the decision of the Chief Coroner is final.

### ***When a Coroner Decides to Hold an Inquest***

The coroner must hold an inquest where, after conducting an investigation, the coroner believes that an inquest is necessary:

- to find out who the dead person was or how they died;
- to tell the public about how the person died so that it will do some good for the community;
- to let the public know about things or practices which are dangerous and so that recommendations can be made to prevent people dying again in the same way;
- where the death occurs while a person is in jail or being held by police.

### ***Directed Inquests***

The Chief Coroner or the Minister may direct any coroner to hold an inquest or request a judge to hold an inquest even where:

- a) another coroner has conducted an investigation or done anything else in connection with the death;
- b) a coroner has given a written opinion that an inquest is not necessary;
- c) an inquest has already been held.

These powers of the Chief Coroner or Minister do not apply to a coroner who has been disqualified.

### ***How the Inquest Works***

Where an inquest is required under this Act, the coroner must state, in writing, that an inquest is necessary and then hold the inquest as soon as it can be done. Where two or more deaths appear to have happened from the same cause or the same happening, then the Chief Coroner may order that one inquest should be held for all the deaths.

### ***Inquests Where Criminal Charges are Involved***

Where a person has been charged with a criminal offence as a result of a death, an inquest must only be held when the Minister orders it. Where an inquest has begun, and a person is charged during the inquest with a criminal offence as a result of a death, the Coroner must send the jury away and close the inquest. The inquest can only be re-opened if the Minister directs it.

Where it has been decided to hold an inquest, a coroner must delay the holding of the inquest where it appears likely that a person will be charged with a criminal offence as a result of death. In this situation, only the Minister has the power to direct that an inquest be held.

There is one time where a coroner may hold an inquest where a person has been charged with a criminal offence as a result of death, and that is where the criminal charge has been concluded in the court and the accused person has been found guilty or found not guilty, or the time for the appeal has run out. In this case, the person who has been charged could be made to attend the inquest and give evidence. An inquest is not the same as a criminal court.

Every inquest must be held with a jury composed of six persons. It only takes five jurors to agree on a verdict.

A person who is qualified and not exempt as a juror under the *Jury Act* is qualified to serve as a juror for a coroner's inquest. However, certain people cannot serve as jurors at an inquest:

- a) an employee, inmate, or patient of a hospital, jail, or other place where the death occurred;
- b) an owner or employee of a building where the death occurred;
- c) an owner or employee of a business where the death occurred.

The coroner must also not approve anyone serving on a jury who would not be able to make a right decision at the end of the inquest because they have already made up their minds or would not be fair.

In order to find jurors, the coroner asks the sheriff. The sheriff then picks the names of any six persons from the list, not in any order, and gives the names to the coroner. The coroner then asks the sheriff or a police officer to go and get the persons selected as jurors using a written summon, which is shown to each person selected. If less than six persons are able to be jurors after the sheriff has gone to each person selected, the sheriff must do what is necessary to find other jurors in keeping with the Act. If this is later found out that the rules in this Act about qualifications and selection of jurors were not followed, it will not affect what the jury has finally decided, unless the failure to follow the rules was very serious.

Once the jurors are picked, the coroner must ask each juror to make an oath to look very carefully into the death of the person or persons who died, and base their final decision and recommendations on what they have found.

Any person may ask the coroner who investigates a death to let them know of the time and place of any inquest that may be held. The coroner must also inform the following persons, in writing, of the time and place of the inquest:

- the immediate family of the dead person;
- any person who made a request to be told of the time and place;
- any person, who in the coroner's opinion, has a big interest in the inquest;
- any person whose conduct is likely to be called into question at the inquest.

Where the conduct of a person is brought into question at the inquest and that person is not present at the inquest, the inquest may be adjourned by the coroner so that the person can be notified, if it is possible. If the person whose conduct has been brought into question cannot be notified, that does not make the inquest improper.

An inquest shall be held in public. In very special circumstances, the Minister may direct that an inquest be held in private:

- where the Minister is of the opinion that national security may be in danger or
- where there is a greater possibility that the public will be more hurt than helped if the inquest is held in public.

A coroner may order that any witness or any agent representing that witness at an inquest, but not lawyers, be kept out of the inquest until the witness has been called to give evidence.

A coroner may recognize and give an opportunity to participate at the inquest to any person who the coroner considers has a big interest in the inquest. That person may be represented by a lawyer or agent and may call witnesses, may get an order from the coroner to force witnesses to come to the inquest, may ask questions of witnesses, and may present arguments and recommendations and speak to the jury at the end of the inquest.

A witness may have a lawyer or agent represent them at an inquest to ensure that they are treated fairly. The Minister may find lawyers to attend the inquest, to assist the coroner in holding the inquest and questioning witnesses or a coroner may use an agent to assist him or her where a lawyer has not been provided by the Minister.

The coroner may order any person:

- to swear to tell the whole truth and to give evidence at an inquest; or
- to bring to the inquest any paper or thing which he or she has which the coroner may list in the summons.

Where the evidence or thing is part of the subject being considered at the inquest and is something that can be properly considered by the jury.

The coroner orders people to appear by a summons, which is a document which must be handed personally to the witness by a police officer. Where a witness, who is required to attend an inquest, is held by the police or in jail, the coroner may, in writing, order that the witness be brought before the coroner at the inquest. The coroner may also direct how and where the witness is to be kept until he or she is called to testify and is returned to where they were kept.

The coroner may give oaths to jurors, witnesses, and interpreters as in court and a juror at an inquest may question a witness.

Where a person fails to attend or remain at an inquest, as required in a summons, and where a person's attendance is important to the inquest, the coroner may order that person to be taken anywhere within Nunavut and brought to the inquest once the judge is satisfied that the person was properly given the summons. The coroner may give written evidence to the judge about the importance of the witness to the inquest.

Where a person who has been summoned as a witness or juror at an inquest fails to attend or remain at the inquest, or is a witness at the inquest who refuses to take an oath, or refuses to produce any paper or thing which they have, or refuses to answer any question or does anything that would, if the inquest had been in court, have been contempt of court, the coroner may take and explain the case to a judge describing what happened. The judge may then look into the matter, hear any witnesses who might be called, and after hearing from the witness in defence, may punish that person as if that person had been guilty of contempt of Court.

The coroner has powers to keep order at the inquest, and may call on a police officer to assist. An agent who the coroner considers incompetent, or who does not understand or follow the duties and responsibilities of an advisor may be kept out of the inquest by the coroner.

There are rules about which evidence a coroner may allow at an inquest. The coroner may:

- allow any oral testimony, document, or thing to be in evidence, whether or not it would be allowed in a court;
- keep out anything as evidence that the coroner considers to be repeating what was already said, or that in his opinion fails to meet the standards of proof commonly relied upon by ordinary persons;
- comment on the weight to be given of any evidence or
- limit the questioning of witnesses where the questions are annoying, repetitious, or irrelevant.

The coroner has some flexibility in how he or she deals with evidence at an inquest, according to this Act, but the provisions of any other Act which deal with admission or use of evidence and any privileges under the law of evidence are also still in place.

A copy of a paper or other thing may be given as evidence at an inquest if the coroner is satisfied that it is real, and with permission of the coroner, that document or thing may be copied by the person who brought it so that the real paper or thing may be returned.

A coroner may accept a report, plan, sketch, photo, or other documents which contain facts as proof of the facts, without the need to have evidence from the maker of the document, unless the coroner requires the maker of the document to attend where there are questions coming from a person or juror about the document or report.

A coroner may adjourn an inquest from time to time if shown that the adjournment is required for an adequate hearing or for other necessary reasons. Where a juror does not attend an inquest due to illness, death, or travel, the coroner may proceed with the inquest with at least five jurors present.

Where a coroner cannot continue with holding an inquest for any reason, the Chief Coroner may direct another coroner to complete the inquest. The evidence does not need

to be written down unless the Minister or Chief Coroner orders it and a person requests a transcript and pays a fee.

A coroner must hire an interpreter where the coroner is of the opinion that an interpreter is necessary for the proper conduct of the inquest.

### ***The Verdict of the Jury***

At the conclusion of the inquest, the jury shall meet together to consider the evidence and decide on the following:

- who the dead person was;
- the date, time, and place of death;
- the cause of death;
- how the death happened;
- the circumstances in which the death occurred.

The jury may make recommendations it considers to be of assistance in preventing similar deaths. These findings and recommendations are the verdict of the jurors and must be in the correct form and signed by all the jurors who participated in the inquest. The jury must not decide who is responsible civilly and criminally or express any conclusions about the law.

At the conclusion of an inquest, a coroner shall forward to the Chief Coroner:

- the verdict of the jury;
- any recommendations of the jury;
- a summary of all costs of the inquest, including a list of fees paid to the witnesses and jurors; and
- the record of all evidence and copies of all papers received at the inquest.

Once the inquest is over, the coroner must hand all exhibits back to the lawful owner, unless they might be required for further proceedings. The coroner must also send information as required under the *Vital Statistics Act*.

Where a jury cannot agree to a verdict by a majority vote, the coroner may send the jury home. The coroner then must send the evidence, along with any facts the jury was able to agree upon, to the Chief Coroner. The Minister or Chief Coroner may direct the coroner to summon another jury or take other actions where the jury cannot agree on a verdict.

A person who has a significant interest in the inquest may apply to a judge for an order cancelling the recommendations of the jury on the grounds that:

- there was a substantial denial of rights in connection with the process at the inquest or how it was conducted;

- the verdict makes a finding of civil or criminal liability or expresses a conclusion of law; or
- where it is otherwise necessary and desirable in the interests of justice to cancel the verdict.

A judge may also cancel the verdict of the jury where the judge is satisfied there are good reasons for doing so. A judge who cancels a verdict may order that a second inquest be held, with either the same coroner or another coroner. Where there is an application to the court to cancel a verdict following an inquest where the inquest was conducted by a judge, only the Court of Appeal can cancel the verdict.

### *General*

A coroner or person acting for a coroner is not responsible for anything done or not done while they are doing their job, unless he or she acted badly or unreasonably.

Every person who is found to have broken this Act or the regulations is guilty of an offence and can be fined up to \$500 or to imprisonment for a term not more than six months, or to both.

The Commissioner may make regulations on the recommendation of the Minister respecting:

- payment, allowances, and expenses for the Chief Coroner, coroners, jurors, witnesses, interpreters, and others acting under this Act;
- forms and their use;
- the performance of duties of coroners and the exercise of their powers;
- records of investigations and inquests;
- additional rules and procedures for inquests;
- on any other matter related to this Act.