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Department for
Constitutional Affairs
Justice, rights and democracy

Coroner Reform: The Government's Draft Bill

Improving death investigation in England and Wales



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Improving death investigation in England and Wales

Presented to Parliament by the
Secretary of State for Constitutional Affairs and Lord Chancellor
by Command of Her Majesty

June 2006

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DRAFT CORONERS BILL

FOREWORD BY LORD FALCONER & HARRIET HARMAN

Coroners have a vital task, giving certainty and re-assurance to bereaved people, and meeting the public interest by determining the facts of deaths which are reported to them. These deaths may be violent, or unnatural, or of unknown cause. The coroner, supported by his or her staff, will investigate these cases and conclude with a formal inquest. That will give an official finding of the facts, and can identify lessons for preventing future deaths.

Coroners in England and Wales were notified of some 230,000 deaths last year. This represents nearly 45% of all the deaths that occurred in England and Wales, and means that many bereaved relatives and friends have contact with coroners and their staff, as do those working in the health service, the police, local authorities and other public services.

The Government is committed to strengthening and improving the service through this draft Bill.

Our reforms have a three-fold aim. We want the coronial system to provide a better service for bereaved people and for others who are affected by the work of coroners. We intend to create a good national framework and leadership whilst ensuring that the service remains firmly grounded locally. And we are committed to ensuring investigations and inquests are more effective.

There are five key reforms in this draft Bill.

First, bereaved people will have a clear legal standing in the investigation and the processes. They will have new rights to appeal against matters and decisions which concern them. A coroners' charter will set out guidelines and standards to make clear what service bereaved people can expect, and to promote better contact between them and the coroner and coroner's staff. An illustrative draft of this charter, which we have developed in consultation with those who have had substantial contact with the current system, can be found at the back of this publication.

The Bill will introduce national leadership through a Chief Coroner and support staff, and an advisory Coronial Council. The Chief Coroner will be responsible for developing national standards and guidance, supporting coroners and advising Government and for considering appeals against coroners' decisions and responding to complaints. Through the Lord Chancellor, he or she will be accountable to Parliament. Coroners will continue to operate as a local service, appointed and funded by their local councils, and supported by coroners' officers and other staff provided by the local police or local authority, and they will work closely with local health authorities.

The Bill will establish a service consisting of full-time coroners, and will create powers for Ministers to determine the size and boundaries of coroners' areas to ensure effective operation and coordination with other statutory services.

The Bill will modernise the processes for coroners' investigations and inquests and give coroners new powers to obtain the evidence they need for investigations. It will remove archaic boundary restrictions which can currently hamper coroners' investigations, and will make it easier to coordinate action, to work jointly and in other ways to make the best use of the resources available.

It will give coroners new powers to impose reporting restrictions in cases where no public interest would be served by the publicising the details. We recognise public inquests as a powerful and valuable part of impartial and independent investigation,

but we also know of the additional grief and pain that can arise for bereaved people from making public personal details. In some cases, for example some apparent suicides and child deaths, we do not believe that any public interest is served by this process and the bill will give the coroner a power to restrict reporting in these circumstances, by ordering that facts and findings which identify the deceased should not be published.

Although not in the Bill because legislation is not required, we will also be providing coroners with significant new medical expertise to help inform their decision making. There will be a new chief medical adviser to the coroner service to whom the Chief Coroner can look for advice on strategic medical issues, and each coroner will be funded to buy in medical support, in consultation with the local authority, which is best suited to meet local needs.

In these ways we will address weaknesses that have become increasingly evident over the last 20 years. The coroners' system at present is fragmented, non-accountable, variable in its processes and its quality, ineffective in part, archaic in its statutory basis, and very much dependent on the good people working in, or resourcing it, at present for its continued ability to respond to the demands we place upon it.

We are therefore pleased to publish this draft Bill and we welcome the scrutiny that it will now be subject to – from Parliament, from those who fund and deliver the service at a local level, from those affected by its operation, including bereaved people and the groups which represent them, and from anyone else with an interest. The feedback we receive will help us as we move forward to substantive legislation and to introducing the reforms in the years ahead.

This draft Bill will strengthen the coroner service, and those who work within it with such energy and commitment. Our rigorous approach to investigating deaths is not found in all countries, but it has served England and Wales well and, improved by these changes to the law, it will provide an effective and important service into the future for bereaved people and for our society more generally.

Charles Falconer



*Charlie
Falconer*

**Rt Hon Lord Falconer
Secretary of State for
Constitutional Affairs and
Lord Chancellor**

Harriet Harman



Harriet Harman

**Rt Hon Harriet Harman
Minister of State
Department for Constitutional
Affairs**

**Coroner Reform:
The Government's Draft Bill**

Improving death investigation in England and Wales

CONTENTS

	Page
Bill – Summary	8
Bill Contents	12
Bill and Explanatory Notes Part 1 – Investigations into deaths	16
Bill and Explanatory Notes Part 2 – Investigations in relation to treasure	42
Bill and Explanatory Notes Part 3 – Further provisions in relation to investigations and deaths	44
Bill and Explanatory Notes Part 4 – Governance	58
Bill and Explanatory Notes Part 5 – Supplementary	64
Schedules 1 – 10 and Explanatory Notes	78
Additional Explanatory Notes	116
Draft Charter for Bereaved People Who Come Into Contact with the Coroner Service	119

INTRODUCTION

This publication is set out so that the Bill is as easy to understand as possible. It begins with an overview of the contents followed by a list of the Bill's measures.

The Bill's clauses and schedules are down the left hand side of the page, with an explanation of the purposes of the clauses on the right hand side.

The final section is an illustrative draft of a charter for bereaved people in a reformed coroner service.

If you would like to comment on the proposals made in this draft Bill, or on the charter for bereaved people, please write to:

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Responses should be received by 8 September, and should include your name (and organisation if relevant) and a contact address. Please let us know if you do not wish for your responses to be made public.

CORONERS BILL – SUMMARY

The Bill replaces the whole of the Coroners Act 1988 although some of the clauses are a reworking of the 1988 Act using contemporary language. Most clauses are new, creating a governance structure and giving coroners powers aimed at improving the effectiveness of investigations, including removing boundary restrictions. Provision is also made to take treasure out of the mainstream workload of coroners.

Background

The policy in the Bill is underpinned by three main aims:

- an improved service for bereaved people and others who interact with the coroner system;
- the introduction of national leadership and improvements to enhance the local nature of the system;
- more effective coroners' investigations.

The legislative changes proposed in the Bill are part of a package of reforms aimed at addressing some of the weaknesses in the present coroner system, identified in the reports of the Fundamental Review of Death Certification and Investigation and the Shipman Inquiry, both published in 2003.

Investigations into deaths

Part 1 of the Bill contains measures relating to the appointment of coroners and investigations into deaths.

Coroners will continue to be appointed and funded by their local authorities. The Lord Chancellor will have power to determine new coroner area boundaries. As there will be fewer coroners (probably 60-65 full-timers as opposed to the current mix of 110 full and part-timers), an initial allocation across the country will be made by the Lord Chancellor in consultation with the Secretary of State for Local Government, and the National Assembly for Wales in relation to Wales. Representations from local authorities will also be considered. Some coroners will be working for a cluster of local authorities. Where this occurs, the Bill will contain provision to establish a lead local authority which will have responsibility for making appointments, with the approval of the Lord Chancellor. Local authorities will decide how many part-time assistant coroners are required in their areas to support full-time coroners, and will be responsible for appointing a pool of such coroners.

The Bill makes a distinction between the coroner's duty to investigate a death and the duty to hold an inquest. This reflects the fact that only about 10% of cases that coroners investigate conclude with an inquest. This new distinction between the investigation and the inquest is reflected in provisions to make (a) rules for inquests, such as the way in which the determination (or verdict) is delivered, and (b) regulations governing other parts of the investigation, such as the commission and conduct of post-mortem examinations.

New provisions are included to remove the need for coroners to investigate certain categories of deaths such as deaths which occurred over 50 years ago and deaths abroad. There are exemptions to allow for investigations of such deaths in certain cases including where it would be in the public interest to do so. This would include, for example, deaths of members of the armed forces killed in military action, or deaths of those where lessons can be learned for the future. There are new powers to assist in the transfer of cases between coroners, with a power for the Chief Coroner to intervene to direct that cases be transferred. Such a provision is aimed at facilitating a co-ordinated operational response to incidents with mass fatalities spanning more than one coroner area.

There are new powers in respect of post-mortem examinations. Under the Bill the coroner can arrange to move bodies to any place for a post-mortem rather than as at present just within his or her area or a neighbouring area. This is aimed at enabling coroners to make better use of specialist pathology skills and specialist equipment where an investigation into a particular death requires it.

Measures in the Bill will update the current law on the suspension and resumption of inquests. These will cover circumstances where other inquiries or investigations are taking place – for example criminal investigations and inquiries under the Inquiries Act 2005 – and will provide for the coroner to be kept informed to enable him or her to take decisions about how to proceed.

The Bill reduces the numbers of jurors required for a coroner's jury and the circumstances in which a jury is required – a jury in the inquisitorial coroner system has a different function to the adversarial criminal courts, and does not need to be as large.

Investigations in relation to treasure

Part 2 of the Bill contains provisions for the role of coroners in treasure cases, which is largely governed by the Treasure Act 1996.

The reform of the coroner system will lead to a change in the way that treasure finds are dealt with. The Bill provides for one designated coroner, the "Coroner for Treasure", who will deal with treasure across England and Wales. The aim of this is to release local coroner resources to focus on the investigation of deaths and ensure specialist expertise is directed at the treasure process. Where hearings are necessary, they can continue to be held in a range of locations around the country.

The Bill will amend the Treasure Act to encourage reporting of treasure finds, by extending the reporting responsibility to those who come into possession of treasure and not simply those who discover it.

Further provision in relation to investigations and deaths

Part 3 of the Bill contains more detailed provisions about investigations and deaths. It includes:

- measures to enable coroners to obtain information and evidence relevant to investigations. There are provisions for coroners to have increased power to require information to be provided to them and new powers to enter and search premises, and seize property.
- provisions for the protection of children including a power to direct that a child gives evidence via live link or unsworn.
- measures aimed at ensuring early release of bodies by requiring the consent of the Chief Coroner for retention for a prolonged period – this is designed, in particular, to prevent abuses by defendants in criminal cases who might insist that the body is retained on the remote possibility that it may be a significant source of evidence.

Governance

Part 4 of the Bill contains provisions for governance. The key measures are:

- the appointment of a Chief Coroner
- the establishment of a national Coronial Advisory Council
- appeal rights for interested persons against coroners' decisions and
- powers for the Chief Coroner and Lord Chancellor in setting and reviewing standards.

A person to be known as the Chief Coroner will be appointed to head the service. He or she will have a role in relation to providing training for and guidance to coroners, receiving complaints and hearing appeals against coroners' decisions and determinations, and providing an annual report and advice to the Lord Chancellor in respect of the coroner service. The Bill includes provision for Deputy Chief Coroners to be appointed to support the Chief Coroner. It is intended that one full-time Deputy will be appointed with other Deputies appointed as locums to hear appeals as required. The Chief Coroner can sit as a coroner, and has a power to invite the Lord Chief Justice to nominate a judge to preside over a particularly complex case.

The Bill creates a new appeals system with appeals against decisions or determinations of a coroner going to the Chief Coroner. Any further appeal is to the Court of Appeal on a point of law only. This provides a new simple route for bereaved people to challenge coroners' decisions.

A new council to be known as the Coronial Advisory Council will provide advice and make recommendations to the Chief Coroner and Lord Chancellor on policy and operational matters relating to the coroners service. It is intended that the Council will include members of the public who have had dealings with the service.

Provision is made to enable the Lord Chancellor to issue guidance, which will include how bereaved people can participate in investigations and details of their rights. It is proposed that this will take the form of a Charter for Bereaved People.

There will be requirements for coroners to provide regular information to the Chief Coroner, to enable him or her to monitor standards and to provide annual reports to the Lord Chancellor.

Supplementary

Part 5 of the Bill contains supplementary provisions, including the abolition of the office of coroner of the Queen's household. In future, any investigation which would have been carried out by the coroner of the Queen's household will be carried out by the coroner for the area where the death took place (unless, for example, the Chief Coroner directs another coroner to carry it out).

Coroners Bill

CONTENTS

PART 1

INVESTIGATIONS INTO DEATHS

CHAPTER 1

INVESTIGATIONS INTO DEATHS

- 1 Duty to investigate certain deaths
- 2 Position where no body
- 3 Deaths over 50 years ago
- 4 Deaths in Scotland or Northern Ireland
- 5 Deaths outside the United Kingdom
- 6 Deaths outside the United Kingdom; supplemental
- 7 Request for other coroner to conduct investigation
- 8 Direction for other coroner to conduct investigation
- 9 Discontinuance of investigation

CHAPTER 2

FURTHER PROVISION ABOUT INVESTIGATIONS

- 10 Purpose of investigation
- 11 Duty to hold inquest
- 12 Outcome of investigation
- 13 Juries at inquests
- 14 Juries
- 15 Qualification of jurors
- 16 Failure of jury to agree

CHAPTER 3

SUSPENSION OF INVESTIGATIONS

- 17 Suspension of investigation where certain criminal proceedings likely
- 18 Suspension of investigation where certain criminal proceedings brought
- 19 Suspension of investigation in event of inquiry under Inquiries Act 2005
- 20 Effect of suspension of investigation

- 21 Resumption of investigation suspended under section 17
- 22 Resumption of investigation suspended under section 18
- 23 Resumption of investigation suspended under section 19
- 24 Resumption of investigation: supplemental
- 25 Duty to inform coroner of certain events

CHAPTER 4

ANCILLARY POWERS OF CORONERS

- 26 Post-mortem examinations
- 27 Removal of body for post-mortem examination

CHAPTER 5

MISCELLANEOUS

- 28 Appointment of senior coroners, area coroners and assistant coroners etc
- 29 Effect of removal of body etc
- 30 Directions prohibiting publication of information
- 31 Notification to registrar
- 32 Regulations with respect to expenditure
- 33 Provision of accommodation

PART 2

INVESTIGATIONS IN RELATION TO TREASURE

- 34 Coroner for Treasure and Assistant Coroners for Treasure
- 35 Investigations in relation to treasure
- 36 Inquests in relation to treasure
- 37 Outcome of investigations in relation to treasure
- 38 Exception to duty to investigate
- 39 Codes of practice under the Treasure Act 1996
- 40 Amendments of the Treasure Act 1996

PART 3

FURTHER PROVISION IN RELATION TO INVESTIGATIONS AND DEATHS

- 41 Presence of public at inquests
- 42 Witnesses etc
- 43 Privileged information etc
- 44 Evidence of person under 17 through live link etc
- 45 Provision supplemental to section 44
- 46 Other cases in which evidence may be given through live link
- 47 Direction to jury
- 48 Swearing of witnesses
- 49 Reception of unsworn evidence
- 50 Power of entry, search and seizure
- 51 Power of entry, search and seizure: supplemental
- 52 Exhumation of body for examination
- 53 Retention of human remains
- 54 Offences

- 55 Fees and allowances

PART 4

GOVERNANCE

- 56 Chief Coroner and Deputy Chief Coroners
- 57 Training and guidance
- 58 Investigation of complaints
- 59 Report to the Lord Chancellor
- 60 Appeals to the Chief Coroner
- 61 Further provision about appeals
- 62 Further functions of the Chief Coroner
- 63 Coronial Advisory Council
- 64 Reports etc to Chief Coroner
- 65 Guidance by the Lord Chancellor

PART 5

SUPPLEMENTARY

- 66 Coroners regulations
- 67 Coroners rules
- 68 Further provision about Coroners rules
- 69 Treasure regulations
- 70 Determination of age
- 71 Appointments under 1988 Act to cease to have effect
- 72 Abolition of the office of coroner of the Queen's household
- 73 Power to make consequential provision etc
- 74 Orders, rules and regulations
- 75 "Relevant offence"
- 76 "Interested person"
- 77 Interpretation
- 78 Minor and consequential amendments and repeals
- 79 Commencement
- 80 Extent
- 81 Short title

-
- Schedule 1 – Appointment of senior coroners, area coroners and assistant coroners etc
 - Part 1 – Appointment of senior, area and assistant coroners
 - Part 2 – Qualifications of senior, area and assistant coroners
 - Part 3 – Vacancies and functions of area and assistant coroners
 - Part 4 – Terms of office of senior, area and assistant coroners
 - Schedule 2 – Coroner for Treasure and Assistant Coroners for Treasure
 - Part 1 – Qualifications and terms of office of Coroner for Treasure
 - Part 2 – Designation and remuneration of Assistants
 - Part 3 – Miscellaneous
 - Schedule 3 – Amendments of the Treasure Act 1996
 - Schedule 4 – Offences
 - Part 1 – Offences relating to jurors

- Part 2 – Offences relating to witnesses and evidence
- Part 3 – Miscellaneous
- Schedule 5 – Fees and allowances
 - Part 1 – Allowances payable to jurors
 - Part 2 – Allowances payable to witnesses
 - Part 3 – Miscellaneous fees, allowances and disbursements
 - Part 4 – Supplemental
- Schedule 6 – Chief Coroner and Deputy Chief Coroners
 - Part 1 – Qualifications and terms of office of Chief Coroner and Deputies
 - Part 2 – Miscellaneous
- Schedule 7 – Further functions of the Chief Coroner
- Schedule 8 – Coronial Advisory Council
 - Part 1 – Provisions relating to members of the Council
 - Part 2 – Functions of the Council
- Schedule 9 – Minor and consequential amendments
- Schedule 10 – Repeals

A

B I L L

TO

Amend the law relating to coroners; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

INVESTIGATIONS INTO DEATHS

CHAPTER 1

INVESTIGATIONS INTO DEATHS

- | | | |
|----------|---|----------|
| 1 | Duty to investigate certain deaths | 5 |
| (1) | A senior coroner must conduct an investigation into the death of a person as soon as practicable if—
(a) he is aware that the body of the deceased is situated within his area, and
(b) subsection (2), (3) or (4) applies. | |
| (2) | This subsection applies if the coroner has reasonable cause to suspect that the deceased died a violent or unnatural death. | 10 |
| (3) | This subsection applies if the coroner has reasonable cause to suspect that the cause of death is unknown. | |
| (4) | This subsection applies if the coroner has reasonable cause to suspect that the deceased died while in prison or otherwise lawfully detained in custody. | 15 |
| (5) | This section is subject to sections 3 to 9 and paragraphs 1 to 3 of Schedule 7. | |
| 2 | Position where no body | |
| (1) | A senior coroner who has reason to believe that—
(a) a death has occurred in or near his area in circumstances which are such that an investigation into the death should be conducted, and | 20 |

EXPLANATORY NOTES

PART 1 CHAPTER 1– INVESTIGATIONS INTO DEATHS

Clause 1: Duty to investigate certain deaths

This clause sets out the circumstances when the coroner will investigate a death. It mirrors the requirements of section 8(1) of the Coroners Act 1988 (“the 1988 Act”), except that the requirement to investigate where the death has occurred “in prison” (section 8(1)(c)) has been altered so that it applies to deaths where the deceased was “in prison or otherwise lawfully detained in custody”.

The location of the body of the deceased (or cremated remains) will determine the coroner who will have a duty to investigate the death, as is currently the case under section 5(1) of the 1988 Act. This is to ensure that more than one coroner does not begin an investigation. In the new system, just as in the 1988 Act, coroners will continue to be allocated to a geographical area, although later clauses in the Bill set out the circumstances when these boundary restrictions can be relaxed.

Subsections (2), (3) and (4) set out the types of death that the coroner must investigate. A coroner must investigate a death that he suspects was violent or unnatural, where for example, the deceased might have been murdered or taken his own life, or if the cause of death is unknown. A coroner must also investigate a death, whatever the apparent cause, if it occurred in ‘lawful detention’, such as while the deceased was detained in prison or in police custody. The circumstances in which a coroner must investigate a death are broadly similar to those in section 8(1) of the 1988 Act. The requirement that a death be ‘sudden’, as well as of a ‘cause unknown’, has been removed.

The purpose of subsection (5) is to make clear that the coroner does not generally have to investigate deaths which occurred over 50 years ago or some deaths which occurred outside England and Wales even if, in either case, they appear to have been a violent or unnatural death. There are, however, circumstances when the Chief Coroner can direct a coroner to investigate a death which comes into one of these categories.

Clause 2: Position where no body

This clause, which is based on section 15 of the 1988 Act, sets out the arrangements for investigating deaths when the coroner thinks that a death has occurred but there is no body. This includes circumstances such as where a body has been lost at, or swept away to, sea.

Subsection (1) allows a coroner to report the details of a death to the Chief Coroner if he has reason to believe that someone has died in his area or nearby in circumstances which he thinks he should investigate (perhaps because suspicion as to the cause of death has arisen some time after the death occurred), but because there is no body or cremated remains, or the body is for some reason irrecoverable,

- (b) owing to the destruction of the body, or the fact that the body is situated in a place from which it cannot be recovered, an investigation into the death under section 1 cannot be conducted,
may report the facts to the Chief Coroner (see section 56).
- (2) The Chief Coroner may direct a senior coroner (whether the coroner within subsection (1) or another coroner) to conduct an investigation into the death; and the coroner to whom such a direction is given must conduct such an investigation as soon as practicable (subject to section 8). 5
- 3 Deaths over 50 years ago**
- (1) The duty of a senior coroner to conduct an investigation into the death of a person under section 1 does not arise if the coroner has reasonable cause to suspect that the period – 10
- (a) beginning with the date of the death, and
- (b) ending with the date on which he became aware that the body was situated within his area, 15
- exceeds 50 years.
- (2) But the coroner may report the death to the Chief Coroner if he thinks that there should be an investigation into the death.
- (3) The Chief Coroner may direct a senior coroner (whether the coroner within subsection (2) or another coroner) to conduct an investigation into the death; and the coroner to whom such a direction is given must conduct such an investigation as soon as practicable (subject to sections 8 and 9). 20
- (4) Where the coroner to whom such a direction is given is not the coroner in whose area the body is situated, he may order the removal of the body to any suitable place (whether within his area or elsewhere). 25
- (5) But the coroner may not order the removal of the body to any place, other than a place within his area provided by a relevant authority, without the consent of the person by whom the first-mentioned place is provided.
- 4 Deaths in Scotland or Northern Ireland**
- (1) The duty of a senior coroner to conduct an investigation into the death of a person under section 1 does not arise where the death occurred in Scotland or Northern Ireland. 30
- (2) But the coroner may report the death to the Chief Coroner if – 35
- (a) there has not been and is not likely to be an inquest into the death in Scotland or, as the case may be, Northern Ireland, and
- (b) the coroner thinks that there should be an investigation into the death under this Act.
- (3) The Chief Coroner may direct a senior coroner (whether the coroner within subsection (2) or another coroner) to conduct an investigation into the death; and the coroner to whom such a direction is given must conduct such an investigation as soon as practicable (subject to sections 8 and 9). 40
- (4) Where the coroner to whom such a direction is given is not the coroner in whose area the body is situated, he may order the removal of the body to any suitable place (whether within his area or elsewhere).

he does not have the power given to him in clause 1 to do so. In effect, he is seeking the Chief Coroner's permission to investigate the death.

Under subsection (2), and when he has considered the coroner's report, the Chief Coroner can direct an investigation to take place. Equally, he might decide that no investigation is necessary. If the Chief Coroner decides that action should be taken, the coroner he directs to carry out the investigation does not have to be the same coroner that reported the death to him although in most circumstances it would be likely that it would be. An example of a reason the Chief Coroner might have for allocating the case to a different coroner is that it might be more convenient for the bereaved relatives for the investigation to take place in an alternative area.

Clause 3: Deaths over 50 years ago

Clause 3 introduces a new exception to the duty to investigate, namely, deaths that occurred more than 50 years before the body is discovered.

Under subsection (1), a coroner will not have to investigate a death if the deceased died more than 50 years ago, even if it falls into one of the categories that would normally lead to the death being investigated under clause 1. It will usually be clear how old, approximately, the body or remains are, but there will be occasions when the coroner will have to order a medical examination so he can establish how long ago the death occurred.

Subsection (2) gives the coroner a power to report a death that is more than 50 years old to the Chief Coroner if he thinks that it should be investigated. A coroner might want to do this if, for example, he thinks someone could be charged with a crime in connection with the death, despite the time lapse since the death occurred.

As with deaths where the body is irrecoverable, it will be for the Chief Coroner to decide whether an investigation should take place and which coroner should be responsible for it.

The purpose of this clause is to make sure that coroners are not required to spend long periods of time investigating old deaths when their time may be more effectively used investigating those cases where someone has died recently.

Clause 4: Deaths in Scotland or Northern Ireland

Under the current law, the presence of a body in England and Wales requires the relevant coroner to hold an inquest into the death, regardless of where the death occurred. Clause 4 creates an exception to the duty to investigate a death where it occurred in Scotland or Northern Ireland.

The coroner can report the death to the Chief Coroner if there has not been and is not likely to be an inquest (or an inquiry equivalent to an inquest) into the death in Scotland or Northern Ireland, as the case may be, and the Chief Coroner may then direct a coroner to investigate the death.

- (5) But the coroner may not order the removal of the body to any place, other than a place within his area provided by a relevant authority, without the consent of the person by whom the first-mentioned place is provided.
- (6) In relation to a death in Scotland, the reference in subsection (2)(a) to an inquest is to be read as a reference to an inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c. 14). 5

5 Deaths outside the United Kingdom

- (1) The duty of a senior coroner to conduct an investigation into the death of a person under section 1 does not arise where the death occurred outside the United Kingdom unless any of subsections (2) to (5) applies. 10
- (2) This subsection applies if the coroner has reasonable cause to suspect that the cause of death is linked to circumstances arising in England and Wales.
- (3) This subsection applies if the coroner has reasonable cause to suspect that the circumstances of the death might reasonably be expected to give rise to action in England and Wales to avoid deaths in similar circumstances in the future. 15
- (4) This subsection applies if the coroner has reasonable cause to suspect that the deceased was a member of any of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006) who died while on duty.
- (5) This subsection applies if –
- (a) the coroner has reasonable cause to suspect that a relevant act involving the death of the deceased has taken place, and 20
 - (b) so far as the coroner is aware, there has not been and is not likely to be an investigation, inquiry or criminal proceedings in relation to that act or the death in the country or territory in which the death occurred.
- (6) In this section “relevant act” means an act or omission which, if it had taken place in England and Wales, would be a relevant offence (see section 75). 25

6 Deaths outside the United Kingdom; supplemental

- (1) A senior coroner who is prevented by section 5 from conducting an investigation into a death may report the death to the Chief Coroner if he thinks that there should be an investigation into the death. 30
- (2) Where a death is reported under subsection (1), the Chief Coroner may direct a senior coroner (whether the coroner within subsection (1) or another coroner) to conduct an investigation into the death.
- (3) If the Lord Chancellor thinks, on an application by an interested person (see section 76) or otherwise, that it is in the public interest to conduct an investigation into a death which would otherwise be prevented by section 5, he may report the death to the Chief Coroner. 35
- (4) Where a death is reported under subsection (3), the Chief Coroner must direct a senior coroner (whether the coroner who would be under a duty but for section 5 or another coroner) to conduct an investigation into the death. 40
- (5) The coroner to whom a direction is given under subsection (2) or (4) must conduct an investigation into the death as soon as practicable (subject to sections 8 and 9).

Clause 5: Deaths outside the United Kingdom

This clause creates another exception to the duty to investigate deaths. Under the current law, the duty arises where the death is of a specified type and where the body is present in a coroner's district in England and Wales, regardless of where the death actually occurred. The purpose of this clause and clause 6 is to get the balance right in terms of sensitivity towards bereaved people while at the same time making sure that coroners are not being asked to carry out investigations which will add nothing to the knowledge of how someone came by their death. An example of the latter could be those who tragically died in the Asian tsunami in 2004 where the cause of death was clear.

Subsection (1) therefore creates an exception to the duty to investigate set out in clause 1 where the death occurred abroad.

There are four types of case where there will be a duty to investigate deaths that occurred outside the United Kingdom. If the coroner suspects that circumstances arising in England and Wales may have caused the death or contributed to it, he must investigate (subsection (2)). This might be the case for example if the deceased received medical treatment in England or Wales before travelling abroad and the coroner believes that the death may be linked to the treatment received in the UK.

Subsection (3) ensures that the coroner investigates the death if he believes that there are lessons that could be learned and action that could be taken in England and Wales to prevent deaths from occurring in similar circumstances in the future. For example, an investigation into the death of a child on a school trip abroad might reasonably lead to changes in how such trips are organised.

Subsection (4) ensures that the coroner investigates deaths abroad of members of the Armed Forces whilst on duty.

Under subsection (5), the coroner must investigate a death where for example, murder is suspected but no investigation etc has taken, is taking, or is to take place in the country where the death occurred.

Clause 6: Deaths outside the United Kingdom; supplemental

Subsection (1) gives the coroner the power to report a death that has occurred abroad to the Chief Coroner if he thinks that the death should be investigated and he has no power to do so under clause 5.

After considering the report, subsection (2) makes clear that the Chief Coroner has the power to direct a coroner to investigate a death that occurred abroad.

Subsections (3) and (4) give the Lord Chancellor the power to instruct the Chief Coroner to arrange an investigation into a death abroad even though it does not fall into any of the permitted categories. The Lord Chancellor can make a decision to use this power either himself or after someone with a direct interest, such as a close family member, has asked him to do so. The Chief Coroner must direct a coroner to carry out an investigation into the death if instructed to do so by the Lord Chancellor.

- (6) Where the coroner to whom a direction under subsection (2) or (4) is given is not the coroner in whose area the body is situated, he may order the removal of the body to any suitable place (whether within his area or elsewhere).
- (7) But the coroner may not order the removal of the body to any place, other than a place within his area provided by a relevant authority, without the consent of the person by whom the first-mentioned place is provided. 5
- 7 Request for other coroner to conduct investigation**
- (1) A senior coroner who is under a duty to conduct an investigation into the death of a person under section 1 may request a senior coroner for another area to conduct the investigation. 10
- (2) If that other coroner agrees to conduct the investigation –
- (a) he (and not the coroner who made the request) must conduct the investigation,
 - (b) he must conduct the investigation as soon as practicable, and
 - (c) he may order the removal of the body to any suitable place (whether within his area or elsewhere). 15
- (3) Subsection (2) –
- (a) does not apply if a direction in relation to the investigation is given under section 8 before the other coroner agrees to conduct the investigation, and 20
 - (b) is subject to –
 - (i) any such direction given under that section after that agreement, and
 - (ii) section 9.
- (4) A coroner who – 25
- (a) makes a request under subsection (1), or
 - (b) agrees to conduct an investigation under subsection (2),
- must give notice of the request or agreement (as the case may be) to the Chief Coroner.
- (5) A coroner may not order the removal of a body under subsection (2)(c) to any place, other than a place within his area provided by a relevant authority, without the consent of the person by whom the first-mentioned place is provided. 30
- 8 Direction for other coroner to conduct investigation**
- (1) The Chief Coroner may direct a senior coroner (coroner A) to conduct an investigation into the death of a person under this Act notwithstanding that he is not the senior coroner (coroner B) who, apart from the direction, would be under a duty to conduct such an investigation. 35
- (2) Where a direction is given under this section –
- (a) coroner A (and not coroner B) must conduct the investigation, 40
 - (b) he must conduct the investigation as soon as practicable, and
 - (c) he may order the removal of the body to any suitable place (whether within his area or elsewhere).
- (3) Subsection (2) is subject to –

Clause 7: Request for other coroner to conduct investigation

This clause gives the coroner the power to transfer the responsibility for investigation of a death to another coroner, where that coroner agrees. It is broadly similar to the current section 14 of the 1988 Act, which allows a coroner in one district to ask a coroner of another district to assume jurisdiction to hold an inquest into the death. It is subject to the provision in clause 8, by which the Chief Coroner can direct a coroner to conduct an investigation.

Examples of cases where the coroner may ask another coroner to conduct the investigation include where the bereaved relatives and/or most of the witnesses in the case live in the other coroner's area. And cases where there is a major incident which spreads across more than one coroner area, and it is thought to be more efficient for only one coroner to lead the investigation and to be seen as the point of contact for bereaved people.

Subsection (2) makes clear that if another coroner agrees to take on the investigation, the responsibility for the investigation transfers to him and he can, if it seems right in all the circumstances, including for example the wishes of bereaved relatives, arrange for the body to be moved.

Clause 8: Direction for other coroner to conduct investigation

This clause gives the Chief Coroner the power to direct a coroner, who is not under a duty to do so under clause 1, to conduct an investigation. It is modelled on section 14(2) of the 1988 Act, by which the Secretary of State can compel a coroner who has been requested to accept jurisdiction in relation to a body not lying in his district, to accept that jurisdiction, but it extends wider. It is intended that this provision will enable the Chief Coroner to take control and respond effectively to an emergency situation, or to reallocate work between coroners in the event of disparities in workload. The intention is that reallocations of this type will take account of the needs of bereaved relatives for both a prompt investigation and one that remains fairly local to them.

Under subsection (2), a coroner who is directed by the Chief Coroner to carry out an investigation must do so. No other coroner can conduct the investigation. The coroner directed to deal with the investigation will have powers to move the body if it

- (a) any subsequent direction in relation to the investigation which is given under this section, and
 - (b) section 9.
 - (4) The Chief Coroner must give notice of a direction under this section to coroner B. 5
 - (5) A coroner may not order the removal of a body under subsection (2)(c) to any place, other than a place within his area provided by a relevant authority, without the consent of the person by whom the first-mentioned place is provided.
- 9 Discontinuance of investigation 10**
- (1) A senior coroner who is under a duty to conduct an investigation into the death of a person under this Act may discontinue the investigation if –
 - (a) an examination under section 26 which is made before he completes the investigation reveals the cause of death,
 - (b) he does not have reasonable cause to suspect that the deceased died a violent or unnatural death or while in prison or otherwise lawfully detained in custody, and 15
 - (c) he thinks that it is not necessary to continue the investigation.
 - (2) Where a senior coroner discontinues an investigation into a death under this section – 20
 - (a) he may not hold or continue with any inquest into the death, and
 - (b) no determination or finding under section 12(1) may be made in respect of the death.

CHAPTER 2

FURTHER PROVISION ABOUT INVESTIGATIONS 25

- 10 Purpose of investigation**
- (1) The purpose of an investigation into the death of a person under this Act is to ascertain –
 - (a) who the deceased was, and when, where and by what means he came by his death, and 30
 - (b) the particulars required by the 1953 Act to be registered concerning the death.
 - (2) Where necessary for the purpose of avoiding a breach of any Convention rights (within the meaning of the Human Rights Act 1998 (c. 42)), the purpose mentioned in subsection (1)(a) is to be read as including also the purpose of ascertaining in what circumstances the deceased came by his death. 35
 - (3) In the case of an investigation into the death of a person under this Act neither the senior coroner nor the jury (if there is one) may express any opinion on any matter other than –
 - (a) the matters mentioned in subsection (1)(a) (as read with subsection (2) where applicable), and 40
 - (b) the particulars mentioned in subsection (1)(b).

will ensure a more efficient inquiry. It is intended that the coroner will be expected to take into account the needs of bereaved relatives.

The Chief Coroner may issue more than one direction under this clause (subsection (3)(a)).

Clause 9: Discontinuance of investigation

This clause allows a coroner to stop an investigation if a post-mortem examination is carried out, following the procedure in clause 26, and the coroner no longer believes that the death falls into one of the categories of death he is required to investigate.

Section 19 of the 1988 Act enables the coroner to direct a post-mortem where the death was neither violent nor unnatural, nor had occurred in a prison or similar place, where he believed that a post-mortem would dispense with the need for an inquest. In such a case, the post-mortem would reveal the cause of death meaning that it was no longer 'a sudden death, the cause of which is unknown'. Clause 9 is designed to achieve the same thing, but is framed in terms of no longer being required to continue an investigation instead of holding an inquest.

CHAPTER 2 – FURTHER PROVISION ABOUT INVESTIGATIONS

Clause 10: Purpose of investigation

This clause sets out the purpose that the coroner's investigation serves.

The two purposes of an investigation are - 1) to establish who the deceased was and when, where and the means by which they died, and 2) to establish the details needed to register the death (such as the cause of death). These purposes are currently contained in rule 36(1) of the Coroners Rules 1984 ("the 1984 Rules"), and in section 11(5)(b) of the 1988 Act.

Subsection (2) requires the scope of the investigation to be widened to include an investigation of the circumstances of the death where this wider investigation is necessary to ensure compliance with the European Convention on Human Rights, in particular Article 2. Article 2 relates to the State's responsibility to ensure that its actions do not cause the death of its citizens. It is not intended to define the precise circumstances where a coroner should conduct an Article 2 investigation, however it is intended that guidance will be issued before the Bill is implemented to ensure a broad consistency of approach.

11 Duty to hold inquest

A senior coroner who conducts an investigation into the death of a person under this Act must (as part of the investigation) hold an inquest into the death (but this is subject to section 9(2)(a)).

12 Outcome of investigation

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(1) After hearing the evidence, in the case of an investigation into the death of a person under this Act, the senior coroner (if there is no jury) or the jury (if there is one) must –

(a) make a determination as to the matters mentioned in section 10(1)(a) (as read with section 10(2) where applicable), and

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(b) make a finding as to the particulars mentioned in section 10(1)(b).

(2) A senior coroner who believes that action should be taken to prevent the recurrence of fatalities similar to that which is the subject of his investigation may report the matter –

(a) to a person who may have power to take such action, and

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(b) to the Chief Coroner.

(3) A determination under subsection (1)(a) may not be framed in such a way as to appear to determine any question of criminal or civil liability on the part of a named person.

13 Juries at inquests

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(1) Subject to subsections (2) and (3), an inquest into a death must be held without a jury.

(2) An inquest into a death must be held with a jury if the senior coroner has reason to suspect –

(a) that the deceased died while in prison or otherwise lawfully detained in custody, or

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(b) that the death of the deceased resulted from an act or omission of a police officer in the purported execution of his duty, or of a service policeman in the purported execution of his duty as such.

(3) An inquest into a death may be held with a jury if the senior coroner thinks there is sufficient reason for doing so.

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(4) Where a decision for an inquest to be held with a jury is taken in the course of an inquest begun without a jury –

(a) the inquest must be continued with a jury, and

(b) the inquest is to proceed in all respects as if any proceedings of the inquest prior to that continuation had not taken place.

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14 Juries

(1) The jury at an inquest is to consist of not less than five and not more than seven persons.

(2) For the purpose of summoning a jury, a senior coroner may summon persons to attend at such time and place as may be stated in the summons.

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Clause 11: Duty to hold inquest

The coroner must conduct an inquest as part of the investigation unless he or she has had reason to discontinue it under clause 9.

The 1988 Act is expressed in terms of a duty to “hold an inquest”; in the Bill, the constituent parts of the coroner’s duty have been separated out into the duty to investigate and the duty to hold an inquest, the inquest effectively forming the final part of the whole investigation process. It is not anticipated that the number of inquests will increase in the reformed system.

Clause 12: Outcome of investigation

This clause explains what happens at the conclusion of the investigation. It sets out the possible outcomes and explains their effect. It also gives the coroner the power to report his findings to authorities or organisations with a view to preventing similar deaths in the future.

Subsection (1)(a) requires the coroner or the jury (where there is one) to make a ‘determination’ (a short summary) at the end of the inquest as to who the deceased was, and when, where, and by what means they died. This is broadly equivalent to current requirements, under section 11(5) of the 1988 Act and rule 36 of the 1984 Rules. In an Article 2 investigation, there must also be a determination as to the circumstances of the death.

Subsection (1)(b) also requires the coroner or jury to make a ‘finding’ at the end of the inquest about the details required for registration of the death, as presently required by section 11(3)(b) and (4)(b) of the 1988 Act. This will normally be, for example, a short finding such as accident or misadventure, suicide, industrial disease, natural causes, drug related or, where no clear cause of death has been established, the finding will be known as “open”. Increasingly, coroners make use of ‘narrative’ findings in which they sum up in a few sentences how the person came to die.

Subsection (2) gives the coroner the power to make a report to a person who may have the power to prevent similar events happening in future. This power could, for example, be used by the coroner to report to a local authority the fact that several deaths have occurred in similar circumstances on the same stretch of road. It would then be up to the local authority to consider what action, if any, they should take.

Subsection (3) makes clear that a determination may not be worded in such a way as to appear to find a person guilty of a criminal offence or determine civil liability.

Clause 13: Juries at inquests

This clause sets out the circumstances in which a coroner should hold an inquest into a death with a jury. It also gives the coroner the power to decide to hold an inquest with a jury in any case where he thinks it is appropriate. The coroner is currently required, by section 8(3) of the 1988 Act, to hold an inquest with a jury where it appears that the deceased died in a prison or other place in which statute requires an inquest to be held; where the death occurred during a police officer’s execution of his duty; where the death was caused by a notifiable accident, poisoning or disease; or where the continuance or recurrence of the circumstances in which the death occurred would be prejudicial to public health and safety.

Clause 13 requires that a jury be summoned where the deceased died while lawfully detained in custody or as a result of an act or omission of a police officer in the purported execution of his duty or of a service policeman in the purported execution of his duty as such. The coroner is not required to summon a jury in any other case but he or she will retain discretion to do so in any other case where he or she believes there is a reason for doing so.

It is intended that secondary legislation will make further, more detailed provision about the conduct of inquests (in the Coroners rules to be made under clause 67).

Clause 14: Juries

This clause sets out the arrangements for summoning and swearing a jury.

Subsection (1) sets out the minimum and maximum numbers of jurors for a coroner’s jury. There must be no less than five and not more than seven people. This reduces the

- (3) Once assembled, the members of a jury are to be sworn by or before the coroner to inquire into the death of the deceased and to give a true determination according to the evidence.

15 Qualification of jurors

- (1) A person is not qualified to serve as a juror at an inquest unless he is qualified to serve as a juror in the Crown Court, the High Court and the county courts under section 1 of the Juries Act 1974 (c. 23). 5
- (2) The senior coroner may put to any person summoned under section 14 such questions as he thinks necessary to establish whether or not the person is qualified to serve as a juror at an inquest. 10

16 Failure of jury to agree

- (1) This section applies where the jury at an inquest fails to agree on a determination under section 12(1)(a).
- (2) If at least four members of the jury agree on such a determination, the senior coroner must accept that determination. 15
- (3) If that is not the case, the jury may be discharged by the coroner and another jury may be summoned in its place; and in such a case, the inquest is to proceed in all respects as if the proceedings prior to the discharge had not taken place.

CHAPTER 3

SUSPENSION OF INVESTIGATIONS 20

17 Suspension of investigation where certain criminal proceedings likely

- (1) A senior coroner must suspend an investigation into the death of a person under this Act which has not been completed if subsection (2) or (3) applies.
- (2) This subsection applies if the coroner is requested by a chief officer of police to suspend the investigation on the ground that a person may be charged with a relevant offence involving the death of the deceased. 25
- (3) This subsection applies if the coroner is requested by a prosecuting authority to suspend the investigation on the ground that a person may be charged with an offence committed in circumstances connected with the death of the deceased. 30
- (4) The reference in subsection (3) to an offence committed in circumstances connected with the death of the deceased does not include a relevant offence involving the death of the deceased but may include—
- (a) an offence (other than a relevant offence) involving the death of the deceased, and 35
 - (b) an offence (including a relevant offence) involving the death of a person other than the deceased.
- (5) Subject to sections 18 and 19, a suspension of an investigation under this section must be for a period of 28 days or more beginning with the day on which the suspension first takes effect, and that period may be extended by the 40

current figures, where the minimum number of jurors is seven and the maximum eleven (section 8(2)(a) of the 1988 Act). While there is recognition of the need for inquests to continue with juries, the nature of the inquisitorial task they are required to undertake means they do not need to be of the same size as a jury in the criminal courts.

The coroner will call people to attend for jury service by issuing a summons stating the time that they are needed and the place that they must attend, as under present arrangements.

Clause 15: Qualification of jurors

Although the coroner's jury does have different functions to that in other courts, the qualification for service has always mirrored arrangements in place in those courts. Subsection (1) makes qualification for jury service at a coroner's inquest the same as for the Crown Court, High Court and the county courts, in accordance with section 1 of the Juries Act 1974. This reproduces the requirements of section 9(1) of the 1988 Act.

Subsection (2) enables the coroner to check that a juror meets the qualification requirements, in the same terms as section 9(2) of the 1988 Act.

Clause 16: Failure of jury to agree

A majority verdict is possible where at least 4 members of the jury agree. If such a verdict is not reached, the coroner can discharge the jury, summon another one and the inquest will proceed as if the proceedings prior to the jury's discharge had not taken place. This mirrors the provisions of section 12(3) of the 1988 Act.

CHAPTER 3 – SUSPENSION OF INVESTIGATIONS

Clause 17: Suspension of investigation where certain criminal proceedings likely

The 1984 Rules (in rules 26 and 27) require a coroner to adjourn an inquest for an initial period of 28 days where he is informed either by the chief officer of police or by the Director of Public Prosecutions that a person may be charged with a specified offence. The coroner may resume an inquest adjourned in this way if he believes that there is sufficient cause to do so.

The Bill contains provision for suspending the coroner's investigation if the police or a prosecuting authority think it likely that criminal proceedings will be brought in connection with the death. This will help to avoid duplicate investigations.

Subsection (2) requires the coroner to suspend his investigation if asked to do so by the police because someone may be charged with a "relevant offence" (as defined in clause 75) connected with the death.

Subsection (3) requires the coroner to suspend his investigation if a prosecuting authority asks him to do so on the basis that someone may be charged with an offence committed in circumstances connected with the death of the deceased, whether or not that offence is a "relevant offence".

If the coroner has to suspend an investigation under subsection (2) or (3), this suspension must be for at least 28 days. The coroner has the power to extend the period of the suspension if asked to do so by the chief officer of police or by a prosecuting authority. The period of suspension is subject to clauses 18 and 19.

coroner at the request of the chief officer of police or, as the case may be, the prosecuting authority.

18 Suspension of investigation where certain criminal proceedings brought

- (1) A senior coroner must suspend an investigation into the death of a person under this Act which has not been completed if subsection (2) or (3) applies, but this is subject to subsections (4) and (7). 5
- (2) This subsection applies if the coroner becomes aware (whether by being informed by the designated officer for a magistrates' court under section 25(1) or otherwise) that a person has appeared or been brought before a magistrates' court charged with a relevant offence involving the death of the deceased. 10
- (3) This subsection applies if the coroner –
 - (a) is informed by a prosecuting authority that a person has been sent for trial to the Crown Court for an offence alleged to have been committed in circumstances connected with the death of the deceased, and
 - (b) is requested by the prosecuting authority to suspend the investigation. 15
- (4) A coroner need not suspend an investigation –
 - (a) in a case where subsection (2) applies, if he is informed by a prosecuting authority that a suspension is unnecessary, or
 - (b) in any case, if he thinks that there is exceptional reason for not suspending the investigation. 20
- (5) Subject to this section, an investigation into the death of a person under this Act may not be suspended by reason only of the institution of criminal proceedings arising out of his death.
- (6) Where an investigation is already suspended under section 17 –
 - (a) references in the preceding provisions of this section to suspending an investigation are to be read as references to continuing the suspension of an investigation, and
 - (b) if the suspension of the investigation is continued under this section, the investigation is to be treated for the purposes of sections 22 and 31(3) as suspended under this section. 25
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- (7) This section does not apply if an investigation is already suspended under section 19.
- (8) Section 17(4) (meaning of offence committed in circumstances connected with the death of the deceased) applies for the purposes of this section.

19 Suspension of investigation in event of inquiry under Inquiries Act 2005

- (1) This section applies if the senior coroner is informed by the Lord Chancellor before the completion of an investigation into the death of a person under this Act that the cause of death is likely to be adequately investigated by an inquiry under the Inquiries Act 2005 (c. 12) which is being or is to be held. 35
- (2) The coroner must suspend the investigation unless he thinks there is an exceptional reason for not doing so. 40
- (3) Where the investigation is already suspended under section 17 –

Clause 18: Suspension of investigation where certain criminal proceedings brought

The 1988 Act (under sections 16 and 17) provides for inquests to be adjourned in the event of a person being charged with particular offences. The coroner may resume an inquest adjourned in this way if he believes that there is sufficient cause to do so.

This clause sets out the arrangements for suspension of the coroner's investigation when criminal proceedings have been brought in connection with the death.

Subsection (2) requires a coroner to suspend an investigation into a death if he becomes aware that someone has been brought before a magistrates' court charged with a 'relevant offence' involving the death of the deceased.

Subsection (3) requires a coroner to suspend an investigation where a prosecuting authority informs him that someone has been sent for trial to the Crown Court for an offence committed in connection with the death and asks him to suspend his investigation.

The coroner need not do this where he is either informed by the prosecuting authority that suspension is not necessary, or where he thinks that there is exceptional reason for not doing so (subsection (4)).

Subsection (7) makes clear that if an investigation is already suspended under clause 19 (suspension because of an inquiry under the Inquiries Act 2005), this clause does not apply.

Clause 19: Suspension of investigation in event of inquiry under Inquiries Act 2005

This clause sets out the circumstances in which a coroner's investigation can be suspended where there is an inquiry under the Inquiries Act 2005. Section 17A of the 1988 Act requires a coroner to adjourn an inquest if he is informed that a judicial inquiry is being, or is to be, held and that this is likely to investigate adequately the cause of death. The coroner may only resume an inquest adjourned for this reason where he believes that there are exceptional reasons for doing so.

Under this clause, the coroner must suspend his investigation into a death if he is informed by the Lord Chancellor before the completion of the investigation that there will be an inquiry under the Inquiries Act 2005 which is likely to cover the question of how the deceased died, unless he thinks there are exceptional reasons for continuing with it.

- (a) the reference in subsection (2) to suspending the investigation is to be read as a reference to continuing the suspension of the investigation, and
 - (b) if the suspension of the investigation is continued under this section, the investigation is to be treated for the purposes of sections 23 and 31(4) as suspended under this section. 5

- 20 Effect of suspension of investigation**
- (1) Where a senior coroner suspends an investigation under section 17, 18 or 19, he must adjourn any inquest which is being held as part of the investigation.
 - (2) Where a senior coroner adjourns an inquest under this section which is held with a jury, he may discharge the jury. 10

- 21 Resumption of investigation suspended under section 17**
- An investigation which is suspended under section 17 must be resumed once the period or, as the case may be, the extended period under section 17(5) has ended, but this is subject to sections 18 and 19. 15

- 22 Resumption of investigation suspended under section 18**
- (1) An investigation which is suspended under section 18 may be resumed only –
 - (a) if the senior coroner thinks that there is sufficient reason for doing so, and
 - (b) subject to subsection (2), after the conclusion of criminal proceedings before the Crown Court in respect of the offence mentioned in subsection (2) or (3) (as the case may be) of that section. 20
 - (2) The investigation may be resumed before the conclusion of those proceedings if the coroner is informed by a prosecuting authority that it may be so resumed.

- 23 Resumption of investigation suspended under section 19** 25
- (1) An investigation into the death of a person which is suspended under section 19 may be resumed only –
 - (a) if the senior coroner thinks that there is sufficient reason for doing so, and
 - (b) after the end of the period of 28 days beginning with the relevant day; but this is subject to the following provisions of this section. 30
 - (2) Subsection (4) applies where the senior coroner becomes aware during the suspension of the investigation (whether by being informed by the designated officer for a magistrates’ court under section 25(1) or otherwise) that a person has appeared or been brought before a magistrates’ court charged with a relevant offence involving the death of the deceased. 35
 - (3) Subsection (4) also applies where the senior coroner is informed by a prosecuting authority during the suspension of the investigation that a person has been sent for trial to the Crown Court for an offence alleged to have been committed in circumstances connected with the death of the deceased. 40

Clause 20: Effect of suspension of investigation

Where an investigation is suspended under clause 17, 18 or 19, any inquest being held as part of that investigation must also be adjourned.

Clause 21: Resumption of investigation suspended under clause 17

If the coroner suspends an investigation because someone may be charged with an offence, he must (subject to clauses 18 and 19) resume it once the relevant period has expired.

Clause 22: Resumption of investigation suspended under clause 18

This clause sets out the arrangements for resuming investigations suspended because certain criminal proceedings have been brought.

Under subsection (1) the coroner can only resume an investigation if he thinks there is a need to do so and once criminal proceedings in relation to the offence have come to an end.

Subsection (2) allows a coroner to resume an investigation before the criminal proceedings have ended if he is informed by a prosecuting authority that he can continue his investigation.

Clause 23: Resumption of investigation suspended under clause 19

Subsection (1) sets out the circumstances in which an investigation that has been suspended because an inquiry is to be held can be resumed. It can only be resumed: (a) if the coroner thinks that there is a good reason for resuming it, and (b) when 28 days have passed since either the conclusion of the inquiry or the publication of its findings.

Subsection (4) applies where the coroner is aware that someone has either been charged before a magistrate's court or sent for trial to the Crown Court according to clause 19(2) or (3). Under subsection (4), the investigation may not be resumed before criminal proceedings have ended, unless a prosecuting authority has told the coroner that he can resume the investigation.

- (4) The investigation may not be resumed before the conclusion of criminal proceedings before the Crown Court in respect of the offence concerned unless the prosecuting authority informs the coroner that it may be resumed earlier.
- (5) Nothing in subsection (4) enables the investigation to be resumed before the end of the period mentioned in subsection (1)(b). 5
- (6) Section 17(4) (meaning of offence committed in circumstances connected with the death of the deceased) applies for the purposes of this section.
- (7) In this section “the relevant day” means –
- (a) if the Lord Chancellor informs the coroner that this paragraph applies, the day on which the inquiry concerned is concluded; 10
 - (b) otherwise, the day on which the findings of that inquiry are published.
- 24 Resumption of investigation: supplemental**
- (1) Where a senior coroner resumes an investigation under section 21, 22 or 23, he must resume any inquest which was adjourned.
- (2) Section 13 does not apply to a resumed inquest. 15
- (3) The resumed inquest may be held with a jury if the coroner thinks there is sufficient reason for doing so.
- (4) Subsections (5) to (7) apply where the resumed inquest is to be held with a jury.
- (5) If the adjourned inquest was held with a jury and the same jury is available to serve at the resumed inquest, the resumed inquest may be held with that jury. 20
- (6) But if the adjourned inquest was held with a jury and –
- (a) the jury was discharged under section 20(2), or
 - (b) any member of the jury is no longer available to serve as a juror, a new jury must be summoned.
- (7) If the adjourned inquest was held without a jury, a jury must be summoned. 25
- (8) Where a new jury is summoned or a jury is summoned under subsection (7), the resumed inquest is to proceed in all respects as if any proceedings of the inquest prior to the resumption had not taken place.
- (9) In the case of a resumed investigation, any determination under section 12(1)(a) may not be inconsistent with the outcome of any inquiry under the Inquiries Act 2005 (c. 12), or any criminal proceedings, which have taken place. 30
- 25 Duty to inform coroner of certain events**
- (1) The designated officer for a magistrates’ court must inform the senior coroner who is responsible for conducting an investigation into the death of a person under this Act if a person appears or is brought before the court charged with a relevant offence involving the death of the deceased. 35
- (2) The appropriate officer of the Crown Court where the person charged with the relevant offence is sent for trial must inform the senior coroner of the result of the proceedings before the court.
- (3) Where a senior coroner is informed by a prosecuting authority as mentioned in section 18(3)(a) or 23(3), the prosecuting authority must inform the coroner of 40

Clause 24: Resumption of investigation: supplemental

Under subsection (1), if the coroner resumes an investigation he must also resume any inquest that was adjourned as part of that investigation.

Subsection (2) makes clear that clause 13 (juries at inquests) does not apply where an investigation has been suspended and then resumed. Clause 13 sets out the circumstances in which a coroner would normally have to hold an inquest with a jury. Subsection (3) allows the coroner to hold a resumed inquest with a jury if he thinks there is a good reason for doing so.

Subsections (5) to (7) of this clause set out the arrangements for holding a resumed inquest with a jury. Under subsection (5), if the inquest was started with a jury and then adjourned, if that same jury is available the inquest can be held with that jury. Subsection (6) requires a new jury to be summoned if the jury with which the inquest started before being adjourned was either (a) discharged or (b) if one or more of the members of the jury is no longer available for jury service. Subsection (7) requires the coroner to summon a jury where the adjourned inquest was held without one.

Under subsection (8) if an inquest is resumed with a new jury it should be held as if the proceedings before the suspension had not taken place. This means that any part of the inquest where evidence was heard before the adjournment will need to be repeated to make sure that the jury hear all the evidence.

Subsection (9) prevents the resumed coroner's investigation from reaching a conclusion which is inconsistent with the outcome of any inquiry under the Inquiries Act 2005 or criminal proceedings. For example, if the outcome of an inquiry was that a particular individual committed suicide, a coroner's investigation cannot conclude that the particular individual was unlawfully killed.

Clause 25: Duty to inform coroner of certain events

Under subsection (1), if someone is charged with a relevant offence (as defined in clause 75) involving the death of the deceased, the designated officer for the magistrates' court must inform the coroner responsible for conducting the investigation into the death of this fact. This obligation ensures that the coroner knows that criminal proceedings have been brought and that he must suspend his investigation.

Subsection (2) places a similar obligation on the appropriate officer of the Crown Court to inform the coroner of the result of the proceedings.

Subsection (3) obliges the relevant prosecuting authority to inform the coroner of the result of proceedings before the Crown Court, if they have informed the coroner of the fact that that such proceeding were taking place. The purpose of this obligation is to ensure that the coroner has the information he needs to resume it if appropriate.

If the Lord Chancellor has informed the coroner that an inquiry is to be held in connection with the death, under subsection (4) he must inform the coroner of the findings of that inquiry once they are published.

the result of the proceedings before the Crown Court in respect of the offence mentioned in that provision.

- (4) Where a senior coroner is informed by the Lord Chancellor as mentioned in section 19(1), the Lord Chancellor must inform the coroner of the findings of the inquiry concerned as soon as practicable after they are published. 5

CHAPTER 4

ANCILLARY POWERS OF CORONERS

26 Post-mortem examinations

- (1) A senior coroner who is responsible for conducting an investigation into the death of a person under this Act may request a registered medical practitioner to make a post-mortem examination of the body of such a description as may be specified by the coroner. 10
- (2) Subsection (3) applies where a person informs the senior coroner that in his opinion the death was caused wholly or partly by the improper or negligent treatment of a registered medical practitioner or other person. 15
- (3) That practitioner or other person—
- (a) is not entitled to make or assist at an examination of the body of the deceased under this section which is yet to be made, but
 - (b) is entitled to be represented at such an examination.
- (4) A person who makes an examination of a body under this section must report the result of the examination to the senior coroner in such form as the coroner may require. 20

27 Removal of body for post-mortem examination

- (1) Where an examination of a body is to be made under section 26, the senior coroner may order the removal of the body to any place which may be provided for the purpose. 25
- (2) A coroner may not order the removal of a body under subsection (1) to any place, other than a place within his area provided by a relevant authority, without the consent of the person by whom the first-mentioned place is provided. 30

CHAPTER 5

MISCELLANEOUS

28 Appointment of senior coroners, area coroners and assistant coroners etc

Schedule 1 (which makes provision in relation to the appointment of senior coroners, area coroners and assistant coroners etc) has effect. 35

CHAPTER 4 – ANCILLARY POWERS OF CORONERS

This Chapter sets out coroners' powers to order post-mortem examinations and to order removal of the body to a location where a post-mortem can be carried out. More detailed provisions about post-mortems may be made in regulations under clause 66.

Clause 26: Post-mortem examinations

This clause sets out the arrangements for ordering post-mortem examinations, and makes slightly different provision to that contained in sections 19 and 20 of the 1988 Act.

Subsection (1) gives the coroner the power to ask any registered medical practitioner to examine a body. Section 19(1) of the 1988 Act allows a coroner to require the doctor who attended the deceased or another doctor in the area where the death occurred to conduct a post-mortem, where the coroner believed that a post-mortem examination would reveal the cause of death and thereby make it unnecessary to hold an inquest (e.g. if the death were sudden and of an unknown cause, confirmation of the cause of death would answer the questions that a coroner's inquest would be required to determine). Where the coroner has decided to hold an inquest, section 20 of the 1988 Act enables him to request any doctor to make a post-mortem or special examination of the body.

The 1988 Act makes a distinction between post-mortem and 'special' examinations (the latter are a more specific kind of post-mortem examination). The Bill does away with this distinction, enabling the coroner to detail the kind of examination he would like the doctor to make – for example, to ask for a particular examination of a tissue or organ which seems most relevant to the cause of death. The Bill also removes the distinction between post-mortems ordered before the inquest and those requested where the coroner has decided to hold an inquest, which accords with the policy of the Bill to regard the inquest as part of the investigation process.

Subsections (2) and (3) ensure that any medical practitioner about whom there are allegations in relation to the death, is not able to carry out the examination of the body.

Clause 27 Removal of body for post-mortem examination

This clause specifies the arrangements for moving a body to a different location for a post-mortem examination to be carried out.

Subsection (1) gives coroners the power to order that a body be moved to any suitable place for a post-mortem examination. This removes the restriction under section 22(1) of the 1988 Act that a body can only be moved within a coroner's area or to a neighbouring area. This has caused practical difficulties in major incidents where there have been several deaths. This power will also allow a coroner to make use of specialist equipment or skills available in a different part of the country and may, on occasions, mean that full post-mortems – which can cause considerable distress to bereaved relatives – can be avoided.

CHAPTER 5 – MISCELLANEOUS

Clause 28: Appointment of senior coroners, area coroners and assistant coroners etc

This clause gives effect to Schedule 1 which sets out the arrangements for appointing senior coroners, area coroners and assistants; the qualifications required and terms of office; and the functions of area and assistant coroners. More details are set out next to Schedule 1.

29 Effect of removal of body etc

Where a senior coroner is responsible for conducting an investigation into the death of a person under this Act, the presence of the body at a place outside his area (whether because of its removal to that place or otherwise) –

- (a) does not affect his functions in relation to the body and the investigation, and 5
- (b) does not confer any functions on any other coroner.

30 Directions prohibiting publication of information

- (1) A senior coroner who is responsible for conducting an investigation into the death of a person under this Act may give a direction which prohibits the publication – 10
 - (a) of the name of the deceased or any interested person within section 76(2)(a), and
 - (b) of any information which could lead to the identification of the deceased or any such person. 15
- (2) A direction under this section may specify the period for which it is to have effect.
- (3) Any publication in contravention of a direction under this section is to constitute and be punishable as a contempt of court.
- (4) A direction may be given under this section – 20
 - (a) on an application by an interested person within section 76(2)(a), or
 - (b) of the senior coroner’s own motion.
- (5) A senior coroner may discharge or vary a direction under this section –
 - (a) on an application by an interested person within section 76(2)(a), or
 - (b) of the coroner’s own motion. 25

31 Notification to registrar

- (1) The senior coroner must, within five days after a finding under section 12(1)(b) is made, send to the registrar a certificate –
 - (a) giving information concerning the death (including the particulars required by the 1953 Act to be registered concerning the death), and 30
 - (b) specifying the time and place at which the inquest was held.
- (2) Where a senior coroner suspends an investigation under section 17, 18 or 19, he must send to the registrar a certificate stating, so far as they have been ascertained at the date of the certificate, the particulars required by the 1953 Act to be registered concerning the death. 35
- (3) Where a senior coroner suspends an investigation under section 18, he must send to the registrar a certificate stating the result of the criminal proceedings before the Crown Court in respect of the offence mentioned in subsection (2) or (3) (as the case may be) of that section.
- (4) Where a senior coroner suspends an investigation under section 19, he must send to the registrar a certificate stating – 40
 - (a) any findings of the inquiry concerned, and

Clause 29: Effect of removal of body etc

By section 22 of the 1988 Act, the coroner may only remove the body for the purpose of a post-mortem examination to a place within his district or the adjoining district of another coroner.

Under clause 29(a), once a coroner is responsible for conducting an investigation into a death, the fact that the body is outside that coroner's area does not change the coroner's functions in relation to the death. Paragraph (b) makes clear that the presence of the body in another coroner's area also does not give that other coroner any functions in relation to the death. This is equivalent to the provision in section 22(3) of the 1988 Act in relation to the more limited removal that the coroner is allowed to make.

Clause 30: Directions prohibiting publication of information

This clause gives coroners a new power to ban publication of the name of the deceased or any information that might identify that person. This power will allow the coroner to protect bereaved relatives from unnecessary or gratuitous invasion of their privacy. It is thought that it might be particularly appropriate to use this power in some cases of apparent suicide or child deaths where there is no question of any other person being implicated in the death.

The coroner may vary or discharge a direction, and will specify in the direction itself how long it is to last. An interested person may appeal to the Chief Coroner against a decision to issue a direction, in accordance with clause 60.

The coroner can punish anyone who does not comply with such a direction as a contempt of court.

Clause 31: Notification to registrar

This clause sets out the information that coroners must send to the registrar and when this information should be sent.

Subsection (1) requires a coroner to send a certificate to the registrar within 5 days after a finding under clause 12(1)(b). This certificate must give information about the death including the details which need to be registered under the Births and Deaths Registration Act 1953. It must also give the time and place at which any inquest was held.

Subsections (2), (3) and (4) set out the information that a coroner must provide to the registrar when an investigation has been suspended.

When a coroner suspends an investigation, subsection (2) requires the coroner to send a certificate to the registrar giving the details required under the 1953 Act for the death to be registered, to the extent that these details have been established by the date of the certificate.

When a coroner suspends an investigation because of criminal proceedings that have been brought, subsection (3) requires a coroner to send a certificate to the registrar stating the result of the proceedings before the Crown Court.

Under subsection (4), when a coroner suspends an investigation because of an inquiry, he must send a certificate to the registrar stating the findings of the inquiry. If, during the course of the suspension, there have also been criminal proceedings, the coroner must also include the result of proceedings before the Crown Court.

- (b) where section 23(4) applies, the result of the criminal proceedings before the Crown Court in respect of the offence mentioned in that provision.
- (5) A senior coroner who, but for section 3, would be required to conduct an investigation into the death of a person must send to the registrar a certificate containing such information as may be prescribed by Coroners regulations. 5
- (6) Where a senior coroner discontinues an investigation into the death of a person by virtue of section 9, he must send to the registrar a certificate in writing stating the cause of death as disclosed by the report of the person making the examination referred to in section 9(1)(a). 10
- (7) Nothing in this section applies in relation to deaths which occur outside England and Wales.
- (8) In this section “registrar” has the same meaning as in the 1953 Act.
- 32 Regulations with respect to expenditure**
- (1) The Lord Chancellor may by regulations make provision with respect to expenditure incurred by senior coroners, area coroners and assistant coroners. 15
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision –
- (a) for accounts or evidence relating to expenditure to be provided to appropriate authorities; 20
- (b) for or in connection with the reimbursement by appropriate authorities of expenditure of such description as may be specified in the regulations;
- (c) for or in connection with appeals relating to decisions with respect to reimbursement. 25
- 33 Provision of accommodation**
- (1) Subject to subsection (2), an appropriate authority for a coroner area must provide and maintain proper accommodation to enable any senior coroner, area coroner or assistant coroner for the area to conduct investigations and hold inquests into death under this Act. 30
- (2) In the case of a coroner area which consists of the area of two or more local authorities, the accommodation mentioned in subsection (1) must be provided and maintained by such one or more of those authorities as they may agree or, in default of agreement, as may be determined by the Lord Chancellor.
- (3) Before making a determination under subsection (2) the Lord Chancellor must consult – 35
- (a) the Secretary of State, in a case involving authorities in England;
- (b) the National Assembly for Wales, in a case involving authorities in Wales.

Subsection (5) requires a coroner who would be responsible for investigating a death if that death was not exempt from investigation because it occurred over 50 years ago, to send a certificate to the registrar. Regulations will set out what information should be included on this certificate.

Subsection (6) requires the coroner to send a certificate to the registrar when, under clause 9, he does not proceed with an investigation following a post-mortem examination. This certificate must state the cause of death as revealed by the post-mortem report.

This clause makes provision equivalent, in subsection (1), to section 11(7) of the Coroners Act 1988; in subsection (2), to section 16(4) of the Coroners Act 1988; in subsection (3), to rule 31 of the Coroners Rules 1984; in subsection (4), to section 17A(2) of the Coroners Act 1988. The provisions in subsections (5) to (7) are as a result of new provisions in the Bill.

Clause 32: Regulations with respect to expenditure

Section 27 of the Coroners Act 1988 requires coroners to produce accounts to their appointing local authority, and makes provision as to the funds from which reimbursements should be paid. Section 27A requires the council to indemnify the coroner for expenses reasonably incurred in connection with his functions, or in relation to disputing a claim made against him. Provision about such matters will now be contained in secondary legislation under this clause.

Clause 33: Provision of accommodation

This clause obliges the appropriate authority for a coroner area to provide and maintain proper accommodation for investigations to be conducted and inquests to be held. Under section 31 of the Coroners Act 1988, the relevant council is not required currently to do so.

Subsection (2) specifies the authority that must provide accommodation where a coroner area spans two or more local authority areas.

PART 2

INVESTIGATIONS IN RELATION TO TREASURE

- 34 Coroner for Treasure and Assistant Coroners for Treasure**
- (1) The Lord Chancellor may appoint a coroner, to be known as the Coroner for Treasure. 5
 - (2) The Chief Coroner may designate one or more assistant coroners to act as Assistant Coroners for Treasure.
 - (3) Schedule 2 (which makes provision in relation to the Coroner for Treasure and Assistant Coroners for Treasure) has effect.
- 35 Investigations in relation to treasure** 10
- (1) The Coroner for Treasure must conduct an investigation in relation to an object in respect of which notification is given under section 8(1) or 8A(1) of the Treasure Act 1996 (c. 24) (but this is subject to section 38).
 - (2) The Coroner for Treasure may conduct an investigation in relation to an object which he has reason to suspect is treasure and in respect of which notification has not been given under section 8(1) or 8A(1) of that Act (but this is subject to section 38). 15
 - (3) The purpose of an investigation in relation to an object under this section is to ascertain –
 - (a) whether the object is treasure, and 20
 - (b) if it is treasure, who found it, where it was found and when it was found.
 - (4) Senior coroners, area coroners and assistant coroners are to have no functions in relation to objects which are or may be treasure (but this is subject to paragraph 11 of Schedule 2 which enables an assistant coroner acting as an Assistant Coroner for Treasure to perform functions of the Coroner for Treasure). 25
- 36 Inquests in relation to treasure**
- (1) The Coroner for Treasure may, as part of an investigation in relation to an object under section 35, hold an inquest in relation to the object. 30
 - (2) Such an inquest must be held without a jury.
- 37 Outcome of investigations in relation to treasure**
- (1) After considering the evidence in the case of an investigation in relation to an object under section 35 which is conducted without an inquest, the Coroner for Treasure must make a determination as to the matters mentioned in subsection (3)(a) and (where applicable) (3)(b) of that section. 35
 - (2) After hearing the evidence in the case of an investigation in relation to an object under section 35 which is conducted with an inquest, the Coroner for Treasure must make a determination as to the matters mentioned in subsection (3)(a) and (where applicable) (3)(b) of that section. 40

PART 2 – INVESTIGATIONS IN RELATION TO TREASURE

Clause 34: Coroner for Treasure and Assistant Coroners for Treasure

This clause allows the Lord Chancellor to appoint a Coroner for Treasure and the Chief Coroner to designate one or more assistant coroners as Assistant Coroners for Treasure. It also gives effect to Schedule 2, which sets out the qualifications and terms of office of the Coroner for Treasure and Assistant Coroners for Treasure.

Clause 35: Investigations in relation to treasure

This clause sets out the circumstances in which the Coroner for Treasure must conduct an investigation in relation to treasure, and the purpose of such an investigation. Currently, responsibility for inquiring into treasure finds falls to the coroner in whose area the find is made. In the reformed system, the duty to investigate treasure finds for the whole of England and Wales belongs to a single coroner, the Coroner for Treasure, who will be able to draw on Assistant Coroners for Treasure as required. The workload is not expected to require more than one full-time post-holder.

The Coroner for Treasure is required by subsection (1) to conduct an investigation into objects which have been notified to him under the Treasure Act 1996 and under subsection (2) he has a discretion to conduct an investigation into objects which have not been notified to him but which he suspects to be treasure under that Act.

The references in subsections (1) and (2) to section 8A(1) of the Treasure Act are to one of the amendments to that Act effected by this Bill (see Schedule 3).

Subsection (3) explains that the purpose of investigations under clause 35 is to establish whether the object is treasure and if so, who found it and where and when it was found.

Subsection (4) makes clear that a senior coroner and area coroner do not have any functions in relation to treasure investigations. Assistant coroners also have no functions generally in relation to treasure investigations, unless the Chief Coroner designates them as Assistant Coroners for Treasure under clause 34(2). If they are designated by the Chief Coroner as Assistant Coroners for Treasure, they may perform the functions of the Coroner for Treasure (paragraph 11 of Schedule 2).

Clause 36: Inquests in relation to treasure

This clause allows the Coroner for Treasure to hold an inquest as part of an investigation under clause 35, but does not require him to do so. The vast majority of treasure investigations are currently concluded without an oral hearing, and this is thought likely to continue.

Subsection (2) of clause 36 prevents an inquest into a treasure find from being held with a jury. Section 7(4) of the Treasure Act 1996 enables the coroner to summon a jury for treasure inquests but this is being removed under the Bill.

Clause 37: Outcome of investigations in relation to treasure

This clause obliges the coroner to make a determination at the end of an investigation, whether or not an inquest is held as part of that investigation.

38 Exception to duty to investigate

- (1) This section applies where –
- (a) the Coroner for Treasure is conducting, or proposes to conduct, an investigation in relation to an object under section 35, and
 - (b) if the object were in fact treasure, it would vest in the Crown by virtue of section 4(1)(b) of the Treasure Act 1996 (c. 24). 5
- (2) The Secretary of State may give notice in writing to the Coroner for Treasure that he would not wish the object, if it were in fact treasure, to vest in the Crown.
- (3) Such a notice may be given only before the making of a determination under section 37. 10
- (4) Where such a notice is given –
- (a) it is to be treated as disclaiming any title that the Crown may have to the object,
 - (b) the object is to be treated as not having vested in the Crown under the Treasure Act 1996, 15
 - (c) the Coroner for Treasure may not conduct an investigation in relation to the object under section 35 or (as the case may be) continue with such an investigation, and
 - (d) without prejudice to the interests or rights of others, the object may be delivered to any person in accordance with a code of practice published under section 11 of the Treasure Act 1996. 20

39 Codes of practice under the Treasure Act 1996

- (1) A code of practice under section 11 of the Treasure Act 1996 may make provision in relation to objects in respect of which notice is given under section 38(2). 25
- (2) No civil liability on the part of the Coroner for Treasure arises where he delivers any object, or takes any other action, in accordance with a code of practice under section 11 of that Act.

40 Amendments of the Treasure Act 1996 30

Schedule 3 (which makes amendments to the Treasure Act 1996 in connection with investigations etc) has effect.

PART 3

FURTHER PROVISION IN RELATION TO INVESTIGATIONS AND DEATHS

41 Presence of public at inquests 35

Subject to section 44 and to any provision made by Coroners rules, inquests are to be held in public.

42 Witnesses etc

- (1) A senior coroner may by notice in writing require any person in England and Wales to attend at a time and place stated in the notice – 40

Clause 38: Exception to the duty to investigate

This clause creates an exception to the duty to conduct an investigation in relation to treasure where the Secretary of State notifies the coroner that the Crown would disclaim any interest in the object, if it were found to be treasure.

By section 4(1) of the Treasure Act 1996, treasure vests either in the Crown or the relevant franchisee.* Section 6 of that Act enables the Crown to “disclaim” its title to treasure, but this can only be done once it has been decided by the coroner that the object is treasure. Investigations are therefore required to take place, even where the Crown has no interest in acquiring the object. This clause therefore allows the Secretary of State to notify the Coroner for Treasure that the Crown would not wish to own the object, even if it were treasure. Where this is done, the coroner is not obliged to carry out an investigation.

Subsection (3) makes clear that the Secretary of State can only issue a notice under subsection (2) before the coroner has made a determination as to whether the find is in fact treasure under clause 37.

Subsection (4) explains the effect of a notice given under subsection (2).

** where the Crown’s right to ownership of treasure found in a particular location has been granted to an individual or body, such as the Corporation of London.*

Clause 39: Codes of practice under the Treasure Act 1996

This clause enables a code of practice published under section 11 of the Treasure Act 1996 to include provision to cover objects in relation to which a notice is given under clause 38(2).

This clause also provides that where a coroner acts in accordance with a code of practice under section 11 of the Treasure Act 1996, he or she is not subject to civil liability for any actions taken.

Clause 40: Amendments of the Treasure Act 1996

This clause gives effect to Schedule 3, which amends the Treasure Act 1996.

PART 3 – FURTHER PROVISION IN RELATION TO INVESTIGATIONS AND DEATHS**Clause 41: Presence of public at inquests**

This clause makes clear that inquests should be held in public unless there are exceptional reasons for excluding the public; the Coroners rules (to be made under clause 67) will set out the grounds on which the public may be excluded from inquests. The 1984 Rules only require inquests to be held in private where this is necessary to safeguard national security (rule 17).

Clause 42: Witnesses etc

This clause gives the coroner statutory powers to summon witnesses and to compel

- (a) to give evidence at an inquest,
 - (b) to produce any documents in his custody or under his control which relate to a matter which is relevant to an inquest, or
 - (c) to produce for inspection, examination or testing any other thing in his custody or under his control which relates to a matter which is relevant to an inquest. 5
 - (2) A senior coroner who is conducting an investigation under this Act may by notice in writing require any person in England and Wales, within such period as the senior coroner thinks reasonable –
 - (a) to provide evidence to the senior coroner in the form of a written statement, 10
 - (b) to produce any documents in his custody or under his control which relate to a matter which is relevant to the investigation, or
 - (c) to produce for inspection, examination or testing any other thing in his custody or under his control which relates to a matter which is relevant to the investigation. 15
 - (3) A notice under subsection (1) or (2) must –
 - (a) explain the possible consequences of not complying with the notice (see Parts 2 and 3 of Schedule 4), and
 - (b) indicate what the recipient of the notice should do if he wishes to make a claim under subsection (4). 20
 - (4) A claim by a person that –
 - (a) he is unable to comply with a notice under this section, or
 - (b) it is not reasonable in all the circumstances to require him to comply with such a notice, 25is to be determined by the senior coroner, who may revoke or vary the notice on that ground.
 - (5) In deciding whether to revoke or vary a notice on the ground mentioned in subsection (4)(b), the senior coroner must consider the public interest in the information in question being obtained for the purposes of the investigation or inquest, having regard to the likely importance of the information. 30
 - (6) For the purposes of this section a document or thing is under a person’s control if it is in his possession or if he has a right to possession of it.
 - (7) This section applies in relation to an investigation or inquest in relation to an object which is or may be treasure as it applies in relation to an investigation or inquest into a death but as if any reference to a senior coroner were read as a reference to the Coroner for Treasure. 35
- 43 Privileged information etc**
- (1) A person may not be required to give, produce or provide any evidence or document under section 42 if –
 - (a) he could not be required to do so in civil proceedings in a court in England and Wales, or
 - (b) the requirement would be incompatible with a Community obligation. 40
 - (2) The Lord Chancellor may by regulations make provision disapplying, or limiting the application of, section 42 in relation to evidence or documents of a description specified in regulations. 45

the production of evidence for the purposes of his investigation. It is intended that this should enhance his or her ability to conduct effective investigations.

Under subsection (1) a coroner conducting an inquest can, as part of his investigation, notify a person that he must attend an inquest to give evidence. The coroner can also require a person to bring any documents they have that are relevant to the inquest, or to produce anything else they have that is relevant to the inquest so that it can be inspected, examined or tested.

Subsection (2) provides that the coroner can also notify someone that they must provide the coroner with a written statement, any documents or anything else they have that is relevant to the investigation.

Subsection (3) sets out information which must be included in any notice that the coroner issues under subsection (1) or (2).

Subsection (4) gives a person whom the coroner requires to provide any evidence under subsection (1) or (2) the right to make a claim to the coroner either that he is unable to comply with the notice or that it is not reasonable for the coroner to ask him to do so. The coroner can cancel or amend the notice if he thinks the claim is valid.

Under subsection (5), when deciding whether to cancel or amend the notice, the coroner has to take into account the public interest of that information being available to his investigation or inquest.

By subsection (7), the Coroner for Treasure has these powers in relation to investigations into objects believed to be treasure.

Clause 43: Privileged information etc

This clause makes clear that the coroner does not have the power to require anything to be provided to him that a person could not be required to provide to a civil court, mirroring the restriction on many information gathering powers contained in existing legislation. He also does not have the power to require evidence to be provided to him if this would be incompatible with Community law.

The Lord Chancellor may make regulations excluding specified information from the provisions of clause 42, so that the coroner cannot require someone to give evidence about such matters, or produce certain types of documents.

- (3) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to an investigation or inquest under this Act as they apply in relation to civil proceedings in a court in England and Wales.
- 44 Evidence of person under 17 through live link etc** 5
- (1) A senior coroner may direct that a witness who is under the age of 17 at the time of the direction may give evidence at an inquest through a live link.
- (2) A senior coroner may direct that persons of any description specified in the direction are to be excluded from an inquest during the giving of evidence by a witness who is under the age of 17 at the time of the direction. 10
- (3) A direction may not be given under subsection (1) or (2) unless the senior coroner determines that giving evidence at the inquest in the way proposed would be likely to improve the quality of the evidence given by the witness.
- (4) In making that determination, the senior coroner must consider all the circumstances of the case, including in particular – 15
- (a) any views expressed by the witness, and
 - (b) whether giving evidence in the way proposed might affect the effectiveness of the questioning of the witness by an interested person or a representative of such a person.
- (5) A direction may be given under subsection (1) or (2) – 20
- (a) on an application by the witness or a parent of the witness, or
 - (b) of the senior coroner’s own motion.
- (6) A senior coroner may discharge or vary a direction under subsection (1) or (2) – 25
- (a) on an application by the witness or a parent of the witness, or
 - (b) of the coroner’s own motion.
- 45 Provision supplemental to section 44**
- (1) In section 44 “live link” means a live television link or other arrangement by which a witness, while absent from the place where an inquest is being held, is able to see and hear a person at that place and to be seen and heard by the following persons. 30
- (2) Those persons are –
- (a) the senior coroner,
 - (b) the jury (if there is one), and
 - (c) any interested person, and any representative of such a person, who is present at that place. 35
- (3) The following persons may not be excluded from an inquest by a direction under section 44(2) – 40
- (a) the jury (if there is one),
 - (b) any interested person, and
 - (c) any representative of an interested person.

Clause 44: Evidence of person under 17 through live link etc

This clause gives the coroner an express power to take evidence from persons under 17 using a live link or in a cleared courtroom. A child may find giving evidence at an inquest intimidating or traumatic. These powers enable the coroner to be flexible about how evidence can be given.

Subsection (1) gives the coroner the power to direct that a witness under the age of 17 should give evidence using a live link.

Under subsection (2), the coroner can direct that some of the people in the courtroom must leave while the witness gives their evidence. The coroner can only direct that a witness should give evidence using live link or in a cleared courtroom if he thinks that this will improve the quality of the evidence given. The coroner must think about all the circumstances of the case when making this decision. He must take into account the views of the witness and how the use of a live link might affect the questioning of the witness.

If the coroner intends to exclude members of the press from the courtroom during a part of the inquest, he must allow one nominated representative of the press to remain.

The Coroner for Treasure can use these powers to take evidence from under 17 year olds using a live link or in a cleared courtroom in treasure inquests, although it is thought that the circumstances when this might arise are likely to be very rare.

Clause 45: Provision supplemental to clause 44

Certain people cannot be excluded from the court by clause 44, including interested persons and their representatives.

- (4) A direction under section 44(2) providing for representatives of news gathering or reporting organisations to be excluded from an inquest must be expressed not to apply to one named person who –
- (a) is a representative of such an organisation, and
 - (b) has been nominated for the purpose by one or more such organisations, unless it appears to the senior coroner that no such nomination has been made. 5
- (5) Any proceedings from which persons are excluded by virtue of a direction under section 44(2) (whether or not those persons include representatives of news gathering or reporting organisations) are to be taken to be held in public for the purposes of any privilege or exemption from liability available in respect of fair, accurate and contemporaneous reports of proceedings of an inquest held in public. 10
- (6) The reference in section 44(3) to the quality of a witness’s evidence is to be read as a reference to its quality in terms of completeness, coherence and accuracy; and for this purpose “coherence” means a witness’s ability to give answers which address the questions put to him and can be understood both individually and collectively. 15
- (7) In section 44 “parent”, in relation to a witness, includes a person who has parental responsibility for the witness or who has care of him; and for this purpose “parental responsibility” has the same meaning as in the Children Act 1989 (c. 41). 20
- (8) This section and section 44 apply in relation to an inquest in relation to an object which is or may be treasure as they apply in relation to an inquest into a death but as if any reference to a senior coroner were read as a reference to the Coroner for Treasure. 25
- 46 Other cases in which evidence may be given through live link**
- (1) A senior coroner may direct that a witness may give evidence at an inquest through a live link.
- (2) But a direction may not be given under this section unless the senior coroner is satisfied that it is in the interests of the efficient or effective administration of the proceedings at the inquest for the witness to give evidence at the inquest through a live link. 30
- (3) In deciding whether to give a direction under this section the senior coroner must consider all the circumstances of the case.
- (4) Those circumstances include in particular – 35
- (a) the availability of the witness,
 - (b) the need for the witness to attend in person,
 - (c) the importance of the witness’s evidence to the inquest,
 - (d) any views expressed by the witness,
 - (e) the suitability of the facilities at the place where the witness would give evidence through a live link, 40
 - (f) whether giving evidence through a live link might affect the effectiveness of the questioning of the witness by an interested person or a representative of such a person.
- (5) A direction may be given under this section – 45
- (a) on an application by the witness, or

Clause 46: Other cases in which evidence may be given through live links

The coroner may allow witnesses over the age of 17 to give evidence through live link, but only if he is satisfied that it would be in the interests of the effective or efficient administration of the proceedings at the inquest to do so.

- (b) of the senior coroner’s own motion.
 - (6) A senior coroner may discharge or vary a direction under this section –
 - (a) on an application by the witness, or
 - (b) of the coroner’s own motion.
 - (7) Section 45(1) and (2) (meaning of live link) apply for the purposes of this section. 5
 - (8) This section and section 45(1) and (2) (as applied by subsection (7)) apply in relation to an inquest in relation to an object which is or may be treasure as they apply in relation to an inquest into death, but as if any reference to a senior coroner were read as a reference to the Coroner for Treasure. 10
 - (9) Nothing in this section is to be regarded as affecting the power to give a direction under section 44(1).
- 47 Direction to jury**
- (1) This section applies where, as a result of a direction under section 44(1) or 46, evidence has been given through a live link at an inquest. 15
 - (2) The senior coroner may give the jury (if there is one) such direction as he thinks necessary to ensure that the jury gives the same weight to the evidence as if it had been given by the witness at the place where the inquest is held.
- 48 Swearing of witnesses**
- (1) A witness at an inquest must give evidence on oath unless subsection (2) or (3) applies. 20
 - (2) This subsection applies if the witness is under the age of 14.
 - (3) This subsection applies if the senior coroner or, as the case may be, the Coroner for Treasure is satisfied that the witness does not have a sufficient understanding of the responsibility to tell the truth which is involved in taking an oath. 25
 - (4) If the witness is able to give intelligible testimony, he is to be presumed to have the sufficient understanding mentioned in subsection (3) if no evidence tending to show the contrary is adduced by an interested person.
 - (5) A person is “able to give intelligible testimony” if he is able – 30
 - (a) to understand questions put to him as a witness, and
 - (b) to give answers to them which can be understood.
- 49 Reception of unsworn evidence**
- (1) The evidence at an inquest of a person (of any age) who is not permitted (by virtue of section 48) to be sworn for the purpose of giving evidence on oath at the inquest must be given unsworn. 35
 - (2) The senior coroner or, as the case may be, the Coroner for Treasure must receive in evidence any evidence which is given unsworn under this section.

Clause 47: Direction to jury

The coroner must direct the jury that the evidence from a witness given by live link should be given the same weight as if given at the inquest.

Clause 48: Swearing of witnesses

Witnesses must normally give evidence on oath. Children under 14, however, do not have to give evidence on oath. If the coroner thinks that someone does not have sufficient understanding of the responsibility to tell the truth, they do not have to give evidence on oath. This is a new power. Subsections (4) and (5) explain what is meant by sufficient understanding. This clause applies to treasure inquests as well as those held as part of an investigation into a death.

Clause 49: Reception of unsworn evidence

The coroner must accept unsworn evidence given in accordance with clause 48.

50 Power of entry, search and seizure

- (1) This section applies where a senior coroner is conducting an investigation under this Act.
- (2) The senior coroner, if authorised in writing by the Chief Coroner, may enter and search any land specified in the authorisation. 5
- (3) An authorisation under subsection (2) may not be given unless –
- (a) the senior coroner has reasonable cause to suspect that there may be anything on the land which relates to a matter which is relevant to the investigation, and
 - (b) any of the conditions in subsection (4) applies. 10
- (4) Those conditions are –
- (a) that it is not practicable to communicate with a person entitled to grant permission to enter and search the land,
 - (b) that permission to enter and search the land has been refused, and
 - (c) that the senior coroner has reason to believe that such permission would be refused if requested. 15
- (5) Where the senior coroner is lawfully on any land, he may –
- (a) seize anything which is on the land, and
 - (b) inspect and take copies of any documents which relate to a matter which is relevant to the investigation. 20
- (6) This section applies in relation to an investigation into an object which is or may be treasure as it applies in relation to an investigation into a death but as if any reference to a senior coroner were read as a reference to the Coroner for Treasure.

51 Power of entry, search and seizure: supplemental 25

- (1) The power under section 50(5) is not exercisable unless the person exercising the power has reasonable grounds for believing –
- (a) that its exercise may assist the investigation, and
 - (b) in the case of the seizure of anything, that the seizure is necessary to prevent the thing being concealed, lost, damaged, altered or destroyed. 30
- (2) The power under section 50(5)(b) includes power to require any information which is stored in an electronic form and which is on, or accessible from, the land to be produced in a form –
- (a) in which it can be taken away, and
 - (b) in which it is legible or from which it can readily be produced in a legible form. 35
- (3) The power under section 50(5) does not apply to any item which the person by whom the power is exercisable has reasonable grounds for believing to be subject to legal privilege.
- (4) Anything which has been seized or taken away under section 50 may be retained for so long as is necessary in all the circumstances. 40
- (5) A person on whom any power is conferred by virtue of section 50 may use reasonable force, if necessary, in the exercise of the power.

Clause 50: Power of entry, search and seizure

This section gives coroners a new, statutory power to enter and search premises and seize items which are relevant to the coroner's investigation.

By subsection (2), a coroner has a power to enter and search particular premises if he has permission in writing from the Chief Coroner to do so.

The Chief Coroner may only allow a coroner to enter and search premises if that coroner reasonably suspects that there might be something on the premises relevant to the investigation. The coroner must also be unable to contact the person from whom they could get permission to enter and search the premises, have already had permission refused, or have reason to believe that if they asked for permission it would be refused.

Under subsection (5) a coroner has a power to seize anything on the premises, or inspect or take copies of any documents that are relevant to the investigation.

This clause applies to treasure investigations as well as to investigation of deaths (subsection (6)).

Clause 51: Power of entry, search and seizure: supplemental

The power to seize items and inspect and take copies of documents can only be used if the person using it has reason to believe that this power might assist the investigation and if they have reason to believe that seizure is necessary to prevent the items from being hidden, lost, damaged, changed or destroyed.

The power to take copies of documents stored in electronic form includes the power to require that these documents are provided in a form which can be taken away and which enables them to be read or easily changed into a readable format. This would include for example printing copies of electronic documents or downloading copies of files from a computer so that they can be printed at a later date.

Subsection (3) makes clear that the person exercising the power under clause 50(5) cannot seize items which they believe to be subject to legal privilege.

Items seized or taken away under clause 50 can be kept for as long as they are needed and reasonable force may be used in the exercise of any power under clause 50.

- (6) In this section “item subject to legal privilege” has the same meaning as in the Police and Criminal Evidence Act 1984 (c. 60).

52 Exhumation of body for examination

- (1) A senior coroner may order the exhumation of the body of a person buried in England and Wales if subsection (2) or (3) applies. 5
- (2) This subsection applies if the coroner thinks it necessary for the body to be examined under section 26.
- (3) This subsection applies if the coroner thinks it necessary for the body to be examined for the purpose of any criminal proceedings which have been instituted or are contemplated in respect of the death— 10
- (a) of that person, or
 - (b) of another person who came by his death in circumstances connected with the death of that person.
- (4) In this section “criminal proceedings” includes proceedings in respect of a service offence (within the meaning of the Armed Forces Act 2006). 15

53 Retention of human remains

- (1) The body of a deceased person may not be retained for the purposes of an investigation into the death under this Act, or an examination under section 26 or 52(3), for a period of more than 40 days.
- (2) A senior coroner, or an interested person, who is not satisfied with the period for which a body is to be retained for any of those purposes may refer the matter to the Chief Coroner. 20
- (3) The Chief Coroner may make such order with respect to the retention of the body as he thinks appropriate.
- (4) Without prejudice to the generality of subsection (3), an order under that subsection— 25
- (a) may permit the body to be retained for a period which is longer than the period mentioned in subsection (1), or
 - (b) may require the release of the body to a person specified in the order.
- (5) An interested person may appeal on a question of law to the Court of Appeal from any decision of the Chief Coroner in connection with a reference under subsection (2); and in this subsection and subsection (6) “decision” includes an order under subsection (3). 30
- (6) On an appeal under subsection (5) the Court of Appeal may— 35
- (a) affirm the decision,
 - (b) substitute for the decision or any decision which the Chief Coroner could have made, or
 - (c) quash the decision and remit the matter to the Chief Coroner for a fresh decision.
- (7) The Lord Chancellor may by order amend subsection (1) by substituting for the number of days for the time being there specified a different number of days. 40
- (8) In calculating the period mentioned in subsection (1) no account is to be taken of any day which is a Saturday or a Sunday, Christmas Day, Good Friday or a

Clause 52: Exhumation of body for examination

The coroner currently has the power to order the exhumation of buried human remains (in section 23 of the 1988 Act) where that is necessary for discharging the coroner's functions or for the purposes of contemplated or extant criminal proceedings.

This clause replicates that power, and also allows exhumation for the purposes of investigating the death of someone other than the deceased whose body is to be exhumed.

Clause 53: Retention of human remains

This clause sets out the extent of the coroner's power to retain human remains, which differs from the current law. Under the 1984 Rules, the coroner has the power to notify a pathologist as to the period for which he requires human remains to be retained for the purposes of a post-mortem. He must also notify an interested person, and any relative of the deceased who has expressed a wish to be represented at the examination. It is intended that more detailed provision will be made about the retention of human remains, and the means by which decisions may be challenged, in subordinate legislation (under clauses 66 and 67).

Under subsections (1) and (3), the coroner cannot retain human remains for more than 40 days without an order from the Chief Coroner.

The Chief Coroner may permit retention beyond 40 days or may order that the body be released.

An interested person may appeal the decision of the Chief Coroner on a point of law to the Court of Appeal.

The Lord Chancellor may alter the initial period of retention specified in subsection (1) by order under subsection (7).

bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80).

54 Offences

Schedule 4 (offences) has effect.

55 Fees and allowances

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Schedule 5 (which makes provision in relation to fees and allowances) has effect.

PART 4

GOVERNANCE

56 Chief Coroner and Deputy Chief Coroners

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- (1) The Lord Chancellor may appoint a person, to be known as the Chief Coroner.
- (2) The Lord Chancellor may appoint such number of persons, to be known as Deputy Chief Coroners, as he thinks appropriate.
- (3) Schedule 6 (which makes provision in relation to the Chief Coroner and Deputy Chief Coroners) has effect.

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57 Training and guidance

The Chief Coroner must prepare and maintain appropriate arrangements for the training and guidance of—

- (a) senior coroners, area coroners and assistant coroners,
- (b) the Coroner for Treasure and Assistant Coroners for Treasure, and
- (c) any persons assisting persons within sub-paragraph (a) or (b).

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58 Investigation of complaints

- (1) The Chief Coroner must establish and maintain a scheme with respect to the investigation of complaints which—
 - (a) relate to the operation of the system of law and administration relating to investigations and inquests under this Act, and
 - (b) are made in accordance with the scheme.
- (2) The power under subsection (1) includes power to amend or revoke a scheme.

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59 Report to the Lord Chancellor

- (1) The Chief Coroner must give the Lord Chancellor a report for each year which—
 - (a) covers matters which the Chief Coroner wishes to bring to the attention of the Lord Chancellor,
 - (b) covers matters which the Lord Chancellor has asked the Chief Coroner to cover in the report,
 - (c) covers matters on which the Chief Coroner has received advice from the Council during the year,

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Clause 54: Offences

This clause gives effect to the offences listed in Schedule 4.

Clause 55: Fees and allowances

This clause gives effect to Schedule 5 which sets out fees and allowances that the coroner can pay to jurors, witnesses etc.

PART 4 – GOVERNANCE**Clause 56: Chief Coroner and Deputy Chief Coroners**

The Bill creates the offices of Chief Coroner, and Deputy Chief Coroners, who will be responsible for hearing appeals against decisions of coroners, for preparing and maintaining appropriate arrangements for the training and guidance of coroners, for overseeing performance standards, and for providing leadership to the service in general. The intention is to have one full-time Chief Coroner and one full-time Deputy Chief Coroner, and draw on other judicial figures to assist, in particular to hear appeals, as required.

The Lord Chancellor will appoint the Chief Coroner and his/her Deputies following recommendations from the newly established Judicial Appointments Commission.

Clause 56 also gives effect to Schedule 6, which sets out the qualifications for appointment as Chief and Deputy Chief Coroner and the terms of office, and specifies further functions.

Clause 57: Training and guidance

The intention is that the Chief Coroner will have a strategic overview of the training programme, and a coherent programme of relevant courses will be organised to ensure good induction arrangements and ongoing professional development.

It is also intended that the Chief Coroner will issue guidance on a range of matters relating to the way coroners carry out their work, including in relation to ensuring effective levels of support to bereaved people.

Clause 58: Investigation of complaints

This clause places a duty on the Chief Coroner to establish and maintain a scheme with respect to the investigation of complaints against coroners etc.

It is intended that a complaints procedure for bereaved people will be set out in the Charter for Bereaved People. In brief, most complaints should be discussed with the coroner concerned, and only if the complainant continues to be dissatisfied should the complaint be brought to the attention of the Chief Coroner. The Chief Coroner will have power to investigate the complaint – referring cases about professional misconduct to the new Office for Judicial Complaints – and to decide what action should be taken. The Chief Coroner will also determine complaints from professional groups who interact with coroners – for example, police, medical practitioners or prosecuting authorities.

Clause 59: Report to the Lord Chancellor

This clause sets out the requirement for the Chief Coroner to provide an annual report to the Lord Chancellor to summarise the activities he or she has undertaken

- (d) contains an assessment for the year of the consistency of standards between coroners areas,
 - (e) contains a summary for the year of the number, nature and outcome of complaints investigated under section 58,
 - (f) contains a summary for the year of the number, nature and outcome of appeals under sections 60 and 61, and 5
 - (g) contains a summary of the matters which have been reported to the Chief Coroner for the year under section 64.
 - (2) A report for a year under this section must be given to the Lord Chancellor by 1st July in the following year. 10
 - (3) The Lord Chancellor must publish any report given to him under this section and must lay a copy of it before each House of Parliament.
- 60 Appeals to the Chief Coroner**
- (1) An interested person may appeal to the Chief Coroner against—
 - (a) a decision within subsection (3) or (4), 15
 - (b) a failure to make such a decision,
 - (c) a determination within subsection (5), or
 - (d) a finding within subsection (6).
 - (2) But no appeal may be made under this section in respect of a decision to impose a fine under paragraph 6 of Schedule 4. 20
 - (3) A decision is within this subsection if—
 - (a) it is made by a relevant person within subsection (7)(a) to (d), and
 - (b) it is made in connection with a death or an investigation or inquest into a death under this Act.
 - (4) A decision is within this subsection if—
 - (a) it is made by a relevant person within subsection (7)(e) or (f), and 25
 - (b) it is made in connection with an object which is or may be treasure or an investigation or inquest in relation to such an object under this Act.
 - (5) A determination is within this subsection if it is made under section 12(1)(a) or 37. 30
 - (6) A finding is within this subsection if it is made under section 12(1)(b).
 - (7) In this section “relevant person” means—
 - (a) a senior coroner,
 - (b) an area coroner,
 - (c) an assistant coroner, 35
 - (d) the Chief Coroner, a Deputy Chief Coroner, the Coroner for Treasure, a judge of the High Court, or a Circuit judge, in his capacity as a person who by virtue of paragraph 1, 2 or 3 of Schedule 7 conducts an investigation or inquest into the death of a person under this Act,
 - (e) the Coroner for Treasure, or 40
 - (f) an Assistant Coroner for Treasure.

during the previous year. In particular, the report will cover issues relating to the activities of coroners and the Chief Coroner, and the number and outcome of complaints and appeals received. This will provide, for the first time, an instant snapshot of how the system is functioning across England and Wales.

To ensure public and Parliamentary accountability, the Bill requires the Lord Chancellor to publish the report and to lay it before Parliament.

Clause 60: Appeals to the Chief Coroner

This clause provides a right of appeal to the Chief Coroner against decisions and determinations made in connection with investigations and inquests into deaths and into treasure finds.

Decisions under paragraph 6 of Schedule 4 (imposition of a fine on failing to comply with a notice under clause 42) are expressly excluded.

Rules under clause 67 will set out how appeals may be made to the Chief Coroner.

This route of appeal is new. Under the current law, there is no appeal as such of coroner's decisions or determinations. Applications can be made to the High Court if a coroner refuses to hold an inquest or where a fresh inquest is required. The High Court can compel a coroner to hold an inquest or quash the determination of a previous inquest and order a fresh inquest. Interested persons can also apply for Judicial Review of a coroner's decision. However, there is no simple appeal route at present for bereaved people and other interested persons if, for example, they wish to challenge a coroner's decision to hold a post-mortem examination. This clause provides a route of appeal to the Chief Coroner on matters such as these. It also replaces the existing statutory procedure of application to the High Court with again the Chief Coroner having powers to compel a coroner to hold an inquest, or to quash a verdict from a previous inquest (from the same coroner or a different coroner).

61 Further provision about appeals

- (1) On an appeal under section 60, the Chief Coroner may consider evidence about any matter which he thinks is relevant to the substance of the decision, determination or finding, including evidence which concerns a matter arising after the date of the decision, determination or finding. 5
- (2) If the Chief Coroner allows an appeal under section 60 he may –
 - (a) order a relevant person to conduct an investigation under this Act if no investigation has been conducted;
 - (b) order a relevant person to hold an inquest if no inquest has been held;
 - (c) substitute for a decision within section 60(3) or (4) any other decision which could have been made; 10
 - (d) quash a decision within section 60(3) or (4) and remit the matter to a relevant person for a fresh decision;
 - (e) in the case of a failure to make a decision –
 - (i) make a decision which could have been made, or 15
 - (ii) remit the matter to a relevant person to make a decision;
 - (f) amend a determination under section 12(1)(a) or a finding under section 12(1)(b);
 - (g) quash a determination under section 12(1)(a) and a finding under section 12(1)(b) and order a relevant person to conduct a fresh investigation under this Act; 20
 - (h) amend a determination under section 37;
 - (i) quash a determination under section 37 and order a relevant person to conduct a fresh investigation under section 35.
- (3) Any party to an appeal under section 60 may appeal on a question of law to the Court of Appeal from any decision of the Chief Coroner. 25
- (4) On an appeal under subsection (3) the Court of Appeal may –
 - (a) affirm the decision,
 - (b) substitute for the decision any decision which the Chief Coroner could have made, or 30
 - (c) quash the decision and remit the matter to the Chief Coroner for a fresh decision.
- (5) In a case where the Chief Coroner conducts an investigation into the death of a person under this Act, any appeal under section 60 may not be heard by him.
- (6) Section 60(7) (meaning of “relevant person”) applies for the purposes of this section. 35

62 Further functions of the Chief Coroner

Schedule 7 (which confers further functions on the Chief Coroner) has effect.

63 Coronial Advisory Council

- (1) The Lord Chancellor must establish and maintain an advisory body, to be known as the Coronial Advisory Council (and referred to in this Act as “the Council”). 40
- (2) Schedule 8 (which makes provision in relation to the Council) has effect.

Clause 61: Further provision about appeals

Subsection (1) allows the Chief Coroner to consider any evidence which he or she thinks is relevant to the decision, determination or finding against which an appeal has been brought. This can include considering evidence which relates to issues that arose after the decision, determination or finding was made.

Subsection (2) sets out the powers that the Chief Coroner has where he or she allows an appeal. The Chief Coroner can order a coroner to conduct an investigation if there has not already been an investigation; he or she can order a coroner to hold an inquest if an inquest has not already been held; he or she can quash a decision made during an investigation, and either substitute his or her own decision or pass the case back to a coroner for a fresh decision; he or she can amend a determination or quash a determination and order a coroner to conduct a fresh investigation.

A decision of the Chief Coroner or a Deputy Chief Coroner may be appealed to the Court of Appeal, on a point of law only. The Court of Appeal can either confirm the decision made by the Chief Coroner, substitute its own decision in line with what the Chief Coroner had power to decide if he or she had judged the case differently, or overrule the decision and ask the Chief Coroner to reconsider the matter.

By subsection (5), the Chief Coroner cannot hear appeals if he or she had acted as first level coroner in the case subject to appeal.

Clause 62: Further functions of the Chief Coroner

This clause gives effect to Schedule 7 which sets out additional functions that the Chief Coroner has in addition to what is set out in clauses 57 to 59.

Clause 63: Coronial Advisory Council

This clause requires the Lord Chancellor to set up and maintain a Coronial Advisory Council, and gives effect to Schedule 8 which makes provision as to the membership and functions of the Council.

The intended purpose of the Council is to give advice to the Lord Chancellor and the Chief Coroner on a range of issues affecting the operation and administration of the coroner system, with a particular reference to the services and support it provides to bereaved people, and the system's interaction with interested persons more generally.

It is intended that membership of the Council will be drawn from those within and who fund the coroner system, those other Government departments and professionals with a close policy interest, and publicly recruited lay members who have had direct recent experience of bereavement.

Like the Chief Coroner, the Council will be required to provide the Lord Chancellor with an annual report and the latter will be required to publish the report and lay it before Parliament.

64 Reports etc to Chief Coroner

- (1) Every senior coroner must give the Chief Coroner a report for each year which contains such information as the Chief Coroner may require with respect to investigations into death under this Act conducted by the coroner or any area coroner or assistant coroner for his area. 5
- (2) The Coroner for Treasure must give the Chief Coroner a report for each year which contains such information as the Chief Coroner may require with respect to investigations under this Act conducted by the Coroner for Treasure or any Assistant Coroner for Treasure.
- (3) A report for a year under subsection (1) or (2) – 10
 - (a) must be in such form as the Chief Coroner may require, and
 - (b) must be given to the Chief Coroner by 1st February in the following year.
- (4) If and when required by the Chief Coroner, a senior coroner or the Coroner for Treasure must provide the Chief Coroner with such information as he may require. 15

65 Guidance by the Lord Chancellor

- (1) The Lord Chancellor may issue guidance about the way in which the system of law and administration relating to investigations and inquests into death under this Act is expected to operate in relation to interested persons within section 76(2)(a). 20
- (2) Without prejudice to the generality of subsection (1), guidance under that subsection may include provision –
 - (a) about the way in which such persons are able to participate in investigations into deaths under this Act, and 25
 - (b) about the rights of such persons to appeal under section 60.
- (3) The power under subsection (1) includes power to amend or revoke any guidance issued.

PART 5

SUPPLEMENTARY 30

66 Coroners regulations

- (1) The Lord Chancellor may make regulations (referred to in this Act as “Coroners regulations”) –
 - (a) for regulating the practice and procedure at or in connection with investigations into the death of persons under this Act (other than the practice and procedure at or in connection with inquests into death); 35
 - (b) for regulating the practice and procedure at or in connection with examinations under section 26;
 - (c) for regulating the practice and procedure at or in connection with exhumations under section 52. 40
- (2) Without prejudice to the generality of subsection (1), Coroner regulations –
 - (a) may make provision for the discharge of an investigation (including provision as to fresh investigations following discharge);

Clause 64: Annual reports to be made to the Chief Coroner

This clause sets out the arrangements for information about the service to be collected by the Chief Coroner.

It is similar to the requirements in section 28 of the 1988 Act, which require coroners to provide an annual written return to the Secretary of State, to contain such information as may be directed. This clause in the Bill is intended to ensure, amongst other things, that the Chief Coroner can adequately discharge his or her guidance and performance management functions.

Clause 65: Guidance by the Lord Chancellor

This clause enables the Lord Chancellor to issue guidance about how inquests and investigations should operate in relation to interested persons. It is intended that such guidance may include details of how interested persons can participate in investigations into deaths and their rights to appeal. This will include the Charter for Bereaved People. The Lord Chancellor can change or withdraw guidance issued under this clause.

Guidance is also likely to include information leaflets for members of the public who come into contact with coroners following the death of a relative or friend. The leaflets will explain procedures set out under this Bill, and will include information about the support and advice which may be available from coroners or from voluntary or other organisations that are based in particular areas.

PART 5 – SUPPLEMENTARY**Clause 66: Coroners regulations**

The Lord Chancellor may make regulations for regulating the practice and procedure in connection with investigations (excluding inquests), post-mortem examinations and exhumations.

Regulations could include arrangements for:

- Suspending and resuming investigations.
- Delegation of a coroner's functions relating to investigations.
- Disclosing information held by the coroner.
- Retention, release and disposal of bodies.
- Exercise of the powers of entry, search and seizure.

- (b) may make provision for or in connection with the suspension or resumption of investigations;
- (c) may make provision for the delegation by a senior coroner, area coroner or assistant coroner of any of his functions;
- (d) may make provision with respect to the disclosure of information; 5
- (e) may make provision with respect to the preservation, retention, release or disposal of bodies (including provision with respect to reinterment and with respect to the issue of orders authorising burial);
- (f) may make provision, in relation to authorisations under section 50(2) or entry and search under such an authorisation, which is equivalent to that made by any provision of sections 15 and 16 of the Police and Criminal Evidence Act 1984 (c. 60), subject to such modifications as the Lord Chancellor thinks appropriate; 10
- (g) may make provision, in relation to the power of seizure conferred by section 50(5)(a), which is equivalent to that made by any provision of section 21 of that Act, subject to such modifications as the Lord Chancellor thinks appropriate. 15

67 Coroners rules

- (1) Rules (referred to in this Act as “Coroners rules”) may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 – 20
 - (a) for regulating the practice and procedure at or in connection with inquests;
 - (b) as to the way in which, and the time within which, appeals under sections 60 and 61 are to be brought;
 - (c) for regulating the practice and procedure at or in connection with appeals under those sections. 25
- (2) Without prejudice to the generality of subsection (1), Coroners rules may make provision –
 - (a) for the discharge of a jury (including provision as to the summoning of new juries following discharge); 30
 - (b) for the discharge of an inquest (including provision as to fresh inquests following discharge);
 - (c) for or in connection with the adjournment or resumption of inquests;
 - (d) for the delegation by a senior coroner, area coroner, deputy coroner, the Coroner for Treasure or an Assistant Coroner for Treasure of any of his functions; 35
 - (e) with respect to the disclosure of information;
 - (f) for regulating the practice and procedure at or in connection with applications under section 44 or 46;
 - (g) for persons to be excused service as jurors at inquests into death in such circumstance as may specified in the rules; 40
 - (h) as to the matters to be taken into account by the Coroner for Treasure in deciding whether to hold an inquest in relation to an object;
 - (i) for requiring such consent as may be specified in the rules to the making of appeals under section 61(3); 45
 - (j) with respect to costs.

Clause 67: Coroners rules

Section 32 of the 1988 Act gives the Lord Chancellor the power to make rules as to the procedure at inquests and post-mortems. The Bill confers a rule-making power in clause 67 to enable rules to be made by the Lord Chief Justice (or his nominee) as to the practice and procedure at or in connection with inquests, thus separating out the inquest component of the coroner's investigation.

Rules made under this clause could cover arrangements for:

- Discharging a jury and summoning a new jury.
- Discharging inquests and holding fresh inquests.
- Adjourning and resuming inquests.
- Delegation of a coroner's functions relating to inquests.
- Disclosing information held by the coroner.
- Taking evidence via live link.
- Excusing persons from jury service.
- Payment of costs.

68 Further provision about Coroners rules

- (1) Coroners rules may apply any rules of court which relate to proceedings other than inquests.
- (2) Where Coroners rules apply rules of court, those rules may be applied –
 - (a) to any extent, 5
 - (b) with or without modifications, or
 - (c) as amended from time to time.
- (3) Practice directions may be given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 (c. 4) on any matter which could otherwise be included in Coroners rules. 10
- (4) Coroners rules may, instead of providing for any matter, refer to provision made or to be made by practice directions under subsection (3).
- (5) In this section “rules of court” include any provision governing the practice and procedure of a court which is made by or under an enactment.

69 Treasure regulations 15

- (1) The Secretary of State may make regulations for regulating the practice and procedure at or in connection with investigations under this Act in relation to objects which are or may be treasure (other than the practice and procedure at or in connection with inquests in relation to such objects).
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision –
 - (a) for the discharge of an investigation (including provision as to fresh investigations following discharge);
 - (b) for or in connection with the suspension or resumption of investigations; 25
 - (c) for the delegation by the Coroner for Treasure or an Assistant Coroner for Treasure of any of his functions;
 - (d) with respect to the disclosure of information.

70 Determination of age

- (1) For the purpose of section 44 or 48, a person’s age is to be taken to be that which it appears to the senior coroner or, as the case may be, the Coroner for Treasure to be after considering any available evidence. 30
- (2) For the purpose of paragraph 8 of Schedule 4, a person’s age is to be taken to be that which it appears to the court to be after considering any available evidence. 35

71 Appointments under 1988 Act to cease to have effect

- (1) This section applies to any person who, immediately before the relevant time, holds the office of coroner, deputy coroner or assistant deputy coroner under the 1988 Act.
- (2) His appointment ceases to have effect at the relevant time. 40

Clause 68: Further provision about Coroners rules

This allows the rules made under clause 67 to apply to provisions from other rules of court.

Clause 69: Treasure regulations

This clause allows the Secretary of State to make regulations relating to treasure investigations. There is currently no provision, other than in the codes of practice issued under section 11 of the Treasure Act 1996, as to the procedure to be followed in investigations into treasure.

Clause 70: Determination of age

This is a new provision which allows a coroner or court to determine the age of a person where this is necessary in order to decide whether they can give evidence via video link or unsworn and where age is relevant to the level of fine that may be imposed where a person is guilty of an offence under paragraph 8 of Schedule 4. The coroner or court must make this determination after considering any evidence that is available.

Clause 71: Appointments under 1988 Act to cease to have effect

This clause ends appointments of coroners, deputy coroners and assistant deputy coroners under the 1988 Act. These appointments will be terminated when the repeal of sections 1 and 6 of the 1988 Act comes into force. It is intended that transitional arrangements will be made to ensure the system continues to function until the arrangements under the Bill take full effect.

Subsections (3) and (4) allow the Lord Chancellor to make regulations for compensation to be paid to those who lose office on the coming into force of the Bill.

- (3) The Lord Chancellor may by regulations provide for the payment by such persons as may be specified in or determined under the regulations of pensions, allowances or gratuities by way of compensation to or in respect of such persons who suffer loss of office by virtue of this section as may be so specified or so determined. 5
- (4) Without prejudice to the generality of subsection (3), regulations under this section make provision –
- (a) as to the circumstances in which compensation is payable;
 - (b) as to the amounts which are to be payable by way of compensation;
 - (c) as to the manner in which and the person to whom any claim for compensation is to be made, and for the determination of all questions arising under the regulations. 10
- (5) In this section “relevant time” means the coming into force of the repeal of sections 1 and 6 of the 1988 Act (appointment of coroners, deputy coroners and assistant deputy coroners) by this Act. 15
- 72 Abolition of the office of coroner of the Queen’s household**
- The office of coroner of the Queen’s household is abolished.
- 73 Power to make consequential provision etc**
- The Lord Chancellor may by order make –
- (a) such supplementary, incidental or consequential provision, or
 - (b) such transitory, transitional or saving provision,
- as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act. 20
- 74 Orders, rules and regulations**
- (1) Any power of the Lord Chancellor or the Secretary of State to make orders or regulations under this Act is exercisable by statutory instrument. 25
- (2) A statutory instrument which contains an order or regulations under this Act (other than regulations under section 43(2) or an order under section 53(7) or 79 or paragraph 8(4) of Schedule 4) is subject to annulment in pursuance of a resolution either House of Parliament. 30
- (3) A statutory instrument which contains regulations under section 43(2), or an order under section 53(7) or paragraph 8(4) of Schedule 4, may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) Any order, rules or regulations made under this Act may – 35
- (a) contain incidental, supplemental, consequential, transitional, transitory and saving provision;
 - (b) make different provision for different cases.
- 75 “Relevant offence”**
- In this Act “relevant offence” means – 40
- (a) murder, manslaughter or infanticide,

Clause 72: Abolition of the office of coroner of the Queen's household

This clause abolishes the office of coroner of the Queen's household. In future, any investigation which would have been carried out by the coroner of the Queen's household will be carried out by the coroner in whose area the body lies, or by a coroner directed to carry out the investigation by the Chief Coroner.

Clause 73: Power to make consequential provision etc

This clause gives the Lord Chancellor a power to make such consequential etc arrangements as he thinks are necessary to give full effect to provisions under the Bill.

Clause 74: Orders, rules and regulations

All orders and regulations under the Bill are to be made using the negative resolution procedure, except for orders under clause 53(7) (varying the period that the coroner may order human remains be retained) and paragraph 8(4) of Schedule 4 (varying the amount of fine payable for giving false unsworn evidence at an inquest), and regulations under clause 43(2) (disapplying or limiting the coroner's powers in clause 42), all of which are to be subject to the affirmative resolution procedure.

Commencement orders (clause 79) are not subject to any Parliamentary procedure.

Clause 75: Meaning of "relevant offence"

This clause explains the meaning of the term 'relevant offence'. As well as the homicide offences mentioned in the equivalent provisions of the 1988 Act, a relevant offence also includes the offences of allowing or causing the death of a child or vulnerable adult, aiding, abetting, counselling or procuring suicide, and dangerous or careless driving when under the influence of drink or drugs.

- (b) an offence under section 1 or 3A of the Road Traffic Act 1988 (c. 52) (dangerous driving or careless driving when under the influence of drink or drugs),
- (c) an offence under section 2(1) of the Suicide Act 1961 (c. 60) consisting of aiding, abetting, counselling or procuring suicide, or 5
- (d) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult).

76 “Interested person”

- (1) This section applies for the purposes of this Act.
- (2) “Interested person”, in relation to a deceased person or an investigation or inquest into his death under this Act, means – 10
 - (a) a spouse, civil partner, partner, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother, half-sister or friend of long standing of the deceased; 15
 - (b) a personal representative of the deceased;
 - (c) a beneficiary under a policy of insurance issued on the life of the deceased;
 - (d) the insurer who issued such a policy of insurance;
 - (e) a person whose act or omission, or that of his employee or agent, may have caused or contributed to the death of the deceased; 20
 - (f) in a case where his death may have been caused by an injury received in the course of his employment or by an industrial disease, a representative of a trade union of which the deceased was a member at the time of his death; 25
 - (g) a person appointed by, or representative of, an enforcing authority;
 - (h) a chief officer of police;
 - (i) a person appointed by a Government department to attend any inquest into the death or to assist in, or provide evidence for the purposes of, any investigation into the death under this Act; 30
 - (j) any other person with a sufficient interest.
- (3) “Interested person”, in relation to an object which is or may be treasure or an investigation or inquest in relation to such an object under this Act, means –
 - (a) the British Museum, if the object was found or is believed to have been found in England; 35
 - (b) the National Museum of Wales, if the object was found or is believed to have been found in Wales;
 - (c) the finder of the object or any person otherwise involved in the find;
 - (d) the occupier, at the time the object was found, of the land where it was found or is believed to have been found; 40
 - (e) a person who had an interest in that land at that time or who has had such an interest since;
 - (f) a person who gave notification in respect of the object under section 8A(1) of the Treasure Act 1996 (c. 24);
 - (g) any other person with a sufficient interest. 45
- (4) For the purposes of this section, a person is the partner of a deceased person if the two of them (whether of different sexes or the same sex) were living as partners in an enduring relationship at the time of the deceased’s death.

Clause 76: “Interested person”

This clause lists those who come within the definition of the term “interested person”. “Interested persons” have, amongst other things, the right to appeal against decisions made during the course of investigations and inquests (clause 60). In addition to the specific list of those that fall into the category of “interested person”, subsection (2)(j) includes any other person with a sufficient interest. This expands slightly the list of ‘interested persons’ in rule 20(2) of the 1984 Rules.

Subsection (3) lists those who can be classed as an “interested person” for investigations into treasure finds. Section 9 of the Treasure Act 1996 specifies the persons who are to be notified in treasure inquests, and subsection (7) currently defines “interested persons”. The Bill replicates the categories of person currently in section 9(7), with the addition of a person giving notice under the new section 8A(1) of the 1996 Act, and the relevant museum.

77 Interpretation

- (1) In this Act, unless the context otherwise requires—
- “the 1953 Act” means the Births and Deaths Registration Act 1953 (c. 20);
 - “the 1988 Act” means the Coroners Act 1988 (c. 13);
 - “the appropriate authority”, in relation to a coroner area, is to be read in accordance with paragraph 4 of Schedule 1; 5
 - “area”, in relation to a senior coroner, area coroner or assistant coroner, means the coroner area for which he is appointed;
 - “area coroner” means a person appointed under paragraph 2(5)(a) of Schedule 1; 10
 - “assistant coroner” means a person appointed under paragraph 2(5)(b) of Schedule 1;
 - “Assistant Coroner for Treasure” means an assistant coroner acting in his capacity as an Assistant Coroner for Treasure (see section 34(2);
 - “body” includes body parts and cremated remains; 15
 - “the Chief Coroner” means a person appointed under section 56(1);
 - “the Common Council” means the Common Council of the City of London, and “common councillor” is to be construed accordingly;
 - “coroner area” is to be read in accordance with paragraph 3 of Schedule 1;
 - “the Coroner for Treasure” means a person appointed under section 34(1); 20
 - “Coroners regulations” means regulations under section 66;
 - “Coroners rules” means rules under section 67;
 - “the Council” means the Coronial Advisory Council;
 - “Deputy Chief Coroner” means a person appointed under section 56(2);
 - “document” includes information stored in an electronic form; 25
 - “enforcing authority” has the meaning given by section 18(7) of the Health and Safety at Work etc. Act 1974 (c. 37);
 - “functions” includes powers and duties;
 - “industrial disease” means a disease prescribed under section 108 of the Social Security Contributions and Benefits Act 1992 (c. 4); 30
 - “inquest” means an inquest under this Act;
 - “interested person” is to be read in accordance with section 76;
 - “land” includes premises within the meaning of the Police and Criminal Evidence Act 1984 (c. 60);
 - “local authority” means— 35
 - (a) in relation to England, a county council, the council of any district comprised in an area for which there is no county council, a London borough council, the Common Council or the Council of the Isles of Scilly;
 - (b) in relation to Wales, a county council or a county borough council; 40
 - “relevant authority” means a district council, a county council, a county borough council, a London borough council or the Common Council;
 - “relevant offence” has the meaning given by section 75;
 - “senior coroner” means a person appointed under paragraph 1 of Schedule 1; 45
 - “service policeman” means a member of—
 - (a) the Royal Navy Police,
 - (b) the Royal Marines Police,

Clause 77: Interpretation

This clause explains the meaning of various terms used within the Act.

Subsection (3) makes clear that coroners who are under a duty to conduct an investigation, retain the powers associated with this duty even when the investigation itself is suspended.

- (c) the Royal Military Police, or
(d) the Royal Air Force Police;
“treasure” has the same meaning as in the Treasure Act 1996 (c. 24);
“year” means a period of 12 months beginning with 1st January.
- (2) For the purposes of this Act, the area of the Common Council is to be treated as including the Inner Temple and the Middle Temple. 5
- (3) Any reference in this Act to a senior coroner who is responsible for conducting an investigation into the death of a person under this Act is to be read as a reference to the senior coroner who is under a duty to conduct the investigation, or who would be under such a duty but for the suspension of the investigation under this Act. 10
- (4) References in this Act to producing or providing a document, in relation to information stored in an electronic form, are to be read as references to producing or providing a copy of the information in a legible form.
- 78 Minor and consequential amendments and repeals 15**
- (1) Schedule 9 (minor and consequential amendments) has effect.
- (2) The enactments specified in Schedule 10 are repealed to the extent specified there.
- 79 Commencement**
- (1) This section and sections 73 to 77 and 80 and 81 come into force on the day on which this Act is passed. 20
- (2) The other provisions of this Act come into force on such day as the Lord Chancellor may by order appoint (and different days may be appointed for different purposes).
- 80 Extent 25**
- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) The following provisions extend also to Northern Ireland –
(a) section 40 and Schedule 3, and
(b) sections 73, 74, 79 and this section.
- (3) Any amendment made by Schedule 9 has the same extent as the enactment to which it relates. 30
- 81 Short title**
- This Act may be cited as the Coroners Act 2007.

Clause 78: Minor and consequential amendments and repeals

This clause gives effect to the minor and consequential amendments set out in Schedule 9. It also gives effect to the repeals set out in Schedule 10.

Clause 79: Commencement

This allows for different provisions of the Bill to be commenced at different times.

Clause 80: Extent

This clause explains the territorial extent of the Bill. The Bill extends to England and Wales only, except for clause 40 and Schedule 3, which also extend to Northern Ireland. The amendments which paragraphs 10 to 13 of Schedule 9 make to other Acts have the same territorial extent as the Acts which they amend.

SCHEDULES

SCHEDULE 1

Section 28

APPOINTMENT OF SENIOR CORONERS, AREA CORONERS AND ASSISTANT CORONERS ETC

PART 1

APPOINTMENT OF SENIOR, AREA AND ASSISTANT CORONERS

5

Appointment of senior coroners

- 1 (1) A coroner (to be known as a senior coroner) must be appointed for each coroner area (see paragraph 3) by the appropriate authority for that area (see paragraph 4).
- (2) In the case of a coroner area which consists of the area of two or more local authorities, the appropriate authority for the area must consult the other authorities before making an appointment under this paragraph. 10
- (3) A person may not be appointed under this paragraph without the consent of the Lord Chancellor.

Appointment of area and assistant coroners

15

- 2 (1) The Lord Chancellor must decide, for each coroner area, whether there is a need to appoint one or more area coroners for the area.
- (2) The Lord Chancellor may by order specify, for any coroner area for which he decides there is a need to appoint one or more area coroners, the number of area coroners who are to be appointed for the area. 20
- (3) The Lord Chancellor may by order specify, for any coroner area, the minimum number of assistant coroners who are to be appointed for the area.
- (4) Before making a decision under sub-paragraph (1), or an order under sub-paragraph (2) or (3), in relation to a coroner area the Lord Chancellor must consult – 25
 - (a) the Chief Coroner, and
 - (b) every local authority whose area falls within the coroner area.
- (5) The appropriate authority for a coroner area must appoint – 30
 - (a) such number (if any) of area coroners as may be specified for the area by an order under sub-paragraph (2), and
 - (b) not less than the minimum number of assistant coroners as may be specified for the area by an order under sub-paragraph (3).

Schedule 1: Appointment of senior coroners, area coroners and assistant coroners etc.

This Schedule sets out the procedure for appointment of coroners, qualifications required and terms of office. It also makes provision for the exercise of senior coroner's functions by area and assistant coroners.

Part 1 – Appointment of senior, area and assistant coroners

The Bill will change the titles of coronial office; the hierarchy under the 1988 Act consists (in descending order) of coroners, deputy coroners and assistant deputy coroners. Under the Bill, there will be senior coroners, area coroners and assistant coroners.

Under the 1988 Act, the relevant local authority appoints coroners (but not deputy and assistant coroners). The Secretary of State must approve certain coroners' appointments (where the relevant local authority is a metropolitan or special non-metropolitan district, or a London borough); and where the coroner's district consists of two or more such areas, or two or more Welsh principal areas, the relevant local authority must consult the others before making an appointment. The coroner currently appoints his own deputy and any assistant deputy coroners (section 6 of the 1988 Act); this will not continue under the Bill.

Under Part 1 appointments of all coroners are to be made by the appropriate authority for each coroner area. There is a new requirement for the Lord Chancellor to consent to the appointment of all senior and area coroners.

Following consultation with the Chief Coroner and the appropriate local authorities, the Lord Chancellor can determine whether the coroner area requires one or more area coroners in addition to the senior coroner, and if so how many. He can also determine the minimum number of assistant coroners.

This Part provides for England and Wales to be divided into coroner areas and gives the Lord Chancellor the power to set and alter these boundaries after consultation with the relevant local authorities and, where relevant, the National Assembly for Wales.

This Part also defines the term 'appropriate authority', which is used elsewhere in the Bill. If there is only one local authority within a coroner area, that authority is the 'appropriate authority'. Where a coroner area consists of more than one local authority, the Lord Chancellor can make an order specifying which authority is the 'appropriate authority' for the purposes of the Bill.

- (6) In the case of a coroner area which consists of the area of two or more local authorities, the appropriate authority for the area must consult the other authorities before making an appointment under this paragraph.
- (7) An area coroner may not be appointed under this paragraph without the consent of the Lord Chancellor. 5

Coroner areas

- 3 (1) England and Wales is to be divided into areas to be known as coroner areas.
- (2) Subject to sub-paragraph (3) –
- (a) the coroner areas are to be those specified in an order made by the Lord Chancellor, and 10
 - (b) each coroner area is to be known by such name as is specified in the order.
- (3) The Lord Chancellor may make orders altering coroner areas.
- (4) Before making an order under sub-paragraph (2), the Lord Chancellor must consult – 15
- (a) every local authority, and
 - (b) the National Assembly for Wales.
- (5) Before making an order under sub-paragraph (3) the Lord Chancellor must consult – 20
- (a) such local authorities as he thinks appropriate, and
 - (b) in the case of a coroner area in Wales, the National Assembly for Wales.
- (6) “Altering”, in relation to a coroner area, includes (as well as changing its boundaries) – 25
- (a) combining it with one or more other coroner areas,
 - (b) dividing it between two or more other coroner areas, and
 - (c) changing its name.

Appropriate authorities

- 4 (1) Where a coroner area consists of the area of a single local authority, that authority is to be the appropriate authority for the coroner area. 30
- (2) Where a coroner area consists of the area of two or more local authorities, the appropriate authority for the coroner area is to be such of those authorities as is specified in an order made by the Lord Chancellor.

PART 2

QUALIFICATIONS OF SENIOR, AREA AND ASSISTANT CORONERS 35

- 5 A person may not be appointed as a senior coroner, area coroner or assistant coroner unless –
- (a) he is under the age of 70, and
 - (b) he has a five year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41). 40

Part 2 – Qualifications of senior, area and assistant coroners

All coroners must be legally qualified. Under the 1988 Act (section 2(1)(b)), being a medical practitioner of five years' standing also suffices. Those who are not legally qualified, but who were appointed as coroners, deputy coroners or assistant deputy coroners under the 1988 Act at the time this Bill is passed, are eligible for appointment as a senior coroner, area coroner or assistant coroner under this Bill.

This Part also disqualifies local councillors from appointment as coroners.

- 6 (1) A person may not be appointed as a senior coroner, area coroner or assistant coroner for a coroner area for so long as he is, and for six months after he cease to be, a councillor for a local authority whose area falls within the coroner area.
- (2) In the application of this paragraph to the Common Council, the reference to a councillor is to be read as a reference to an alderman of the City of London or common councillor. 5
- 7 A person may not be appointed as a senior coroner, area coroner or assistant coroner if he is the Coroner for Treasure.
- 8 A person who – 10
- (a) is a coroner, deputy coroner or assistant deputy coroner under the 1988 Act on the passing of this Act, but
- (b) does not have such a qualification as is mentioned in paragraph 5(b), is to be treated for the purposes of paragraph 5 as having such a qualification. 15

PART 3

VACANCIES AND FUNCTIONS OF AREA AND ASSISTANT CORONERS

Filling of vacancies

- 9 (1) This paragraph applies where a vacancy occurs – 20
- (a) in the office of senior coroner for an area, or
- (b) in an office of area coroner for an area.
- (2) The appropriate authority for the area must –
- (a) give notice to the Lord Chancellor of the vacancy as soon as practicable after the vacancy occurs,
- (b) appoint a person to fill the vacancy under paragraph 1 or 2 (as the case may be) within three months of the vacancy occurring, or within such further period as the Lord Chancellor may allow, and 25
- (c) give notice to the Lord Chancellor of the appointment of a person to fill the vacancy as soon as practicable after it is filled.

Person to act as senior coroner in case of vacancy 30

- 10 (1) This paragraph applies where a vacancy occurs in the office of senior coroner for an area.
- (2) Subject to sub-paragraph (3), the area coroner for the area (or, if there is more than one such area coroner, such one of them as may be nominated by the appropriate authority for the area) is to act as senior coroner for the area while the office remains vacant. 35
- (3) Where there is no area coroner for the area, such assistant coroner for the area as may be nominated by the appropriate authority for the area is to act as senior coroner for the area while the office remains vacant.
- (4) In the case of a coroner area which consists of the area of two or more local authorities, the appropriate authority for the area must consult the other authorities before making any nomination under this paragraph. 40

Part 3 – Vacancies and functions of area and assistant coroners

Part 3 makes provision for filling vacancies and for nomination of another person to act as coroner when a vacancy occurs. It also sets out the functions of area coroners and assistant coroners.

- (5) A person who acts as senior coroner for an area by virtue of this paragraph is to be treated for all purposes (other than paragraph 1 to 9 and 12 to 22 of this Schedule) as if he were the senior coroner for the area.

Functions of area and assistant coroners

- 11 (1) An area coroner or assistant coroner for an area may perform the functions of the senior coroner for the area – 5
- (a) during any period when the senior coroner for the area is absent or unavailable, or
- (b) at any other time, with the consent of the senior coroner.
- (2) Accordingly, references in this Act (however expressed) to a senior coroner are (where appropriate) to be read as including an area coroner or assistant coroner. 10

PART 4

TERMS OF OFFICE OF SENIOR, AREA AND ASSISTANT CORONERS

Status of office 15

- 12 The offices of senior coroner, area coroner and assistant coroner are not to be regarded as freehold offices.

Vacation or termination of office

- 13 A senior coroner, area coroner or assistant coroner must vacate his office on the day on which he attains the age of 70. 20

- 14 (1) A senior coroner, area coroner or assistant coroner for an area must vacate his office on the day on which he becomes a councillor for a local authority whose area falls within his area.

- (2) Paragraph 6(2) applies for the purposes of this paragraph.

- 15 A senior coroner, area coroner or assistant coroner for an area may resign his office by giving notice in writing to the appropriate authority for the area, but the resignation does not take effect unless and until it is accepted by the authority. 25

- 16 The Lord Chancellor may, with the agreement of the Lord Chief Justice, remove a senior coroner, area coroner or assistant coroner from office for incapacity or misbehaviour. 30

Discipline

- 17 Chapter 3 of Part 4 of the Constitutional Reform Act 2005 (c. 4) (discipline) applies in relation to the offices of senior coroner, area coroner and assistant coroner as it would apply if those offices were listed in Schedule 14 to that Act. 35

Salary of senior and area coroners

- 18 (1) A senior coroner for an area is entitled to a salary.

Part 4 – Terms of office of senior, area and assistant coroners

Part 4 introduces a new retirement age of 70 for coroners and sets out the procedure for resignation from office. A coroner is no longer to be regarded as having a freehold office.

It also gives the Lord Chancellor the power to remove a senior coroner, area coroner or assistant coroner from office if that coroner misbehaves or is incapable of performing his functions. Before he can exercise this power, the Lord Chancellor must have the agreement of the Lord Chief Justice.

Part 4 also provides for senior coroners, area coroners and assistants to be disciplined in line with Chapter 3 of Part 4 of the Constitutional Reform Act 2005 (which includes the power for the Lord Chief Justice to issue reprimands).

It makes provision for the appropriate authority for the area to pay salaries to senior coroners and area coroners and fees to assistant coroners. The amount of these salaries and fees is for the relevant coroner and the appropriate authority to agree. If they fail to reach an agreement the matter can be referred to the Lord Chancellor.

This Part also requires the appropriate authority for an area to make provision for pensions for senior and area coroners.

Additional terms of office can be agreed between the appropriate authority and the coroner.

- (2) The amount of the salary is to be such as may from time to time be agreed by the senior coroner and the appropriate authority for the area.
- (3) If the senior coroner and the appropriate authority cannot agree with respect to any alteration in the amount of the salary, either of them may refer the matter to the Lord Chancellor. 5
- (4) The Lord Chancellor may determine the amount of the salary and the date on which it is to become payable, and any alteration in the amount of salary is to take effect in accordance with the determination.
- (5) In making a determination under sub-paragraph (4), the Lord Chancellor must have regard – 10
- (a) to the nature and extent of the coroner’s functions, and
 - (b) to all the circumstances of the case.
- (6) The salary to which a senior coroner for an area is entitled under this paragraph is payable by the appropriate authority for the area.
- (7) This paragraph applies in relation to an area coroner for an area as it applies in relation to a senior coroner for an area, but as if any reference to a senior coroner were read as reference to an area coroner. 15

Fees payable to assistants

- 19 (1) An assistant coroner for an area is entitled to such fees as may be agreed by him and the appropriate authority for the area. 20
- (2) The amount of those fees is to be such as may from time to time be agreed by the assistant coroner and the appropriate authority for the area.
- (3) The fees to which an assistant coroner for an area is entitled under this paragraph are payable by the appropriate authority for the area.

Pensions for senior and area coroners 25

- 20 An appropriate authority for a coroner area must make provision for the payment of pensions, allowances or gratuities to or in respect of persons who are or have been senior coroners or area coroners for the area.

Prohibition on receipt of fees etc

- 21 Except as permitted by or under this or any other Act, a senior coroner, area coroner or assistant coroner may not accept any remuneration or fee in respect of anything done by him in the performance of his functions. 30

Other terms of office

- 22 Subject to the preceding provisions of this Part, the terms on which a senior coroner, area coroner or assistant coroner for an area holds office are such as may from time to time be agreed by him and the appropriate authority for the area. 35

SCHEDULE 2

Section 34

CORONER FOR TREASURE AND ASSISTANT CORONERS FOR TREASURE

PART 1

QUALIFICATIONS AND TERMS OF OFFICE OF CORONER FOR TREASURE

- 1 A person may not be appointed as the Coroner for Treasure unless – 5
 (a) he is under the age of 70, and
 (b) he has a five year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41).
- 2 A person may not be appointed as the Coroner for Treasure if he is a senior coroner, area coroner or assistant coroner. 10
- 3 The Coroner for Treasure must vacate his office on the day on which he attains the age of 70.
- 4 The Coroner for Treasure may resign his office by giving notice in writing to the Lord Chancellor, but the resignation does not take effect unless and until it is accepted by the Lord Chancellor. 15
- 5 The Lord Chancellor may, with the agreement of the Lord Chief Justice, remove the Coroner for Treasure from office for incapacity or misbehaviour.
- 6 (1) The Lord Chancellor may pay to the Coroner for Treasure such amounts by way of remuneration or allowances as the Lord Chancellor may determine. 20
(2) The Lord Chancellor may pay to the Coroner for Treasure such amounts as the Lord Chancellor may determine towards expenses incurred by the Coroner for Treasure in performing his functions.
- 7 (1) Sub-paragraph (2) applies to the first appointment of a person as the Coroner for Treasure.
(2) A person who – 25
 (a) is a coroner, deputy coroner or assistant deputy coroner under the 1988 Act on the passing of this Act, but
 (b) does not have such a qualification as is mentioned in paragraph 1(b), is to be treated for the purposes of paragraph 1 as having such a qualification. 30

PART 2

DESIGNATION AND REMUNERATION OF ASSISTANTS

- 8 A person who is designated under section 34(2) to act as an Assistant Coroner for Treasure may act as such for so long as his designation continues to have effect. 35
- 9 A person's designation under section 34(2) ceases to have effect –
 (a) when he ceases to be an assistant coroner, or
 (b) if earlier, when the designation is terminated by notice in writing given –
 (i) by him to the Chief Coroner, or 40
 (ii) by the Chief Coroner to him.

Schedule 2**Coroner for Treasure and Assistant Coroners for Treasure**

This Schedule sets out the qualifications and terms of office of the Coroner for Treasure and Assistant Coroners for Treasure.

Part 1 – Qualifications and terms of office of the Coroner for Treasure

The Coroner for Treasure must be legally qualified. Those appointed under the 1988 Act who do not have a legal qualification are nevertheless eligible for appointment to the post of Coroner for Treasure.

A person cannot hold the office of Coroner for Treasure at the same time as the office of senior coroner, area coroner or assistant coroner.

Part 2 – Designation and remuneration of Assistants

This Part explains that only assistant coroners are eligible to be designated as Assistant Coroners for Treasure.

- 10 (1) The Lord Chancellor may pay to an Assistant Coroner for Treasure such amounts by way of remuneration or allowances as the Lord Chancellor may determine.
- (2) The Lord Chancellor may pay to an Assistant Coroner for Treasure such amounts as the Lord Chancellor may determine towards expenses incurred by the Assistant Coroner for Treasure in performing his functions. 5

PART 3

MISCELLANEOUS

- 11 (1) An Assistant Coroner for Treasure may perform any functions of the Coroner for Treasure – 10
- (a) during any period when the Coroner for Treasure is absent or unavailable,
- (b) during any vacancy in the office of Coroner for Treasure, or
- (c) at any other time, with the consent of the Coroner for Treasure.
- (2) Accordingly, references in this Act to the Coroner for Treasure are (where appropriate) to be read as including an Assistant Coroner for Treasure. 15
- 12 (1) The Lord Chancellor may appoint staff to assist the Coroner for Treasure and any Assistant Coroner for Treasure in the performance of their functions.
- (2) Such staff are to be appointed on such terms and conditions as the Lord Chancellor thinks appropriate. 20

SCHEDULE 3

Section 40

AMENDMENTS OF THE TREASURE ACT 1996

- 1 For section 7 of the Treasure Act 1996 (jurisdiction of coroners) substitute – 25
- “7 Jurisdiction of coroner**
- (1) The Coroner for Treasure has jurisdiction in accordance with section 35 of the Coroners Act 2007 in relation to anything which is or may be treasure for the purposes of this Act.
- (2) The Coroner for Treasure has no jurisdiction for the purposes of the law relating to treasure trove in relation to anything found after the commencement of section 4.” 30
- 2 (1) Section 8 of that Act (duty of finder to notify coroner) is amended as follows.
- (2) In subsection (1), for “coroner for the district in which the object was found” substitute “Coroner for Treasure”.
- (3) In subsection (4), for “coroner” substitute “Coroner for Treasure”. 35
- (4) For subsection (5) substitute –
- “(5) If the office of Coroner for Treasure is vacant, notification under subsection (1) must be given to an Assistant Coroner for Treasure.”

Schedule 3

Amendments of the Treasure Act 1996

This Schedule amends the Treasure Act 1996 to reflect the new role of the national Coroner for Treasure. It also amends the terminology in the Treasure Act 1996 to reflect the use under this Bill of the term ‘investigation’ which is described as an investigation under clause 35.

Section 8 of the Treasure Act 1996 is amended to make it a requirement for those who find an object they believe is treasure to notify the Coroner for Treasure, rather than the coroner for the relevant district under the 1988 Act.

This Schedule adds a new section 8A to the Treasure Act 1996, requiring those in possession of objects they believe to be unreported treasure finds to report these to the Coroner for Treasure (rather than just the finders of such objects). It also creates a new offence to enforce this duty.

It adds a new section 8B to the Treasure Act 1996 which gives the Coroner for Treasure the power to direct that a person in control of an object believed to be treasure must deliver that object to a specific person. Under section 8B, those who fail to comply with this direction are guilty of an offence.

This Schedule adds a new section 8C to the Treasure Act 1996, which makes further provision about the offences under sections 8, 8A and 8B. It amends section 9 to reflect the new list of interested persons under clause 76(3) and to make provision for their involvement in treasure investigations.

Amendments to the Treasure Act 1996 are also made to reflect its application to Northern Ireland.

The rest of Schedule 3 is set out double sided on the following pages

3 After section 8 of that Act insert –

“8A Duty to notify coroner of acquisition of certain objects

- (1) A person who –
 (a) acquires property in an object, and
 (b) believes or has reasonable grounds for believing – 5
 (i) that the object is treasure, and
 (ii) that notification in respect of the object has not been
 given under section 8(1) or this subsection,
must notify the Coroner for Treasure before the end of the notice 10
period.
- (2) The notice period is fourteen days beginning with –
 (a) the day after he acquires property in the object; or
 (b) if later, the day on which he first believes or has reason to
 believe – 15
 (i) that the object is treasure; and
 (ii) that notification in respect of the object has not been
 given under section 8(1) or subsection (1) of this
 section.
- (3) Any person who fails to comply with subsection (1) is guilty of an 20
offence if –
 (a) notification in respect of the object has not been given under
 section 8(1) or subsection (1) of this section; and
 (b) there has been no investigation in relation to the object.
- (4) Any person guilty of an offence under this section is liable on 25
summary conviction to –
 (a) imprisonment for a term not exceeding the relevant
 maximum;
 (b) a fine of an amount not exceeding level 5 on the standard
 scale; or
 (c) both. 30
- (5) In proceedings for an offence under this section, it is a defence for the
defendant to show that he had, and has continued to have, a
reasonable excuse for failing to notify the Coroner for Treasure.
- (6) If the office of Coroner for Treasure is vacant, notification under 35
subsection (1) must be given to an Assistant Coroner for Treasure.
- (7) In determining for the purposes of this section whether a person has
acquired property in an object, section 4 is to be disregarded.
- (8) In this section “investigation” means an investigation under section
35 of the Coroners Act 2007.

8B Duty to deliver object to coroner 40

- (1) Where the Coroner for Treasure is conducting, or proposes to
conduct, an investigation in relation to an object under section 35 of
the Coroners Act 2007, he may direct a person who has control of the
object to deliver the object to a designated person before the end of

- the period of fourteen days beginning with the day after the direction is given to him.
- (2) Any person who fails to comply with a direction under subsection (1) is guilty of an offence and liable on summary conviction to—
- (a) imprisonment for a term not exceeding the relevant maximum; 5
 - (b) a fine of an amount not exceeding level 5 on the standard scale; or
 - (c) both.
- (3) In proceedings for an offence under this section, it is a defence for the defendant to show that he had, and continued to have, a reasonable excuse for failing to comply with the direction. 10
- (4) For the purposes of this section a person has control of an object if he has possession, or a right to possession, of it; and in determining for those purposes whether a person has a right to possession of an object, section 4 is to be disregarded. 15
- (5) In this section “designated person” means a person designated in a code of practice under section 11.
- 8C Offences: further provision**
- (1) Proceedings for an offence under section 8, 8A or 8B may be brought within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings may be brought by virtue of this subsection more than three years after the commission of the offence. 20 25
- (2) For the purposes of subsection (1)—
- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and 30
 - (b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (3) For the purposes of sections 8A and 8B “the relevant maximum” is—
- (a) in England and Wales, 51 weeks;
 - (b) in Northern Ireland, three months. 35
- (4) In relation to an offence committed before the commencement of paragraph 48 of Schedule 26 to the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(a) to 51 weeks is to be read as a reference to three months.”
- 4 (1) Section 9 of that Act (procedure for inquests) is amended as follows. 40
- (2) In the sidenote for “inquests” substitute “investigations”.
- (3) For subsection (1) substitute—
- “(1) In this section “investigation” means an investigation in relation to an object under section 35 of the Coroners Act 2007.”
- (4) In subsection (2)— 45

- (a) for “A coroner proposing to conduct an inquest” substitute “Where the Coroner for Treasure proposes to conduct an investigation, he”;
 - (b) for “if his district is” substitute “if the object was found or is believed to have been found”;
 - (c) for “if it is” substitute “if it was found or is believed to have been found”. 5
- (5) In subsection (3) –
- (a) for “inquest, the coroner” substitute “investigation, the Coroner for Treasure”;
 - (b) for “treasure”, in each place where it occurs, substitute “object”; and 10
 - (c) after paragraph (b) insert “and
 - (c) any person who has given notification in respect of the object under section 8A(1).”
- (6) In subsection (4), for “inquest the coroner” substitute “investigation the Coroner for Treasure”. 15
- (7) In subsection (5) –
- (a) for “inquest, the coroner” substitute “investigation, the Coroner for Treasure”;
 - (b) for paragraph (a) substitute – 20
 - “(a) to obtain the names and addresses of any other interested persons; and”.
- (8) For subsections (6) and (7) substitute –
- “(6) If (as part of the investigation) the Coroner for Treasure holds an inquest under the Coroners Act 2007, he must take reasonable steps to give any interested person an opportunity to examine witnesses at the inquest. 25
 - (7) In this section “interested person” has the meaning given by section 76(3) of the Coroners Act 2007.”
- 5 (1) Section 11 of that Act (codes of practice) is amended as follows.
- (2) After subsection (3)(b) insert “and 30
 - “(c) those who acquire property in objects which are or may be treasure.”
 - (3) After subsection (5) insert –
 - “(6) Section 8A(7) applies for the purposes of this section.”
- 6 For section 13 of that Act substitute – 35
- “13 Application of Act to Northern Ireland**
- (1) In the application of this Act to Northern Ireland –
 - (a) for section 7 substitute the section set out in subsection (2);
 - (b) in section 8(1), for “Coroner for Treasure” substitute “coroner for the district in which the object was found”; 40
 - (c) in sections 8(4) and 8A(5), for “Coroner for Treasure” substitute “coroner”;
 - (d) in sections 8(5) and 8A(6), for the words from “Coroner for Treasure” to “Assistant Coroner for Treasure” substitute

- “coroner for a district is vacant, the person acting as coroner for that district is the coroner for the purposes of subsection (1);
- (e) in section 8A(1), for “Coroner for Treasure” substitute “coroner for the district in which the object is located”; 5
 - (f) in section 8A(3)(b), for “investigation” substitute “inquest”;
 - (g) in section 8A(8), for ““investigation” means an investigation under section 35 of the Coroners Act 2007” substitute ““inquest” means an inquest held under section 7”;
 - (h) in section 8B(1), for “the Coroner for Treasure” substitute “a coroner”, and for “investigation in relation to an object under section 35 of the Coroners Act 2007” substitute “inquest under section 7 in relation to an object which is or may be treasure”; 10
 - (i) for section 9 substitute the section set out in subsection (3). 15
- (2) The section mentioned in subsection (1)(a) is as follows –
- “7 Jurisdiction of coroners**
- (1) The jurisdiction of coroners which is referred to in section 33 of the Coroners Act (Northern Ireland) 1959 (treasure) is exercisable in relation to anything which is treasure for the purposes of this Act. 20
 - (2) That jurisdiction is not exercisable for the purposes of the law relating to treasure trove in relation to anything found after the commencement of section 4.
 - (3) The Act of 1959 has effect subject to this section. 25
 - (4) An inquest held by virtue of this section is to be held without a jury, unless the coroner orders otherwise.”
- (3) The section mentioned in subsection (1)(i) is as follows –
- “9 Procedure for inquests**
- (1) In this section “inquest” means an inquest held under section 7 in relation to an object which is or may be treasure. 30
 - (2) A coroner proposing to conduct an inquest must notify the Department of the Environment for Northern Ireland.
 - (3) Before conducting the inquest, the coroner must take reasonable steps to notify – 35
 - (a) any person who it appears to him may have found the object;
 - (b) any person who, at the time the object was found, occupied land which it appears to him may be where it was found; and 40
 - (c) any person who has given notification in respect of the object under section 8A(1).
 - (4) During the inquest the coroner must take reasonable steps to notify any such person not already notified.

- (5) Before or during the inquest, the coroner must take reasonable steps –
 - (a) to obtain the names and addresses of any other interested persons; and
 - (b) to notify any interested person whose name and address he obtains. 5
- (6) The coroner must take reasonable steps to give any interested person an opportunity to examine witnesses at the inquest.
- (7) In this section “interested person” means –
 - (a) the Department of the Environment for Northern Ireland; 10
 - (b) the finder of the object or any person otherwise involved in the find;
 - (c) the occupier, at the time the object was found, of the land where it was found or is believed to have been found; 15
 - (d) a person who had an interest in that land at that time or who has had such an interest since;
 - (e) a person who gave notification in respect of the object under section 8A(1); 20
 - (f) any other person with a sufficient interest.””

SCHEDULE 4

Section 54

OFFENCES

PART 1

OFFENCES RELATING TO JURORS 25

- 1 A person who serves on a jury at an inquest knowing that he is not qualified for such service because he is a person listed in Part 2 of Schedule 1 to the Juries Act 1974 (c. 23) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 2 A person who – 30
 - (a) refuses without reasonable excuse to answer any question put to him under section 15(2),
 - (b) gives an answer to such a question which he knows to be false in a material particular, or
 - (c) recklessly gives an answer to such a question which is false in a material particular, 35is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 3 A person who – 40
 - (a) is duly summoned as a juror at an inquest, and
 - (b) makes, or causes or permits to be made on his behalf, any false representation with the intention of evading service as such a juror,

Schedule 4

Offences

This Schedule sets out offences relating to jurors, witnesses and evidence and the penalties for these offences.

Offences relating to jury service include service on a jury by those who know they are disqualified from such service, refusal to serve on a coroner's jury and making false representations to avoid jury service.

The offences relating to witnesses include failure to comply with a notice under clause 42, intentionally altering evidence, preventing evidence from being given, destroying or concealing documents, and giving false evidence unsworn.

The Bill does not remove or alter the powers of a coroner under the common law to summon witnesses and punish for contempt of court.

- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 4 A person who makes or causes to be made, on behalf of another person who has been duly summoned as a juror at an inquest, any false representation with the intention of enabling that other person to evade service as such a juror is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. 5
- 5 (1) A senior coroner may impose a fine not exceeding £1000 on a person duly summoned as a juror at an inquest who – 10
- (a) fails without reasonable excuse to attend in accordance with the summons, or
 - (b) attends in accordance with the summons but refuses without reasonable excuse to serve as a juror.
- (2) But a fine may not be imposed on a person under this paragraph unless the summons was duly served on him not later than 14 days before the day on which he was required to attend. 15

PART 2

OFFENCES RELATING TO WITNESSES AND EVIDENCE

- 6 A senior coroner or, as the case may be, the Coroner for Treasure may impose a fine not exceeding £1000 on a person who fails without reasonable excuse to do anything that he is required to do by a notice under section 42. 20
- 7 (1) A person is guilty of an offence if he does anything that is intended to have the effect of – 25
- (a) distorting or otherwise altering any evidence, document or other thing which is given, produced or provided for the purposes of an investigation under this Act, or
 - (b) preventing any evidence, document or other thing from being given, produced or provided for the purposes of such an investigation, or anything that he knows or believes is likely to have that effect.
- (2) A person is guilty of an offence if – 30
- (a) he intentionally suppresses or conceals a document that is, and that he knows or believes to be, a relevant document, or
 - (b) he intentionally alters or destroys such a document.
- (3) For the purposes of sub-paragraph (2) a document is a “relevant document” if it is likely that a person conducting an investigation under this Act would (if aware of its existence) wish to be provided with it. 35
- (4) A person does not commit an offence under sub-paragraph (1) or (2) by doing anything that he is authorised or required to do – 40
- (a) by a senior coroner or the Coroner for Treasure, or
 - (b) by virtue of section 43 or any privilege that applies.
- (5) Proceedings for an offence under sub-paragraph (1) or (2) may be instituted only by or with the consent of the Director of Public Prosecutions.
- (6) A person guilty of an offence under sub-paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding 51 weeks, or to both. 45

- 8 (1) A person who gives unsworn evidence at an inquest by virtue of section 49 is guilty of an offence if he gives false evidence in such circumstances that, had the evidence been given on oath, he would have been guilty of perjury.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding £1000, or to imprisonment for a term not exceeding 51 weeks, or to both. 5
- (3) In relation to a person under the age of 14, sub-paragraph (2) has effect as if for the words following “summary conviction” there were substituted “to a fine not exceeding £250”.
- (4) The Lord Chancellor may by order amend sub-paragraph (2) or (3) by substitution for the monetary amount for the time being there specified a different monetary amount. 10

PART 3

MISCELLANEOUS

- 9 (1) The powers of a senior coroner under paragraph 5, or of a senior coroner or the Coroner for Treasure under paragraph 6, are additional to, and do not affect, any other power which he may have— 15
- (a) to compel a person to appear and give evidence before him at an inquest or other proceedings, or
- (b) to punish a person for contempt of court for not so appearing and giving evidence. 20
- (2) But a person may not be fined under paragraph 5 or 6 and also be punished under any such other power.

SCHEDULE 5

Section 55

FEES AND ALLOWANCES

25

PART 1

ALLOWANCES PAYABLE TO JURORS

- 1 Subject to prescribed conditions, a person who serves as a juror at an inquest is entitled, in respect of his attendance at the inquest, to receive payments by way of allowance— 30
- (a) for travelling and subsistence, and
- (b) for financial loss.
- 2 But a person is entitled to receive payments by way of allowance for financial loss only if, in consequence of his attendance at the inquest— 35
- (a) he has incurred expenditure (other than on travelling and subsistence) to which he would not otherwise be subject,
- (b) he has suffered any loss of earnings which he would otherwise not have suffered, or
- (c) he has suffered any loss of benefit under the enactments relating to social security which he would otherwise not have suffered. 40

Schedule 5**Fees and allowances**

This Schedule provides for allowances to be paid to jurors and witnesses to cover costs incurred due to their attendance at an inquest. This Schedule also provides for other payments to be made by coroners to pathologists who conduct post-mortem examinations. It allows coroners to charge for supplying copies of documents. An appropriate authority can issue a schedule of the fees, allowances and other payments that coroners can make.

- 3 The rates of any allowances payable under paragraph 1 are such as may be prescribed.
- 4 The amount due to a person under paragraph 1 is to be calculated and paid by the senior coroner.

PART 2

5

ALLOWANCES PAYABLE TO WITNESSES

- 5 (1) The allowances which may be paid by senior coroners or the Coroner for Treasure –
- (a) to witnesses at inquests,
 - (b) to persons who produce documents or things by virtue of section 42(1) or (2), and 10
 - (c) to persons who provide evidence in the form of a written statement by virtue of section 42(2)(a),
- are such as may be prescribed.
- (2) In this paragraph “witness” means a person properly attending an inquest to give evidence, whether or not he gives evidence, but does not include – 15
- (a) a member of a police force attending an inquest in his capacity as such,
 - (b) a full-time officer of an institution to which the Prison Act 1952 (c. 52) applies attending an inquest in his capacity as such, or 20
 - (c) a prisoner in respect of any occasion on which he is conveyed to an inquest in custody.

PART 3

MISCELLANEOUS FEES, ALLOWANCES AND DISBURSEMENTS

- 6 The fees and allowances which may be paid by senior coroners to persons who make examinations under section 26 are such as may be prescribed. 25
- 7 (1) An appropriate authority for a coroner area may issue a schedule of the fees, allowances and disbursements which may be lawfully paid or made by a senior coroner for the area in the performance of his functions.
- (2) The power under sub-paragraph (1) include power to amend or revoke any schedule issued. 30
- (3) A copy of any schedule issued or amended must be given to the senior coroner.
- (4) The reference in sub-paragraph (1) to fees and allowances does not include fees or allowances within any of the preceding paragraphs of this Schedule. 35
- 8 The fees payable to senior coroners or other persons for supplying copies of documents in their custody relating to investigations or inquests under this Act are such as may be prescribed.

PART 4

SUPPLEMENTAL

- 9 For the purposes of paragraph 1, a person who attends for service as a juror in accordance with a summons is to be treated as serving as a juror notwithstanding that he is not subsequently sworn. 5
- 10 In this Schedule “prescribed” means prescribed by regulations made by the Lord Chancellor.

SCHEDULE 6

Section 56

CHIEF CORONER AND DEPUTY CHIEF CORONERS

PART 1

10

QUALIFICATIONS AND TERMS OF OFFICE OF CHIEF CORONER AND DEPUTIES

- 1 A person may not be appointed as the Chief Coroner or a Deputy Chief Coroner unless –
- (a) he is under the age of 70, and
 - (b) he has a ten year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41). 15
- 2 The Chief Coroner or a Deputy Chief Coroner must vacate his office on the the day on which he attains the age of 70.
- 3 The Chief Coroner or a Deputy Chief Coroner may resign his office by giving notice in writing to the Lord Chancellor, but the resignation does not take effect unless and until it is accepted by the Lord Chancellor. 20
- 4 The Lord Chancellor may, with the agreement of the Lord Chief Justice, remove the Chief Coroner or a Deputy Chief Coroner from office for incapacity or misbehaviour.
- 5 (1) The Lord Chancellor may pay to the Chief Coroner or a Deputy Chief Coroner such amounts by way of remuneration or allowances as the Lord Chancellor may determine. 25
- (2) The Lord Chancellor may pay to the Chief Coroner or a Deputy Chief Coroner such amounts as the Lord Chancellor may determine towards expenses incurred by him in performing his functions as Chief Coroner or Deputy Chief Coroner. 30

PART 2

MISCELLANEOUS

- 6 (1) A Deputy Chief Coroner may perform any functions of the Chief Coroner –
- (a) during any period when the Chief Coroner is absent or unavailable, 35
 - (b) during any vacancy in the office of Chief Coroner, or
 - (c) at any other time, with the consent of the Chief Coroner.

Schedule 6

Chief Coroner and Deputy Chief Coroners

This Schedule sets out the qualifications required for appointment as Chief Coroner, or Deputy Chief Coroner, the terms of office for these posts and the functions of Deputy Chief Coroners.

Part 1 – Qualifications and terms of office of Chief Coroner and Deputies

Under Part 1 a person has to have held a general legal qualification (i.e. one attracting certain rights of audience) for ten years in order to be eligible for appointment as Chief Coroner or Deputy Chief Coroner. There is a retirement age of 70 for both offices. This Part also sets out the arrangements for vacation of the office, resignation, removal from office and remuneration.

Part 2 – Miscellaneous

This sets out when the Deputy Chief Coroner may perform the functions of the Chief Coroner, and allows the Lord Chancellor to appoint staff to assist the Chief and Deputy Chief Coroners.

- (2) Accordingly, references in this Act to the Chief Coroner are (where appropriate) to be read as including a Deputy Chief Coroner.
- 7 (1) The Lord Chancellor may appoint staff to assist the Chief Coroner and any Deputy Chief Coroner in the performance of their functions.
- (2) Such staff are to be appointed on such terms and conditions as the Lord Chancellor thinks appropriate. 5

SCHEDULE 7

Section 62

FURTHER FUNCTIONS OF THE CHIEF CORONER

- 1 (1) The Chief Coroner may conduct an investigation into the death of a person.
- (2) Where the Chief Coroner conducts such an investigation— 10
- (a) he is to have the same functions in relation to the investigation and the body as he would have if he were the senior coroner for the area in which the body is situated, and
- (b) no senior coroner, area coroner or assistant coroner is to have any functions in relation to the investigation or the body. 15
- 2 (1) The Chief Coroner may direct the Coroner for Treasure to conduct an investigation into the death of a person.
- (2) Where such a direction is given—
- (a) the Coroner for Treasure must conduct the investigation,
- (b) he is to have the same functions in relation to the investigation and the body as he would have if he were the senior coroner for the area in which the body is situated, and 20
- (c) no senior coroner, area coroner or assistant coroner is to have any functions in relation to the investigation or the body.
- 3 (1) The Chief Coroner may request the Lord Chief Justice to nominate a judge of the High Court or a Circuit judge to conduct an investigation into the death of a person. 25
- (2) The Lord Chief Justice, after consulting the Lord Chancellor, may so nominate a judge, and if he does so—
- (a) the judge must conduct the investigation, 30
- (b) he is to have the same functions in relation to the investigation and the body as he would have if he were the senior coroner for the area in which the body is situated, and
- (c) no senior coroner, area coroner or assistant coroner is to have any functions in relation to the investigation or the body. 35
- 4 The Chief Coroner must, at the request of the Lord Chancellor, give advice to him about particular matters relating to the operation of the system of law and administration relating to investigations and inquests under this Act.

Schedule 7

Further functions of the Chief Coroner

This Schedule outlines further functions of the Chief Coroner in addition to those in clauses 57 to 61.

The Chief Coroner has all the functions of a coroner. He or she can therefore conduct investigations personally. He or she can arrange, with the permission of the Lord Chief Justice, for a judge to conduct an investigation. This might be appropriate when a case is particularly complex.

The Chief Coroner will also be expected, on request, to provide advice to the Lord Chancellor about any matters relevant to the operation and administration of the coroner system.

SCHEDULE 8

Section 63

CORONIAL ADVISORY COUNCIL

PART 1

PROVISIONS RELATING TO MEMBERS OF THE COUNCIL

- 1 Members of the Council are to be appointed by the Lord Chancellor. 5
- 2 (1) A senior coroner, area coroner or assistant coroner may be appointed as a member of the Council only with the concurrence of the Lord Chief Justice.
- (2) The Lord Chief Justice may nominate a judicial office holder to exercise his function under sub-paragraph (1).
- (3) In this paragraph “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005 (c. 4). 10
- 3 The Lord Chancellor may –
- (a) pay allowances to members of the Council, and
 - (b) may defray expenses of the Council.

PART 2

15

FUNCTIONS OF THE COUNCIL

- 4 The Council has the following functions –
- (a) advising the Lord Chancellor and the Chief Coroner of the views of interested persons in connection with the operation of the system of law and administration relating to investigations and inquests under this Act, 20
 - (b) advising and making recommendations to the Lord Chancellor or the Chief Coroner in relation to any matter concerning bereaved persons on which he has consulted the Council, and
 - (c) advising and making recommendations to the Lord Chancellor or the Chief Coroner in relation to any matter concerning the operation of the system of law and administration relating investigations and inquests under this Act on which he has consulted the Council, or which the Council considers ought to be brought to his attention. 25
- 5 (1) The Council must give the Lord Chancellor a report for each year which – 30
- (a) contains a summary of the advice it has given and the recommendations it has made, and
 - (b) covers such other matters as the Council thinks appropriate.
- (2) A report for a year under this paragraph must be given to the Lord Chancellor by 1st February in the following year. 35
- (3) The Lord Chancellor must publish any report given to him under this paragraph and must lay a copy of it before each House of Parliament.
- 6 For the purpose of carrying out its functions, the Council may constitute committees of its members to examine particular matters and to report on those matters to the Council. 40

Schedule 8

Coronial Advisory Council

Schedule 8 makes provision in relation to the Coronial Advisory Council.

MINOR AND CONSEQUENTIAL AMENDMENTS

Births and Deaths Registration Act 1953 (c. 20)

- 1 The Births and Deaths Registration Act 1953 is amended as follows.
- 2 In section 2 (information concerning birth to be given to registrar within 42 days) in paragraph (ii) of the proviso, for “an inquest is held” substitute “an investigation under the Coroners Act 2007 is conducted”. 5
- 3 In section 16(3) (information concerning death in a house) in paragraph (ii) of the proviso, for “an inquest is held touching” substitute “an investigation under the Coroners Act 2007 is conducted into”. 10
- 4 In section 17(3) (information concerning other deaths) in paragraph (ii) of the proviso, for “an inquest is held touching” substitute “an investigation under the Coroners Act 2007 is conducted into”.
- 5 In section 19(1) (registrar’s power to require information concerning death) in paragraph (ii) of the proviso, for “an inquest is held touching” substitute “an investigation under the Coroners Act 2007 is conducted into”. 15
- 6 (1) Section 22 (certificates of cause of death) is amended as follows.
- (2) In subsection (2) for “an inquest is held touching” substitute “an investigation under the Coroners Act 2007 is conducted into”;
- (3) In subsection (3) for the words from “an inquest is held” to “Coroners Act 1988” substitute “an investigation under the Coroners Act 2007 into the death of the deceased person is conducted or is discontinued under section 9 of that Act”. 20
- 7 (1) Section 23 (furnishing of information by coroner) is amended as follows.
- (2) For subsections (2) and (2A) substitute – 25
- “(2) Where an investigation under the Coroners Act 2007 is conducted into a death and the registrar receives a certificate under section 31(1) of that Act, the registrar shall in the prescribed form and manner register the death and the particulars found under section 12(1)(b) of that Act, and, if the death has been previously registered, the said particulars shall be entered in the prescribed manner without any alteration of the original entry. 30
- (2A) Where –
- (a) an investigation under the Coroners Act 2007 into a death is suspended under section 17, 18 or 19 of that Act, and 35
- (b) the registrar receives a certificate under section 31(2) of that Act stating, so far as they have been ascertained at the date of the certificate, the particulars required to be registered concerning the death,
- the registrar shall in the prescribed form and manner register the death and the particulars.” 40
- (3) In subsection (3) –

Schedule 9

Minor and consequential amendments

This Schedule makes amendments to other legislation.

- (a) for “section 19 of the Coroners Act 1988” substitute “section 26 of the Coroners Act 2007”;
- (b) for “from the coroner under subsection (3) of that section a certificate under his hand” substitute “a certificate under section 31(6) of that Act”. 5
- 8 In section 23A(2) (giving of information concerning a death to a person other than the registrar) –
- (a) in paragraph (a) for the words from “if no” to “Coroners Act 1988,” substitute “unless paragraph (b) of this subsection applies,”;
- (b) in paragraph (b) for the words from “if a” to “so made,” substitute “if an investigation under the Coroners Act 2007 into the death of the deceased person is discontinued under section 9 of that Act,”. 10
- 9 In section 29(4) (correction of error in registers) –
- (a) in paragraph (a) for “touching which he has held an inquest” substitute “into which he has conducted an investigation under the the Coroners Act 2007”;
- (b) omit paragraph (b). 15
- House of Commons Disqualification Act 1975 (c. 24)*
- 10 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) insert the following three entries at the appropriate places – 20
- “Chief Coroner or Deputy Chief Coroner.”;
- “Coroner for Treasure.”;
- “Senior coroner, area coroner or assistant coroner appointed under the Coroners Act 2007.” 25
- Northern Ireland Assembly Disqualification Act 1975 (c. 25)*
- 11 In Part 3 of Schedule 1 to the Northern Ireland Disqualification Act 1975 (other disqualifying offices) insert the following three entries at the appropriate places –
- “Chief Coroner or Deputy Chief Coroner.”; 30
- “Coroner for Treasure.”;
- “Senior coroner, area coroner or assistant coroner appointed under the Coroners Act 2007.”
- Judicial Pensions and Retirement Act 1993 (c. 8)*
- 12 In Part 2 of Schedule 1 to the Judicial Pensions and Retirement Act 1993 (other offices which may be qualifying judicial offices) after the entry relating to the Adjudicator to Her Majesty’s Land Registry insert – 35
- “Chief Coroner or Deputy Chief Coroner
Coroner for Treasure”.
- Constitutional Reform Act 2005 (c. 4)* 40
- 13 In Part 3 of Schedule 14 to the Constitutional Reform Act 2005 (the Judicial Appointments Commission; appointments by the Lord Chancellor) at the end insert –

“Coroner for Treasure Chief Coroner Deputy Chief Coroner	Section 34 of the Coroners Act 2007 Section 56 of the Coroners Act 2007 Section 56 of the Coroners Act 2007”
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SCHEDULE 10

Section 78

REPEALS

5

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Births and Deaths Registration Act 1953 (c. 20)	In section 29(4), paragraph (b) and the word “or” immediately preceding it.
Coroners Act 1988 (c. 13)	The whole Act.

Schedule 10

Repeals

This Schedule repeals the whole of the 1988 Act

ADDITIONAL EXPLANATORY NOTES

European Convention on Human Rights

A number of issues arise in relation to provisions in the Bill.

Clauses 10 and 12 are designed to protect the Article 2 right to an effective official investigation into the death of a person. Clause 10 sets out the purpose of an investigation to ascertain the identity of the deceased and how, and, in some instances, the circumstances in which he came about his death. Clause 12 requires a coroner to make a determination based on the investigation.

Clauses 41, 42, 43, 44, 45, 46, 50 and 51 and Schedule 4 are designed to discharge the obligation under Article 2 to conduct an effective investigation. Clause 41 requires an investigation to be held in public (subject to clause 44 and Coroners rules). Where a witness is under the age of 17 the coroner may exclude certain persons from the inquest under clause 44(2), but not anyone listed in clause 45(3), thereby ensuring some public participation in the hearing. Clause 42 gives the coroner power to compel a witness to attend, subject to a claim that he is unable to comply or that it is not reasonable to make him attend. This is to be read with Schedule 4, which provides enforcement powers. Further, clause 43 protects existing civil rules about privilege and clauses 50 and 51 give the coroner power to gather evidence himself. Clause 43(2) has the potential to raise Article 2 issues, as regulations made under this power would prevent the coroner from accessing certain types of evidence. However, the power will only be exercised in a way that is compatible with ECHR obligations.

An investigation may be suspended under clauses 17, 18 and 19 where criminal proceedings may be brought, have been brought or in the event of an inquiry. This does not interfere with Article 2 rights as the coroner must resume an investigation suspended under clause 17 once the period of suspension has ended, and in the case of an investigation suspended under clause 18 or 19, the coroner has the power to resume an investigation if he thinks there is sufficient reason for doing so. Where the proceedings for which his investigation was suspended have not met the State's ECHR obligations, that would provide a good reason for resuming the inquest.

The exercise of the power in clause 30 (by which a coroner may make a direction prohibiting publication of the name of the deceased and an interested person within clause 76(2)(a)) may give rise to issues under Articles 8 and 10. The Department considers that this power is justified, in that it seeks to strike a balance between rights under Articles 8 and 10, and is also consistent with the Article 2 obligation to hold an effective official investigation.

Rights under Article 1, Protocol 1 and Article 8 are raised by clauses 42, 50, 51 and in relation to evidence and the compulsion of witnesses; and by the new section 8B inserted into the Treasure Act 1996 by paragraph 3 of Schedule 3, which creates a duty to deliver objects thought to be treasure, and in respect of which the Coroner for Treasure is conducting or proposes to conduct an investigation, to a designated person. That Schedule also

introduces a new duty (a new section 8A in the Treasure Act) to notify the Coroner for Treasure of the acquisition of objects believed to be treasure and in respect of which notice has not already been given by the finder under section 8(1) of the Treasure Act. Failure to comply is a criminal offence, punishable by fine or imprisonment and (like the offence under section 8B) is subject to the defence of reasonable excuse. These provisions strike a fair balance between the rights of the individual and the public interest in conducting an investigation based on all the evidence. It is our view that any interference with rights under Article 1 Protocol 1 is justifiable in the public interest. Any interference with Article 8 rights will be justified on the basis that it is likely to be in the interest of public safety or for the protection of rights and freedoms of others and that the powers are proportionate to the achievement of a legitimate aim.

Clauses 71 and 72 and Schedules 1 and 6 also raise Article 1 Protocol 1 issues in relation to the abolition of coroners' appointments under the 1988 Act, and the procedures for appointment and removal from office of coroners under the Bill. Removal from office for incapacity or misbehaviour requires the agreement of the Lord Chief Justice. Clause 71(3) and (4) allows the Lord Chancellor to make regulations specifying how compensation for loss of office under the 1988 Act is to be determined. It is our view that any interference with rights under Article 1 Protocol 1 is justifiable in the public interest.

The rights of the deceased's family under Article 9 may be engaged by clause 26 which enables a coroner to appoint a medical practitioner to carry out a post-mortem examination. It is intended that the family may make representations to the coroner and will be able to appeal against any decision. Any interference is considered justifiable on the grounds of promoting and protecting public safety, public health and the rights and freedoms of others.

Article 6 entitles a person charged with an offence adequate time and facilities to prepare his defence. The statutory time limit for keeping the body may impede the person charged from adequately preparing a defence. Applications may be made for the period to be extended, which fairly balances the interests of the relatives and the rights of the person charged.

Territorial Extent

The Bill extends to England and Wales only with the exception of the amendments the Bill makes to the Treasure Act 1996 in Schedule 3 which also extend to Northern Ireland. Where the Bill amends other Acts, the amendments have the same territorial extent as those Acts.

Territorial Application

The whole of the Bill applies to England and Wales. Paragraph 6 of Schedule 3 sets out how the Treasure Act 1996, including the amendments made to it by this Bill, applies to Northern Ireland.

Commencement

Clause 79 describes how the provisions of the Bill will come into force.

Financial Effects of the Bill

The reform of the coroner service will have some effect on public expenditure. Local authorities will retain responsibility for funding their local coroner but, in line with Government policy, the Department for Constitutional Affairs is committed to funding any net additional costs that fall on local government which arise from changes made by the reforms. The best current estimate is that the initial start up costs for the reformed service will be £14.5 million, with additional running costs in the region of £5.8m per annum.

There is the possibility of economies of scale savings to be made by local authorities when existing districts are grouped together to produce larger ones. This has occurred previously where local authorities have voluntarily amalgamated.

Effects of the Bill on Public Service Manpower

Public service manpower will be affected in that the number of coroners will change as the service moves from approximately 110 coroners, working full and part time, to around 60 to 65 coroners working full time, along with locum assistants. However, it is not envisaged that the number of coroners' officers who are employed by the police in the majority of cases, and local authorities in others, or the numbers of administrative staff will be affected by reform.

Summary of the Regulatory Impact Assessment

The Bill will not significantly affect business. Coroners have direct but limited interactions with two business sectors – funeral directors and firms who remove bodies from the scene of death to a mortuary or undertakers. The Bill will not affect the nature or number of those interactions. Pathologists deliver a significant service to the coroner – by way of post-mortem examination – but again, the nature of that relationship will remain very much as is. The Small Business Service has stated that the impact on business is likely to be minimal and believe that significant negative impact is highly unlikely.

DRAFT CHARTER FOR BEREAVED PEOPLE WHO COME INTO CONTACT WITH THE CORONER SERVICE

NB This is a charter for a reformed service NOT for the service as it currently operates.

General

1. Coroners will operate independently within the legal framework of the Coroners Act 2007. This charter sets out guidance for bereaved people, including their rights and roles, during coroner investigations and inquests.

Objectives and values

2. The coroner service will:-

- help bereaved people understand the cause of the death of the person who has died
- inform bereaved people about the roles of the coroner service and the powers of the coroner
- inform bereaved people of their rights and responsibilities if an investigation or inquest is conducted in relation to the death
- comply, where possible, with individual, family, and community wishes, feelings and expectations, including family and community preferences, traditions and religious requirements relating to mourning and to funerals, and respect for individual and family privacy
- enable bereaved people, including children and young people where appropriate, to be informed and consulted during the process of investigating violent, unnatural or unexplained deaths, or deaths of those in prison or other state custody, treating them with sensitivity and with dignity, and helping them to find further help where this is necessary
- answer bereaved people's questions as promptly and effectively as possible
- respond to concerns of bereaved people when they are not satisfied about the cause of death given on a death certificate
- provide information about how bereaved people may appeal against or complain about the service's decisions, and respond to appeals and complaints within the period specified by the Chief Coroner.

Standards of service

4. When a death is reported to the coroner, the coroner or his/her staff will aim to contact the most appropriate next of kin, where known, within 24 hours to explain why the death has been reported and what steps are likely to follow.

5. The family will be given information, within 24 hours of confirmation of the identity of the person who has died, by the coroner or his/her staff on where they can view the body if they wish to do so and on appropriate arrangements for viewing. They will be advised, as sensitively as possible, if the nature of the death may cause the viewing of the body to be particularly distressing. Wherever possible, the family may be offered a photograph of the body first.

6. Where a coroner orders a post-mortem, the family will be told by the coroner and his/her staff why it is necessary and when and where it will be performed, and what they should do if they would like to be represented by a doctor at the post-mortem. These standards will also apply in the event of second post-mortems being commissioned by coroners.

7. If the coroner decides not to hold a post-mortem, the family can make representations and ask for the decision to be reconsidered.

8. Where there is an investigation but no inquest, the coroner or his/her staff will, within ten working days of its completion, offer the family a copy of the coroner's investigation report and will offer to explain any parts they do not understand.

9. The family will be sent, by the coroner or his/her staff and within two working days of its completion, a copy of the confirmation of the cause of death and the details of the person who has died. This will enable the family to bring any errors to the attention of the registrar or the coroner.

10. When there is to be a full inquest, information will be provided by the coroner and his/her staff, of the timing, location, and the facilities available at the place where the inquest will be held, wherever possible, four weeks before the date of the inquest.

11. Information will be provided by the coroner and his/her staff about the purposes and processes involved at the inquest, who is likely to be present, what evidence is likely to be given and on the opportunities for the family to participate in proceedings, including the right to speak or the right to be represented. If the date and/or location of the inquest has to be changed, bereaved people will be informed within five working days.

12. Wherever possible, an appropriate private room will be provided for bereaved relatives when they attend an inquest.

13. Coroners or their staff will not release details, including photographs, of specific cases to the media without the consent of the family.

Rights to participation

14. The family will have a right to see reports of any post-mortems, and normally of other investigations, unless the coroner decides that some material needs to remain confidential to him/her permanently or for a period of time, in order to protect the legal rights of third parties.

15. The family will be informed, by the coroner or his/her staff of any decision to refer a death for investigation by a different coroner's area and the reasons for that decision. The family may appeal against this decision. Similarly, the family may make representations that a different coroner's area should handle the case.

16. Where there is a decision to hold a post-mortem, a family will be told within 24 hours of their right to raise objections and to appeal the decision. If they disagree with a decision not to hold a post-mortem, they will also have a right to appeal. When a post-mortem is held, families will be informed of their right to be represented at the post-mortem by a doctor of their choice.

17. Where the coroner decides to hold a pre-inquest hearing, the family will be informed of the time, date and location, the purpose of the hearing and their rights and responsibilities during it.

18. In cases where there is an investigation, but no inquest is planned, the family will have a right to meet the person conducting the investigation and to give information.

19. Where there is to be a full inquest (and in addition to information about its purposes and processes) the family will have the right to meet in advance the coroner's officer and any other staff helping the coroner's preparations. This will provide an opportunity to explain what happens at inquests and to familiarise families with the layout of the court.

20. The family will have their views taken into account regarding the timing and venue for any inquest.

21. Coroners will release the body of the person who has died at the earliest opportunity once the medical cause of death has been confirmed. But families may request early release for personal, cultural or religious reasons.

22. In cases where there is a criminal investigation as a result of the death, the coroner will take account of the rights of the family as well as the right of a suspect to a fair trial. The normal expectation is that bodies will be released for funerals within a maximum of 40 days of the death. The coroner or his staff will inform families if this timescale will not be met, and will update them regularly on the situation subsequently.

23. Once the body is no longer required for the coroner's purposes, coroners will not, other than in exceptional circumstances, retain human organs or tissue without the consent of the family. The family will be informed, and will have the opportunity to make representations, if an authority (such as the police, or a lawyer representing a defendant in a criminal case) applies to extend the period of retention beyond 40 days.

24. If organs or tissue are retained, the coroner should reach advance agreement with the family as to what should happen when they are no longer required for scientific or possible evidential purposes.

Availability of support and bereavement services

25. Coroners will maintain information on the main local and national voluntary bodies and support groups which offer help or support to people who have been bereaved, including bereavement as a result of particular types of incidents or circumstances. They will make this information available to family members or their representatives unless they request otherwise.

Deaths Abroad

26. Coroners will investigate deaths abroad when the following circumstances apply:

- where there is a connection between the death and circumstances arising in England and Wales (for example medical errors or malpractice, or an accident, in this country) or
- where action might reasonably be taken in England and Wales to avoid deaths in similar circumstances in future (for example planning of overseas school trips) or
- where the coroner has reasonable cause to suspect that the death was caused as a result of a criminal act and if no equivalent of either a criminal investigation, a coroner's investigation or an inquiry is taking place, or has taken place, in the country in which the death occurred or
- where the person who has died was a member of the armed forces and died while on duty abroad.

27. In addition, there may be special circumstances where a death overseas ought to be investigated even though none of the above criteria apply. The Lord Chancellor has power to require an investigation into a death which occurred abroad, where it appears to be in the public interest to do so. If the coroner decides that there will not be an investigation and the family disagree with this decision, they may appeal to the Chief Coroner or they may write to the Lord Chancellor to ask him to report the death to the Chief Coroner on the ground that it would be in the public interest to conduct an investigation into the death of the deceased. Coroners will also have power to report a death to the Chief Coroner if they believe the death should be investigated and they do not have power to do so.

Review and appeal rights of coroners' judicial decisions

28. Family members who are designated as interested parties for the purpose of investigations will be consulted by coroners about the following decisions they take in individual cases (when they have indicated a wish to be consulted):

- whether or not there will be a post-mortem (this is subject to the identity of the dead person being known)
- when the body of the person who has died will be released (ditto)
- whether there will be an investigation by the coroner

- whether or not reporting restrictions should be imposed on inquest proceedings
- the scope of an inquest
- whether there should be a jury
- which witnesses to be called at the inquest, including expert witnesses

29. If the family member is dissatisfied with how the coroner intends to proceed, he or she will be able to ask the coroner to review their decision.

30. In most cases, if there is disagreement between the coroner and the family member about any of the above, it will be resolved through discussion. If however, this is not possible, the family member can appeal to the Chief Coroner, setting out clearly their grounds for appealing the decision, wherever possible within a maximum of 15 working days (within two working days if it concerns a post-mortem). In addition, appeals will also be possible against decisions in relation to:

- the cause of death given by the coroner following an investigation, but no inquest
- the decision given at the end of an inquest.

Other Complaints and comments

31. Bereaved people wishing to make a complaint about a failure to deliver other aspects of the service outlined in this charter should do so in the first instance to the coroner. If they are not satisfied with the response they should address their complaint to the Chief Coroner.

32. The coroner system is committed to providing a service which meets the needs of bereaved people at a sensitive time, and welcomes comments from bereaved people about their experiences. They should be directed to the coroner who dealt with the case or the Chief Coroner.

Disability issues

33. The coroner service will, as far as practicable, provide appropriate access to coroners' courts and offices. Reasonable adjustments will be made, wherever possible, to meet the needs of people with sight, hearing and physical or mental impairments.

Monitoring service standards

34. The Chief Coroner will require coroners to provide regular reports to him/her. The Chief Coroner will give the Lord Chancellor an annual report which will include an assessment of the consistency of standards between coroners' areas. The Lord Chancellor will publish any report given to him and lay a copy before Parliament.

35. Inspections of the service will be commissioned by the Secretary of State. This will involve consultation with bereaved people. In addition, the Chief Coroner will arrange surveys of service users from time to time.



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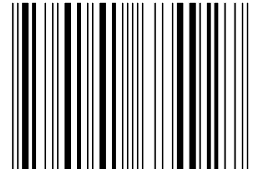
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