

H.B. 5, 2019.]



**CORONER'S OFFICE BILL, 2019**

Explanatory Memorandum

This Bill provides for the establishment of an office responsible for investigating all deaths that come about as a result of unnatural causes. It also sets out the appointment, functions, and powers of the Coroner-General, Deputy Coroner-General and coroners in relation to postmortems, inquests and their findings. The Bill repeals the Inquests Act [*Chapter 7:07*], and amends the Birth and Deaths Registration Act [*Chapter 5:02*] and the Burial and Cremation Act [*Chapter 5:03*].

In more detail the individual clauses contain the following provisions:

**PART I**

**P**reliminary

*Clause 1* sets out the short title of the Bill.

*Clause 2* provides the definition of terms used in the Bill.

**PART II**

**E**stablishment and **M**anagement of **O**ffice

*Clause 3* provides for the establishment and constitution of the Coroner's Office of Zimbabwe.

*Clause 4* lays out the functions of the Office, primarily investigation of deaths which appear to come about in a sudden, suspicious or violent manner and deaths occurring within 24 hours of a patient arriving at a health institution and death occurring during treatment or care.

*Clause 5* provides for the appointment and qualifications of the Coroner-General, Deputy Coroner-General and other coroners. All staff of the Office shall be civil servants.

*Clause 6* outlines sources of funds for the Office and establishes the Office as a reporting unit in terms of the Public Finance Management Act.

**PART III**

**P**reservation of **M**edical **R**ecords, **R**eporting and **I**nvestigation of **U**nnatural **D**eaths

*Clause 7* enjoins custodians of health or medical records to preserve medical records. The clause criminalises willful and reckless destruction or failure to preserve documents.

*Clause 8* lists people given the duty to report unnatural deaths and also gives time frames within which such deaths should be reported.

*Clause 9* outlines circumstances when postmortems and inquests should be conducted or dispensed with.

*Clause 10* provides for a review mechanism for any person aggrieved by a coroners' decision not to hold an inquest.

*Clause 11* contains substantive provisions on inquests and powers of coroners in relation thereto.

*Clause 12* contains procedural provisions on inquests.

*Clause 13* provides for the duties of a coroner at the conclusion of the investigation of an unnatural death.

*Clause 14* provides for the publication of a coroner's findings and observations.

### PART III

#### General

*Clause 15* empowers coroners to report misconduct by any professional to the National Prosecuting Authority and professional regulatory bodies.

*Clause 16* empowers the coroner to dispense with inquests on death of members of the Defence Forces in certain circumstances.

*Clause 17 and 18* empowers the Minister to give policy directions to the Office and make regulations for the office.

*Clause 19* gives the Coroner-General a duty to ensure that the Office has a website and publishes an Office bulletin.

*Clause 20* makes consequential amendments to other Acts.

*Clause 21* repeals the Inquest Act [*Chapter 7:07*].

ARRANGEMENT OF SECTIONS

PART I

**P**reliminary

*Section*

1. Short title and commencement.
2. Interpretation.

PART II

**E**stablishment, **M**anagement and **f**inancial **p**rovisions of **O**ffice

3. Establishment and constitution of Office.
4. Functions of the Office.
5. Appointment of Coroner-General, Deputy Coroner-General and coroners.
6. Funds and accounting status of Office.

PART III

**P**reservation of **M**edical **R**ecords, **R**eporting and **I**nvestigation of **U**nnatural **D**eaths

7. Preservation of medical records and duties of medical practitioners.
8. Reporting of deaths and powers of coroners in relation thereto.
9. Post-mortem examinations and powers of coroners in relation thereto.
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12. Procedure at an inquest.
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15. Reporting offences, corrupt conduct or misconduct.
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17. Minister may give policy directions.
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19. Official electronic communication platform and bulletin of Office.
20. Amendments of other Acts.
21. Repeal of Inquests Act [*Chapter 7:07*] and savings.

FIRST SCHEDULE: Ancillary powers of the Office.

SECOND SCHEDULE: Form of summons.



# BILL

AN ACT to establish the Coroner’s Office to conduct independent and impartial investigations into unnatural deaths in order to determine the circumstances of such deaths; to provide for the appointment and functions of the Coroner-General, Deputy Coroner-General and their staff; to repeal the Inquests Act [*Chapter 7:07*]; to amend the Burial and Cremation Act [*Chapter 5:03*]; to amend the Births and Deaths Registration Act [*Chapter 5:02*] and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament and the President of Zimbabwe.

## PART I

### Preliminary

#### 1 Short title and commencement

(1) This Act may be cited as the Coroner’s Office Act [*Chapter 7:21*].

(2) This Act shall come into operation on a date to be fixed by the President by notice in a statutory instrument.

#### 2 Interpretation

(1) In this Act—

“body” in relation to the body of a deceased person, includes any part or remains of such body, but does not include any part of the body of a deceased person removed from his or her body during his or her lifetime;

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“coroner” means an official appointed to investigate the causes and circumstances of unnatural deaths, and includes the Coroner-General or Deputy Coroner-General appointed in terms of section 5 or any person delegated by either of them to act on his or her behalf;

“Coroner-General” and “Deputy Coroner-General” means Coroner-General and Deputy Coroner-General of the Office appointed in terms of section 5; 5

“custodial officer” means—

- (a) a police officer in charge of a police station; or
- (b) the person in charge of a prison or correctional institution; or 10
- (c) a person in charge of a health institution;

“deceased person” or “deceased” includes a still-born child;

“immediate family” means a spouse, parent, child or sibling of a person;

“inquest” means a quasi-judicial hearing where a coroner considers evidence to determine the identity of the deceased and the date, place, manner and cause of death of the deceased; 15

“medical practitioner” means a medical practitioner registered as such in terms of Health Professions Act [*Chapter 27:19*];

“medical treatment or care” includes any operation or any surgical, diagnostic or therapeutic procedure; 20

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“natural death” means a death that is primarily attributed to an illness or an internal malfunction of the body not directly influenced by external forces; 25

“Office” means the Coroner’s Office of Zimbabwe established by section 3(1);

“pathologist” means a medical practitioner who is registered as a specialist in pathology under the Health Professions Act [*Chapter 27:19*];

“place of custody” means any place in which any person may lawfully be held, imprisoned, confined, detained or committed; 30

“still-born child” means any child which has issued forth from its mother after the twenty-eighth week of pregnancy and which did not, after being completely expelled from its mother, breathe or show any signs of life;

“unnatural death” means any death which is not a natural death and in particular one that comes or appears to come about in a sudden, suspicious or violent manner. 35

(2) In this Act references to a coroner delivering a notice or summons to any other person are to be interpreted as requiring the coroner to deliver such notice or summons to that person—

- (a) by hand delivery to that person or a responsible person in the place of business or place of residence of that person; or 40
- (b) by registered post to an address furnished by that person as his or her place of business or place of residence; or
- (c) by electronic means that enable the notice or summons to be stored in permanent form and to be retrieved and read. 45

## PART II

### Establishment, Management and financial provisions of Office

#### 3 Establishment and constitution of Office

5 (1) There is hereby established an office, in the Ministry responsible for the administration of this Act, to be known as the Coroner's Office of Zimbabwe.

(2) The operations of the Office shall, subject to this Act, be controlled and managed by the Coroner-General based in the regional office at Harare, whose post shall be a public office and shall form part of the Civil Service.

(3) The Coroner-General shall be assisted by—

- 10 (a) the Deputy Coroner-General, who shall head and be based at the regional office at Bulawayo; and
- (b) such assistants to be known as coroners and such other members of staff as are needed for the exercise of the functions of the Office;

whose posts shall be public offices and shall form part of the Civil Service.

15 (4) The Coroner-General shall serve the area defined from time to time as the Eastern region under the Magistrates Court Act [*Chapter 7:10*] and the Deputy Coroner-General shall serve the area defined from time to time as the Western region under the Magistrates Court Act [*Chapter 7:10*].

20 (5) On the recommendation of the Coroner-General, the Minister, may, in consultation with the Minister of Finance, endeavour to secure that the office shall establish branches at provincial, district and other administrative levels for the better performance of its functions.

25 (6) The Coroner-General may delegate or assign his or her functions to the Deputy Coroner-General or any coroner, whereas the Deputy Coroner-General may delegate or assign his or her functions to any coroner within his or her jurisdiction.

#### 4 Functions of Office

(1) Subject to this Act, the functions of the Office shall be—

- (a) to provide independent and impartial investigations into the circumstances surrounding—
- 30 (i) any unnatural deaths, including but not limited to homicides, infanticides, drownings, suicides, accidents; or
- (ii) any deaths occurring—
- A. within twenty-four (24) hours of admission into a health institution; or
- 35 B. during a surgical operation; or
- C. while a person is in or is being escorted to a police cell, prison, health institution or other place of custody;
- and
- (b) to provide expert forensic pathology evidence in any judicial proceedings concerning or involving unnatural deaths; and
- 40 (c) to take note of dangerous practices or conditions that may lead to unnatural deaths and to educate the public regarding such practices and conditions; and
- (d) to maintain records of unnatural deaths that came under the jurisdiction of
- 45 the Office and the circumstances surrounding the causes of such deaths.

- (2) The Coroner-General, on behalf of the Office, shall have the power—
  - (a) with approval of the Minister, to enter into agreements with counterpart coroner services on a bilateral, regional, continental or international basis;
  - (b) with the approval of the Minister and the Minister responsible for finance, do or cause to be done, either personally or through his or her agents, any of the things specified in the First Schedule. 5

## 5 Appointment of Coroner-General, Deputy Coroner-General and coroners

(1) The President shall, after consultation with the Minister, appoint the Coroner-General and Deputy Coroner-General. 10

- (2) The Coroner-General and Deputy Coroner-General shall—
  - (a) be appointed for their qualifications, knowledge or experience in forensic pathology, forensic science or medical jurisprudence; and
  - (b) be fit and proper persons to be entrusted with the responsibilities of his or her post. 15

(3) A person shall be qualified for appointment as a coroner if he or she has a qualification in forensic medicine, forensic pathology, forensic science or any other prescribed discipline and is a fit and proper person to be entrusted with the responsibilities of his or her post.

(4) The term of office of the Coroner-General and Deputy Coroner-General shall be a period of five years renewable for one further such term. 20

(5) Notwithstanding the Public Service Act [*Chapter 16:04*], the President shall only remove the Coroner-General and Deputy Coroner-General from his or her post, on the recommendation of a tribunal constituted for the investigation of the Coroner-General's or the Deputy Coroner-General's— 25

- (a) serious misconduct;
- (b) wilful violation of this Act;
- (c) inability to perform the functions of the Office because of physical or mental incapacity.

(6) Once an allegation has been made, requiring the President to constitute a tribunal, the Coroner-General and Deputy Coroner-General shall be suspended with pay: 30

Provided that where the allegations are made against the Coroner-General:

- (a) the Deputy Coroner-General shall assume the duties of the Coroner-General pending the investigations, and *vice versa*; 35
- (b) in the absence for any reason of the Deputy Coroner-General, a coroner designated by the Minister shall assume the duties of the Coroner-General pending the investigations.

(7) A tribunal referred to in subsection (5) shall consist of at least three members appointed by the President, of whom— 40

- (a) at least one must be a person who—
  - (i) is or has served as a judge of the Supreme Court or High Court in Zimbabwe; or
  - (ii) holds or has held office as a judge of a court with unlimited jurisdiction in civil or criminal matters in a country whose common law is Roman-Dutch or English, and English is an officially recognised language; 45

(b) at least one shall be chosen from a list of three or more legal practitioners of seven years' standing or more who have been nominated by the Law Society of Zimbabwe, constituted under the Legal Practitioners Act [Chapter 27:07].

5 (8) The Law Society of Zimbabwe shall prepare the list referred to in subsection (7)(b) when so required by the President.

## 6 Funds and accounting status of Office

(1) The funds of the Office shall consist of—

- 10 (a) such moneys as may be appropriated by Act of Parliament for the Office; and
- (b) any fees and charges payable for services and facilities provided by the Office; and
- (c) any donation or grant permitted by the Minister to be accepted by the Office.

15 (2) The Coroner-General shall ensure that proper books of account and other records relating to such accounts are kept in respect of all the Office's activities, funds and property, including such particular accounts and records as the Coroner-General may direct.

20 (3) The accounts of the Office shall be audited by the Auditor-General, who for that purpose shall have the functions conferred on him or her by sections 7 and 8 of the Audit Office Act [Chapter 22:18] (Act No. 12 of 2009).

(4) As soon as possible after the end of each financial year, the Office shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

25 (5) Section 80 of the Public Finance Management Act [Chapter 22:19] shall apply, with such changes as may be necessary, to the appointment of an internal auditor to the Office.

(6) The Office shall be a reporting unit as contemplated in section 2 of the Public Finance Management Act [Chapter 22:19].

## 30 PART III

### Preservation Of Medical Records, Reporting and Investigation of Unnatural Deaths

## 7 Preservation of medical records and duties of medical practitioners

35 (1) Where a person dies, while in any health institution for medical treatment or care or while he or she is in a place of custody, the custodial officer shall preserve all medical records, health-care records and any other documents pertaining to the medical treatment or care or the custody of the deceased as are in his or her possession for a period as may be prescribed but in any event for not less than five years.

40 (2) A custodial officer commits an offence if he or she wilfully or recklessly destroys or fails to preserve medical and health care or custody records in terms of subsection (1) and shall be liable to a fine not exceeding level ten or to imprisonment for five years or both.

(3) For the purposes of this section a coroner may issue a written summons to any medical practitioner who in his or her opinion has the competency to conduct a

post-mortem under section 9, and such medical practitioner must be paid an allowance and his or her expenses for doing so, according to the prescribed tariff.

(4) Any medical practitioner who, without lawful excuse, fails or refuses to conduct a post-mortem when summoned to do so under subsection (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months. 5

## 8 Reporting of deaths and powers of coroners in relation thereto

(1) Whenever an unnatural death occurs it shall be the duty—

- (a) of every member of immediate family who has attained the age of eighteen years who was present at the death, or who becomes aware of the unnatural death and dwells within the district in which the deceased person died; or 10
- (b) if there are no such family members as are referred to in paragraph (a), of every relative who has attained the age of eighteen years who was present at the death, or who becomes aware of the unnatural death and dwells within the district in which the deceased person died; or 15
- (c) if there are no such persons as are referred to in paragraph (a) or (b), of—
  - (i) every person over the age of eighteen years who was present at the death; or
  - (ii) any occupier over the age of eighteen years of the house in which the death took place, where such occupier has knowledge of the death; or 20
  - (iii) the headman appointed in terms of section 8 of the Traditional Leaders Act [*Chapter 29:17*] for the community in which the unnatural death took place, where he had knowledge of the death; or 25
  - (iv) every person over the age of eighteen years who has buried or caused to be buried the body of the deceased person who died of an unnatural death; or
  - (v) such other persons as may be prescribed; 30

to give notice of the death of such person in the prescribed form to the coroner of the district in which such person died or, where no such coroner is appointed, to the Coroner-General (if the person died in the Western region referred to in section 3(4)) or the Deputy Coroner-General (if the person died in the Eastern region).

(2) The notice given in terms of subsection (1) shall be given as soon as possible but in any case within forty-eight (48) hours of the death. 35

(3) The giving of notice by any of the responsible persons referred to in subsection (1) shall be a discharge of the duty under that subsection of any other person referred to therein to give notice of death (conversely if no such persons comply with subsection (1), all of them are jointly and severally liable to be prosecuted under subsection (8)). 40

(4) A medical practitioner who examined the body of the deceased person or, if no such examination occurred, a medical practitioner who attended to the person during his or her last illness, shall, unless he or she believes the death was not as the result of natural causes, sign a certificate stating the cause of death to the best of his or her knowledge and belief. 45

(5) The certificate referred to in subsection (4) shall be delivered to a responsible person referred to in subsection (1) by the medical practitioner whose signature it bears or by any person ostensibly acting on that medical practitioner's behalf.

5 (6) Nothing in this section shall derogate from any other obligation to report a death under any other written law.

(7) A police officer or custodial officer who has direct knowledge of an unnatural death shall immediately or in any event within forty-eight (48) hours notify in writing the appropriate coroner referred to in subsection (1).

10 (8) Any person who, without reasonable excuse, contravenes subsection (2) or (7), shall be guilty of an offence and liable to a fine not exceeding level 6 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

15 (9) The Coroner-General may make special arrangements with health institutions, Zimbabwe Prisons and Correctional Services, the Zimbabwe Republic Police or any other institution for the efficient notification of unnatural deaths by persons employed in those institutions.

(10) After receiving notification of an unnatural death in terms of subsection (2) or (7) a coroner may do all or any of the following—

- 20 (a) review the person's medical history and the circumstances of the death, in which event the custodian of those records shall not invoke medical practitioner-patient confidentiality privilege nor shall the custodian be liable to an action based on the sharing of such records under this Act;
- (b) examine or take custody of any body of a deceased person, or both;
- 25 (c) authorise a police officer investigating a death to enter and inspect any place or area where the deceased was, or where the coroner believes the deceased was, before his or her death:

Provided that, in the case where a death occurred in police custody, the coroner may appoint any person licensed as a private investigator in terms of the Private Investigators and Security Guards (Control) Act [*Chapter 27:10*] to enter and inspect the place of custody, and such person shall be paid out of the funds of the Office;

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- (d) obtain a warrant to search for and seize anything that the coroner believes is material to the investigation;
- (e) summon any witness, who in his or her opinion, may have information relating to the death;
- 35 (f) cordon off and inspect the place or area, for a period not exceeding forty-eight (48) hours or any greater period the Coroner-General approves (in any event not exceeding seventy-two (72) hours) where the Coroner-General believes the deceased person suffered the fatal injuries or where the body of the deceased person is found;
- 40 (g) order the exhumation of a body;
- (h) authorise an inspection of the scene of the death by a member of the family or a representative of that member or an inspection of the scene of an event which, in the opinion of the coroner, may have resulted in the death of the person;
- 45 (i) direct a medical practitioner to conduct a post-mortem examination of the body of a person who has died in any of the circumstances in relation to which the coroner has jurisdiction.

(11) A coroner may dispense with a post-mortem examination referred to in

subsection (10)(i) if he or she, after considering the information given to him or her relating to the death, is satisfied that the manner and cause of death are sufficiently revealed in the certificate referred to in subsection (4).

## **9 Post-mortem examinations and powers of coroners in relation thereto**

(1) A coroner, after examination of a body or review of a deceased person's medical history under section 8 where applicable, may— 5

- (a) in writing direct a medical practitioner to conduct a post-mortem examination of the body of a person who has died in any of the circumstances in relation to which the coroner has jurisdiction; 10
- (b) in writing direct the same or another medical practitioner to conduct a further or more complete post-mortem examination of a body if satisfied that it is desirable to do so;
- (c) in writing direct the person in charge of a hospital or institution to provide the medical records relating to that person to the medical practitioner referred to in paragraph (a) or (b). 15

(2) Where the coroner is a medical practitioner, the Coroner-General or Deputy Coroner-General may, for any compelling reasons, authorise him or her to conduct a post-mortem examination, in which event that coroner must not preside over an inquest held to investigate the death of the deceased person in relation to whose body he or she conducted the post-mortem examination. 20

(3) A medical practitioner who has been directed to perform a post-mortem examination shall—

- (a) have custody of the body of the deceased for at least twelve hours from the time he or she takes charge of the body;
- (b) record the following in a record to be known as the Post-mortem Log— 25
  - (i) the time he or she took charge of the body; and
  - (ii) the names of persons who have had access to the body in the course of the examination; and
  - (iii) the time he or she released the body at the conclusion of the examination. 30

(4) Unless otherwise directed by the coroner in writing, the medical practitioner to whom the records are provided must return the records to the person in charge of the hospital or institution as soon as practicable after the completion of the post-mortem examination. 35

(5) The medical practitioner who performs a post-mortem examination may remove and retain any part of the body or object found in the body for the purpose of establishing the identity of the deceased, or the cause and manner of death, and such part or object must be kept in such conditions as may be prescribed by the Coroner-General from time to time. 40

(6) A person commits an offence where he or she interferes with or removes the body of the deceased person with the intention of preventing or hindering the holding of a post-mortem examination of the body under this Act, and shall be liable to a fine not exceeding level 6 or to imprisonment for one year or both. 45

(7) A coroner investigating a death other than a death in custody may, if requested to do so by a member of the immediate family of the deceased or a representative of that person, authorise—

- (a) the viewing of the body of the deceased by the member or a representative of that member before or after the post-mortem examination; or
- (b) the observation of the post-mortem examination by a member of the family who is a registered medical practitioner.

5 (8) A coroner may, after a post-mortem examination, decide not to hold an inquest into a death if the coroner is satisfied that the manner and cause of death are sufficiently disclosed and an inquest is unnecessary.

## 10 Review of decision not to hold inquest

10 (1) Where a coroner decides not to conduct an inquest into a death, that coroner must give written notice of the decision, setting out the grounds for the decision, to a member of the immediate family of the deceased.

15 (2) Any interested person referred to in subsection (4) who is aggrieved by the decision of the coroner not to hold an inquest such person may apply in writing to the Coroner-General or Deputy Coroner-General (depending on whether the death occurred in the Western or Eastern region) for the review or reconsideration (as the case may be) of the decision made by the coroner.

20 (3) If the Coroner-General or Deputy Coroner-General decides to uphold the decision made in terms of section 9(8), the person can apply to the High Court for a review of the decision within fourteen days of the Coroner-General's or Deputy Coroner-General's decision.

(4) Any interested person (that is to say, any member of the immediate family of the deceased concerned, or any person who can demonstrate that he or she has a legitimate interest in the matter) may exercise his or her rights under subsections (2) and (3) within 30 years from the date of the death of the deceased concerned.

## 25 11 Inquests and powers of coroners in relation thereto

(1) A coroner may after a post-mortem examination hold an inquest where—

- 30 (a) a person dies while in a place of custody or after having been admitted in a health institution, unless the coroner is satisfied after investigations that the death was due entirely to natural causes and was not preventable; or
- (b) the coroner is of the opinion that an inquest is necessary—
  - 35 (i) to ascertain the identity of the deceased and determine how, when, where and by what means he or she died; or
  - (ii) to inform the public of the circumstances surrounding a death and bring dangerous practices or conditions to light; or
  - 40 (iii) to facilitate the making of recommendations to avoid preventable deaths;
- or
- (c) a death occurred in a place or circumstances where any law requires an inquest.

(2) A coroner may summon witnesses for the purpose of holding an inquest and may cause the oath to be administered to them and call for the production of documents or objects.

45 (3) The process for summoning witnesses to attend before any inquest shall be substantially in the form set forth in the Second Schedule.

(4) Any person summoned as a witness who, without reasonable excuse as proved by affidavit does not attend pursuant to such summons, or who fails to produce any document or object as required by the coroner, shall be guilty of an offence and liable to a fine not exceeding level three or imprisonment for a period not exceeding one month or to both such fine and such imprisonment. 5

(5) A coroner who intends to hold an inquest may authorise—

- (a) the burial of the body before the inquest is held by completion of a medical certificate of death by a registered medical practitioner; or
- (b) the exhumation and subsequent reburial of a body.

(6) A coroner who is a medical practitioner shall be disqualified to hold an inquest into the cause of the death of a person whom the coroner attended professionally at or immediately before the death of the person or during the last illness of the person. 10

(7) If the body of a deceased who has died outside Zimbabwe is buried in Zimbabwe and the Coroner-General is informed by a coroner outside Zimbabwe that, for the purposes of an inquest or similar proceeding outside Zimbabwe, it is necessary for the body to be exhumed, the Coroner-General may, upon being satisfied that the request is genuine and is made in accordance with laws of the country of the coroner making the request, make an order directing a person named in the order to exhume the body or cause it to be exhumed for purposes of post-mortem examination or the conduct of other relevant tests by that person. 15 20

## 12 Procedure at an Inquest

(1) The objective of an inquest shall be to ascertain the identity of the deceased and determine how, when, where and by what means the deceased died.

(2) Unless the Coroner-General or the Deputy Coroner-General otherwise directs, the Coroner-General or the Deputy Coroner-General shall be responsible for the conduct of inquests into unnatural deaths occurring within the area of his or her jurisdiction. 25

(3) The Coroner-General or the Deputy Coroner-General may delegate the conduct of any inquest to any coroner within his or her area of jurisdiction.

(4) An inquest shall be conducted— 30

- (a) in public unless the coroner or the Minister believes that there are compelling matters of national security at stake that require it to be done *in camera*;
- (b) at any premises of the Office or at any other place as may be prescribed by the Minister by a notice in the *Gazette*. 35

(5) An inquest shall be presided over by a coroner assisted by two assessors, in an advisory capacity—

- (a) one of whom shall be appointed by the Law Society of Zimbabwe;
- (b) one of whom shall be appointed by the Medical and Dental Practitioners Council of Zimbabwe and who shall have any skill or experience in any matter which may have to be considered in the inquest. 40

(6) The expenses of an inquest, including the payment of the assessors, shall be as prescribed from time to time and be met from the funds of the Office.

(7) Where two or more deaths appear to have occurred from the same event or from a common cause, the Coroner-General or Deputy Coroner-General may direct that a single inquest be held in relation to all the deaths. 45

(8) Notwithstanding any other provision of this Act, where a person has been charged with an offence arising out of a death, an inquest into the death shall be held only on the direction of the Coroner-General or Deputy Coroner-General.

5 (9) Rules of evidence applicable in a court of law will not be applicable in inquest proceedings:

Provided that the proceedings must be conducted fairly and thoroughly so that all the relevant facts relating to the death are established.

(10) At an inquest the coroner shall hear any person who wishes to give evidence and such a person may—

- 10 (a) be represented by a legal practitioner; and  
(b) call, examine and cross-examine witnesses; and  
(c) obtain from a coroner a summons to require the attendance of any witness the person wishes to be called; and  
15 (d) present arguments and submissions and address the coroner at the conclusion of the evidence.

(11) An inquest may be suspended or delayed or closed if—

- (a) a person is charged with an offence arising out of a death for which an inquest is underway; or  
20 (b) where for any reason a coroner cannot continue to hold the inquest.

(12) An inquest suspended or delayed in terms of subsection (11) may at the instance of the coroner resumed on the date on which—

- (a) the person charged was convicted or acquitted; or  
(b) an appeal from any conviction or sentence has been finally dismissed or abandoned or the time for lodging an appeal has expired.

### 25 **13 Duties of coroner at conclusion of inquest**

(1) A coroner shall, at the conclusion of an inquest, make a report that includes—

- (a) his or her findings as to—  
(i) who the deceased person was; and  
(ii) how the person died; and  
30 (iii) when the person died; and  
(iv) where the person died, in particular whether the person died in Zimbabwe; and  
(v) what caused the person to die, and any other observations related to the findings;  
35 and  
(b) a summary of all expenses incurred as a result of the inquest, including a list of fees paid to witnesses and experts; and  
(c) the record of all evidence and copies of all documents received at the inquest.

40 (2) A coroner shall, at the conclusion of an inquest and on request, release documents and objects put in evidence at the inquest to the lawful owner or person entitled to them.

(3) The coroner must give a written copy of the part of the report consisting of findings and observations to—

- 45 (a) a member of the immediate family deceased person; and

- (b) any person with a sufficient and legitimate interest in the inquest, who appeared at the inquest; and
- (c) if the coroner is not the Coroner-General, the Coroner-General; and
- (d) in case of a death in a place of custody, the appropriate authority of the place of custody. 5

(4) The coroner must not include in his or her findings any statement that a person is, or may be—

- (a) guilty of an offence; or
- (b) civilly liable.

(5) A coroner may, whenever appropriate, make observations in his or her report on anything connected with a death investigated at an inquest that relates to— 10

- (a) public health or safety; or
- (b) the administration of justice; or
- (c) ways to prevent unnatural deaths from happening in similar circumstances in the future. 15

(6) A person who is given a report in terms of subsection (3)(d) shall—

- (a) not later than two months after the date of receipt of the report, give to the Minister responsible for the place of custody a written response to the findings contained in the report;
- (b) include in the written response under paragraph (a) a statement of the action (if any) that has been, or is being, taken in relation to any aspect of the findings contained in the report. 20

(7) The Minister to whom a copy of a response is given under subsection (6) (a) must give a copy of the response to the coroner who conducted the inquest and the coroner must give a copy of the response to each person to whom a copy of the report was given under subsection (3)(a), (b) or (c). 25

(8) Any person may within the prescribed time apply to the High Court for an order that some or all of the findings determined by the coroner be set aside.

(9) The High Court shall grant an application under subsection (8) if it is satisfied that the coroner misdirected himself or herself or did not have or take into consideration relevant facts and circumstances and in doing so the High Court may order the coroner to conduct a new investigation into the death to determine whether another inquest should be held. 30

#### **14 Publication of coroner’s findings and observations**

(1) If the coroner holds an inquest, the coroner must publish the following on the Coroner-General’s official formal electronic communication platform and the formal official electronic communication platform of the Ministries responsible for Justice, Health and Home Affairs unless the Coroner-General orders otherwise— 35

- (a) the coroner’s findings; and
- (b) any other part of the coroner’s report made in terms of section 13. 40

(2) If a coroner investigated a death but did not hold an inquest the coroner may direct that the coroner’s findings be published on the Coroner-General’s bulletin only if—

- (a) the coroner considers the publication is in the public interest; and
- (b) to the extent practicable, the coroner has consulted with and taken into account the views of the immediate family of the deceased person. 45

## PART IV

### General

#### 15 Reporting offences, corrupt conduct or misconduct

(1) If, from information obtained while investigating a death, a coroner  
5 reasonably suspects a person has committed an offence, the coroner must give the  
information to National Prosecuting Authority.

(2) A coroner may give information about a person's conduct in a profession  
or trade, obtained while investigating a death, to a disciplinary body for the person's  
profession or trade if the coroner reasonably believes the information might cause the  
10 body to inquire into, or take steps in relation to, the conduct.

#### 16 Inquests on death of members of Defence Forces dispensed with in certain cases

(1) When any member of the Defence Forces has, or is supposed to have, died  
within Zimbabwe otherwise than in a natural way, and the Defence Forces reports to  
15 the coroner of the district within which the death occurred (or, where no such coroner  
is appointed, to the Coroner-General or the Deputy Coroner-General, depending on  
the region where the death occurred) that a military or air force court of inquiry will  
be constituted in accordance with the law or custom of the service to inquire into the  
cause of death, it shall not be necessary for a coroner to hold an inquest or inquiry or  
20 inspect the body in terms of this Act.

(2) Upon receipt of the record of proceedings of the court of inquiry in any  
such case, the proper military or air force officer shall give to the Registrar of Births  
and Deaths for the district in which the death occurred such information as the registrar  
may require for the purposes of the Births and Deaths Registration Act [*Chapter 5:02*].

(3) Any person presiding over a court of inquiry under this section shall  
25 communicate the findings of the court of inquiry to the Coroner-General.

(4) Nothing in this section shall preclude any proceedings being taken at any  
time in accordance with this Act if, in the opinion of a coroner, the circumstances of  
the case require it.

#### 30 17 Minister may give policy directions

(1) The Minister may give to the Coroner-General, such general directions  
relating to the policy the Office is to observe in the exercise of its functions as the  
Minister considers to be necessary in the national interest.

(2) The Coroner-General shall take necessary steps to comply with any direction  
35 given to him or her in terms of subsection (1).

#### 18 Regulations

(1) The Minister, after consultation with the Coroner-General, may by regulation  
prescribe all matters which by this Act are required or permitted to be prescribed or  
which, in the opinion of the Minister, are necessary or convenient to be prescribed for  
40 carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the terms and conditions of service, vacation of office, dismissal of  
members and filling of vacancies in the Office;

- (b) the place or places at which shall be situated the offices of the Coroner-General and of any coroner and the hours during which notice of still-births and deaths may be given;
- (c) the maintenance of the mortuary facility, molecular laboratory, the DNA testing laboratory, the toxicology laboratory, radiological facility and photography facilities used by the Office; 5
- (d) guidance to the coroner and any other person in the discharge of any duties or obligations imposed upon him or her by this Act;
- (e) the form and manner of giving any notice or return required by this Act and the particulars to be furnished therein; 10
- (f) the form of all registers and other documents required for the purposes of this Act;
- (g) the notices, certificates or other documents to form part of any register kept in terms of this Act;
- (h) the places at which notice of still-births and deaths occurring on board ship while within the inland waters of Zimbabwe or aboard an aircraft, train and any motorised vehicle within Zimbabwe shall be given; 15
- (i) the time within which anything required or authorised to be done in terms of this Act is to be done;
- (j) the tariff of fees payable to experts (including pathologists, medical practitioners) and other witnesses in terms of this Act; 20
- (k) establishment of such offices and sub-offices as the Office may need from time to time, each headed by a member of such grade and designation as the Civil Service Commission may determine;
- (l) the classification of members of the Office; 25
- (m) the maintenance of the Coroner-General's official formal electronic communications platform, and the nature, conditions and form of the notices that may be given through it for the purposes of this Act;
- (n) the form and contents of the Coroner-General's bulletin;
- (o) any fees and charges payable for services and facilities provided by the Office. 30

## 19 Official formal electronic communication platform and Office bulletin

(1) The Coroner-General, on behalf of the Office, shall ensure that the Office has an official formal electronic communication platform.

(2) The Coroner-General, on behalf of the Office, shall publish in the official website the information referred to in section 14. 35

(3) The Coroner-General, on behalf of the Office, shall ensure that the Office publishes a Coroner-General's bulletin every three months.

## 20 Amendment of other Acts

- (1) The Burial and Cremation Act [*Chapter 5:03*] is amended in— 40
  - (a) section 6 (“Magistrate or Registrar-General of Births and Deaths to issue burial orders in other cases”) by the deletion of “magistrate” and the substitution of “coroner”;
  - (b) section 7 (“Medical practitioner to report certain deaths to magistrate”) by the deletion of “magistrate” and the substitution of “coroner”; 45

(c) section 19 (“Inquests and nuisances”) by the deletion of “magistrate under the Inquests Act [Chapter 7:07]” and the substitution of “coroner under the Coroner’s Office Act”.

(2) The Births and Deaths Registration Act [Chapter 5:02] is amended in—

5 (a) section 22 (“Notice by person finding exposed body”) by insertion after “registrar” of “and coroner”;

(b) section 23 (“Duty of registrar in case of death of person not attended by medical practitioner”) by the deletion of “magistrate” and the substitution of “coroner”.

## 10 **21 Repeal of Chapter 7:07 and Savings**

(1) The Inquests Act [Chapter 7:07] is repealed.

(2) Notwithstanding subsection (1) any inquest that had commenced or is pending shall continue as if it had been commenced under the appropriate provision of this Act, and this Act shall apply thereto accordingly.

15 (3) Any register kept, registration effected, certificate issued, notice or information given, regulations made or other thing done or deemed to have been done under the Inquests Act [Chapter 7:07], which was valid immediately before the commencement of this Act, shall on and after that date have effect and be given effect as if it had been kept, effected, issued, given, made or done, as the case may be, under  
20 the appropriate provision of this Act, and this Act shall apply thereto accordingly.

### **FIRST SCHEDULE (Section 4(2)(b))**

#### **Ancillary Powers of the Office**

1. To acquire by lease, purchase or otherwise, immovable property, and to construct buildings thereon.

25 2. To enter into agreements and to modify or rescind such agreements:

Provided that the Office shall not enter into agreements of suretyship or guarantee without the approval of the Minister and the Minister responsible for finance.

3. To invest moneys not immediately required.

30 4. To accept a grant, donation or bequest of movable property, including money, made to the Office:

Provided that if a grant, donation or bequest referred to in this paragraph—

(a) is made subject to any conditions; or

35 (b) would involve additional or recurrent expenditures on the part of the Office; the Office shall not accept the grant, donation or bequest without the consent of the Minister.

40 5. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research and to pay for the aforesaid, where necessary.

6. To provide such services as the Office considers could properly be provided by the Office.

45 7. Generally, to do all such things as are incidental or conducive to the exercise of the functions or the performance of the duties of the Office or which are incidental to the powers specified in this Schedule, or which are calculated, directly or indirectly, to enhance the value of, or develop, the services provided by the Office.

**SECOND SCHEDULE (Section 11)**

**Form of Summons**

Inquest for the Province of

To (name of police officer).

You are hereby required to summon A.B. of (describe him or her particularly) that he or she appear before me on this the ..... day of ..... 20...., in the forenoon (or afternoon, as the case may be, stating the day and hour according to the fact), then and there to be examined at an inquest touching the death of C.D. (or “of a certain deceased person whose name is unknown”).

Dated at ..... this ..... day of....., 20.....

Coroner.