

JAMAICA

No. 6 – 2005

I assent,

[L.S.]

H. F. COOKE,
Governor-General.

10th day of March, 2005.

AN ACT to Amend the Coroners Act.

[*11th March, 2005*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the Authority of the same, as follows:—

1. This Act may be cited as the Coroners (Amendment) Act, 2005, and shall be read and construed as one with the Coroners Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction

Insertion of new section 5A into principal Act.

2. The principal Act is amended by inserting the following as section 5A—

"

DESIGNATED POLICE OFFICER

Assignment of designated police officer.

5A.—(1) The Commissioner of Police shall—

- (a) in respect of each parish, assign a constable, not below the rank of Deputy Superintendent, to carry out the functions of a designated police officer under this Act;
- (b) give written notice of such designation to the Coroner; and
- (c) cause a notification of the designation to be published in the *Gazette*.

(2) A reference in this Act to a designated police officer shall be construed as a reference to the designated police officer assigned in respect of the relevant parish pursuant to subsection (1)."

Amendment of section 6 of principal Act.

3. Section 6 of the principal Act is amended by—

- (a) deleting the words "or officer or sub-officer of Constabulary in charge of a parish" and ", officer or sub-officer of Constabulary" and substituting therefor in each case the words "or designated police officer";
- (b) deleting the words "of which such officer or sub-officer is in charge" and substituting therefor the words "in respect of which such designated police officer is assigned";
- (c) renumbering the section as section 6 (1) and inserting the following as subsection (2)—

" (2) A Coroner or Justice of the Peace who orders a *post mortem* examination shall forthwith notify the designated police officer of the fact of the death and that a *post mortem* examination has been ordered.

Repeal and replacement of section 7 of principal Act.

4. Section 7 of the principal Act is repealed and the following substituted therefor—

"Investigation by police.

7.—(1) Whenever the fact of a death under the circumstances referred to in section 6 is reported at

any police station, the officer in charge thereof shall forthwith notify the designated police officer of such fact.

(2) A designated police officer who is informed or notified of the fact of a death, pursuant to subsection (1) or section 6 shall—

- (a) in the case of information or a notification given by a person other than the Coroner, inform the Coroner of the fact of death, within forty-eight hours after receiving the information or notification; and
- (b) forthwith cause an investigation to be made into the circumstances relating to the death, and report thereon to the Coroner within twenty-one days after first receiving such information or notification."

5. The principal Act is amended by inserting next after section 7 the following as section 7A—

Insertion of new section 7A into principal Act.

* Report of investigation by designated police officer.

7A.—(1) Where a designated police officer requires more time than that specified for the completion of a report referred to in section 7(2)(b) or for the forwarding of a medical practitioner's report under section 9(2)(b), the designated police officer shall in writing to the Coroner within the time so specified—

- (a) inform the Coroner of the status of the investigation; and
- (b) request an extension of the time within which to forward the report.

(2) Upon receiving the information and request referred to in subsection (1), the Coroner shall determine a reasonable time within which the report shall be forwarded by the designated police officer and shall, in writing, inform such officer of the determination.

(3) Where a designated police officer fails to forward to the Coroner any document required to be forwarded by him under section 7(2)(b) or 9(2)(b), the Coroner shall—

- (a) ascertain from the designated police officer the reason for the failure; and
- (b) issue such directions as the Coroner thinks fit in order to secure the expeditious delivery of the document to the Coroner.

(4) For the purposes of subsection (3)(a), the Coroner may direct the designated officer to attend before him and to explain, upon oath or affirmation, the reason for the failure.”

Amendment
of section 9
of principal
Act.

6. Section 9 of the principal Act is amended—

(a) in subsection (1) by deleting the words—

- (i) “, after making the examination, shall” and substituting therefor the words “shall, within forty-eight hours after making the examination,”;
- (ii) “officer or sub-officer of the Constabulary Force” and “officer or sub-officer” and substituting therefor in each case the words “designated police officer”;

(b) by deleting subsection (2) and substituting therefor the following—

“ (2) Where pursuant to subsection (1), a medical practitioner delivers his report to—

- (a) a Justice of the Peace, the Justice shall forward the report, together with the order for the *post mortem*, to the Coroner within seventy-two hours after receiving the report;
- (b) the designated police officer, such officer shall forward the report, together with the order

for the *post mortem*, to the Coroner within seventy-two hours after receiving the report.”.

7. Section 11 of the principal Act is amended—

Amendment of section 11 of principal Act

- (a) in subsection (1) by deleting the words “good and lawful persons” and substituting therefor the words “persons, selected indiscriminately from among the persons whose names appear on the jury list certified under section 13 of the Jury Act,”;
- (b) by renumbering subsection (2) as subsection (3) and inserting the following as subsection (2)—

“ (2) For the purposes of subsection (1), the specified time shall be a time within thirty days after the Coroner receives the designated police officer’s report of the investigation and the report of the medical practitioner, in relation to the death.”.

8. The principal Act is amended by inserting next after section 13 the following as section 13A—

Insertion of new section 13A into principal Act

“Power to act as Coroner on termination of criminal proceedings

13A.—(1) Where in relation to any death a person is brought or appears before a Resident Magistrate in Court or in Chambers charged with the offence of murder, manslaughter, infanticide or an offence under section 30(1) of the Road Traffic Act, and the Resident Magistrate—

- (a) after holding a preliminary examination with a view to the person’s committal to the Circuit Court, makes an order for the person’s discharge; and
- (b) is satisfied that no inquest has been held in relation to the death,

the Resident Magistrate shall forthwith act as the Coroner having jurisdiction in relation to the death and proceed to hold an inquest.”.

Amendment
of section 18
of principal
Act.

9. Section 18 of the principal Act is amended in the proviso by deleting the words—

- (a) “some other registered medical practitioner” and substituting therefor the words “a duly qualified forensic pathologist”; and
- (b) “such last mentioned practitioner” and substituting therefor the words “that forensic pathologist”.

Amendment
of section
21 of
principal
Act.

10. Section 21 of the principal Act is amended—

- (a) in subsection (1) by inserting next after the words “upon application made by” the words “an interested party or by”;
- (b) inserting the following as subsection (3)—
 - “ (3) In this Act, “interested party” means—
 - (a) a parent, child or spouse of the deceased or, if there are no such persons, the deceased’s next-of-kin;
 - (b) a personal representative of the deceased;
 - (c) any beneficiary under a policy of insurance issued on the life of the deceased;
 - (d) the insurer who issued such a policy of insurance;
 - (e) any person whose act or omission, or that of the person’s agent or employee acting in the course of duty, may in the opinion of the Coroner have caused or contributed to the death of the deceased;
 - (f) any person appointed by a trade union to which the deceased belonged at the time of his death, if the death may have been caused by—
 - (i) an injury received by the deceased in the course of the deceased’s employment; or

- (ii) a disease to which he is exposed specifically by the nature of his duty;
- (g) any person appointed by a government department to attend the inquest;
- (h) the Commissioner of Police; or
- (i) any other person who, in the opinion of the Coroner, is a properly interested person.”.

11. Section 22A of the principal Act is amended by inserting next after subsection (7) the following as subsections (8) to (10)—

Amendment
of section
22A of
principal
Act.

“ (8) Where a person who is entrusted with the duty of serving a summons under this section fails to serve the summons within fourteen days after the date of issue of the summons, the Coroner may act in accordance with subsection (9).

(9) The Coroner may, on such terms as he thinks fit, appoint a Special Bailiff to serve the summons, and any person so appointed shall, for the purpose of serving the summons, have all the powers, rights and immunities of a Bailiff under the Judicature (Resident Magistrates) Act.

(10) For the purposes of subsection (9), the Special Bailiff shall be appointed from a panel of persons selected by the Coroner and appointed by the Chief Justice.”.

12. Section 22B of the principal Act is amended by renumbering the section as section 22B(1) and inserting the following as subsections (2) and (3)—

Amendment
of section
22B.

“ (2) A Coroner may allow any interested party access to—

- (a) any item produced under an order under subsection (1); and
- (b) any evidence relevant to the inquest which the Coroner intends to adduce.

(3) The type of access allowed under subsection (2) shall be in the discretion of the Coroner having regard to the

nature of the item or evidence concerned and may, as the Coroner thinks appropriate—

- (a) include an opportunity to inspect the item or evidence and take copies or photographs;
- (b) be subject to restrictions as to the handling of the item or evidence;
- (c) include provision for such access to be supervised by the Clerk of the Courts or such other person as may be authorized by the Coroner for that purpose; or
- (d) be subject to such other conditions or restrictions as the Coroner thinks fit for the purpose of the safe keeping of the item or evidence.”.

Insertion of new section 22C into principal Act.

13. The principal Act is amended by renumbering section 22C as section 22D and inserting the following as section 22C—

“Entitlement to examine witnesses.

22C.—(1) Subject to subsections (2) and (3) and without prejudice to any other entitlement which any person may have to examine witnesses at an inquest, any person who satisfies the Coroner that such person is an interested party may be permitted by the Coroner to examine any witness at an inquest, either in person or by an attorney-at-law.

(2) The Commissioner of Police, unless interested otherwise than in that capacity, shall only be permitted to examine a witness by an attorney-at-law.

(3) The Coroner shall disallow any question which in the Coroner’s opinion is not relevant or is otherwise not a proper question.”.

Amendment of section 22D of principal Act.

14. Section 22D (as renumbered) of the principal Act is amended by deleting the words “two hundred” and substituting therefor the words “five thousand”.

15. The principal Act is amended by inserting next after section 23 the following as sections 23A to 23D—

Insertion of
new sections
23A to 23D
into principal
Act

"Admissibility
of written
statement at
inquest.

23A.—(1) At an inquest, a written statement by a person shall, if the conditions specified in subsection (2) are satisfied, be admissible in evidence to the same extent and effect as direct oral evidence by that person.

(2) The conditions referred to in subsection (1) are that—

- (a)** the statement purports to be signed by the person who made it;
- (b)** a copy of the statement and a notice of intention to admit the statement in evidence are caused to be served by the Coroner on all parties referred to in subsection (8), at least twenty-one days before the inquest;
- (c)** none of the parties referred to in subsection (8) have, within ten days from the service of the copy of the statement, served a counter-notice on the Coroner, objecting to the statement being admitted in evidence and requiring the attendance of the maker of the statement as a witness at the inquest;
- (d)** notice of the intention to admit the statement in evidence is accompanied by a declaration by the person who made it to the effect that it is true to the best of his knowledge and belief and that he made it knowing that, if it were admitted in evidence, he would be liable to

prosecution if he willfully stated in it anything which he knew to be false or did not believe to be true.

(3) Paragraphs (b) and (c) of subsection (2), shall not apply if the parties referred to in subsection (8) agree before or during the inquest that the statement be admitted in evidence.

(4) A statement shall be inadmissible in evidence under this section if a party referred to in subsection (8) serves a counter-notice objecting to the statement being admitted in evidence and requiring the person who made the statement to attend the inquest as a witness.

(5) Notwithstanding that a written statement made by any person may be admissible by virtue of subsection (2), the Coroner may, on his own motion or on application by any party referred to in subsection (8), require that the maker of the statement attend and give oral evidence at the inquest.

(6) Notwithstanding the failure of any party referred to in subsection (8) to serve a counter-notice objecting to the admissibility of the statement, the Coroner may, if he thinks fit, permit that party to lead evidence contradicting the evidence contained in the written statement.

(7) Where contradicting evidence is given as mentioned in subsection (6), the Coroner may admit additional evidence in response to the contradicting evidence.

(8) The parties to which this subsection refers are—

(a) all interested parties; and

(b) all parties likely to be affected by the statement.

(9) For the purposes of subsection (8), a party is likely to be affected by a statement that contains anything which expressly, or by reasonable inference, indicates that the party is liable to be charged with an offence in relation to the death.

Admissibility
of first-hand
hearsay
statements at
inquest.

23B.—(1) In this section and sections 23C and 23D, “document” includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (d) any film (including microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.

(2) A statement made by a person in a document shall be admissible at an inquest as evidence of any fact of which direct oral evidence by that person would be admissible if it is proved to the satisfaction of the Coroner that such person—

- (a) is dead;
- (b) is unfit, by reason of his bodily or mental condition, to attend as a witness;

- (c) is outside of Jamaica and it is not reasonably practicable to secure his attendance;
- (d) cannot be found after all reasonable steps have been taken to find him; or
- (e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person.”.

Admissibility
of computer
evidence
constituting
hearsay.

23C. A statement contained in a document produced by a computer and which constitutes hearsay shall not be admitted in evidence at an inquest unless—

- (a) at all material times—
 - (i) the computer was operating properly;
 - (ii) the computer was not subject to any malfunction; and
 - (iii) there are no alterations to its mechanism or processes that might reasonably be expected to have affected the validity or accuracy of the contents of the document;
- (b) there is no reasonable cause to believe that—
 - (i) the accuracy or validity of the document has been adversely affected by the use of any improper process or procedure or by inadequate safeguards in the use of the computer; or

- (ii) there was any error in the preparation of the data from which the document was produced;
- (c) the computer was properly programmed; and
- (d) where two or more computers were involved in the production of the document or in the recording of the data from which the document was derived—
 - (i) the conditions specified in paragraphs (a) to (c) are satisfied in relation to each of the computers so used; and
 - (ii) it is established by or on behalf of the person tendering the document in evidence that the use of more than one computer did not introduce any factor that might reasonably be expected to have an adverse effect on the validity or accuracy of the document.

Admissibility of computer evidence not constituting hearsay.

23D. Where a statement contained in a document produced by a computer does not constitute hearsay, such a statement shall be admissible if the conditions specified in section 23C are satisfied in relation to that document.”

16. Section 34 of the principal Act is amended by—

- (a) deleting the full stop appearing at the end of paragraph (b) and substituting therefor a semi-colon; and
- (b) inserting next after paragraph (b) the following as paragraph (c)—
 - “(c) stipulating the persons entitled to attend or be represented at a *post mortem* examination

Amendment of section 34 of principal Act.

conducted pursuant to section 6, the notice to be given to such persons and the procedure to be followed in connection with their attendance at the *post mortem* examination.”.