

## Chapter 10

### AN ACT TO AMEND THE CORONERS ACT

(Assented to May 31, 2024)

The Commissioner, by and with the advice and consent of the Legislative Assembly, enacts as follows:

**1. This Act amends the *Coroners Act*.**

**2. Section 1 is amended by adding the following definitions in alphabetical order:**

"child" and "youth" have the same meanings as in the *Representative for Children and Youth Act*;

"Director of Child and Family Services" means the Director of Child and Family Services appointed under the *Child and Family Services Act*;

**3. (1) Subsection 8(1) is amended by deleting "or" at the end of paragraph (g), replacing the period at the end of paragraph (h) with a semi-colon and adding the following after paragraph (h):**

- (i) occurs as a result of an apparent action or omission of an on-duty police officer;
- (j) occurs while the deceased is a child or youth and at the time of death, or within one year before the time of death,
  - (i) the deceased was a child or youth in the temporary or permanent custody of the Director of Child and Family Services,
  - (ii) the deceased was a child or youth receiving services from the Director of Child and Family Services, or
  - (iii) the parent or individual who had care of the deceased was receiving services from the Director of Child and Family Services;
- (k) occurs while the deceased is subject to a guardianship order under the *Guardianship and Trusteeship Act*; or
- (l) occurs from a cause or occurs in a circumstance prescribed by regulation.

**(2) Subsection 8(4) is amended as follows:**

Special reporting arrangements

(4) The Chief Coroner may make special arrangements with medical facilities, correctional facilities, ~~and the Royal Canadian Mounted Police, the Director of Child and Family Services and the Public Guardian appointed under the *Guardianship and Trusteeship Act* for the efficient notification of reportable deaths by persons in those facilities or that organization.~~

**4. Section 9 is amended**

**(a) by adding the following after subsection (1):**

Investigation without body

(1.1) Despite paragraph (1)(a), a coroner may investigate a reportable death without issuing a warrant if

- (a) the body of the deceased has been found but cannot be recovered; or
- (b) it is not reasonably possible to take possession of the body because
  - (i) it has been destroyed in whole or in part, or
  - (ii) it has been removed from Nunavut.

**(b) by amending subsection (2) as follows:**

Subsequent warrants

(2) No other coroner ~~may shall~~ issue another warrant or interfere in the case after a coroner issues a warrant or commences an investigation under this section ~~subsection (1)~~ except under the instructions of the Chief Coroner.

**5. (1) Subsection 10(1) is amended as follows:**

Disqualifications

10. (1) ~~Despite section 9, Notwithstanding subsection 9(1),~~ a coroner ~~must shall~~ not issue a warrant to take possession of the body of the deceased or conduct an investigation of the death ~~if~~ where

- (a) the coroner or a partner, associate, employee or employer of the coroner attended on the deceased as a medical practitioner within six months before the death;
- (b) the conduct of the coroner or of a partner, associate, employee or employer of the coroner might be questioned in relation to the death;
- (c) the death occurred in a hospital where the coroner practises medicine; or
- (d) the death occurred at a place, business or work in respect of which the coroner has a financial interest.

**(2) Subsection 10(2) is repealed and replaced by**

Arranging for another coroner to act

(2) A coroner who becomes aware that a reportable death has occurred but is prohibited by subsection (1) from issuing a warrant to take possession of the body of the deceased or conducting an investigation must immediately

- (a) notify the Chief Coroner; and,
- (b) subject to the instructions of the Chief Coroner,
  - (i) arrange for another coroner to issue the warrant and conduct the investigation, or
  - (ii) if subsection 9(1.1) applies, arrange for another coroner to conduct the investigation.

**6. Section 18 is repealed and replaced by**

Interference with or alteration to body or wreckage

18. (1) A person who has reason to believe that a reportable death has occurred must not, without authorization from a coroner, interfere with or alter in any way

- (a) the body, or condition of the body, of the deceased;
- (b) anything in the immediate surrounding area of the body; or
- (c) any wreckage of a structure, embankment, vehicle, device or other thing
  - (i) in which the body is or may be located, or
  - (ii) that is associated with the occurrence of the reportable death.

Exception

(2) Subsection (1) does not apply to

- (a) a police officer acting in the course of their duties or a person acting under the police officer's direction; or
- (b) a person who reasonably acts to
  - (i) prevent loss of life,
  - (ii) provide care,
  - (iii) relieve human suffering, or
  - (iv) preserve the body of the deceased.

**7. Subsection 21(2) is repealed and replaced by**

Mandatory inquest

(2) Subject to this Act, a coroner must hold an inquest if

- (a) the coroner becomes aware of the death of a person while detained or in custody in the circumstances referred to in paragraph 8(1)(g) or (h); or
- (b) the coroner has reason to suspect that the death of a person may have occurred as a result of an action or omission of an on-duty police officer.

**8. The following is added after subsection 30(1):**

Alternate jurors

(1.1) In addition to the six jurors required under subsection (1), an inquest may have up to two alternate jurors.

**9. Subsection 31(1) is amended as follows:**

Qualifications of jurors

31. (1) Subject to this section, any person qualified to serve as a juror under the *Jury Act* and not exempt from service as a juror under that Act is qualified to serve as a juror or alternate juror at an inquest.

**10. (1) The following is added after subsection 32(1):**

Additional names

(1.1) If the coroner considers it advisable to have alternate jurors, the coroner may request the sheriff to provide the names of up to two additional persons qualified to serve as jurors.

**(2) Subsection 32(2) is amended as follows:**

Basis of selection

(2) The sheriff, on receiving the request of a coroner, ~~must shall~~ randomly select the names of the requested number of persons ~~six persons~~ from the jury list of jurors ~~of jurors~~ compiled under section 8 of the *Jury Act* and send the names to the coroner.

**(3) Subsection 32(3) is amended as follows:**

Warrant

(3) The coroner ~~must shall~~ issue a warrant in the prescribed form to the sheriff or a police officer to summon the persons selected under subsection (2) ~~to serve as jurors~~.

**(4) Subsection 32(5) is amended as follows:**

Insufficient number of qualified persons

(5) ~~If Where~~ less than the requested number of persons ~~six persons~~ are able to serve as jurors after the summons, the coroner ~~must shall~~ cause a sufficient number of qualified persons to be selected and summoned to form a jury in the manner set out in subsections (1) to (4) or in any more expeditious manner that the circumstances may require.

**(5) The following is added after subsection 32(5):**

Alternate juror

(6) If more than six persons are selected and summoned to form a jury under this section, the coroner must, before the administration of oaths under section 34, designate

- (a) which persons are to serve as jurors;
- (b) which persons are to serve as alternate jurors; and
- (c) which alternate juror will serve as the first alternate juror.

**11. The following is added after section 32:**

Alternate juror

32.1. (1) An alternate juror must attend the inquest until they are excused by the coroner.

Direction to replace juror

(2) Subject to subsection (4), the coroner may direct an alternate juror to replace an absent juror.

First alternate juror

(3) The first absent juror replacement of an inquest must be made with the first alternate juror.

Consideration of evidence

- (4) Once a jury has retired to consider evidence under section 55,
- (a) an absent juror may no longer be replaced by an alternate juror; and
  - (b) any remaining alternate jurors must be excused by the coroner.

Alternate juror becomes juror

(5) Once an alternate juror replaces an absent juror, they are a juror for the purposes of this Act.

**12. Section 33 is amended as follows:**

Irregularities

33. No omission to observe the provisions of this Act respecting the qualifications, exclusion or selection of jurors or alternate jurors is a ground for impeaching the verdict rendered by a jury unless the omission resulted in a substantial miscarriage of justice.

**13. (1) Section 34 is renumbered subsection 34(1).**

**(2) Subsection 34(1) is amended as follows:**

Swearing of jurors

34. (1) When the jurors and, if applicable, the alternate jurors are assembled, the coroner must ~~shall~~ administer an oath to them to diligently inquire into the death of the person or persons in respect of whom the inquest is about to be held and to give a true verdict according to the evidence.

**(3) The following is added after subsection 34(1):**

Oath to alternate jurors

(2) For greater certainty, the coroner must administer the oath under subsection 34(1) to any alternate jurors, despite it being uncertain whether or not they will replace an absent juror.

**14. Section 44 is amended as follows:**

Questions by juror

44. A juror or alternate juror at an inquest may question any witness.

**15. Subsection 46(1) is amended as follows:**

Contempt proceedings

46. (1) A coroner conducting an inquest may state a case to a judge setting out the facts where a person without lawful excuse

- (a) is summoned as a witness, juror or alternate juror ~~or as a juror~~ at the inquest and fails to attend or remain in attendance at the inquest;
- (b) is a witness at the inquest and refuses to take an oath, to produce any document or thing in his or her possession or control or to answer any question; or
- (c) does any other thing that would, if the inquest had been a court of law having power to commit for contempt, have been contempt of that court.

**16. Subsection 50(2) is amended as follows:**

Oral testimony

(2) The coroner may, at the request of a person, ~~or juror~~ or alternate juror who has a sufficient reason to question the maker of a document, require the maker of it to attend and give evidence at the inquest.

**17. (1) Subsection 51(1) is renumbered section 51.**

**(2) Subsection 51(2) is repealed and the following is added after section 51:**

Discharge of jurors

51.1. (1) The coroner may discharge a juror or alternate juror if the coroner considers that the juror or alternate juror should not, because of illness or other reasonable cause, serve or continue to serve.

Absent juror

(2) If a juror dies or is discharged or otherwise fails to attend an inquest or the resumption of an adjourned inquest, the coroner may proceed with the inquest if

- (a) an alternate juror replaces the absent juror; or
- (b) there is no alternate juror to replace the absent juror and at least five jurors are present.

**18. Subsection 56(1) is amended as follows:**

Duties of coroner at conclusion of inquest

56. (1) A coroner must ~~shall~~, at the conclusion of an inquest, forward to the Chief Coroner

- (a) the verdict of the jury;
- (b) any recommendations of the jury;
- (c) a summary of all expenses incurred as a result of the inquest, including a list of fees paid to witnesses, ~~and~~ jurors and alternate jurors; and
- (d) the record of all evidence and copies of all documents received at the inquest.

**19. The following is added after section 61:**

Submission of annual report

61.1. (1) The Chief Coroner must prepare and submit to the Minister an annual report on the administration of this Act within six months after the end of each year.

Annual report to be tabled

(2) The Minister must table the annual report submitted under subsection (1) in the Legislative Assembly during the first sitting of the Assembly after the report is submitted that provides a reasonable opportunity for tabling the report.

**20. Subsections 31(2) and (3) are amended by adding " or alternate juror" after "juror".**

**21. The following sections are amended by adding " alternate jurors," after "jurors,":**

- (a) section 43;
- (b) paragraph 64(a).

**Coming into force**

**22. (1) Subject to this section, this Act comes into force three months after the date of Assent.**

**(2) Section 19 comes into force on the later of January 1, 2025 and the date of Assent.**

**(3) The following provisions of this Act come into force on a day to be fixed by order of the Commissioner in Executive Council:**

- (a) sections 8 to 18;
- (b) sections 20 and 21.