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c 38 The Coroners Amendment Act, 1978

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CHAPTER 38

An Act to amend The Coroners Act, 1972*Assented to June 20th, 1978*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Coroners Act, 1972*, being chapter 98, is ^{s. 1.} amended by adding thereto the following clauses:
 - (aa) "mine" means a mine as defined in Part IX of *The Mining Act*; ^{R.S.O. 1970, c. 274}
 - (ab) "mining plant" means a plant as defined in Part IX of *The Mining Act*.

- 2.—(1) Clause *b* of subsection 2 of section 3 of the said Act is ^{s. 3(2)(b).} repealed and the following substituted therefor: ^{re-enacted}
 - (b) upon the revocation, suspension or cancellation of his licence for the practice of medicine issued under *The Health Disciplines Act, 1974*. ^{1974, c. 47}

- (2) Subsection 3 of the said section 3 is repealed and the ^{s. 3(3).} following substituted therefor: ^{re-enacted}
 - (3) The College of Physicians and Surgeons of Ontario shall forthwith notify the Chief Coroner where the licence of a coroner for the practice of medicine is revoked, suspended or cancelled. ^{Chief Coroner to be notified}

3. Section 8a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 103, section 3, is amended by adding thereto the following subsection: ^{s. 8a.} amended
 - (2) The Chief Coroner in any case he considers appropriate may request that the criminal investigation branch of the Ontario Provincial Police Force provide assistance to a coroner in an investigation or inquest. ^{Idem}

s. 9 (2) (j),
re-enacted

4.—(1) Clause *j* of subsection 2 of section 9 of the said Act is repealed and the following substituted therefor:

(j) a public or private hospital to which the person was transferred from a facility, institution or home referred to in clauses *a* to *i*,

s. 9 (2),
amended

(2) Subsection 2 of the said section 9 is amended by inserting after "hospital" in the twenty-second line "facility".

s. 9,
amended

(3) The said section 9 is amended by adding thereto the following subsection:

Notice of death resulting from accident at or in construction project, mining plant or mine

(4a) Where a worker dies as a result of an accident occurring in the course of his employment at or in a construction project, mining plant or mine, including a pit or quarry, the person in charge of such project, mining plant or mine shall immediately give notice of the death to a coroner and the coroner shall issue his warrant to hold an inquest upon the body.

s. 12 (1),
re-enacted

5. Subsection 1 of section 12 of the said Act is repealed and the following substituted therefor:

Shipment of bodies outside Ontario

(1) Subject to section 12a, no person shall accept for shipment or ship or take a dead body from any place in Ontario to any place outside Ontario unless a certificate of a coroner has been obtained certifying that there exists no reason for further examination of the body.

s. 12a,
enacted

6. The said Act is amended by adding thereto the following section:

Transportation of a body out of Ontario
1976, c. 83

12a. A coroner may in writing authorize the transportation of a body out of Ontario for *post mortem* examination and, in such case, section 37 of *The Funeral Services Act, 1976* does not apply.

s. 15,
re-enacted

7. Section 15 of the said Act is repealed and the following substituted therefor:

Transfer of investigation

15.—(1) A coroner may at any time transfer an investigation to another coroner where in his opinion the investigation may be continued or conducted more conveniently by that other coroner or for any other good and sufficient reason.

(2) The coroner to whom an investigation is transferred shall proceed with the investigation in the same manner as if he had issued the warrant to take possession of the body. Investigation and inquest

(3) The coroner who transfers an investigation to another coroner shall notify the Chief Coroner of the transfer, and the Chief Coroner shall assist in the transfer upon request. Notification of Chief Coroner

(4) The coroner who transfers an investigation to another coroner shall transmit to him the report of the *post mortem* examination of the body, if any, and his signed statement setting forth briefly the result of his investigation and any evidence to prove the fact of death and the identity of the body. Transmitting results of first investigation

8. The said Act is further amended by adding thereto the following section: s. 17a, enacted

17a. When making a determination whether an inquest is necessary or unnecessary, the coroner shall have regard to whether the holding of an inquest would serve the public interest and, without restricting the generality of the foregoing, shall consider, What coroner shall consider and have regard to

- (a) whether the matters described in clauses *a* to *e* of subsection 1 of section 25 are known;
- (b) the desirability of the public being fully informed of the circumstances of the death through an inquest; and
- (c) the likelihood that the jury on an inquest might make useful recommendations directed to the avoidance of death in similar circumstances.

9. Section 19 of the said Act is repealed and the following substituted therefor: s. 19, re-enacted

19. Where the Minister has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, he may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this Act, whether or not he or any other coroner has viewed the body, made an investigation, held an inquest, determined an inquest was unnecessary or done any other act in connection with the death. Minister may direct coroner to hold inquest

10. The said Act is further amended by adding thereto the following section: s. 20a, enacted

Minister
may direct
that body
be dis-
interred
R.S.O. 1970,
c. 57

20a. Notwithstanding anything in *The Cemeteries Act*, the Minister may, at any time where he considers it necessary for the purposes of an investigation or an inquest, direct that a body be disinterred under and subject to such conditions as the Minister considers proper.

s. 21 (1),
re-enacted

11. Subsection 1 of section 21 of the said Act is repealed and the following substituted therefor:

Direction
by Chief
Coroner

(1) The Chief Coroner may direct any coroner in respect of any death to issue a warrant to take possession of the body, conduct an investigation or hold an inquest, or may direct any other coroner to do so or may intervene to act as coroner personally for any one or more of such purposes.

s. 22,
re-enacted

12. Section 22 of the said Act is repealed and the following substituted therefor:

Where
criminal
offence
charged
R.S.C. 1970,
c. C-34

22.—(1) Where a person is charged with an offence under the *Criminal Code* (Canada) arising out of a death, an inquest touching the death shall be held only upon the direction of the Minister and, when held, the person charged is not a compellable witness.

Idem

(2) Where during an inquest a person is charged with an offence under the *Criminal Code* (Canada) arising out of the death, the coroner shall discharge the jury and close the inquest, and shall then proceed as if he had determined that an inquest was unnecessary, but the Minister may direct that the inquest be reopened.

Where
charge or
appeal
finally
disposed of
R.S.C. 1970,
c. C-34

(3) Notwithstanding subsections 1 and 2, where a person is charged with an offence under the *Criminal Code* (Canada) arising out of the death and the charge or any appeal from a conviction or an acquittal of the offence charged has been finally disposed of or the time for taking an appeal has expired, the coroner may issue his warrant for an inquest and the person charged is a compellable witness at the inquest.

s. 23 (2),
re-enacted

13. Subsection 2 of section 23 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 103, section 10, is repealed and the following substituted therefor:

Report

(2) The person who performs the *post mortem* examination shall forthwith report his findings in writing only to the coroner who issued the warrant, the Crown attorney, the regional coroner and the Chief Coroner and the person who performs any other examination or analysis shall forthwith report his findings in writing only to the coroner who issued the warrant, the person who performed the *post mortem*

examination, the Crown attorney, the regional coroner and the Chief Coroner.

14. Subsection 1 of section 24 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 103, section 11, is repealed and the following substituted therefor: s. 24 (1),
re-enacted

(1) Every coroner before holding an inquest shall notify the Crown attorney of the time and place at which it is to be held and the Crown attorney or a barrister and solicitor or any other person designated by him shall attend the inquest and shall act as counsel to the coroner at the inquest. Notice to
Crown
attorney

- 15.—(1) Subsection 1 of section 25 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor: s. 25 (1),
amended

(1) Where an inquest is held, it shall inquire into the circumstances of the death and determine, Purposes
of inquest

.

- (2) Subsection 3 of the said section 25 is repealed and the following substituted therefor: s. 25 (3),
re-enacted

(3) Subject to subsection 2, the jury may make recommendations directed to the avoidance of death in similar circumstances or respecting any other matter arising out of the inquest. Authority
of jury
to make
recom-
mendations

16. Section 27 of the said Act is repealed and the following substituted therefor: s. 27,
re-enacted

27. (1) Except as provided in subsection 4, every inquest shall be held with a jury composed of five persons. Juries

(2) The coroner shall direct a constable to select from the list of names of persons provided under subsection 2 of section 28 five persons who in his opinion are suitable to serve as jurors at an inquest and the constable shall summon them to attend the inquest at the time and place appointed. Jurors

(3) Where fewer than five of the jurors so summoned attend at the inquest, the coroner may name and appoint so many persons then present or who can be found as will make up a jury of five. Idem

(4) With the consent of the Chief Coroner, an inquest in a provisional judicial district may be held without a jury. Inquest
without
jury in
provisional
judicial
district

s 44a,
enacted

17. The said Act is further amended by adding thereto the following section:

Protection
from
liability

44a. No action or other proceeding for damages lies or shall be instituted against a coroner or any person acting under his authority for an act done by him in good faith in the performance or intended performance of any power or duty under this Act or the regulations, or for any neglect or default in the performance in good faith of any such power or duty.

Commence-
ment

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is *The Coroners Amendment Act, 1978*.