

**PITCAIRN, HENDERSON**

**DUCIE & OENO ISLANDS**

**No 3 of 2011**

Enacted by the Governor of the Islands  
of Pitcairn, Henderson, Ducie and Oeno

**CORONERS ORDINANCE 2011**

**DATE MADE: 22 DECEMBER 2011**

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An Ordinance to make provisions for the occurrence of sudden or accidental deaths and to establish a process for coronial proceedings

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|------------------------|---|
| Title and Commencement | 1. This Ordinance may be cited as the Coroners Ordinance 2011 and shall come into force on the day after it is published. |
| Interpretation         | 2. In this Ordinance, unless the context otherwise requires,—<br><b>bodily sample</b> , in relation to a body,—           |

- (a) means a sample or specimen (whether of a body part, or of any other thing that is in or on the body, or of both) taken from the body by a pathologist after the death of the person concerned; and so
- (b) includes a sample or specimen so taken of blood or tissue, urine or other bodily fluids, or contents of the stomach or bowel, and a sample or specimen so taken that is, or is part of, the following:
  - (i) any thing that is, or is in or on, an item of clothing on the body:
  - (ii) a weapon, or other foreign item or substance (for example, a surgical implant, including a cardiac pacemaker or other biomechanical aid), that is in or on the body

**body** means a dead person, but—

- (a) includes a part of a person (whether or not the person's identity is known when the part is discovered or is later determined)
  - (i) without which no person can live; or
  - (ii) discovered in such circumstances or such a state that it is probable that the person is dead; and
- (b) does not include a dead foetus or a still-born child; and
- (c) for the purposes of an authorisation for release under section 14, does not include any body part or bodily sample retained in accordance with section 15

**body part**, in relation to a body,—

- (a) means any part of the body (whether separated from the body before, on, or after the death concerned); and so
- (b) includes a part so received or removed that is an organ, limb, hand, foot, or digit

**craft** includes any aircraft, ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water

**death**, in relation to reporting to a member of the police or a coroner, includes the finding of a body

**designated coroner** means the coroner designated by the Governor under section 6(2) to receive reports of and perform every other part of the coroner's role in relation to that death, and includes any replacement designated coroner designated by the Governor under section 6(3)

**doctor** means a health practitioner who is, or is deemed to be, licensed in accordance with the Dental and Medical Practitioners Ordinance 1984

**immediate family**, in relation to a dead person,—

- (a) means members of the dead person's family or other culturally recognised family group, who—
  - (i) were in a close relationship with the person; or
  - (ii) had, in accordance with customs or traditions of the community of which the person was part,

- responsibility for, or an interest in, the person's welfare and best interests; and
- (b) to avoid doubt, includes persons whose relationship to the dead person is, or is through 1 or more relationships that are, that or those of—
  - (i) spouse or de facto partner of the dead person:
  - (ii) child, parent, guardian, grandparent, brother, or sister of the dead person:
  - (iii) stepchild, stepparent, stepbrother, or stepsister of the dead person

**inquest** means a hearing held by a coroner in connection with an inquiry

**inquiry** means an inquiry into a death opened and conducted by a coroner under sections 17 and 18.

**investigation** means every function, power, or duty the coroner may or must perform or exercise in relation to the death, including those relating to a post-mortem of the body concerned and an inquiry into the death

**pathologist** means a doctor who is competent to perform post-mortems because his or her scope of practice includes the branch of medicine of pathology

**Pitcairn Islands group territory** means the land and the waters enclosed by the outer limits of the territorial sea of the Pitcairn, Henderson, Ducie and Oeno Islands.

**Police** means a police officer appointed under section 2 of the Justice Ordinance

Coroner's role

3. (1) A coroner's role in relation to a death is—
  - (a) to receive a report of the death from the police; and
  - (b) to decide whether to direct a post-mortem and, if one is directed, to determine whether to authorise certain people (other than the pathologist) to attend; and
  - (c) to authorise the release of the body (including determining, if a post-mortem has been directed, whether the pathologist wishes and is permitted, on the release of the body, to retain body parts or bodily samples); and
  - (d) to decide whether to open an inquiry (and, if one is to be conducted, whether an inquest should be held); and
  - (e) if an inquiry is to be opened and conducted,—
    - (i) to open and conduct it for the 3 purposes stated in section 17, and not to determine civil, criminal, or disciplinary liability; and
    - (ii) to determine related matters such as whether to prohibit the making public of evidence and whether to authorise the making public of certain particulars of deaths suspected or found to be self-inflicted deaths; and
    - (iii) on completing it, to complete and sign a

certificate of findings in relation to the death;  
and

- (f) to give members and representatives of the immediate family of the person who is, or of a person who is suspected to be, the dead person concerned, and certain others, notice of significant matters in the carrying out of the duties and processes required by law to be performed or followed in relation to the death.

(2) This section is only a general guide to a coroner's role.

Deaths that must  
be reported under  
section 5(2)

- 4. (1) This section applies to the following deaths if and only if they are deaths to which subsection (2) applies:
  - (a) Every death that appears to have been without known cause, or suicide, or unnatural or violent.
  - (b) Every death—
    - (i) That occurred while the person concerned was undergoing a medical, surgical, dental or similar treatment or procedure; or
    - (ii) appears to have been the result of such a procedure; or
    - (iii) that occurred while the woman concerned was giving birth, or that appears to have been a result of that woman being pregnant or giving birth.
  - (c) The death of a person in the custody of the Police.
  - (d) The death of a prisoner as defined in section 7 of the Prisons Ordinance 2001.
  - (e) Subsections (c) and (d) apply to a death whether or not it occurred in the institution, residence, hospital, facility, or prison concerned.
- (2) This section applies only to deaths that occur in the Pitcairn Islands group territory.

Reporting of  
deaths to police

- 5. (1) A person who finds a body in the Pitcairn Island group territory must report that finding to a member of the police as soon as practicable unless excused from doing so by subsection (3).
- (2) A person who learns of a death to which section 4 applies must report that death to a member of the police as soon as practicable unless excused from doing so by subsection (3).
- (3) A person is not required by subsections (1) or (2) to report a death if he or she believes that the death—
  - (a) is already known to the Pitcairn Island Police; or
  - (b) will be reported to a member of the police.

Reporting of  
deaths by police

- 6. (1) This section applies to a member of the police—
  - (a) who finds a body in the Pitcairn Island group territory;or

- (b) to whom a report of a death is made under section 5.
- (2) A member of the police to who this section applies must, unless excused from doing so by subsection (4), cause the death concerned to be reported as soon as practicable to the Governor who must then designate a coroner for the death and report to that coroner.
- (3) In the event the coroner designated under subsection (2) becomes unavailable the Governor may designate a replacement coroner to continue the role of designated coroner in relation to that death.
- (4) A member of the police is not required by subsection (2) to report a death to the Governor if he or she believes that the death is already known to, or will be reported by another member of the police to the Governor.

Police investigations

- 7. If a death has been reported to a coroner under section 6, the police must cause to be made all investigations—
  - (a) necessary to help to identify the causes and circumstances of the death, to prevent deaths and promote justice; or
  - (b) as directed by the designated coroner.

Right of police to custody of body

- 8. (1) The police have an exclusive right to custody of the body concerned—
  - (a) from the time when a member of the police first suspects on reasonable grounds that a death which must be reported under section 4 may have occurred; and
  - (b) Until the death has been reported to the designated coroner and the designated coroner therefore has an exclusive right to the body under section 9.
- (2) Nothing in this section affects when that exclusive right can be and is exercised by the Police, or prevents the Police from exercising on behalf of the designated coroner his or her right under section 9.

When designated coroner has exclusive right to custody of body

- 9. (1) The designated coroner has an exclusive right to custody of the body concerned from the time when a death has been reported to him or her under section 6, until he or she authorises the release of the body under section 14.
- (2) Nothing in this section affects when that exclusive right can be and is exercised by or on behalf of the designated coroner.

Directions about removal of body

- 10. For the purposes of a post-mortem of a body under section 13, a coroner may give any directions they see fit about removal of the body.

Cooperation  
between coroner  
and family

11. (1) On request by or on behalf of the immediate family, the coroner may recognise, and after recognition, liaise with a representative of the immediate family.
- (2) A coroner to whom a death has been reported under section 6 must take all reasonable steps to give notice, as soon as practicable, of significant matters in the carrying out of the duties and processes required by law to be performed or followed in relation to the death, to a representative recognised under subsection (1), and to the immediate family of the person, or person who is suspected to be, the dead person concerned.

Viewing,  
touching, or  
remaining with  
or near body in  
coroner's  
custody

12. (1) If a death has been reported to a coroner under section 6 and the coroner's exclusive right to custody of the body under section 9 is being exercised by, or on behalf of the coroner, one or more people to whom subsection (2) applies may, if they wish, view, touch or remain with or near the body, but only:
  - (a) If authorised to do so by the coroner; and
  - (b) In accordance with any conditions the coroner imposes.
- (2) This section applies only to the following people:
  - (a) Members of the immediate family of the person who is, or of a person who is suspected to be, the dead person concerned:
  - (b) Representatives of that immediate family:
  - (c) People chosen by that immediate family who are performing or providing religious or spiritual functions, advice, benefit, or comfort.

Coroner may  
direct post-  
mortem

13. (1) A coroner may direct a pathologist to perform a post-mortem of a body for the purpose of enabling the coroner to decide whether to open an inquiry into the death concerned; or where the coroner is to open, or has opened but not completed, an inquiry into the death concerned.
- (2) The pathologist must not be a doctor who, to the coroner's knowledge, was a doctor who attended the person concerned immediately before death.
- (3) As soon as practicable after completing the post-mortem, the pathologist must give the coroner a written report on the results of the post-mortem.
- (4) In deciding whether to direct a post-mortem under subsection (1), a coroner must have regard to the following matters—
  - (a) Whether the death appears to have been unnatural or violent; and
  - (b) The existence and extent of any allegations, rumours,

suspicions, or public concern about the cause of the death; and

- (c) The desire of any member of the immediate family of the person concerned that a post-mortem should be performed; and
- (d) Any other matters the coroner thinks relevant.

Release of bodies

14. (1) A coroner to whom a death has been reported under section 6 must authorise the release of the body concerned as soon as he or she is satisfied that it is no longer necessary to withhold it from family members.
- (2) Authorisation by the coroner must be—
- (a) Given by written notice in the prescribed form; and
  - (b) Signed by the coroner.

Receipt, removal, taking, and retention of parts and samples

15. (1) A pathologist may, with no further authority than this section, receive or remove a body part, or take a bodily sample, or both, if the pathologist believes on reasonable grounds that the receipt, removal, or taking concerned is necessary for the purposes of a post-mortem.
- (2) The body part removed or sample taken by a pathologist for the purposes of a post-mortem must be as small as possible for the analysis or examination for which the part is removed or sample taken.
- (3) The number of body parts received or removed, bodily samples taken, or both, must be no greater than is necessary for the purposes of the post-mortem.
- (4) Nothing in this section prevents any other receipt, removal, or taking of a part or sample authorised by law.
- (5) The pathologist is, when the body is released, permitted to retain the body part or bodily sample, but only if—
- (a) The part or sample is a minute one and is, in the pathologist's opinion, necessary for the purposes of the post-mortem; or
  - (b) The retention is, in the pathologist's opinion, necessary for the purposes of the post-mortem, and is authorised in writing by the coroner ; or
  - (c) The pathologist explained to the family members or other people to whom the body is to be released that the pathologist proposed to retain the part or sample for a specified purpose and none of those people objected to the pathologist's proposal.

Costs of transporting body moved for post-mortem

16. (1) Where a body has been transported to another location in accordance with a coroner's direction, or for the purposes of a post-mortem, the Governor is responsible for the costs of transporting the body back to its location when the direction was made or the post-mortem was directed, or provided that

costs do not exceed the costs of transportation to the original location, the costs of transporting the body to another location.

Purpose of inquiries

17. (1) A coroner opens and conducts an inquiry for the purposes of—
  - (a) Establishing, so far as is possible—
    - (i) That a person has died; and
    - (ii) That person's identity; and
    - (iii) When and where a person died; and
    - (iv) The causes of death; and
    - (v) The circumstances of death:
  - (b) making specified recommendations or comments that, in the coroner's opinion, may, if drawn to public attention, reduce the chances of the occurrence of other deaths in circumstances similar to those in which the death occurred:
  - (c) determining whether the public interest would be served by the death being investigated by other investigating authorities in the performance or exercise of their functions, powers, or duties, and to refer the death to them if satisfied that the public interest would be served by their investigating it in the performance or exercise of their functions, powers, or duties.
- (2) The purpose of an inquiry is not to determine civil, criminal, or disciplinary liability.

Opening inquiries

18. (1) In deciding whether to open and conduct an inquiry, a coroner must have regard to the following matters:
  - (a) whether or not the causes of the death concerned appear to have been natural; and
  - (b) in the case of a death that appears to have been unnatural or violent, whether or not it appears to have been due to the actions or inaction of any other person; and
  - (c) the existence and extent of any allegations, rumours, suspicions, or public concern, about the death; and
  - (d) the extent to which the drawing of attention to the circumstances of the death may be likely to reduce the chances of the occurrence of other deaths in similar circumstances; and
  - (e) the desire of any members of the immediate family of the person who is or appears to be the person concerned that an inquiry should be conducted; and
  - (f) any other matters the coroner thinks fit.
- (2) A coroner to whom a death is reported under section 6 must open and conduct an inquiry into it—
  - (a) If it appears to have been—
    - (i) self-inflicted; or
    - (ii) a death in official custody or care; or
  - (b) If the coroner is not satisfied that the matters required

by this Ordinance to be established by an inquiry are already adequately disclosed in respect of the death by information arising from investigations or examinations the coroner has made or caused to be made.

Decision to hold inquest

19. (1) A coroner may decide to hold an inquest for the purposes of the inquiry.
- (2) A coroner who decides to hold an inquest for the purposes of the inquiry must fix a date, time and place for the inquest, and must—
- (a) give the family representative, immediate family, and certain others (in accordance with section 11) notice in relation to the date, time, and place fixed for the inquest and at least 10 working days before the date fixed
  - (b) give notice, at least 10 working days before the date fixed, of the date, time, and place fixed for the inquest to every person who has a sufficient interest in the subject or outcome of the inquiry concerned.

Procedure for inquest

20. (1) Every inquest must be held before a coroner.
- (2) If satisfied that it is desirable to do so, the coroner may appoint a cultural, legal, medical, or other specialist adviser to sit with and help the coroner at an inquest by giving advice.
- (3) The specialist adviser must give advice on any questions referred to the specialist adviser and in any matter the coroner may direct, and this advice may be given any weight the coroner sees fit.
- (4) Every inquest must be held in a place that is open to the public.
- (5) A coroner may exclude any person or people from all or a part of an inquest.
- (6) A coroner may direct any witness whose evidence has not yet been heard at an inquest to remain, or go and remain, outside the place where the inquest is being held until required to give evidence.
- (7) A person giving evidence at an inquest must do so orally on oath or affirmation and may be cross-examined by either the coroner or a person notified by the coroner in section 19(2).
- (8) A witness at an inquest may give any evidence by tendering a previously prepared formal written statement if the coroner is satisfied that there is no reason making it desirable for the witness to give the evidence orally, and no person attending the inquest who is entitled to cross-examine the witness objects.
- (9) No witness at an inquiry shall be obliged to answer any question if doing so would result in self-incrimination, and if it appears to the coroner that a witness has been asked such a question, the coroner shall inform the witness that he may

refuse to answer.

Certificate of and  
written reasons  
for findings

21. (1) The coroner conducting and completing an inquiry must consider all the evidence admitted for the purposes of the inquiry and, in the light of the purposes stated in section 17, complete and sign a certificate of findings in relation to the death concerned.
- (2) The certificate of findings must be in the prescribed form, which must require the coroner to state in writing the reasons for his or her findings.
- (3) The coroner must send the completed and signed certificate of findings to the Governor, together with—
- (a) all depositions of evidence admitted for the purposes of the inquiry; and
  - (b) a certificate of the registration of the death (if applicable); and
  - (c) any specified recommendations or comments made under section 17(1)(b).

Appointment of  
coroners

22. (1) The Governor may from time to time, by warrant, appoint fit and proper people to be coroners.
- (2) Each one of those people must have held a practising certificate as a barrister or solicitor for at least 5 years in any Commonwealth country.
- (3) Every coroner vacates that office, if he or she has not earlier done so in another way, on attaining the age of 70 years.
- (4) A person appointed as coroner may also hold the office of Magistrate.

Police to help  
coroners'  
investigations

23. (1) Police must help coroners' investigations under this Ordinance.

Powers of  
coroners

24. (1) For the purpose of performing or exercising a function, power, or duty under this Ordinance, a coroner has the same powers, privileges, authorities, and immunities as a Magistrate exercising jurisdiction under the Judicature (Courts) Ordinance.
- (2) In relation to an inquest held by a coroner for the purposes of an inquiry, the coroner has power to—
- (a) issue summonses for the attendance of witnesses:
  - (b) issue warrants to enforce such summonses:
  - (c) maintain order:
  - (d) administer oaths or affirmations to witnesses:
  - (e) punish for contempt:
  - (f) adjourn proceedings from time to time and place to place:
  - (g) suppress evidence where the coroner considers it

necessary, having regard to the interests of the family, the public, and justice.

- (3) A coroner may cause to be made by other persons any investigations or examinations, or commission from them any reports, medical or otherwise, the coroner thinks proper—
  - (a) for the purpose of deciding whether to open an inquiry; or
  - (b) if the coroner is to open an inquiry, or has opened and not completed one.
- (4) A coroner who considers it necessary for the purposes of an inquiry the coroner has opened under this Ordinance may, by written notice served on a person, require that person, within a time specified in the notice,—
  - (a) to give the coroner any information or class of information specified in the notice; or
  - (b) to produce to the coroner, or to a person specified in the notice acting on the coroner's behalf in accordance with the notice, any document or class of documents or other thing specified in the notice.

Warrant for  
removal of body

25. (1) An Island Magistrate may issue a warrant for the removal of a body from a specified place including, without limitation, a house, craft, or vehicle if satisfied on an application in writing made on oath by a member of the police that—
  - (a) the police have the exclusive right to custody of the body under section 8; and
  - (b) there are reasonable grounds to believe that the body is being held in or on that place, craft, or vehicle contrary to this exclusive right to custody of the body; and
  - (c) the police have, despite having already used negotiation and all other means that are reasonable in the circumstances, failed to secure the release of the body from that place, craft, or vehicle in accordance with the directions.
- (2) The warrant must be in the prescribed form, and must be—
  - (a) directed to and executed by specified members of the police; or
  - (b) directed to the police and executed by any member or members of the police.
- (3) The warrant may be issued subject to any reasonable conditions the Island Magistrate specifies in it.

Offences and  
penalties

26. (1) Every person commits an offence against this section, and is liable on summary conviction to a fine not exceeding \$1,000, who, without reasonable excuse, fails to comply with a notice under section 24 to the extent that the person is capable of complying with it.
- (2) Every person commits an offence against this section, and is liable on summary conviction to a fine not exceeding \$2,000,

who—

- (a) fails or refuses to comply with a direction about the removal of a body under section 10; or
  - (b) hinders or prevents any person from complying with a direction about the removal of a body under section 10.
-