

THE NATIONAL CORONERS SERVICE BILL, 2011

Arrangement of Sections

Section

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Objects of the Act

**PART II—ESTABLISHMENT OF THE NATIONAL
CORONERS SERVICE**

- 4—Establishment and composition of the Service
- 5—Appointment of Coroner-General and other coroners
- 6—Officers and other staff
- 7—Scheme of Service
- 8—Qualifications for appointment

PART III—FUNCTIONS AND POWERS OF THE SERVICE

- 9—Deaths to be investigated by the Service
- 10—Functions of Coroner-General
- 11—Functions of County coroners
- 12—Powers of the Coroner

PART IV—INVESTIGATIONS AND POST-MORTEM EXAMINATIONS

- 13— Purpose of investigation and matters to be ascertained
- 14— Conduct of investigations
- 15— Particulars of an investigation report
- 16— Procedure where death is found to be due to an act amounting to an offence
- 17— Coroner to be sent for when prisoner dies
- 18— Power to hold investigation on a body within local limits
- 19— Place of investigation
- 20— Power to conduct post-mortem
- 21—Permit for disposal
- 22—Direction for other coroner to conduct investigation
- 23—Discontinuance where cause of death is revealed
- 24—Investigations lasting more than a year

PART IV— GENERAL PROVISIONS

- 25— Regulations
- 26— Provision of information by a coroner
- 27— Power to remove body
- 28— Appeals to the Coroner-General
- 29— Offences

A Bill for

An Act of Parliament to provide for the establishment of the National Coroners Service; to model forensic medical services into coronial system and to prescribe the functions and powers of coroners, and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

Short title. **1.** This Act may be cited as the National Coroners Service Act, 2010.

Interpretation **2.** In this Act, unless the context otherwise requires—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to internal security;

“Coroner” means the Coroner-General appointed under section 5 (1) and the county Coroners appointed under section 5 (2);

“interested person”, in relation to a deceased person or an investigation into a person’s death, means—

- (a) a spouse, partner, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
- (b) a personal representative of the deceased;
- (c) a medical examiner exercising functions in relation to the death of the deceased;
- (d) a beneficiary under a policy of insurance issued on the life of the deceased;
- (e) the insurer who issued such a policy of insurance;
- (f) a person who may by any act or omission have caused or contributed to the death of the deceased, or whose employee or agent may have done so;
- (g) in a case where the death may have been caused by an injury

received in the course of an employment, a representative of a trade union of which the deceased was a member at the time of death;

(h) a person appointed by, or representative of, an enforcing authority;

(i) a person appointed by a Government department to inquire into the death or to assist in, or provide evidence for the purposes of, an investigation into the death; and

(j) any other person who the coroner thinks has a sufficient interest.

“Service” means the National Coroner Service established under section 4;

Objects of the Act

3. The objects of this Act are—

(a) to provide for the establishment of the National Coroner Service and appointment of coronial officers; and

(b) to provide for coroners to investigate certain kinds of deaths in order to determine the identities of the deceased persons, the times and dates of their deaths and the manner and cause of their deaths.

PART II—ESTABLISHMENT OF THE NATIONAL CORONERS SERVICE

Establishment and composition of the Service.

4. (1) There is established a Service to be known as the National Coroners Service.

(2) The Service shall comprise—

(a) the Coroner-General appointed under section 5 (1);

(b) the County Coroners established under section 5 (2);

(c) such other officers and staff of the Service as may be appointed pursuant to the provisions of section 6.

Appointment of
Coroner-General and
county coroners

5. (1) There shall be a Coroner-General of the Service who shall be appointed by the President, on such terms and conditions of service as the President may, on the recommendation of the Public Service Commission, determine.
- (2) There shall be a county coroner for each county, who shall appointed by the Public Service Commission to discharge the functions and exercise the powers of the Coroner-General within the county.

Officers and other
staff of the Service

6. There shall be officers and other staff of the Service as may be necessary for the proper and efficient discharge of the functions of the Service.

Scheme of Service

7. The Public Service Commission shall prescribe a scheme of Service for the officers and other staff.

Qualifications for
appointment.

8. (1) A person shall be eligible for appointment as the Coroner-General if such person has a degree in bio-medical sciences and has at least ten years' experience.
- (2) A person shall be eligible for appointment as a county coroner if that person has—
- (a) a degree in medicine and has at least experience of five years; or
 - (b) other discipline as the Public Service Commission may consider relevant to the Service.

PART III—FUNCTIONS AND POWERS OF THE SERVICE

Deaths to be
investigated by the
Service.

9. (1) The Service shall have jurisdiction to investigate the cause of death where the deceased person is reported to have died—
- (a) a violent or an unnatural death;
 - (b) a sudden death of which the cause is unknown;
 - (c) in police custody;
 - (d) in prison, or
 - (e) in such a place and in such circumstances as to require an

investigations under any other law,
and shall as soon as practicable conduct an investigation into such death.

- (2) For purposes of this Act, any death specified under subsection (1) shall be a reportable death.
- (3) Where a coroner investigates a death occurring in police custody, the coroner shall furnish a copy of the report to the Independent Policing Oversight Authority.

Functions of
Coroner-General

- 10.** The functions of the Coroner-General shall be to—
- (a) co-ordinate the coronial services throughout the country;
 - (b) ensure that all deaths concerning which a coroner has jurisdiction to conduct an investigation are properly investigated;
 - (c) monitor and evaluate investigations of deaths by the Service;
 - (d) issue guidelines to other coroners to assist them in the exercise or performance of their functions; and
 - (e) perform such other functions as are conferred or imposed by or under this Act or any other law.

Functions of county
coroners.

- 11.** The county coroner shall be the administrative head of coronial services in the county in respect of which he is appointed, and shall, subject to the control and directions of the Coroner-General, be responsible for the investigations into the deaths referred to in section 9 which occur or are reported within the county.

Powers of the
Coroner.

- 12.** (1) A Coroner may grant —
- (a) burial permits;
 - (b) cremation permits;
 - (c) waivers of post-mortem;
 - (d) post-mortem permits;
 - (e) exhumation permits;

- (f) authority to remove dead bodies outside Kenya; and
- (g) certificates of fact of death.

(2) For purposes of investigations under this Act, a coroner shall have the power to collect forensic and other evidence and to preserve it in such manner as the Coroner General may from time to time specify.

PART IV—INVESTIGATIONS AND POST-MORTEM EXAMINATIONS

Purpose of investigation and matters to be ascertained

- 13.** The purpose of an investigation under this Part into a person’s death is to ascertain—
- (a) who the deceased was;
 - (b) how, when and where the deceased came by his or her death;
 - (c) the cause of death; and
 - (d) the particulars required under the Births and Deaths Registration Act to be registered concerning the death.

Cap 149.

Conduct of investigations.

- 14.** (1) Where a coroner—
- (a) becomes aware of the death of any person; or
 - (b) is notified of the existence of a body of a person,
- in a place within his area of jurisdiction and believes that there is reasonable cause to suspect that the deceased may have died in any of the circumstances set out in section 9, the coroner shall as soon as practicable investigate the death of the deceased.
- (2) A coroner shall make a report of every investigation conducted under this Act.

Particulars of an investigation report.

- 15.** (1) Every investigation report shall be signed by the Coroner with his name and style of office, and shall set forth the following particulars—
- (a) where, when and by whom the investigation is conducted;
 - (b) who the deceased person is;

(c) where the body of the deceased lies;

(d) where, when and by what means the deceased person came by his death.

(2) If the name of the deceased be unknown, the body may be described based on the bodily features.

(3) No investigation report shall be quashed for any technical defect or for want of form.

Procedure where death is found to be due to an act amounting to an offence

16. When the Coroner finds that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in Kenya, the Coroner shall immediately after the investigation forward a copy of the investigation report, together with the names and addresses of the witnesses, to the Director of Public Prosecutions and Inspector General of Police.

Coroner to be sent for when prisoner dies.

17. (1) Whenever a person dies in a prison or in police custody—
(a) the Superintendent of the prison; or
(b) the Officer Commanding a police station,

shall inform the coroner within whose jurisdiction the prison or police station is situate.

(2) A coroner who is informed of the death under subsection (1) shall investigate into the death and prepare an investigation report.

Power to hold investigation on a body within local limits

18. Whenever an investigation ought to be conducted on any dead body lying within the local limits of the jurisdiction of any coroner, the coroner shall conduct such investigation, whether or not the cause of death arose within that jurisdiction.

Place of investigation

19. Upon the notice to the coroner of the death or discovery of a dead body, an investigation may be conducted either in the territory of the coroner in whose jurisdiction the body was found or where the death took place.

Power to conduct post-mortem

- 20.** (1) If a coroner is of the opinion that it is appropriate and essential to ascertain the circumstances and the nature of death, the coroner may conduct post-mortem on the body.
- (2) A coroner may hire a suitably qualified medical practitioner expert to make a post-mortem examination of a body.
- (3) For the purposes of subsection (2) a person is a suitably qualified medical practitioner if the person—
- (a) is a registered medical practitioner with relevant qualification and experience in forensic science; or
 - (b) in a case where a particular kind of examination is requested, a practitioner of a description designated by the Coroner-General as suitable to make examinations of that kind.
- (4) Where a person informs a coroner that, in the informant’s opinion, death was caused wholly or partly by the improper or negligent treatment of a registered medical practitioner or other person, that practitioner or other person—
- (a) must not make, or assist at, an examination of the body under this section; and
 - (b) is entitled to be represented at such an examination.
- (6) A person who makes a post-mortem examination under this section must as soon as practicable report the result of the examination to the coroner in the prescribed form.

Permit for disposal

- 21.** When the investigations are closed, or before, if it be necessary, the coroner shall give a permit for the disposal of the body on which the investigation has been conducted.

Direction for other coroner to conduct investigation

- 22.** (1) The Coroner-General may require a county coroner to conduct an investigation into a person’s death notwithstanding that the death occurred in a county other than the county in respect of which the coroner is appointed.
- (2) A coroner required to undertake investigations under subsection (1)

shall conduct the investigation as soon as practicable.

(3) A county coroner shall give to the Coroner-General notice in writing stating any reasons why the coroner might be unable to investigate a death occurring within an area in respect of which the coroner is appointed.

(4) Subject to this Act, a coroner may take over and continue investigations into a person's death from another coroner.

Discontinuance
where cause of death
is revealed.

23. (1) A coroner who is responsible for conducting an investigation into a person's death may discontinue the investigation if—

(a) the cause of death becomes apparent; and

(b) the coroner is of the opinion that it is not necessary to continue with the investigation.

(2) Subsection (1) does not apply if the coroner has reason to suspect that the deceased—

(a) died a violent or unnatural death; or

(b) died while in custody or otherwise in state detention.

(3) Nothing in this section prevents a fresh investigation under this Part from being conducted into the death.

(4) A coroner who discontinues an investigation into a death under this section must, if requested to do so in writing by an interested person, give to that person as soon as practicable a written explanation as to why the investigation was discontinued.

Investigations lasting
more than a year.

24. (1) A coroner who is conducting an investigation into a person's death that has not been completed or discontinued within a year—

(a) must notify the Coroner-General of that fact;

(b) must notify the Coroner-General of the date on which the investigation is completed or discontinued.

- (2) In subsection (1) “within a year” means within the period of twelve months beginning with the day on which the coroner was made aware that the person’s body was within the coroner’s area of jurisdiction.

PART IV—GENERAL PROVISIONS

Regulations.

25. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

(2) Before making regulations under this section the Cabinet Secretary shall consult—

- (a) the Cabinet Secretary responsible for matters relating to Health, and
- (b) the Coroner-General.

(3) Without prejudice to subsection (1), the regulations may prescribe—

- (a) any matter of procedure or practice under this Act;
- (b) prescribe circumstances when a medical practitioner shall be required to notify a county coroner of a death of a person whom the practitioner was attending;
- (c) requirement for a registered medical practitioner who attended the deceased before his or her death—
 - (i) to prepare a certificate stating the cause of death to the best of the practitioner’s knowledge and belief; or
 - (ii) where the practitioner is unable to establish the cause of death, to refer the case to a coroner;

Provision of records by a coroner

26. The coroner shall provide a copy of the full and complete records in respect of the death of a deceased person to—

- (a) the police on request;
- (b) a court of law on request;
- (c) the surviving spouse or other interested person on written

request; or

(d) any government agency on request.

Power to remove
body

- 27.** (1) A coroner who—
- (a) is responsible for conducting an investigation into a person's death; or
 - (b) needs to carry out a post-mortem examination

may cause the body to be removed to any suitable place.

(2) The place referred to under subsection (1) (b) may be within the coroner's area or elsewhere.

Appeals to the
Coroner-General

- 28.** (1) An interested person may appeal to the Coroner-General against a decision made by a county coroner that falls within subsection (2).

(2) The decisions that fall within this subsection are—

- (a) a decision whether to discontinue an investigation under section 23;
 - (b) a decision whether to resume, an investigation suspended under section 23;
 - (c) a decision not to request for a post-mortem examination under section 20; and
 - (d) a decision to request a post-mortem examination under section 20 of a body that has already been the subject of a post-mortem examination, unless the decision is to request an examination of a different kind from the one already carried out;
- (3) On an appeal under this section the Coroner-General may, if the appeal is allowed, do one or more of the following—
- (a) substitute the decision; or
 - (b) quash the decision and remit the matter for a fresh decision;
- (4) A party to an appeal under this section may appeal on a question of

law to the High Court from a decision of the Coroner-General.

Offences

29. Any person who—

(a) obstructs a coroner in due execution of his functions under this Act; or

(b) contravenes any of the provisions of this Act,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months.