

**2005 No. 420**

**CORONERS, ENGLAND AND WALES**

**The Coroners (Amendment) Rules 2005**

*Made* - - - - *28th February 2005*

*Coming into force* - *1st June 2005*

The Lord Chancellor, in exercise of the powers conferred on him by section 32 of the Coroners Act 1988(a), and with the concurrence of the Secretary of State, hereby makes the following Rules:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Coroners (Amendment) Rules 2005 and shall come into force on 1<sup>st</sup> June 2005.

(2) In these Rules “the principal Rules” means the Coroners Rules 1984(b).

**Amendments to the principal Rules**

2. In rule 2 of the principal Rules (interpretation) –

(a) after the entry relating to legal proceedings insert ““partner” means one of two persons (whether of different sexes or the same sex) who live as partners in an enduring family relationship;” and

(b) after the entry relating to a registrar, insert ““relative” includes a partner, and”.

3. For rule 9 of the principal Rules (preservation of material) substitute –

**“Preservation of material from post-mortem examinations**

9.—(1) A pathologist shall make provision, so far as possible, for the preservation of material which in his opinion bears upon the cause of death or the identification of the deceased.

(2) Where a pathologist preserves material under paragraph (1) he must notify the coroner of that fact forthwith in writing (which expression, for the avoidance of doubt, includes electronic communication).

(3) A notification under paragraph (2) must–

(a) identify the material being preserved; and

(b) explain why the pathologist is of the opinion mentioned in paragraph (1).

(4) A notification under paragraph (2) may–

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(a) 1988 c.13.

(b) S.I. 1984/552, amended by S.I. 1999/3325 in so far as is relevant to the subject matter of these Rules. The Coroners Rules 1984 have effect as if made under section 32 of the Coroners Act 1988 by virtue of section 17(2)(b) of the Interpretation Act 1978 (c.30).

- (a) specify the period for which he believes the material should be preserved; and
- (b) specify different periods for different material.

(5) Where a coroner receives a notification under paragraph (2) he must notify the pathologist of the period for which he requires the material to be preserved, being such period as in the coroner's opinion the material needs to be preserved for the purpose of fulfilling his functions under the 1988 Act in relation to the deceased, and he may specify different periods for different material.

(6) Subject to paragraph (7), on making the notification under paragraph (5) or, if not then known, as soon as their whereabouts are known, the coroner must also notify—

- (a) one of the persons referred to in rule 20(2)(a), and
- (b) any other relative of the deceased who has notified the coroner of his desire to attend, or be represented at the post-mortem examination,

that the material is being preserved, the period or periods for which it is required to be preserved under paragraph (5), and the options for dealing with the material on expiry of a period notified under that paragraph.

(7) In the case of a child who has identified himself as such to the coroner, the coroner may, if he considers it more appropriate, notify a person who has parental responsibility for the child instead of notifying the child himself.

(8) The options referred to in paragraph (6) are—

- (a) disposal of the material by burial, cremation or other lawful disposal by the pathologist;
- (b) return of the material to a person referred to in that paragraph who requests that the material be returned to him, or
- (c) retention of the material with the consent of a person referred to in paragraph (6) for medical research or other purposes.

(9) If a period notified under paragraph (5) does not expire before the date on which the coroner's functions cease under the 1988 Act it shall expire on that date, and the coroner shall notify the persons referred to in paragraphs (5) and (6) accordingly.

(10) The pathologist must, so far as possible, preserve material to which this rule applies until the expiry of the period notified to him in relation to it under paragraph (5).

(11) In paragraph (7)—

“child” means a person who has not attained the age of 18 years; and

“parental responsibility” has the same meaning as in the Children Act 1989(a).

#### **Further provisions relating to preservation of material from post-mortem examinations**

**9A—**(1) Where the coroner—

- (a) is informed under section 16 of the 1988 Act that a person has been charged with an offence in relation to, or connected with, the death of the deceased or,
- (b) receives a request under rule 26 on the ground that a person may be charged with an offence in relation to the death of the deceased,

he must notify the chief officer of police or, in the case of a notification under section 16(1)(b), the Director of Public Prosecutions, of any period for which he requires material to be preserved under paragraph (5) of rule 9.

(2) Where the coroner is informed under section 17A of the 1988 Act(b) that a public inquiry is being or is to be held, the coroner must consult the person chairing the inquiry

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(a) 1989 c.41.

(b) Section 17A was inserted by section 71(1) of the Access to Justice Act 1999 (c.22).

before deciding any period for which he requires material to be preserved under paragraph (5) of rule 9.

(3) A coroner may from time to time vary a period notified under paragraph (5) of rule 9 and must notify promptly both the pathologist and any person notified under paragraph (6) of rule 9 of the variation.

(4) Where a period is varied under paragraph (3), paragraphs (9) and (10) of rule 9 and paragraphs (1), (2), (5) and (7) of this rule shall apply to the period so varied, as they apply to the period notified under paragraph (5) of rule 9.

(5) Where, at any time during a period notified to him under paragraph (5) of rule 9, the pathologist believes that any of the material retained under that rule should be retained for a different period, he must notify the coroner of that fact and the notification must comply with paragraph (3) of rule 9.

(6) Paragraph (5) of rule 9 applies to a notification under paragraph (5) as it applies to a notification under paragraph (2) of rule 9.

(7) Where a pathologist has retained material under rule 9 and the period notified under paragraph (5) of rule 9 in relation to that material has expired, that person must record—

- (a) that the material has been disposed of by him or on his behalf;
- (b) that the material has been delivered into the possession of a specified person; or
- (c) that he has retained the material on behalf of a specified person,

and must retain such a record.

(8) In this rule and in rule 9 “pathologist” means the person making a post-mortem examination.”

4. For rule 12 of the principal Rules (preservation of material) substitute –

**“Preservation of material from special examination**

**12.—(1)** A person making a special examination shall make provision, so far as possible, for the preservation of the material submitted to him for examination.

(2) Where a person makes a special examination he must send forthwith to the coroner a notification in writing (which expression, for the avoidance of doubt, includes electronic communication), identifying the material which he is preserving in accordance with this rule.

(3) A notification under paragraph (2) may specify the period for which he believes the material should be preserved and may specify different periods for different material.

(4) Where a coroner receives a notification under paragraph (2) he must notify the person making the special examination of the period for which the material is to be preserved, being such period as in the coroner’s opinion the material needs to be preserved for the purpose of fulfilling his functions under the 1988 Act in relation to the deceased, and he may specify different periods for different material.

(5) subject to paragraph (6), on making the notification under paragraph (4) or, if not then known, as soon as their whereabouts are known, the coroner must also notify—

- (i) one of the persons referred to in rule 20(2)(a), and
- (ii) any other relative of the deceased who has previously notified the coroner of his desire to attend, or be represented at the post-mortem examination,

that the material is being preserved, the period or periods for which it is required to be preserved under paragraph (4), and the options for dealing with the material on expiry of a period notified under that paragraph.

(6) In the case of a child who has identified himself as such to the coroner, the coroner may, if he considers it more appropriate, notify a person who has parental responsibility for the child instead of notifying the child himself.

- (7) The options referred to in paragraph (5) are–
- (a) disposal of the material by burial, cremation or other lawful disposal by the person making the special examination;
  - (b) return of the material to a person referred to in that paragraph who requests that the material be returned to him, or
  - (c) retention of the material with the consent of a person referred to in paragraph (5) for medical research or other purposes.

(8) If a period notified under paragraph (4) does not expire before the date on which the coroner's functions cease under the 1988 Act it shall expire on that date, and the coroner shall notify the persons referred to in paragraphs (4) and (5) accordingly.

(9) The person making the special examination must, so far as possible, preserve material to which this rule applies until the expiry of the period notified to him in relation to it under paragraph (4).

(10) In paragraph (6)–

“child” means a person who has not attained the age of 18 years; and

“parental responsibility” has the same meaning as in the Children Act 1989.

### **Further provisions relating to preservation of material from special examinations**

**12A—(1)** Where the coroner–

- (a) is informed under section 16 of the 1988 Act that a person has been charged with an offence in relation to, or connected with, the death of the deceased or,
- (b) receives a request under rule 26 on the ground that a person may be charged with an offence in relation to the death of the deceased,

the coroner must notify the chief officer of police or, in the case of a notification under section 16(1)(b), the Director of Public Prosecutions, of any period for which he requires the material to be preserved under paragraph (4) of rule 12.

(2) Where the coroner is informed under section 17A of the 1988 Act that a public inquiry is being or is to be held, the coroner must consult the chairperson of the inquiry before deciding any period for which he requires material to be preserved under paragraph (4) of rule 12.

(3) A coroner may from time to time vary a period notified under paragraph (4) of rule 12 and must promptly notify the person making the special examination and any person notified under paragraph (5) of rule 12 of the variation.

(4) Where a period is varied under this paragraph, paragraphs (8) and (9) of rule 12 and paragraphs (1), (2), (5) and (7) shall apply to the period so varied as they apply to the period notified under paragraph (4) of rule 12.

(5) Where, at any time during a period notified to him under paragraph (4) of rule 12, the person making the special examination believes that any of the material retained under that rule should be retained for a different period he must notify the coroner of that fact.

(6) Paragraph (4) of rule 12 applies to a notification under paragraph (5) as it applies to a notification under paragraph (2) of rule 12.

(7) Where a person making a special examination has retained material under rule 12 and the period notified under paragraph (4) of rule 12 in relation to the material has expired that person must record–

- (a) that the material has been disposed of by him or on his behalf;
- (b) that the material has been delivered into the possession of a specified person; or
- (c) that he has retained the material on behalf of a specified person,

and must retain such a record.”.

5. In rule 20 of the principal Rules (entitlement to examine witnesses), in paragraph (2)(a), after the word “spouse”, insert “, partner”.

6. In rule 57 of the principal Rules (inspection of, or supply of copies of, documents etc.) –

(a) after “or special examination,” in paragraph (1) insert “or of any notification made under rule 9, 9A, 12 or 12A,”;

(b) after “such report,” in paragraph (2) insert “notification,”.

7. In Schedule 2 to the principal Rules (Post-mortem Examination Report), after “Is any further laboratory examination to be made which may affect the cause of death? YES/NO”, insert–

“Were any organs or tissue removed from the body during the examination and retained? YES/NO.

If YES, who retains any such organs or tissue, and for what period or periods?”

17th February 2005

*Ashton of Upholland*  
Parliamentary Under Secretary of State  
Department for Constitutional Affairs

I concur,

Home Office  
28th February 2005

*Paul Goggins*  
Minister of State

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Rules amend the Coroners Rules 1984 (“the 1984 Rules”) to make more specific provision about the preservation of material removed from bodies during examinations carried out on behalf of the coroner.

Rule 2 inserts a reference to a partner in the definition of “relative” for the purposes of the 1984 Rules.

Rules 3 and 4 substitute for rules 9 and 12 of the 1984 Rules new rules 9, 9A, 12 and 12A. The effect of these new provisions is that where a pathologist or other person retains material following a post-mortem or special examination, he is required to tell the coroner that he has done so and the coroner must specify the period for which the material must be preserved. There is provision for the coroner to change that period should it be necessary, but it cannot extend beyond the date on which the coroner’s functions cease. The coroner is also required to notify certain persons of the period for which the material is to be preserved, and the options for dealing with the material when that period expires. Once the date for preserving the material has passed the person preserving it must record what he has done with it.

Rule 5 amends rule 20 of the 1984 Rules, which sets out who is entitled to examine witnesses at an inquest, by adding a partner of the deceased to the list of qualifying people. One effect of this amendment is that a partner is one of the persons who is entitled to be notified that material is being preserved and of the options for dealing with the material on the expiry of the retention period.

Rule 6 adds the new notifications required to be made under rules 9, 9A, 12 and 12A to the list of material which is available for inspection by properly interested parties under rule 57 of the 1984 Rules.

Rule 7 amends the post-mortem report form so that when reporting the outcome of a post-mortem examination the pathologist is required to say whether any organs or tissue were removed and retained and, if so, who retains them and for how long.



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STATUTORY INSTRUMENTS

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