

CORONERS AND JUSTICE ACT 2009

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 1 - Coroners etc

Chapter 3: Coroner areas, appointments etc

Section 22 and Schedule 2: Coroner areas

203. This section gives effect to Schedule 2 which provides for England and Wales to be divided into coroner areas and gives the Lord Chancellor the power to set and alter the boundaries of these areas (by order subject to the negative resolution procedure) after consultation with the relevant local authorities, Welsh Ministers, and any other persons the Lord Chancellor thinks appropriate. Each coroner area will cover either the whole of one local authority area or the whole of two or more local authority areas (although this provision will not apply in relation to coroner areas specified in the transitional order made under paragraph 1(1) of Schedule 22).
204. Where the area includes two or more local authorities (*paragraph 3 of Schedule 2*), one of them will be the lead authority for the area, known as the “relevant authority”. If the local authorities cannot agree which of them should be the relevant authority, the Lord Chancellor will decide on their behalf, consulting the Secretary of State for Communities and Local Government in respect of local authorities in England, and Welsh Ministers in respect of local authorities in Wales.
205. The Lord Chancellor may alter, by order subject to the negative resolution procedure, and change the names of, coroner areas using a similar consultation procedure.
206. The Schedule also makes provision in *paragraph 4* in relation to bodies which are situated outside the senior coroner’s area. Once a senior coroner is responsible for conducting an investigation into a death, the fact that the body is outside that coroner’s area does not change his or her functions in relation to the death or give another senior coroner any functions in relation to the death. This is broadly equivalent to the provision in section 22(3) of the 1988 Act.

Section 23 and Schedule 3: Appointment etc of senior coroners, area coroners and assistant coroners

207. This section gives effect to Schedule 3 which sets out the procedure for the appointment of coroners, qualifications required and terms of office. It also makes provision for the exercise of a senior coroner’s functions by area and assistant coroners.

Part 1 – Appointment of senior, area and assistant coroners

208. The Act will change the titles of the office of coroner. The hierarchy under the 1988 Act consisted (in descending order) of coroners, deputy coroners and assistant deputy

coroners. Under the Act, there will be senior coroners, area coroners and assistant coroners.

- 209. Under the 1988 Act, the relevant local authority appointed coroners (but not deputy and assistant coroners). The Secretary of State approved certain coroners' appointments; and where the coroner's district consisted of two or more such areas, or two or more Welsh principal areas, the relevant local authority consulted the others before making an appointment. The coroner appointed his or her own deputy and any assistant deputy coroners (section 6 of the 1988 Act). This will not continue under the Act.
- 210. Under Part 1 of Schedule 3 appointments of all coroners are made by the relevant authority for each coroner area. There is a new requirement for the Lord Chancellor and Chief Coroner to consent to the appointment of all senior coroners.
- 211. Following consultation with the Chief Coroner and the relevant local authorities, the Lord Chancellor can determine whether the coroner area requires one or more area coroners in addition to the senior coroner, and if so how many. He or she can also determine the minimum number of assistant coroners.

Part 2 – Qualifications of senior, area and assistant coroners

- 212. Under this Act, all coroners must be legally qualified. Previously, under the 1988 Act (section 2(1)(b)), being a legally qualified medical practitioner of five years' standing also sufficed. Transitional arrangements are to be made so that paragraph 3 of Part 2 does not apply in relation to those coroners treated as appointed under the transitional arrangements made in the Act.
- 213. This Part also disqualifies local councillors from appointment as coroners, if the area in respect of which they were elected falls within the coroner area.

Part 3 – Vacancies, and functions of area and assistant coroners

- 214. **Part 3** of Schedule 3 makes provision for filling vacancies on the resignation, dismissal or retirement of coroners, and the arrangements for filling posts on a temporary basis. This Part also provides that area coroners and assistant coroners can perform any functions of the senior coroner when he or she is absent or unavailable or otherwise with the senior coroner's consent.

Part 4 - Terms of office of senior, area and assistant coroners

- 215. **Part 4** of Schedule 3 introduces a new retirement age of 70 for coroners and sets out the procedure for resignation from office. A coroner is no longer to be regarded as holding a "freehold office".
- 216. It also gives the Lord Chancellor the power to remove a senior coroner, area coroner or assistant coroner from office if that coroner is incapable of performing his or her functions or is guilty of misbehaviour. Before he or she can exercise this power, the Lord Chancellor must have the agreement of the Lord Chief Justice.
- 217. **Part 4** also provides for senior coroners, area coroners and assistant coroners to be subject to the disciplinary provisions of Chapter 3 of Part 4 of the Constitutional Reform Act 2005 (which includes the power for the Lord Chief Justice to issue reprimands).
- 218. It makes provision for the relevant authority for the area to pay salaries to senior coroners and area coroners and fees to assistant coroners. The amount of these salaries and fees is for the relevant coroner and the relevant authority to agree. If they fail to reach an agreement the matter can be referred to the Lord Chancellor, who can determine the amount.
- 219. This Part also requires the relevant authority for an area to make provision for pensions for senior and area coroners.

220. Additional terms of office can be agreed between the appropriate authority and the coroner.

Section 24: Provision of staff and accommodation

221. This section requires the relevant authority for a coroner area to provide sufficient administrative staff and coroners' officers. When, locally, the police authority is responsible for providing coroners' officers, then they will be expected to continue to do so. The local authority and local police authority will be expected to work together, with the senior coroner, to secure appropriate staffing levels. (Police authorities currently provide 90% of coroner's officers to support the work of coroners.)
222. The relevant authority is also obliged to provide, or secure the provision of, accommodation to enable senior coroners to carry out their functions. This accommodation must either be maintained by the relevant authority or they must secure that it is maintained. This does not apply if another person has responsibility for maintaining the accommodation. This recognises that not all coroners have a dedicated court to hold inquests and that there will continue to be a need to hire such facilities in the future, including court accommodation where the existing court room is insufficient for the purposes of a particular inquest. Under section 31 of the 1988 Act, the relevant council had power to provide accommodation for inquests.
223. The relevant authority is required to take into account the views of the senior coroner when providing and, where relevant, maintaining accommodation. The Act allows inquests to be held anywhere in England and Wales so that there is new flexibility if particular inquests have requirements for the sort of accommodation which is not available within the coroner's own area. The expectation will be, however, that an inquest is normally held within the area of the coroner who is conducting the investigation.