

1976 Bill 60

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 60

THE FATALITY INQUIRIES ACT

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

BILL 60

1976

THE FATALITY INQUIRIES ACT

(Assented to _____, 1976)

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

1. In this Act

- (a) "autopsy" means the dissection of a body for the purpose of examining organs to determine the cause of death or manner of death, and includes toxicological, histological, microbiological or serological tests;
- (b) "Board" means the Fatality Review Board established under this Act;
- (c) "body" means a dead body or the remains of a dead body;
- (d) "cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose, as modified by the regulations under *The Vital Statistics Act*;
- (e) "examination" means the examination of an unclothed body with or without the removal of body tissue or fluids for the purpose of toxicological examinations;
- (f) "manner of death" means mode or method of death whether natural, homicidal, suicidal, accidental or undeterminable;
- (g) "medical examiner" means a medical examiner appointed pursuant to section 7;
- (h) "medical investigator" means a medical investigator or a part-time medical investigator appointed pursuant to section 6;
- (i) "nearest relative" means with respect to any deceased person
 - (i) the adult relative first listed in the following paragraphs, relatives of the whole blood being preferred to relatives of the same description of

Explanatory Notes

1. Definitions.

the half-blood and the elder or eldest of the two or more relatives described in any paragraph being preferred to the other of those relatives:

- (A) husband or wife,
 - (B) son or daughter,
 - (C) father or mother,
 - (D) brother or sister,
 - (E) grandfather or grandmother,
 - (F) grandson or granddaughter,
 - (G) uncle or aunt,
 - (H) nephew or niece,
- or

- (ii) where the deceased person was a ward of the Crown under *The Child Welfare Act*, the Minister of Social Services and Community Health, or
 - (iii) where there is no nearest relative within any description in subclause (i) or (ii), such person as the Chief Medical Examiner designates in writing to act as the nearest relative;
- (j) "next of kin" means the mother, father, children, brothers, sisters and spouse of a deceased person, or any of them;
 - (k) "pathologist" means a physician who is the holder of a certificate as a specialist in pathology pursuant to the by-laws of the council of the College of Physicians and Surgeons of the Province of Alberta;
 - (l) "public inquiry" means a public inquiry under Part 4.

PART 1

ADMINISTRATION

The Fatality Review Board

2. (1) There is hereby established a Board called the "Fatality Review Board" which shall consist of three members appointed by the Lieutenant Governor in Council.

(2) In addition to the three members appointed under subsection (1), the Chief Medical Examiner is by virtue of his office a member of the Board but shall not vote on any matter before the Board.

(3) One member of the Board appointed by the Lieutenant Governor in Council shall be a physician.

(4) One member of the Board appointed by the Lieutenant Governor in Council shall be a member in good standing of The Law Society of Alberta.

(5) The Lieutenant Governor in Council may designate

- (a) one voting member of the Board as chairman of the Board, and
- (b) one voting member of the Board as vice-chairman of the Board.

(6) The voting members of the Board shall receive such remuneration for their services as may be prescribed by the Lieutenant Governor in Council.

(7) The members of the Board shall be paid their reasonable travelling and living expenses while absent from their places of residence and in the course of their duties as members of the Board.

3. Two of the voting members constitute a quorum at a meeting of the Board.

4. The Board shall

- (a) review or initiate investigations under this Act in order to determine the need for holding a public inquiry;
- (b) recommend the appointment of medical examiners;
- (c) review complaints respecting misbehaviour or incompetence or neglect of duty by medical examiners or the inability of medical examiners to perform their duties under this Act.

Officials

5. (1) The Lieutenant Governor in Council shall appoint a Chief Medical Examiner who shall be a pathologist.

2. The Fatality Review Board.

3. Quorum.

4. Powers of the Board.

5. The Chief Medical Examiner.

(2) The Chief Medical Examiner shall receive such remuneration as may be prescribed by the Lieutenant Governor in Council.

(3) The Chief Medical Examiner may exercise and perform the powers and duties of a medical examiner.

(4) The Chief Medical Examiner is responsible to the Attorney General for

- (a) the operation of this Act in relation to the reporting, investigating and recording of deaths;
- (b) the supervision of medical examiners in the performance of their duties;
- (c) the development and maintenance of facilities that may be required;
- (d) the education of persons required to perform functions under this Act;
- (e) the inspection of medical certificates of death in all cases where burial permits are issued pursuant to *The Vital Statistics Act*.

6. In accordance with *The Public Service Act* there may be appointed Deputy Chief Medical Examiners, Assistant Deputy Chief Medical Examiners, medical investigators, part-time medical investigators and such other employees as may be required for the purpose of administering this Act.

7. The Attorney General may appoint physicians as medical examiners.

8. (1) A medical examiner ceases to hold office

- (a) upon ceasing to be a member of the College of Physicians and Surgeons of the Province of Alberta, or
- (b) upon submitting his resignation to the Attorney General in writing, or
- (c) upon ceasing to be ordinarily resident in Alberta, or
- (d) upon termination of his appointment by order of the Attorney General.

(2) A medical examiner is suspended during any period that his registration is suspended under *The Medical Profession Act, 1975*.

(3) The Attorney General may suspend the appointment of a medical examiner during any period that a complaint regarding the medical examiner is under review by the Board pursuant to section 4, clause (c).

6. Deputy Chief Medical Examiners, Assistant Deputy Chief Medical Examiners, medical investigators and other employees.

7. Appointment of medical examiners.

8. Ceasing to hold office and suspension of medical examiners.

9. (1) Every member of the Royal Canadian Mounted Police or a municipal police force is, by virtue of his office, a medical investigator and has the same powers and duties as are conferred or imposed on a medical investigator by this Act.

(2) A medical investigator shall be under the supervision of a medical examiner and, when authorized to do so by a medical examiner,

(a) shall assist the medical examiner in carrying out his duties under this Act, and

(b) may exercise the powers enumerated in section 23.

9. Members of the Royal Canadian Mounted Police and municipal police forces are ex officio medical investigators. Function of medical investigators.

PART 2

REPORTING AND INVESTIGATION OF DEATHS

10. (1) Any person having knowledge or reason to believe that a person has died under any of the circumstances referred to in subsection (2) or section 11, 12 or 13 shall immediately notify a medical examiner.

(2) Deaths that occur under any of the following circumstances require notification under subsection (1):

- (a) deaths that occur unexpectedly and unexplainedly when the deceased was in apparent good health;
- (b) deaths that occur as the result of violence, accident or suicide;
- (c) maternal deaths that occur during or following pregnancy and that might reasonably be related to pregnancy;
- (d) deaths that may have occurred as the result of therapeutic misadventure or treatment by any person including all deaths that occur within 10 days of an operative procedure or while under anaesthesia or during recovery from anaesthesia;
- (e) deaths that are the result of poisoning;
- (f) deaths that occur while the deceased person was not under the care of a physician;
- (g) deaths that occur while the deceased person was in the custody of a peace officer;
- (h) deaths that are the result of
 - (i) any disease or ill-health contracted or incurred by the deceased, or
 - (ii) any injury sustained by the deceased, or
 - (iii) any toxic substance introduced into the deceased,
in the course of the deceased's employment or occupation or in the course of one or more of his former employments or occupations.

11. Where a person dies while

- (a) detained in a correctional institution (as defined in *The Corrections Act*) or a jail including a military guard room, remand centre, penitentiary, institution (as defined in Part 2 of *The Child Welfare Act*), detention centre or any place where a person is held under a warrant of a judge, or
- (b) a formal patient in any facility as defined by *The Mental Health Act, 1972*, or

10. Types of deaths that require notification.

11. Notification of deaths of prisoners.

(c) an inmate or patient in any institution specified in the regulations,
the person in charge of that institution, jail, facility or other place shall immediately notify a medical examiner.

12. Where a person dies while

- (a) committed to a correctional institution (as defined in *The Corrections Act*) or a jail, including a military guard room, remand centre, penitentiary, institution (as defined in Part 2 of *The Child Welfare Act*), detention centre or any place where a person is held under a warrant of a judge, or
- (b) a formal patient in any facility as defined by *The Mental Health Act, 1972*, or
- (c) an inmate or patient in any institution specified in the regulations,

but while not on the premises or in actual custody thereof, the person in charge of that facility or institution, jail or other place, shall, immediately upon receiving notice of the death, notify a medical examiner.

13. The Director of Child Welfare shall immediately notify a medical examiner of the death of any child in his custody.

14. (1) Any person who knows or believes that a battery or other device containing a sealed, long-lived radio-nuclide is present in a body shall notify a medical examiner.

(2) Where a medical examiner has been notified under subsection (1) or has reason to believe that a battery or other device containing a sealed, long-lived radio-nuclide is present in a body, a medical examiner

- (a) shall be present at any autopsy,
- (b) may authorize the removal of the battery or other device whether or not an autopsy is conducted, and
- (c) is responsible for the return of the long-lived radio-nuclide or any other radioactive material to the manufacturer or to the Atomic Energy Commission of Canada.

15. When a body is brought into Alberta for ultimate disposal, any funeral director, undertaker, embalmer, mortuary attendant or any other person who intends to dispose of the body shall, before disposing of the body, notify a medical examiner who shall

- (a) inspect the medical certificate of death or other documents which accompany the body,

12. Notification of deaths of prisoners not in custody.

13. Notification of death of child under custody of Director of Child Welfare.

14. Notification where body contains a radioactive substance.

15. Notification of dead body brought to Alberta for burial or cremation.

- (b) cause to be made such investigation as may be necessary to establish or confirm the cause of death, and
- (c) countersign the burial permit before disposal of the body.

16. No person shall

- (a) cremate a body, or
- (b) ship or take a body from any place in Alberta to any place outside of Alberta,

until a medical examiner issues a certificate in the form prescribed by the regulations stating that he has caused the body to be examined and has examined the medical certificate of death.

17. No person who has reason to believe that a person died under any of the circumstances referred to in section 10, 11, 12 or 13 shall, without the direction of a medical examiner,

- (a) clean or make any alterations to the body or clothing on the body or objects attached to the body, or
- (b) apply any chemical or other substance to the body, internally or externally.

18. Where any person knows or believes that a death has occurred in Alberta but no body has been located because

- (a) the body or part of the body has been destroyed, or
- (b) the body is lying in a place from which it cannot be recovered, or
- (c) the body has been removed from Alberta,

that person shall immediately notify a medical examiner or a member of the Royal Canadian Mounted Police or a member of a municipal police force.

19. (1) Where a body is unidentified or unclaimed and an investigation indicates that the body is likely to remain unidentified or unclaimed, the Chief Medical Examiner shall arrange for the storage of the body for a period of seven days from the completion of any investigation or public inquiry.

(2) If upon the expiry of the seven-day period referred to in subsection (1) the body remains unidentified or unclaimed, the Chief Medical Examiner shall notify the nearest university and, if a demand is made under *The Universities Act*, deliver the body to a university, or, where no demand is made, arrange for the burial or cremation of the body.

16. Examination of bodies to be cremated or shipped out of the Province.

17. Prohibition of interference with body.

18. Notification of death where body not located.

19. Disposal of unidentified or unclaimed body.

20. (1) Subject to section 21, where a medical examiner receives notification of a death then, if he is satisfied that the death occurred under any of the circumstances referred to in section 10, 11, 12, 13 or 18, he or a medical investigator authorized by him shall investigate the death and establish where possible

- (a) the identity of the deceased,
- (b) the date, time and place of death,
- (c) the circumstances under which the death occurred,
- (d) the cause of death, and
- (e) the manner of death.

(2) Where a medical examiner does not investigate a death of which he receives notification, he shall

- (a) notify another medical examiner if the death occurred under any of the circumstances referred to in section 10, 11, 12, 13 or 18, and
- (b) keep a record of the death including the reasons why the death was not investigated by him.

(3) A medical examiner shall keep a record of all deaths of which he is notified pursuant to this Act or *The Vital Statistics Act* and shall immediately report to the Chief Medical Examiner all investigations made into a death by the medical examiner or a medical investigator under his supervision.

(4) Where a medical examiner has investigated a death and has determined the manner of death and the cause of death, he shall immediately, in addition to making a report under subsection (3), complete a medical certificate of death in accordance with *The Vital Statistics Act*.

21. (1) Unless otherwise directed by the Chief Medical Examiner, the medical examiner residing, by the usual route of travel, nearest to the place of death or the place where the body is found shall investigate the death.

(2) Unless otherwise directed by the Chief Medical Examiner, no medical examiner shall investigate a death where he has, in his professional capacity as a medical practitioner, attended the deceased at any time within 30 days immediately before the date of death or where he has any reason to believe that a conflict of interest exists.

22. The Chief Medical Examiner may at any time

- (a) direct a medical examiner to make an investigation into any death at any place in Alberta, or
- (b) order an autopsy of the body of any person who

20. Duties of the medical examiner.

21. Jurisdiction and disqualification of medical examiners.

22. Chief Medical Examiner may order investigation or autopsy.

died under the circumstances described in section 10, 11, 12 or 13.

23. (1) A medical examiner or a medical investigator acting under his authorization may, in exercising his duties under this Act,

- (a) without a warrant, enter any place where he believes a body that is the subject of an investigation is located or has been located;
- (b) without a warrant, take possession of anything which may be related to the death and may place anything seized into the custody of a peace officer;
- (c) cordon off or secure the scene or area in which the death under investigation occurred for a period not exceeding 48 hours or such extended period as the Chief Medical Examiner may authorize;
- (d) with the approval of the Chief Medical Examiner, obtain services or retain expert assistance for any part of his investigation.

(2) Where a medical examiner or a medical investigator seizes anything under subsection (1), clause (b), he or the peace officer who has custody thereof shall retain it until the conclusion of any investigation or public inquiry into the death or until the thing seized is no longer required and then shall return it to the person from whom it was seized.

24. (1) Where a medical examiner conducts an investigation into a death pursuant to this Act, he is deemed to take possession of the body at the time he receives the notification.

(2) As soon as possible after taking possession of the body, the medical examiner shall sign and affix a notice, in the form prescribed by the Chief Medical Examiner, to the body or the shroud, garment or container holding the body.

(3) Failure to sign or affix the notice under subsection (2) does not affect the right of the medical examiner to take possession of the body.

(4) A medical examiner may carry out examinations of the body.

(5) The medical examiner may release the body for burial or other disposition when possession of the body is no longer required for the purposes of this Act.

25. The medical examiner may cause to be destroyed any soiled or damaged clothing which was taken into possession

23. Powers of a medical examiner or medical investigator.

24. Possession and release of body.

25. Destruction of soiled clothing.

with a body and which is not required for the purpose of this Act or any investigation or proceeding conducted under any other statute in force in Alberta.

26. Any person who

- (a) hinders, obstructs, intimidates, harasses or in any way interferes with, or
 - (b) knowingly furnishes false information to, or
 - (c) refuses or wilfully neglects to furnish information required by this Act or the regulations to,
- a medical examiner or a medical investigator in the performance of his duties is guilty of an offence.

27. Everyone who contravenes or fails to comply with a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a term not exceeding six months.

28. (1) A medical examiner may order the autopsy of the body of any person who died under the circumstances described in section 10, 11, 12 or 13.

(2) Where a medical examiner or the Chief Medical Examiner orders an autopsy

- (a) the autopsy shall only be carried out by a pathologist;
- (b) the person who performs the autopsy may excise, remove and retain any part of the body for the purpose of establishing the cause of death and the manner of death;
- (c) the person who performs the autopsy shall preserve and store all material removed from the body until any investigation or public inquiry under this Act or any investigation or proceeding under any other statute in force in Alberta is completed or the Chief Medical Examiner gives his permission to dispose of the material.

29. Notwithstanding section 28, subsection (2), clauses (b) and (c), a medical examiner may allow the removal of tissue in accordance with *The Human Tissue Gift Act* if the removal of the tissue does not interfere with any investigation, proceeding or public inquiry.

30. (1) A pathologist shall not perform an autopsy

- (a) where the deceased died in a hospital in which the pathologist was employed or was a member of the medical staff at the time of the death, and

26. Offence to obstruct a medical examiner.

27. Penalty on conviction.

28. Conduct of autopsy.

29. Operation of The Human Tissue Gift Act.

30. Prohibitions against performing autopsy in certain cases.

(b) where the conduct of any person on the hospital staff is likely to be called into question, unless the medical examiner or Chief Medical Examiner is of the opinion that the autopsy would be unduly delayed if performed by another pathologist.

(2) Where a medical examiner or the Chief Medical Examiner has reason to believe that the death may have been caused by the improper or negligent treatment of any person, the person who provided the treatment shall not perform or assist at an autopsy or examination of the body.

31. A person who performs an autopsy shall provide the medical examiner who ordered the autopsy with such autopsy reports as may be prescribed by the regulations.

32. (1) Notwithstanding section 12 of *The Cemeteries Act*, the Chief Medical Examiner may order a body to be disinterred for the purposes of an investigation under this Act.

(2) Copies of an order under subsection (1) shall be delivered by registered mail at least 48 hours before the disinterment to

- (a) the nearest relative of the deceased,
- (b) the Director of Vital Statistics, and
- (c) the owner or the person in charge of the cemetery or mausoleum where the body is buried or stored.

33. Every medical examiner shall provide the Chief Medical Examiner with a record of each investigation that the medical examiner conducts under this Act including the reports, certificates and other documents that are prescribed by the regulations.

34. (1) All reports, certificates and other records made by any person under this Act are the property of the Government of Alberta and shall not be released without the permission of the Chief Medical Examiner.

(2) Notwithstanding subsection (1), upon

- (a) the completion of the investigation, and
- (b) the receipt of a request from the nearest relative or personal representative of the deceased,

the Chief Medical Examiner shall complete a report to the nearest relative or personal representative, as the case may be, in the form prescribed by the regulations.

35. Where, during the course of his investigation, a medical examiner is of the opinion that an offence under

31. Autopsy reports.

32. Disinterment.

33. Records.

34. Release of information.

35. Notification that an offence may have been committed.

any statute in force in Alberta may have been committed which is related to the death, he shall

- (a) immediately notify the Chief Medical Examiner and the chief constable or officer in charge of the nearest police detachment or station, and
- (b) notwithstanding section 34, complete a report in the form prescribed by the regulations and forward the report to the chief constable or officer in charge, as the case may be.

PART 3

REVIEW OF INVESTIGATIONS

36. (1) The Chief Medical Examiner shall notify the Board of any death which has been the subject of an investigation if

- (a) the cause of death has not been established;
- (b) the manner of death has not been established;
- (c) the body is unidentified or has not been located;
- (d) a medical examiner, any of the next of kin of the deceased or anyone whom the Chief Medical Examiner considers to be an interested party requests in writing that the Board review the investigation and provides reasonable grounds for the review;
- (e) the death is one referred to in section 10, subsection (2), clause (g) or in section 11 or 12;
- (f) the Chief Medical Examiner considers a review of the investigation to be necessary or desirable;
- (g) the death is one referred to in section 13 and the cause of death is unnatural or the manner of death is undetermined or the death has occurred under suspicious circumstances.

(2) Notification by the Chief Medical Examiner under subsection (1) shall be in writing and shall be accompanied by all reports and certificates that may be relevant to the death.

37. (1) Where the Board receives a notification pursuant to section 36, it shall review the findings of the medical examiner including the examination report, the autopsy report, if any, and any other material which it considers relevant, and conduct such further investigation as may be necessary.

(2) After reviewing the matters set out in subsection (1), the Board may

- (a) recommend to the Attorney General that the Attorney General direct a provincial judge to conduct a public inquiry, or
- (b) recommend to the Attorney General that no public inquiry be held.

(3) Where the Board reviews the findings of a medical examiner with respect to a death referred to in section 10, subsection (2), clause (g), section 11, section 12 or section 13, the Board shall recommend that a public inquiry be held unless it is satisfied that the death was due entirely to natural causes and was not preventable and that the public interest would not be served by a public inquiry.

36. Notification of the Board.

37. Board may recommend public inquiries.

PART 4

PUBLIC INQUIRIES

38. In this Part,

- (a) "judge" means a provincial judge appointed under *The Provincial Court Act*, and
- (b) "clerk" means a clerk of the Provincial Court of Alberta.

39. (1) The Attorney General

- (a) shall upon the recommendation of the Board, and
- (b) may in any other case,

appoint a judge to conduct a public inquiry into a death or two or more deaths that arose out of the same circumstances.

(2) The Attorney General may direct that the judge summon a jury and where such a direction is made the judge shall issue a warrant in the form prescribed by the regulations authorizing the clerk to summon a jury.

40. (1) Where the Attorney General makes a direction under section 39, subsection (2), the clerk shall choose a jury of six persons who are liable to serve as jurors under *The Jury Act*.

(2) The judge shall issue a summons to the jurors who are chosen by the clerk and a copy of the summons shall be served on each juror.

(3) Where fewer than six jurors summoned appear at the time or place appointed for the public inquiry, the clerk may choose persons who are available and who are liable to serve as jurors under *The Jury Act* to increase the jury to six.

(4) Where a person summoned to serve as a juror does not appear in answer to the summons, the judge may, after receiving proof that the person was served with the summons, issue a warrant to a peace officer commanding the peace officer to arrest the person and bring him before the judge at the time and place specified in the warrant.

(5) Where the person who is brought before the judge pursuant to a warrant issued under subsection (4) fails to show cause why he did not obey the summons, the judge may impose upon him a fine not exceeding \$50 or imprisonment for not more than 30 days, or both fine and imprisonment.

(6) Where a person summoned to serve as a juror is arrested and brought before the judge and then refuses

38. Definitions.

39. Appointment of judge and jury.

40. Jurors.

without reasonable excuse to serve as a juror, the judge may impose upon him a fine not exceeding \$50 or imprisonment for not more than 30 days, or both fine and imprisonment.

41. (1) A judge who holds an inquiry under this Act has all the powers of a commissioner appointed under *The Public Inquiries Act*.

(2) The judge may issue a summons to any person who in the opinion of the judge may be able to give evidence which relates to the death under investigation.

(3) Persons called as witnesses shall be examined on oath.

(4) A judge has the same powers

(a) to compel the attendance of witnesses, and

(b) to punish a witness for

(i) disobeying a summons to appear, or

(ii) refusing to be sworn, or

(iii) refusing to give evidence,

as are conferred upon a provincial judge by the *Criminal Code*.

42. (1) A report which purports to be made by the medical examiner pursuant to section 20, subsection (3) shall be admitted in evidence without proof of the signature or appointment of the medical examiner.

(2) Notwithstanding subsection (1), the judge may issue a summons to a medical examiner to attend and give evidence at a public inquiry and the medical examiner is entitled to receive a fee for attendance as prescribed by the regulations if he is not a full-time employee of the Government.

43. Nothing is admissible in evidence in a public inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence.

44. If before the commencement of, or during, a public inquiry a person is charged with an offence under any statute in force in Alberta arising from or related to the death, an agent of the Attorney General may adjourn the inquiry pending determination of the charge and

(a) refer the matter back to the Board, or

(b) refer the matter back to the judge to continue the public inquiry at a later date.

45. (1) A witness at a public inquiry is deemed to object to any question asked him if the answer to the question may

41. Witnesses.

42. Entry of medical examiners' report into evidence.

43. Privileged evidence.

44. Adjournment because of criminal proceedings.

45. Incriminating questions.

tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any other person and no answer given by a witness at a public inquiry shall be used or be receivable in evidence against him in any trial or other proceeding thereafter taking place other than a prosecution for perjury in the giving of such evidence.

(2) Where it appears at any stage of the public inquiry that a witness is about to give evidence that would tend to criminate him, it is the duty of the judge and of the counsel for the Crown at the public inquiry to inform the witness of his rights under section 5 of the *Canada Evidence Act*.

46. The following persons may appear at a public inquiry either personally or through their legal counsel and may cross-examine witnesses and present arguments and submissions:

- (a) any of the next of kin of the deceased;
- (b) the personal representative of the deceased;
- (c) a beneficiary under a policy of life insurance on the life of the deceased;
- (d) any person who makes application to the judge before or during the inquiry and is declared by the judge to be a properly interested person.

47. The judge may at any time limit examination or cross-examination of witnesses where in his opinion the examination or cross-examination is vexatious, irrelevant or unnecessary.

48. The judge shall cause a record of the evidence received at a public inquiry to be made including a list of exhibits and witnesses.

49. Where a public inquiry is commenced by a judge who dies or retires or is removed from office before the completion of the public inquiry, or who for any reason is unable to complete the public inquiry, the Attorney General may appoint another judge to complete the public inquiry or to conduct another public inquiry.

50. (1) At the conclusion of the public inquiry, the judge or jury, if any, shall make a written report to the Attorney General which shall contain findings as to the following:

- (a) the identity of the deceased;
- (b) the date, time and place of death;

46. Appearance of interested parties.

47. Limitation of vexatious or unnecessary examination of witnesses.

48. Record of evidence.

49. Continuation of public inquiry by another judge.

50. Findings of the judge or jury.

- (c) the circumstances under which the death occurred;
- (d) the cause of death;
- (e) the manner of death.

(2) A report under subsection (1) may contain recommendations as to the prevention of similar deaths.

(3) The findings of the judge or jury shall not contain any findings of legal responsibility or any conclusion of law.

51. (1) Where a jury makes a written report to the Attorney General under section 50, subsection (1), the findings of the jury shall be agreed to by not less than five of the jurors.

(2) Where less than five of the jurors are able to agree to any of the findings referred to in section 50, subsection (1), the jury shall make a written report to the Attorney General containing such findings, if any, that are agreed upon by not less than five of the jurors.

(3) Where less than five jurors are able to agree as to any of the findings referred to in section 50, subsection (1), the Attorney General may direct a judge to hold a second public inquiry or may take such other action as he considers proper.

52. The Lieutenant Governor in Council may make regulations

- (a) prescribing the fees payable under this Act
 - (i) to medical examiners, witnesses, jurors, court reporters and interpreters, and
 - (ii) to pathologists for autopsies performed pursuant to this Act;
- (b) prescribing forms and providing for their use;
- (c) governing the procedures to be followed by medical examiners or medical investigators who conduct investigations under this Act;
- (d) governing the procedures to be followed by pathologists who perform autopsies under this Act;
- (e) prescribing reports, certificates and other documents that shall be provided to medical examiners, the Chief Medical Examiner or the Board;
- (f) prescribing a tariff of fees to be charged for services provided under this Act;
- (g) designating any place as an institution for the purposes of section 11 or section 12 or both.

51. Findings where jury is unable to agree.

52. Regulations.

PART 5

CONSEQUENTIAL, TRANSITIONAL AND COMMENCEMENT

53. *The Mechanical Recording of Evidence Act is amended by striking out the word "coroner" in section 2, clause (a) and by substituting the words "a provincial judge who holds a public inquiry under The Fatality Inquiries Act".*

54. *The Human Tissue Gift Act is amended*

(a) *as to section 5, subsection (4) by striking out clause (a) and by substituting the following clause:*

(a) *the Chief Medical Examiner, a Deputy Chief Medical Examiner or a medical examiner in possession of the body for the purposes of The Fatality Inquiries Act, or*

(b) *by striking out section 6 and by substituting the following section:*

6. Where

(a) *in the opinion of a physician, the death of a person is imminent by reason of injury or disease,*

(b) *the physician has reason to believe that section 10, 11, 12 or 13 of The Fatality Inquiries Act may apply when the death does occur, and*

(c) *a consent under this Part has been obtained for a postmortem transplant of tissue from the body,*

then notwithstanding that death has not yet occurred a medical examiner appointed under The Fatality Inquiries Act may give such directions as he thinks proper respecting the removal of that tissue after the death of the person, and every such direction has the same force and effect as if it had been made after death.

(c) *as to section 14 by striking out the words "The Coroners Act" and by substituting the words "The Fatality Inquiries Act".*

55. *The Universities Act is amended by adding the following section after section 55:*

55.1 *No university shall accept a body for anatomical purposes or for scientific study or research under section 53 or 54 or under The Human Tissue Gift Act until a medical examiner appointed under The Fatality Inquiries Act issues a certificate that he has caused the body to be examined and has examined the medical certificate of death.*

53. Consequential amendments to The Mechanical Recording of Evidence Act, chapter 229 of the Revised Statutes of Alberta 1970.

54. Consequential amendments to The Human Tissue Gift Act, chapter 71 of the Statutes of Alberta, 1973.

55. Amends chapter 378 of the Revised Statutes of Alberta 1970.

56. *The Coroners Act* is repealed.

57. This Act comes into force on a date to be fixed by Proclamation.

56. Repeals chapter 69 of the Revised Statutes of Alberta 1970.