

# **CORONERS AND JUSTICE ACT 2009**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *Commentary on Sections*

#### **Part 1 - Coroners etc**

#### *Chapter 3: Coroner areas, appointments etc*

#### *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.