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01924 562252

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0330 013 0246

or enquiry@fs.co.uk

This information booklet has been written by Andrew Greenwood solicitor at Emsleys for SCARD.

Other information booklets produced by SCARD include:

No.1 – Criminal Law: Implications after road death or injury

No.2 – Civil Law: Compensating the Victims of Death & Injury

These titles are available from the address below.



 SCARD

INFORMATION HANDBOOK 3

Inquests & Coroner's Courts



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Civil Law: Compensating the Victims of Road Death or Injury

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1. INTRODUCTION

The Coroners Court is an ancient Court, which is quite unlike all others in England and Wales. It is an inquisitorial Court unlike the adversarial Courts in Civil and Criminal Law. In simple terms, the Coroner dictates what happens in his or her own Court and is the one to ask questions of the witnesses and Police Officers and take evidence from them. Civil and Criminal Courts rely on Solicitors and Barristers asking questions of witnesses, and the Judge usually takes little or no direct part in the questioning of those witnesses. Families of the deceased are entitled to be represented by a Solicitor or Barrister at the Inquest.

THE CORONER

The Coroner is usually a former senior Solicitor, Barrister or medical practitioner local to the area in which the Coroner's Court has jurisdiction. The Coroner has a duty to hold an inquiry into any death that is not expected, or satisfactorily explained by illness, or in any case where there are possible suspicious circumstances. Clearly deaths arising from road traffic accidents come into the category requiring a Coroner's Inquest. The Coroner will employ a number of Officers to act as intermediaries between the families of the deceased and himself, in the conduct of his inquiries.

NO STRICT RULES OF EVIDENCE OR BURDENS OF PROOF

Unlike Criminal or Civil Law, the Coroner is not bound by any rules of evidence relating to hearsay nor is he governed by any requirement for a case to be determined beyond any particular burden of proof, such as the balance of probabilities or beyond all reasonable doubt. This is simply an enquiry by the Coroner into the statutory requirements set out below

STATUTORY FUNCTIONS

Unlike the Criminal or Civil Law Judges, the Coroner is not a Judge required to decide where guilt or fault lies. Under Section 5 (1) of the Coroners and Justice Act 2009, the Coroner is simply required to find out the following: -

- 1. Who was the deceased;**
- 2. How, when and where the deceased came by his or her death.**

It is important to realise that the Coroner's function therefore is relatively limited. He is not allowed to determine any question of criminal liability or civil liability on the part of any named person. Under new rule 8 of the Coroners Rules 2009, the inquest must be completed within six months from 'the date on which the coroner is made aware of the death, or as soon as is reasonably practicable after that date'.

Rule 6 formally recognises that pre-inquest review hearings (PIRs) are often held before the main inquest hearing. Where possible coroners should set out in advance of the hearing for all interested persons an agenda in writing and, where appropriate, invite written submissions to be considered at the hearing.

Part 3 of the Inquests Rules sets out new arrangements for the disclosure of information to interested persons. Under these new provisions a coroner must normally disclose copies of relevant documents to an interested person, on request, at any stage of the investigation process.

The term 'document' is defined in rule 2 of The Coroners (Inquests) Rules 2013, as 'any medium in which information of any description is recorded or stored'. This includes such items as photographs and CCTV footage, as well as paper documents. Disclosure should be by electronic means wherever possible, particularly where scanning equipment is available. If it is not possible to send documents to an interested person, then the coroner should allow such persons to inspect the documents. Documents may be redacted where appropriate (rule 14 of The Coroners (Inquests) Rules 2013).

JURY

An inquest must be held without a jury unless section 7 applies (section 7(1)).

Section 7 sets out the limited circumstances in which a coroner is required to hold a jury inquest. It also gives the coroner the power to decide to hold an inquest with a jury in any case where he or she thinks there is 'sufficient reason'.

It is modelled on section 8(3)(d) of the 1988 Act.

If an incident has occurred at a so called accident "black spot", on the roads, or if a death has been caused because of some defect in the motor car, then it would be likely that a Jury should be summonsed.

CORONER'S RECOMMENDATIONS

A Coroner, who believes that action should be taken to prevent further fatalities similar to that in respect of which the Inquest is being held, can announce at the Inquest that he/she is going to report the matter, in writing, to a person, or authority, who has power to take action and can make a report accordingly.

If a road death occurred, for example, at an accident black spot, the Coroner could make a recommendation to a Local Authority suggesting that appropriate action be taken to make the road safer by installing traffic lights, improving road signage and the like. Coroners can also make recommendations to the local Crown

Prosecution Service Lawyers and can make their file of evidence available for criminal prosecution purposes. Juries cannot make any such recommendations, only the Coroner.

CONCLUSION OF THE INQUEST

Previously, the coroner, or jury where there was one, completed an Inquisition at the end of an inquest, including a verdict that set out the conclusions of the coroner or jury as to the death in question (Form 22 of the Coroners Rules 1984).

This form was replaced by Form 2 in the Schedule to the Inquests Rules which is entitled 'Record of an inquest'. The words 'inquisition' and 'verdict' are no longer used. 'Inquisition' is considered to be outdated (and section 11(5) of the 1988 Act was repealed) and 'verdict' is considered to be inappropriately close to criminal proceedings.

Verdicts are therefore now known as conclusions and are set out on the Record form. Most of the conclusions listed in the Record form were previously used by coroners. Two new additions are 'alcohol/drug related' and 'road traffic collision'.

As before, conclusions may 'not be framed in such a way as to appear to determine any question of either criminal liability on the part of a named person, or civil liability' (section 10(2)).

INQUEST OR CRIMINAL TRIAL - WHICH COMES FIRST?

Having regard to the Coroner's requirements simply to investigate the identity of the deceased and how, where and when the deceased came by his or her death, it could be seen that there is no particular disadvantage in the Inquest coming before or after any Criminal Trial. Some Lawyers take a view that if the Inquest comes first, and the Defendant is charged with a serious criminal matter, for example causing death by Dangerous Driving, the Inquest gives the Defence the chance to hear the Prosecution evidence, thereby gaining an unfair advantage. Normally, if the Coroner is aware that a Section 1 offence is being pursued by the Crown Prosecution Service, he will not hold his Inquest until the conclusion of that Criminal Trial so as not to prejudice that Criminal Trial. (Section 1 O).

VERDICTS

The usual verdicts available to a Coroner are as follows:

- (a) Accidental Death**
- (b) Death by Misadventure**
- (c) Unlawful Killing**
- (d) An Open Verdict**
- (e) Suicide**
- (f) A narrative verdict**

REPRESENTATION AT AN INQUEST

Taking into account the above point, it is absolutely critical that those who are injured are assisted in the pursuit of proper compensation by those who are experienced and expert in this area of law.

Do not be afraid to ask the solicitor of your choice what experience he or she has in dealing with serious claims.

- Insist that he or she is a qualified personal injury solicitor.
- What is the maximum compensation that they have secured for a client?
- Have they handled issues in respect of Criminal Law and appeared in Inquests before?
- Ask them to describe previous cases in which they have been involved and ask them what their views are on seeking interim payments.
- Are they prepared to represent you on a "no win - no fee" basis.

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