An Bille Cróinéirí (Leasú), 2018
Coroners (Amendment) Bill 2018

Meabhrán Minitheach agus Airgeadais
Explanatory and Financial Memorandum
The purpose of the Bill is to amend the Coroners Act 1962, to clarify, modernise and strengthen the legal powers of coroners in relation to the reporting of deaths and the conduct of post-mortem examinations and of inquests. The Bill will also enhance compliance with the requirements of Article 2 of the European Convention on Human Rights.

The Bill’s provisions on reportable deaths re-state and clarify what types of deaths must be reported to a coroner. These are supplemented by a new Schedule, providing a range of specific examples of such deaths.

The Bill also makes provision for mandatory reporting to a coroner, and investigation and inquest by a coroner, of a maternal death or late maternal death, and for legal aid for a family member at an inquest into such a death. The Bill retains a discretion for the coroner, after consulting with a family member of the deceased, not to hold an inquest into such a death, if the coroner is satisfied, taking account of specified matters including the views of the family member, that the death was a natural one. The definitions used regarding maternal death or late maternal death accord with those used by the World Health Organisation (WHO-ICD). The Bill further provides for mandatory reporting to a coroner of a stillbirth, death intrapartum, or infant death.

The Bill also re-states and clarifies the deaths in State custody or detention which are subject to mandatory reporting, post-mortem examination and inquest, and where provision is made for legal aid to a family member of the deceased at inquest.

The Bill re-states and clarifies the statutory framework for post-mortem examinations, and makes provision for information to be provided to a family member of the deceased.

The Bill widens the scope of an inquest - from investigating the proximate medical cause of death, to establishing in what circumstances the deceased met his or her death, to the extent that the coroner considers necessary in that case. It provides new powers for a coroner to enter a premises, on foot of a District Court warrant, to inspect, copy or seize documents and things required for the coroner’s inquiry into the death of a person; to direct the production of documents or things at an inquest; to direct a witness to answer questions at inquest; and to seek a High Court order compelling a witness to comply with a direction given. The Bill also updates and strengthens the penalties for offences under the Act.

The Bill, finally, provides for a number of technical amendments on administrative matters, arising from the transfer of administrative
responsibility for the Dublin Coroner district, at the end of 2017, from Dublin City Council (on behalf of the four Dublin local authorities) to the Minister for Justice and Equality.

Section 1 – Definitions
This section defines the term ‘Principal Act’, for the purposes of the Bill, as meaning the Coroners Act 1962.

Section 2 – Amendment of section 2 of Principal Act (Definitions)
Section 2 amends or substitutes certain definitions contained in section 2 of the Principal Act, and inserts a number of new definitions.

Section 3 – Amendment of section 6A of Principal Act (Coroner’s district of Dublin)
Section 3 makes a number of amendments, with effect from 1 January 2018, to section 6A of the Principal Act regarding administrative and financial arrangements for the coroner’s district of Dublin. These amendments are consequential to the transfer of administrative responsibility for that district from Dublin City Council (on behalf of the four Dublin local authorities) to the Minister for Justice and Equality. The amendments include a transitional provision, and also specify that sections 8 and 9 of the Principal Act shall cease to apply in respect of that district.

Section 4 – Amendment of section 8 of Principal Act (Office of coroner)
Section 4 makes a number of technical amendments regarding the process for appointing coroners, consequent on the administrative changes regarding the coroner’s district of Dublin, which are mentioned above under Section 3.

Section 5 – Amendment of section 13 of Principal Act (Deputy Coroner)
Section 5 amends section 13 of the Principal Act, regarding the office of deputy coroner, consequent on the administrative changes regarding the coroner’s district of Dublin which are mentioned above under Section 3.

Section 6 – Amendment of Principal Act - Reporting of Deaths
Section 6 amends the Principal Act by inserting a new Part IIA (Reporting of Deaths) after Part II of the Act (Coroners and Coroners’ Districts). The new Part IIA comprises new sections 16A and 16B of the Principal Act, as set out below.

New section 16A (Reportable deaths) specifies general categories of death which are ‘reportable deaths’ for the purposes of the Principal Act (i.e. deaths which must be reported to the coroner). Without prejudice to the generality of those categories, a death of a kind specified in the Second Schedule to the Bill is likewise a ‘reportable death’. The Minister may by order vary the reportable deaths specified in the Second Schedule, following consultation with such persons or bodies as he or she considers appropriate.

New section 16B (Persons obliged to report death to coroner) sets out various categories of persons who are obliged to report any death which is a ‘reportable death’ under section 16A, to the relevant coroner, as soon as practicable after becoming aware of that death. The obligation to report does not apply if the person has reasonable grounds for believing that the death has already been reported to the coroner by another person specified under this section.

The obligation to report to the coroner is discharged if the person reports the death to a Garda, as soon as practicable after becoming aware of it. In such cases, the Garda has a duty to report the death to the coroner as soon as practicable.
If the death is reported by a registered medical practitioner in specified circumstances, that doctor must also notify the coroner whether he or she can certify the cause of death.

Section 16B also provides that it is an offence to knowingly contravene the obligation to report a reportable death.

Section 7 – General duty to hold inquest

Section 7 amends section 17 of the Principal Act, which sets out the circumstances in which the coroner has a duty to hold an inquest into a death, by providing that without prejudice to the generality of those categories, the coroner also has a duty to hold an inquest if the deceased was in State custody or detention at (or immediately before) the time of death, or if the death was a maternal death or a late maternal death.

It also provides a discretion for the coroner not to hold an inquest into a maternal death or a late maternal death if, having consulted with a family member, the coroner is satisfied that the death was a natural one and that an inquest is not necessary. The matters to which the coroner is to have regard, in exercising that discretion, are specified as including whether the death was reported to the coroner in accordance with new section 16A, whether sufficient information about the death has been provided to the coroner upon inquiry, whether a post-mortem examination has been made and the report of that examination, and the views of a family member of the deceased, provided to the coroner in writing.

Section 8 – Amendment of section 18(1) of Principal Act (Optional power to hold inquest and duty to notify coroner)

Section 8 amends section 18(1) of the Principal Act to provide that a coroner also has a discretion to inquire into the circumstances of a death (and, if he or she thinks proper, to hold an inquest) if a medical certificate of the cause of death has been provided, but is not completed in a satisfactory manner.

Section 9 – Purpose of inquest

Section 9 inserts a new section 18A in the Principal Act, concerning the purpose of an inquest. The new section provides that the purpose shall be to establish the identity of the deceased; how, when and where the death occurred; and, to the extent that the coroner considers it necessary, the circumstances in which the death occurred. The inquest seeks to make findings in respect of these matters, and to return a verdict. Where the coroner, or the jury, is unable to make findings in respect of any of these matters, the coroner may adjourn the inquest for such period as he or she thinks proper. If, when the inquest resumes, the coroner (or the jury) remains unable to make findings in respect of any of these matters, the coroner shall record such findings as are made, and the verdict returned, and shall close the inquest.

Section 10 – Notice of inquest

Section 10 inserts a new section 18B in the Principal Act to provide for the coroner to give 14 days’ advance notice of the holding of an inquest to a family member of the deceased, to witnesses required to attend, and to any other person as the coroner considers proper; and that shorter notice may be given in specified circumstances.
Section 11 – Amendment of section 24 of Principal Act (Inquest on the order of the Attorney General)

Section 11 amends section 24(2) of the Principal Act, which provides for payment of the coroner’s expenses where an inquest is directed by the Attorney General. The amendments are consequent to the administrative changes regarding the coroner’s district of Dublin, set out in section 6A of the Principal Act as amended by section 3 of the Bill.

Section 12 – Identification of body of deceased person

Section 12 replaces section 27 of the Principal Act, which required a coroner holding an inquest into a death personally to view the body of the deceased (unless it had been viewed by a Garda who would give identification evidence at the inquest, by another coroner, or by a deputy coroner). The proposed new section 27 provides that the coroner may request a Garda, a family member of the deceased, or a person with relevant expertise, to view the body (or to examine other identification evidence) and give evidence in this regard. The new section also provides that where it is not possible to identify the deceased, that circumstance does not prevent the coroner inquiring into the circumstances of the death, or holding an inquest.

Section 13 – Amendment of section 30 of Principal Act (Prohibition of consideration of civil and criminal liability)

Section 13 amends section 30 of the Principal Act, by deleting the provision that an inquest is limited to ascertaining the identity of the deceased, and how, when and where the death occurred.

Section 14 – Amendment of section 31 of Principal Act (Prohibition on censure and exoneration)

Section 14 amends section 31 of the Principal Act to include reference to the findings made at inquest, in that section’s prohibition of censure or exoneration; and to add general recommendations which are considered necessary in the interests of public health and safety, to those recommendations that may be appended to the verdict.

Section 15 – Amendment of section 32 of the Principal Act (Record of verdict returned at inquest)

Section 15 includes reference to the findings made at inquest, in section 32 of the Principal Act regarding the record of the inquest.

Section 16 – Post-mortem examinations and related matters

Section 16 replaces section 33 of the Principal Act with new sections 33 and 33A – 33D. The replaced section 33 provides for a post-mortem examination at the discretion of the coroner, sets out a procedure for arranging a post-mortem examination (via a request by the coroner to the Minister), and states circumstances in which the coroner has a duty to arrange a post-mortem examination. The four new sections make more detailed provision regarding post-mortem examinations, as set out below.

Discretion to direct post-mortem examination, and conduct of such examinations

The proposed new section 33 of the Principal Act provides a discretion for a coroner who is inquiring into the death of a person, to direct a post-mortem examination of the body. It also provides for an updated procedure for arranging a post-mortem examination, and provides for a family member of the deceased person to be informed regarding the post-mortem examination. The coroner is not obliged to hold an inquest into that death, if satisfied by the post-mortem examination report that an inquest is not necessary (unless the death is one where inquest is required under section 17 of the Principal Act).
Duty to direct post-mortem examination

Section 33A sets out a range of situations in which the coroner has a duty to direct a post-mortem examination. These are cases where the death appears violent or unnatural; or unexpected and from unknown causes; or to have occurred in suspicious circumstances; or to be a death in State custody or detention, a maternal death or late maternal death; or to be a death which may have occurred in circumstances requiring an inquest under another enactment, or which may be due to specified work-related causes.

The coroner must also direct a post-mortem examination, if so requested in writing by a member of the Garda Síochána not below the rank of Inspector, a member of the Defence Forces not below the rank of commandant, a duly authorised officer of a statutory body empowered under another enactment to investigate fatal events, or a designated officer of the Garda Síochána Ombudsman Commission.

Provisions relating to post-mortem examinations directed by coroner

Section 33B provides for a post-mortem examination directed by the coroner to be made by a registered medical practitioner with appropriate assistance, and continues the current law in precluding a doctor who attended the deceased within 28 days before death from making the post-mortem examination, with one specified exception.

Further post-mortem examination

Section 33C provides for the coroner to direct a further post-mortem examination, if he or she considers that this is required due to new information becoming known, or if the first post-mortem examination was not made properly.

Report of post-mortem examination to be given to coroner etc.

Section 33D provides for the written report of the post-mortem examination to be provided to the coroner as soon as practicable. A preliminary report may be provided to the coroner in advance. The report shall record any organs or body material retained for further examination. The coroner is to make the report available, on request, to any person who requested the post-mortem examination under section 33A(2), not later than the opening of the inquest (or, if no inquest is held, as soon as practicable). The coroner is also required to provide a copy of the post-mortem examination report to a family member, if so requested; unless so doing may prejudice possible, or pending, criminal proceedings in relation to the death.

Section 17 – Amendment of section 37 of the Principal Act (Non-attendance of jurors and witnesses)

Section 17 amends section 37 of the Principal Act, which provides for offences where a person fails to attend an inquest in response to a jury summons or a witness summons. It provides in each case that the failure to attend must be without reasonable excuse. It also inserts a new subsection, to provide that where a witness so fails to attend an inquest, the High Court may (on application by the coroner) order the witness to attend and may make such other order, including an order as to costs, as the Court considers necessary and just to enable the order to have full effect.

Section 18 – Power with respect to taking of evidence, etc., at inquest

Section 18 amends section 38 of the Principal Act to provide for increased powers for a coroner in relation to the taking of evidence at an inquest, including a power to direct any person to produce documents or things necessary for the proper conduct of the inquest, and to direct a witness to answer questions. Where a person fails or refuses without reasonable excuse to comply with such a direction, the coroner may apply to the High
Court for an order compelling the person to comply with the direction. It shall be an offence for a person to knowingly give false or misleading evidence at an inquest. A witness at an inquest shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

Section 19 – Taking of evidence from person about to leave State

Section 19 inserts a new section 38A in the Principal Act to provide that a coroner may direct that evidence be taken from a person, or documents or things produced by a person, before the inquest, if the person concerned is likely to be absent from the State during the inquest itself.

Section 20 – Amendment of section 40(1) of Principal Act (Obligation on coroner to sit with jury in certain cases)

Section 20 amends section 40(1) of the Principal Act, to remove the requirement that a coroner must hold an inquest with a jury in every case where death was caused by an accident arising from the use of a vehicle in a public place.

Section 21 – Amendment of section 46 of Principal Act (Removal and custody of body pending inquest)

Section 21 amends section 46 of the Principal Act, which provides that the coroner may issue directions regarding removal and custody of the body of the deceased pending an inquest or a post-mortem examination. The amendments update the sanctions provided for obstructing or failing to comply with such a direction by the coroner.

Section 22 – Entry to premises to inspect, copy, take extracts from or seize documents, etc.

Section 22 inserts a new section in the Principal Act, providing that the coroner may enter a premises, and inspect or seize documents or things, under a warrant issued by a judge of the District Court. Such a warrant may be issued by the District Court judge if satisfied, on the sworn information of the coroner, that there are reasonable grounds to suspect that the premises contains documents or things required by the coroner for the purposes of his or her inquiry under the Act into the death of a person.

Section 23 – Expert advice and assistance for coroners in certain circumstances

Section 23 inserts a new section in the Principal Act, providing that a coroner may obtain advice and assistance from an expert in a particular subject matter, if required for the purposes of the coroner’s inquiry into a death.

Section 24 – Supply of forms to coroner

Section 24 amends section 54 of the Principal Act, which provides for the supply of forms and stationery to a coroner by the relevant local authority. The amendments are consequent to the administrative changes regarding the coroner’s district of Dublin, set out in section 6A of the Principal Act as amended by section 3 of the Bill.

Section 25 – Amendment of section 58 of Principal Act (Certification and payment of certain sums)

Section 25 amends section 58 of the Principal Act, which provides for certification by the coroner, and payment by the relevant local authority, of fees payable to persons performing or assisting at post-mortem examinations, and of expenses payable to witnesses at inquests, or in connection with removal and custody of a body. The amendments are consequent to the administrative changes regarding the coroner’s district
of Dublin, set out in section 6A of the Principal Act as amended by section 3 of the Bill.

Section 26 – Amendment of section 60 of Principal Act (Legal aid and legal advice for inquests)
Section 26 amends section 60 of the Principal Act, which provides that where an inquest is to be held into the death of a person in State custody or detention, a family member of the deceased person may apply to the coroner to be granted legal aid or legal advice, or both, pursuant to the Civil Legal Aid Act 1995. The amendments make some technical changes to the definitions of the deaths in State custody or detention, and provide for legal aid or advice to be granted on the same basis to a family member where an inquest is to be held into a maternal death or late maternal death.

Section 27 – Offences by body corporate
Section 27 inserts a new section in the Principal Act, providing that where a body corporate commits an offence under the Act, any officer of the body corporate who consented to, or connived in, its commission shall also be guilty of an offence.

Section 28 – Amendment of Principal Act – Schedule specifying reportable deaths
Section 28 inserts a new Schedule in the Principal Act, to be designated as the Second Schedule, containing a list of specific examples of the types of deaths that must be reported to the coroner under sections 16A and 16B of the Act.

Section 29 – Repeals
Section 29 is a standard provision, and lists those provisions of the Principal Act which are repealed by the Bill.

Section 30 – Short title, collective citation and commencement
Section 30 is a standard provision, and proposes that the Bill, when enacted, shall come into operation on such day or days as the Minister may by order appoint.

Schedule – Deaths reportable to the coroner
This Schedule, which is to be inserted as the Second Schedule to the Principal Act, contains a list of specific examples of the type of deaths which must be reported to a coroner under new sections 16A and 16B of the Act.

Financial Implications
The provisions of the Bill are not expected to give rise to significant additional expenditure for local authorities, or for the Exchequer.

An Roinn Dlí agus Cirt agus Comhionnaitais,
Iúil, 2018.