EXPLANATORY MEMORANDUM TO

THE CORONERS (INVESTIGATIONS) (AMENDMENT) REGULATIONS

2022 No. 612

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends regulation 17 of the Coroners (Investigations) Regulations 2013 ("the 2013 Regulations") to align it with section 4 of the Coroners and Justice Act 2009 ("the 2009 Act") as amended by section 39 of the Judicial Review and Courts Act 2022 ("the 2022 Act") with effect from 28 June 2022.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Section 4 of the 2009 Act as originally enacted, requires a coroner to discontinue an investigation before inquest where cause of death is natural, does not occur in custody or other state detention and is revealed by a post-mortem examination directed under section 14 of the 2009 Act.

6.2 Following its commencement on 28 June 2022, section 39 of the 2022 Act will amend section 4 so that the coroner may also discontinue an investigation before inquest where the cause of death is natural, does not occur in state detention and becomes clear through means other than a post-mortem examination.

6.3 The 2013 Regulations are made by the Lord Chancellor, with the agreement of the Lord Chief Justice, under section 43 of the 2009 Act. Regulation 17 requires the coroner to issue a Notice of Discontinuance where cause of death is revealed by post-mortem examination, in accordance with section 4(1) of the 2009 Act.

6.4 This instrument will amend regulation 17 to align it with section 4(1) as amended so that the coroner will be able to issue a Notice of Discontinuance where the cause of death becomes clear before inquest, whether or not through post-mortem examination.

7. Policy background

7.1 Prior to amendment by section 39 of the 2022 Act, section 4 of the 2009 Act provided that coroners could only discontinue an investigation where the cause of death was natural, had not occurred in custody or other state detention and had been revealed by a post-mortem examination. In practice, this meant that if the cause of death became clear during the investigation from other sources of evidence, the coroner's investigation could only be concluded by a formal inquest or by arranging an otherwise unnecessary post-mortem examination. Regulation 17 of the 2013 Regulations reflected this position by allowing the coroner to issue a Notice of Discontinuance only where cause of death was revealed by a post-mortem examination.

7.2 Section 4 is amended by section 39 of the 2022 Act so that coroners may now also discontinue an investigation where the cause of death is natural, has not occurred in custody or other state detention and the cause of death becomes clear by means other than a post-mortem examination. The purpose of widening the circumstances in which an investigation can be discontinued is to streamline coroners' court processes and reduce delays to the coronial system. If regulation 17 were not similarly amended, coroners would not be required to issue a Notice of Discontinuance in circumstances where they have discontinued an investigation under the wider parameters of the amended primary provision (i.e. without a post-mortem examination). This may cause confusion and result in notices not being issued.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This instrument is not being consolidated.

10. Consultation outcome

10.1 Consultation was not undertaken on the change to section 4 of the 2009 Act. The measure has long been proposed by successive Chief Coroners and has been cited in the Chief Coroner's Annual Reports to the Lord Chancellor since 2015.

11. Guidance

11.1 It is anticipated that the Chief Coroner will update his guidance to reflect the revised statutory and regulatory provision set out in this Memorandum.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because it has no or minimal impact on business, the voluntary sector and the public sector.

12.4 An Impact Assessment for the 2022 Act has been published at Impact Assessment template (parliament.uk). This includes an assessment of the impact of section 4 of the 2009 Act, as amended by section 39 of the 2022 Act.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This legislation will not be monitored as the change is technical and minimal.

15. Contact

15.1 Molly Watson-Phillips at the Ministry of Justice. Telephone: 07890 028529 or email: molly.watson-phillips@justice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Alison Samedi, Deputy Director for Death Management, Miscarriages of Justice Compensation, Inquiries and Coroners, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under Secretary of State for Justice, Tom Pursglove MP, can confirm that this Explanatory Memorandum meets the required standard.