

## Coroners Amendment Bill 2003

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Coroners Act 1980* (the **Principal Act**) with respect to the holding of inquests and inquiries.

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Coroners Act 1980* set out in Schedule 1.

#### Schedule 1 Amendments

##### Inquiries into fires and explosions

**Schedule 1 [3] and [4]** amend section 15 of the Principal Act to provide that a coroner has the jurisdiction and duty to hold an inquiry into the cause and origin of a fire or explosion (not a general inquiry into all circumstances concerning such a fire or explosion) where the coroner is informed that the fire or explosion has destroyed or damaged any property within this State. **Schedule 1 [5]** inserts proposed section 15B into the Principal Act to provide that in certain circumstances the New South Wales Fire Brigades, the Commissioner of the NSW Rural Fire Service and the Attorney General may request a general inquiry concerning such a fire or explosion. If such a request has been made or the State Coroner is of the opinion that a general inquiry should be held, the State Coroner must direct a coroner to hold the inquiry.

##### Coroners directions to police officers

**Schedule 1 [6] and [7]** amend section 17B of, and insert proposed section 17C into, the Principal Act to make it clear that all coroners may give police officers directions concerning investigations to be carried out for the purposes of inquests or inquiries into deaths, suspected deaths, fires or explosions.

##### Inquests and inquiries may be held in private in special circumstances

Section 30 of the Principal Act provides that the room or building in which a coroner holds an inquest or inquiry must be open to the public. **Schedule 1 [10]** amends section 30 to provide that a coroner may hold an inquest or inquiry in a room or building that is not open to the public (such as a room or building in a correctional centre, hospital, private residence or other place not normally open to the public) if the coroner is of the opinion that special circumstances make it necessary or desirable to do so. In such a case, the coroner is to note on the proceedings the special circumstances that in his or her opinion make such a course of action necessary or desirable.

##### Subpoenas to give evidence

**Schedule 1 [11]** amends section 35 of the Principal Act to provide that, if it appears to a coroner that a person is likely to be able to give material evidence at any inquest or inquiry or is likely to have in his or her possession or power any document or writing required for the purposes of evidence at the inquest or inquiry, the coroner may issue a subpoena for the appearance of the person to be examined as a witness or to produce the document or writing, or both. The coroner may issue the subpoena at first instance and does not have to be satisfied that the person will not appear voluntarily. **Schedule 1 [9], [13], [14] and [15]** make various amendments to the Principal Act to change the name of the instrument issued by a coroner from summons to subpoena to make the terminology consistent with the *Local Courts Act 1982*.

### **Circumstances in which coroner may clear court**

Section 44 (5) (a) of the Principal Act provides that a coroner holding an inquest or inquiry may, if of the opinion that it would be in the public interest to do so, order all or any persons to go and remain outside the room or building in which the inquest or inquiry is being held. Section 44 (6) gives examples of some matters that a coroner may have regard to in forming such an opinion, including personal security. **Schedule 1 [17]** amends section 44 (6) of the Principal Act to make it clear that having regard to personal security extends to the personal security of the public or any person.

### **No jurisdiction unless death occurred in last 100 years**

Section 13B of the Principal Act provides that a coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears or there is reasonable cause to suspect that the death or suspected death occurred within the last 100 years. Clause 7 of Schedule 3 to the Principal Act has the effect of providing that section 13B does not apply to a death or suspected death that occurred before the commencement of that section. The unintended effect of this clause is that section 13B will not have force until 100 years after its commencement. **Schedule 1 [18]** amends clause 7 of Schedule 3 to the Principal Act to provide that section 13B has effect in relation to deaths or suspected deaths that occurred before the commencement of that section.

### **Miscellaneous**

**Schedule 1 [1]** amends section 4 of the Principal Act to provide that notes included in that Act do not form part of that Act.

**Schedule 1 [2] and [16]** make amendments by way of statute law revision to take account of the discontinuation of the term “police force” in legislation.

**Schedule 1 [8]** makes an amendment by way of statute law revision.

**Schedule 1 [19]** inserts savings and transitional provisions into Schedule 3 to the Principal Act.