



New South Wales

Coroners Amendment Bill 2012

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Coroners Act 2009*:

- (a) to enable a coroner to treat a person who was a deceased person's legal personal representative as the deceased person's senior next of kin for the purposes of the Act if the coroner is satisfied that the person who is available to act as senior next of kin is unable to do so, and
- (b) to provide that the death of a person in or temporarily absent from a declared mental health facility within the meaning of the *Mental Health Act 2007* is reportable to a coroner if the person was a patient at the facility for the purpose of receiving care, treatment or assistance under the *Mental Health Act 2007* or *Mental Health (Forensic Provisions) Act 1990*, and
- (c) to enable a coroner to order that submissions in coronial proceedings concerning whether a known person may have committed an indictable offence not be published, and
- (d) to prevent the publication of certain submissions and comments in coronial proceedings concerning the suspension of coronial proceedings without the consent of a coroner, and

- (e) to enable the State Coroner to direct that suspended coronial proceedings not be resumed, and
- (f) to enable the Attorney General to intervene in applications made to the Supreme Court for a coronial inquest or inquiry to be held, and
- (g) to enable a coroner to refuse a request by a senior next of kin of a deceased person for a post mortem examination not to be conducted if he or she has been, or may be, charged with an offence in connection with the deceased person's death, and
- (h) to make provision for savings and transitional matters consequent on the enactment of the proposed Act.

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.

Schedule 1 Amendment of Coroners Act 2009 No 41

Schedule 1 [2] provides that a death that occurs while the deceased person is in or temporarily absent from a declared mental health facility within the meaning of the *Mental Health Act 2007* is reportable to a coroner if the person was a patient at the facility for the purpose of receiving care, treatment or assistance under the *Mental Health Act 2007* or *Mental Health (Forensic Provisions) Act 1990*.

Schedule 1 [3] enables a coroner to treat a person who was a deceased person's legal personal representative immediately before the deceased person's death as the deceased person's senior next of kin for the purposes of the Act if the coroner is satisfied that the person who is available to act as senior next of kin is unable to do so. **Schedule 1 [1]** makes a consequential amendment.

Schedule 1 [4] enables a coroner to order that submissions made in coronial proceedings concerning whether a known person may have committed an indictable offence not be published. A failure to comply with such an order will constitute an offence. The maximum penalty for such an offence will be 10 penalty units or imprisonment for 6 months (in the case of an individual) or 50 penalty units (in any other case).

Schedule 1 [5] makes it an offence to publish submissions made to, or comments made by, the coroner concerning the suspension of coronial proceedings without the consent of a coroner. The maximum penalty for the offence will be 10 penalty units or imprisonment for 6 months (in the case of an individual) or 50 penalty units (in any other case).

Schedule 1 [8] enables the State Coroner (after consulting with the coroner who ordered it) to direct that a suspended coronial inquest or inquiry not be resumed. For

Coroners Amendment Bill 2012

Explanatory note

this purpose, **Schedule 1 [7]** will require a coroner to notify the State Coroner before resuming coronial proceedings. **Schedule 1 [6]** makes a consequential amendment.

Schedule 1 [10] enables the Minister to intervene in applications made to the Supreme Court by another person for a coronial inquest or inquiry to be held. **Schedule 1 [9]** makes a consequential amendment.

Schedule 1 [12] enables a coroner to refuse a request by a senior next of kin of a deceased person for a post mortem examination not to be held if the senior next of kin has been, or may be, charged with an offence in connection with the deceased person's death. **Schedule 1 [11], [13] and [14]** make consequential amendments.

Schedule 1 [15] enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act and any future amending Act.

Schedule 1 [16] inserts savings and transitional provisions consequent on the enactment of the proposed Act.