



New South Wales

## Coroners Bill 2009

### Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to repeal the *Coroners Act 1980*, and
- (b) to re-enact the provisions of the *Coroners Act 1980* (with the modifications noted below) so as to improve the efficiency and effectiveness of the exercise of coronial jurisdiction in the State, and
- (c) to enact provisions of a savings and transitional nature, and
- (d) to make consequential amendments to certain other legislation.

This Bill makes the following modifications to the provisions of *Coroners Act 1980*:

- (a) the existing legislation is rewritten in modern form, including an improved arrangement of provisions, the removal of spent provisions and the updating of outdated references and provisions,
- (b) all persons appointed as coroners under the proposed Act must be Australian lawyers and all persons appointed as assistant coroners must be members of staff of the Attorney General's Department,
- (c) coroners and assistant coroners may be appointed for a period,

- (d) the position of Senior Deputy State Coroner is abolished and the Minister is authorised instead to appoint an Acting State Coroner when the State Coroner is absent from duty,
- (e) the relationship between the State Coroner and the Chief Magistrate is clarified,
- (f) the restriction on the number of Deputy State Coroners (currently limited to 4) is removed,
- (g) the retirement age for appointed coroners is increased from 70 years of age to 72 years of age while the retirement age for assistant coroners is removed,
- (h) the proposed Act confirms that coronial jurisdiction arises regardless of whether or not a death, suspected death, fire or explosion is reported,
- (i) the current provisions relating to the reporting and investigation of deaths resulting from the use of anaesthetic are replaced with provisions relating to deaths that are not the reasonably expected outcomes of health procedures,
- (j) the current provisions that require a death to be reported (and that prohibit a death certificate being issued) if the deceased person was not attended by a medical practitioner in the 3 months preceding death are replaced with provisions that extend that period to 6 months,
- (k) the current provisions that require a death to be reported (and that prohibit a death certificate being issued) if the deceased person died within a year and a day of an accident to which the death is attributable are not re-enacted,
- (l) a medical practitioner is authorised to give a death certificate concerning a cause of death in respect of a deceased person aged 72 years old or older who died as a result of injuries from an accident even if the accident occurred in a hospital or nursing home,
- (m) a coroner is authorised to direct certain medical investigators to conduct (or arrange for the conduct of) a review of the medical records of a deceased person and report to the coroner on the cause of death based on such a review,
- (n) a person conducting a post mortem examination will be required to endeavour to use the least invasive procedures that are appropriate in the circumstances,
- (o) a coroner is expressly authorised to dispense with an inquest or post mortem examination in cases where the coroner is satisfied that the deceased person died of natural causes and that the deceased person's family does not wish it to be conducted,
- (p) a coroner who has previously dispensed with the holding of an inquest or inquiry concerning a matter is expressly authorised to hold an inquest or inquiry concerning the matter in light of the discovery of new evidence or facts,
- (q) the authorisation to retain tissue obtained from a post mortem examination will not extend to the retention of whole organs of a deceased person unless the coroner expressly makes an order to that effect,

- (r) a senior next of kin of a deceased person may object to an order by a coroner authorising the retention of a whole organ of the deceased person,
- (s) a coroner conducting coronial proceedings in connection with a death or suspected death is authorised to give directions regarding the retention and disposal of tissue obtained from a deceased person before his or her death,
- (t) coroners conducting coronial proceedings are given additional powers in connection with case management (including powers to conduct hearings and obtain evidence before a formal inquest or inquiry is held under the proposed Act),
- (u) the State Coroner is given additional powers to give directions concerning the allocation and transfer of cases and is given power to issue practice notes and approve forms for use in coronial proceedings,
- (v) the Director-General of the Attorney General's Department and the Commissioner of Police are authorised to enter into a memorandum of understanding in relation to the regulation of costs associated with the carrying out of investigations by police officers pursuant to certain directions given by coroners,
- (w) the power of a coroner to make non-publication orders is extended to prohibiting or restricting publication by means of the Internet,
- (x) the current provisions that impose functions on the Minister to ensure that an inquest or inquiry is held if the Supreme Court orders it are imposed instead on the State Coroner,
- (y) the current additional special procedural provisions dealing with inquests concerning deaths in mines are not re-enacted,
- (z) the use of a jury in coronial proceedings is limited to the situation where the State Coroner directs it at an inquest or inquiry that is to be presided over by the State Coroner.

## Outline of provisions

### Chapter 1 Preliminary

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

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

**Clause 3** sets out the objects of the proposed Act.

**Clause 4** defines certain words and expressions used in the proposed Act.

One of the expressions defined by the proposed section is *senior next of kin* of a deceased person. The expression is defined to mean:

- (a) the deceased person's spouse, or

- (b) if the deceased person did not have a spouse or a spouse is not available—any of the deceased person’s children who are adults, or
- (c) if the deceased person did not have a spouse or child or a spouse or child is not available—either of the deceased person’s parents, or
- (d) if the deceased person did not have a spouse, child or living parent or a spouse, child or parent is not available—any of the deceased person’s brothers or sisters who are adults, or
- (e) if the deceased person did not have a spouse, child, living parent, brother or sister or a spouse, child, parent, brother or sister is not available:
  - (i) any person who is named as an executor in the deceased person’s will, or
  - (ii) any person who was the deceased person’s legal personal representative immediately before the deceased person’s death.

**Clause 5** defines the term *relative*. The term is defined in substantially the same way as it is defined in section 4 (1) and (5) of the *Coroners Act 1980*.

**Clause 6** defines the expression *reportable death*. The expression is defined largely by reference to the kinds of deaths referred to in sections 12B (1) (a)–(g) and 13 (1) (a)–(c), (e)–(h) and (2) of the *Coroners Act 1980*. Section 12B (1) of the *Coroners Act 1980* provides for the circumstances in which a medical practitioner cannot give a death certificate in respect of a death, while section 13 (1) of that Act specifies the kinds of deaths or suspected deaths that a coroner has general jurisdiction to investigate.

The term *reportable death* is defined to mean a death that occurs in any of the following circumstances:

- (a) the person died a violent or unnatural death,
- (b) the person died a sudden death the cause of which is unknown,
- (c) the person died under suspicious or unusual circumstances,
- (d) the person died in circumstances where the person had not been attended by a medical practitioner during the period of 6 months immediately before the person’s death,
- (e) the person died in circumstances where the person’s death was not the reasonably expected outcome of a health-related procedure carried out in relation to the person,
- (f) the person died while in or temporarily absent from a declared mental health facility within the meaning of the *Mental Health Act 2007* and while the person was a resident at the facility for the purpose of receiving care, treatment or assistance.

The term does not include the following kinds of deaths referred to in sections 12B (1) (a)–(g) and 13 (1) (a)–(c) and (e)–(h) of the *Coroners Act 1980*:

- (a) where the person died while under, or as a result of, or within 24 hours after the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation or procedure or an operation or procedure of a like nature, other than a local anaesthetic administered solely for the purpose of facilitating a procedure for resuscitation from apparent or impending death,
- (b) where the person died within a year and a day after the date of any accident to which the cause of his or her death or suspected death is or may be attributable.

Although the term does not cover deaths resulting from the use of an anaesthetic, the term does include the death of a person in circumstances where the death was not the reasonably expected outcome of a health-related procedure carried out in relation to the person. The proposed section defines **health-related procedure** to mean a medical, surgical, dental or other health-related procedure (including the administration of an anaesthetic, sedative or other drug), but excludes any procedure of a kind prescribed by the regulations as being an excluded procedure. **Schedule 3.5 [1]** amends the *Coroners Regulation 2005* to prescribe certain procedures to be excluded procedures.

It should also be noted that the term includes the death of a person in circumstances where the person had not been attended by a medical practitioner during the period of 6 months immediately before the person's death. Currently, sections 12B (1) (a)–(g) and 13 (1) of the *Coroners Act 1980* provide for a period of 3 months.

## Chapter 2 Coronial officers

**Clause 7** provides for the appointment of a State Coroner and one or more Deputy State Coroners.

The proposed section re-enacts (with some modifications) the provisions of section 4A (1)–(3), (5) and (7) of the *Coroners Act 1980* (as amended when Schedule 1.19 [1] to the *Miscellaneous Acts (Local Court) Amendment Act 2007* commences). The proposed section differs from the provisions of section 4A of the *Coroners Act 1980* (as amended) in the following respects:

- (a) the provisions of section 4A dealing with the appointment of a Senior Deputy State Coroner are not re-enacted,
- (b) the proposed section (unlike section 4A) enables more than 4 Deputy State Coroners to be appointed,
- (c) the proposed section (unlike section 4A) provides that the State Coroner has, while holding office as such, the same status as a Deputy Chief Magistrate,
- (d) the provisions in section 4A dealing with the effect of a person's appointment to the office of State Coroner or a Deputy State Coroner on the person's appointment as a Magistrate are set out in Part 1 of Schedule 1 to the proposed Act rather than in the proposed section.

The provisions of sections 4B (Vacation of office as State Coroner or Deputy State Coroner) and 4C (Remuneration) of the *Coroners Act 1980* are now located in Part 1 of Schedule 1 to the proposed Act.

**Clause 8** enables the Minister to appoint a Deputy State Coroner to be the Acting State Coroner when the State Coroner is absent from duty. There is no comparable provision in the *Coroners Act 1980*. However, the proposed section is intended to replace the current requirement in section 4F (1A) and (2) of the *Coroners Act 1980* for the Senior Deputy State Coroner to act as the State Coroner when the State Coroner is absent from duty.

**Clause 9** enables the State Coroner to delegate certain of the State Coroner's functions under the proposed Act to a Deputy State Coroner or to another coroner.

The proposed section re-enacts (with some modifications) the provisions of section 4E of the *Coroners Act 1980*. The proposed section differs from section 4E of the *Coroners Act 1980* by making it clear that the State Coroner cannot delegate to a coroner who is not a Deputy State Coroner the exercise of jurisdiction conferred or imposed on the State Coroner by proposed Division 2 of Part 3.2.

**Clause 10** sets out the functions of the State Coroner and the Deputy State Coroners.

The proposed section substantially re-enacts the provisions of sections 4D and 4F (1) of the *Coroners Act 1980*. However, the proposed section differs from sections 4D and 4F (1) of the *Coroners Act 1980* in the following respects:

- (a) the proposed section provides that, in exercising functions under the proposed section, the State Coroner is subject to the control and direction of the Chief Magistrate,
- (b) the proposed section does not re-enact the provisions of section 4F (1A) and (2) of the *Coroners Act 1980* dealing with the functions of Deputy State Coroners who are acting in the office of State Coroner because of the new provisions relating to the appointment of an Acting State Coroner under proposed section 8.

**Clause 11** enables the State Coroner to issue general directions to coroners requiring them to give to the State Coroner information they receive concerning deaths, suspected deaths, fires or explosions. The proposed section substantially re-enacts the provisions of section 4G (1) of the *Coroners Act 1980*. However, the proposed section does not re-enact the provisions of section 4G (2) and (3) of the *Coroners Act 1980*.

**Clause 12** provides for the appointment of coroners.

The proposed section re-enacts (with some modifications) the provisions of sections 5 and 6 of the *Coroners Act 1980*. The proposed section differs from the provisions of sections 5 and 6 of the *Coroners Act 1980* in the following respects:

- (a) the proposed section provides that only Australian lawyers are qualified for appointment as coroners while section 5 provides for the appointment of fit and proper persons,
- (b) the proposed section enables coroners to be appointed for a period,

- (c) the proposed section does not re-enact the provisions of section 5 (2) which provide for the appointment of a coroner at a specified place or in and for the State,
- (d) the provisions of section 6 dealing with the appointment of coroners aged 70 years old or older have been re-enacted with the age being increased to 72 years old or older,
- (e) the provisions of section 5 dealing with the appointment of coroners on a full-time or part-time basis are set out (with some modifications) in Part 2 of Schedule 1 to the proposed Act rather than in the proposed section.

The provisions of sections 6A (Vacation of office of coroners and assistant coroners) and 7 (Oath of allegiance for coroners and assistant coroners) of the *Coroners Act 1980* are now located (with some modifications) in Part 2 of Schedule 1 to the proposed Act.

**Clause 13** provides for the appointment of assistant coroners.

The proposed section re-enacts (with some modifications) the provisions of section 5A of the *Coroners Act 1980*. The proposed section differs from the provisions of sections 5A and 6 (1) of the *Coroners Act 1980* in the following respects:

- (a) the proposed section provides that only members of staff of the Attorney General's Department may be appointed as assistant coroners while section 5A provides for the appointment of fit and proper persons,
- (b) the proposed section enables assistant coroners to be appointed for a period,
- (c) the proposed section provides for the Minister rather than the Governor to appoint assistant coroners,
- (d) the proposed section does not re-enact the provisions of section 6 (1) which provide that a person who is aged 70 years old or older may not be appointed as an assistant coroner,
- (e) the provisions in section 5 (3) dealing with the cessation of an assistant coroner's appointment on his or her appointment as a coroner are set out (with some modifications) in Part 2 of Schedule 1 to the proposed Act rather than in the proposed section.

**Clause 14** provides that an appointed coroner has all of the jurisdiction and functions that are imposed or conferred on a coroner by the proposed Act. The proposed section substantially re-enacts the provisions of section 8 of the *Coroners Act 1980*.

**Clause 15** sets out the functions of assistant coroners. The proposed section substantially re-enacts the provisions of section 9 of the *Coroners Act 1980*.

**Clause 16** provides that a Magistrate (other than a Magistrate who has been appointed as the State Coroner, a Deputy State Coroner or a coroner) has all the jurisdiction and functions of a coroner by virtue of holding office as a Magistrate.

Proposed section 16 (1) substantially re-enacts the provisions of section 10 of the *Coroners Act 1980*. However, the proposed section also contains a new provision

that makes it clear that the Chief Magistrate may (but need not) comply with any direction given by the State Coroner under the proposed Act in relation to the exercise by the Chief Magistrate of any coronial function conferred or imposed on the Chief Magistrate by operation of proposed section 16 (1). In this regard, it should be noted that proposed section 7 provides that the State Coroner is to have the same status as a Deputy Chief Magistrate and proposed section 10 (2) provides that the State Coroner is subject to the control and direction of the Chief Magistrate.

## Chapter 3 Coronial jurisdiction

### Part 3.1 General

**Clause 17** summarises the jurisdiction that is conferred by the proposed Chapter. The proposed Chapter confers the following 2 kinds of jurisdiction on coroners:

- (a) jurisdiction to hold inquests concerning certain kinds of deaths or suspected deaths of persons,
- (b) jurisdiction to hold inquiries concerning fires and explosions that result in property destruction or damage in the State.

The proposed section also makes it clear that the jurisdiction conferred by the proposed Act extends to deaths, suspected deaths, fires and explosions occurring before the commencement of the proposed section.

There is no comparable provision in the *Coroners Act 1980*.

**Clause 18** requires a death or suspected death of a person to have a relevant connection with the State before a coroner has jurisdiction under the proposed Chapter to hold an inquest. The proposed section substantially re-enacts the provisions of section 13C of the *Coroners Act 1980*.

**Clause 19** provides that a coroner does not have jurisdiction under the proposed Chapter to hold an inquest concerning a death or suspected death of a person unless it appears to the coroner that (or that there is reasonable cause to suspect that) the death or suspected death occurred within the last 100 years. The proposed section substantially re-enacts the provisions of section 13B of the *Coroners Act 1980*.

**Clause 20** makes it clear that a coroner has jurisdiction under the proposed Chapter to hold an inquest concerning a death or suspected death of a person, or an inquiry concerning a fire or explosion, even if the death, suspected death, fire or explosion has not been reported in accordance with a requirement to do so under the proposed Act.

There is no comparable provision in the *Coroners Act 1980*.



## Part 3.2 Inquests concerning deaths

### Division 1 General jurisdiction to hold inquests

**Clause 21** confers general jurisdiction on a coroner to hold an inquest concerning a death or suspected death of a person if appears to the coroner that:

- (a) the person's death is (or there is reasonable cause to suspect that the person's death is) a reportable death, or
- (b) a medical practitioner has not given (or there is reasonable cause to suspect that a medical practitioner has not given) a certificate as to the cause of death.

The proposed section re-enacts (with some modifications) the provisions of section 13 of the *Coroners Act 1980*. The modifications contained in the proposed section result from the terms of the definition of **reportable death** (see the note concerning proposed section 6 in this Outline).

### Division 2 Exclusive jurisdiction of State Coroner and Deputy State Coroners

**Clause 22** provides that the jurisdiction conferred by the proposed Division may only be exercised by the State Coroner or a Deputy State Coroner (a **senior coroner**). Proposed section 22 (2) also makes it clear that if there is jurisdiction to hold an inquest both under the proposed Division and proposed Division 1, then the inquest may be held only by a senior coroner. Proposed section 22 (2) substantially re-enacts and consolidates in one section the provisions of sections 13A (2) and 13AB (2) of the *Coroners Act 1980*.

**Clause 23** confers jurisdiction on a senior coroner to hold inquests concerning deaths or suspected deaths occurring in police or other lawful custody or as a result of certain police operations. The proposed section substantially re-enacts the provisions of section 13A (1) of the *Coroners Act 1980*.

**Clause 24** confers jurisdiction on a senior coroner to hold an inquest concerning deaths or suspected deaths of:

- (a) certain children who are in care or children who may have died in suspicious circumstances or as a result of abuse or neglect, and
- (b) certain disabled persons.

The proposed section substantially re-enacts the provisions of section 13AB (1), (3) and (4) of the *Coroners Act 1980*.

### Division 3 When inquest may be dispensed with

**Clause 25** provides that a coroner may dispense with holding an inquest concerning a death or suspected death unless an inquest is required to be held under a provision of proposed Part 3.2. Without limiting this general power to dispense with an inquest, the proposed section gives an example of a situation where an inquest may be dispensed with. The example involves the situation where a coroner is satisfied (after

obtaining relevant advice from police officers and medical practitioners and consulting with a senior next of kin of the deceased person and any other person that the coroner considers appropriate) that:

- (a) the deceased person died of natural causes (whether or not the precise cause of death is known), and
- (b) a senior next of kin of the deceased person has indicated to the coroner that it is not the wish of the deceased person's family that a post mortem examination be conducted on the deceased to determine the precise cause of the deceased's death.

The proposed section also enables a coroner who has previously dispensed with the holding of an inquest to hold the inquest in light of the discovery of new evidence or facts.

The proposed section re-enacts (with some modifications) the provisions of section 14 of the *Coroners Act 1980*. The proposed section differs from the current section by including the following provisions:

- (a) the provision enabling a coroner to dispense with holding an inquest by reference to the example explained above,
- (b) the provision enabling a coroner to hold an inquest where he or she has previously dispensed with the holding of the inquest.

**Clause 26** requires a coroner who dispenses with an inquest concerning a death or suspected death to give written reasons for dispensing with the inquest if requested to do so by the State Coroner, the Minister or a person with a sufficient interest in the circumstances of the death or suspected death.

The proposed section substantially re-enacts the provisions of section 14D of the *Coroners Act 1980*.

#### **Division 4      When inquest is required to be held**

**Clause 27** provides that an inquest concerning a death or suspected death of a person is required if:

- (a) it appears to the coroner concerned that the person died or might have died as a result of homicide (not including suicide), or
- (b) the jurisdiction to hold the inquest arises because of a death in custody or as a result of police operations, or
- (c) it appears to the coroner concerned that:
  - (i) it has not been sufficiently disclosed whether the person has died, or
  - (ii) the person's identity and the date and place of the person's death have not been sufficiently disclosed, or
- (d) it appears to the coroner concerned that the manner and cause of the person's death have not been sufficiently disclosed (unless the case is one where an inquest has been suspended or continued under proposed section 78).

The proposed section substantially re-enacts the provisions of section 14B of the *Coroners Act 1980*.

**Clause 28** provides that an inquest is required if the State Coroner or the Minister directs it. The proposed section substantially re-enacts the provisions of section 14A of the *Coroners Act 1980*.

**Clause 29** enables the State Coroner to direct that an inquest be held after a coroner has dispensed with the holding of an inquest. The proposed section substantially re-enacts the provisions of section 14E of the *Coroners Act 1980*.

### **Part 3.3 Inquiries concerning fires and explosions**

**Clause 30** provides that a coroner has jurisdiction to hold an inquiry concerning the cause and origin of a fire or explosion if the coroner is satisfied that the fire or explosion has destroyed or damaged any property within the State.

The proposed section also provides that a coroner has jurisdiction to hold a general inquiry concerning a fire or explosion that has destroyed or damaged property within the State, but only if the State Coroner directs it. A coroner holding a general inquiry is not limited to investigating the cause and origin of the fire or explosion, but may examine all of the circumstances concerning the fire or explosion.

The proposed section re-enacts (with some modifications) the provisions of section 15 (1) of the *Coroners Act 1980*. The proposed section (unlike section 15) does not make the jurisdiction depend on a coroner being informed that a fire or explosion has destroyed or damaged any property within the State. The proposed section also makes it clear that the jurisdiction of a coroner to hold a general inquiry depends on the State Coroner giving a direction to that effect while an inquiry that is limited to investigating the cause and origin of a fire or explosion does not require a direction before jurisdiction can arise.

**Clause 31** enables a coroner to dispense with holding an inquiry concerning a fire or explosion, unless an inquiry is required to be held under proposed Part 3.3, if the coroner is of the opinion that the cause and origin of the fire or explosion are sufficiently disclosed or that an inquiry into the cause and origin of the fire or explosion is unnecessary. The proposed section requires a coroner who dispenses with an inquiry to give written reasons to the State Coroner for doing so if the State Coroner requests reasons.

The proposed section also enables a coroner who has previously dispensed with the holding of an inquiry to hold the inquiry in light of the discovery of new evidence or facts.

The proposed section re-enacts (with some modifications) and consolidates in one section the provisions of sections 15 (2) and 15A (1) of the *Coroners Act 1980*. The proposed section differs from the current provisions by including a provision enabling a coroner to hold an inquiry where he or she has previously dispensed with the holding of the inquiry.

**Clause 32** sets out the circumstances in which a coroner will be required to hold an inquiry concerning a fire or explosion.

The proposed section distinguishes between an inquiry that is limited to investigating the cause and origin of a fire or explosion and a general inquiry concerning a fire or explosion.

An inquiry concerning the cause and origin of a fire or explosion will be required to be held if it has been requested by an authorised public official or if the State Coroner directs it as provided by the proposed section.

A general inquiry concerning a fire or explosion will be required to be held if the State Coroner directs it as provided by the proposed section. The State Coroner will be required to give such a direction if an authorised public official requests that a general inquiry be held or if the State Coroner is of the opinion that a general inquiry should be held.

An **authorised public official** is defined to mean any of the following persons:

- (a) if the fire or explosion concerned occurred in a fire district within the meaning of the *Fire Brigades Act 1989*—the Commissioner of New South Wales Fire Brigades,
- (b) if the fire concerned is a bush fire within the meaning of the *Rural Fires Act 1997*—the Commissioner of the NSW Rural Fire Service,
- (c) the Minister.

The proposed section substantially re-enacts and consolidates in one section the provisions of sections 15 (3), 15A (2)–(5) and 15B of the *Coroners Act 1980*.

### **Part 3.4 Other provisions concerning exercise of coronial jurisdiction**

**Clause 33** provides for the referral of a matter from a coroner who is unavailable to deal with it to another coroner. The proposed section provides for matters to be referred to another coroner either at the behest of the unavailable coroner (but only with the consent of the coroner to whom the matter is to be referred) or by direction of the State Coroner.

The proposed section re-enacts (with some modifications) the provisions of section 16 of the *Coroners Act 1980*. The proposed section seeks to generalise and simplify the circumstances in which a referral is permissible.

**Clause 34** provides for a coroner who is investigating the death of a person to notify the Registrar of Births, Deaths and Marriages of particulars concerning the death as they become available so as to enable the Registrar to effect or complete registration of the death. The proposed section substantially re-enacts the provisions of section 16A of the *Coroners Act 1980*.

## Chapter 4 Reporting of deaths

**Clause 35** requires a person to report a death or suspected death to a police officer, coroner or assistant coroner if the person has reasonable grounds to suspect that the death or suspected death:

- (a) is a reportable death or occurred in circumstances that would be examinable under proposed Division 2 of Part 3.2, and
- (b) has not been reported in accordance with the proposed section.

A failure by such a person to report the death or suspected death as soon as possible after becoming aware of the reasonable grounds will be an offence that is punishable by a maximum penalty of 10 penalty units (currently, \$1,100). The proposed section also provides for relevant officials such as the State Coroner to be informed about deaths or suspected deaths reported under the proposed section.

The proposed section re-enacts (with some modifications) the provisions of section 12A (1)–(2A) and (3) of the *Coroners Act 1980*. The proposed section does not re-enact section 12A (2B) concerning the reporting of deaths in certain Local Court districts because that subsection will in any event be repealed on the commencement of Schedule 1.19 [2] to the *Miscellaneous Acts (Local Court) Amendment Act 2007*. The scope of the obligation to report deaths or suspected deaths differs slightly from the obligation imposed by section 12A (1) of the *Coroners Act 1980* as a result of the terms of the definition of **reportable death** (see the note concerning proposed section 6 in this Outline).

**Clause 36** requires the State Coroner to provide the Ombudsman with information about deaths or suspected deaths of:

- (a) certain children who are in care or in custody or children who may have died in suspicious circumstances or as a result of abuse or neglect, and
- (b) certain disabled persons.

The proposed section substantially re-enacts the provisions of section 12A (3A) and (3B) of the *Coroners Act 1980*.

**Clause 37** requires the State Coroner to provide annual reports to the Minister on certain deaths in custody or as a result of police operations. The Minister will be required to cause a copy of any such report to be tabled in each House of Parliament. The proposed section substantially re-enacts the provisions of section 12A (4)–(8) of the *Coroners Act 1980*.

**Clause 38** provides that a medical practitioner must not give a certificate as to the cause of a person's death if the medical practitioner is of the opinion that:

- (a) the person's death is a reportable death, or
- (b) the person died in circumstances that would be examinable under proposed Division 2 of Part 3.2.

The proposed section requires a medical practitioner who is prevented from giving a certificate in relation to the death of a person to report the death to a police officer as soon as practicable after the death.

The proposed section also expressly authorises a medical practitioner to give a certificate in the case of a death involving a person aged 72 years old or older who died after sustaining an injury from an accident that was attributable to the age of that person, contributed substantially to the death of the person and was not caused by an act or omission by any other person (the ***accidental death exception***). However, a medical practitioner will not be able to give a certificate in these circumstances if a relative of the deceased person objects.

The proposed section re-enacts (with some modifications) the provisions of sections 12A (2), (2A) and (3) and 12B of the *Coroners Act 1980*. The scope of the prohibition on the giving of certificates on the causes of deaths differs slightly from the obligation imposed by section 12B (1) of the *Coroners Act 1980* as a result of the terms of the definition of ***reportable death*** (see the note concerning proposed section 6 in this Outline). Also, the accidental death exception set out in the proposed section differs from that set out in section 12B of the *Coroners Act 1980* in the following respects:

- (a) the deceased person must be aged 72 years old or older instead of the current requirement that he or she be aged 65 years old or older,
- (b) a relative of the deceased person may object to the giving of such a certificate,
- (c) a certificate may be given under the proposed section regardless of where the accident occurred while section 12B provides that a certificate cannot be given if the accident occurred in a hospital or nursing home.

## Chapter 5 Coronial investigation scenes

**Clause 39** defines certain terms and expressions used in the proposed Chapter. The proposed section substantially re-enacts the provisions of section 23C of the *Coroners Act 1980*.

**Clause 40** enables a coroner to issue an order authorising a police officer or other person to establish a coronial investigation scene at a specified place for the purposes of any inquest or inquiry.

The proposed section re-enacts (with some modifications) the provisions of section 23D of the *Coroners Act 1980*. The proposed section includes a new provision that makes it clear that persons assisting a person authorised by an order to establish a crime investigation scene may also enter a place that the authorised person is permitted to enter by reason of the order.

**Clause 41** enables a police officer or other person to establish a coronial investigation scene at a place pursuant to an order of a coroner to establish the scene in any way that is reasonably appropriate in the circumstances. The proposed section substantially re-enacts the provisions of section 23E of the *Coroners Act 1980*.

**Clause 42** authorises a police officer or other person to exercise the coronial investigation scene powers set out in proposed section 43 if a coronial investigation scene has been established and the police officer or other person suspects on reasonable grounds that it is necessary to exercise the powers to preserve evidence

relevant to the investigation by the coroner. The proposed section substantially re-enacts the provisions of section 23F of the *Coroners Act 1980*.

**Clause 43** sets out the powers that a police officer or other person may exercise at, or in relation to, a coronial investigation scene. The proposed section substantially re-enacts the provisions of section 23G of the *Coroners Act 1980*.

**Clause 44** makes it an offence for a person to obstruct or hinder a person executing an order to establish a coronial investigation scene. The maximum penalty for the offence will be 100 penalty units (currently, \$11,000) or imprisonment for 2 years, or both. The proposed section substantially re-enacts the provisions of section 23H of the *Coroners Act 1980*.

**Clause 45** provides that the proposed Chapter does not limit any other power that a police officer or other person may have to enter a place or do any other thing at the place. The proposed section substantially re-enacts the provisions of section 23I of the *Coroners Act 1980*.

## Chapter 6 Coronial proceedings

### Part 6.1 General

**Clause 46** defines the expression *coronial proceedings* for the purposes of the proposed Act. The expression is defined to mean any proceedings conducted by a coroner or assistant coroner for the purposes of the proposed Act concerning the investigation of a death, suspected death, fire or explosion. The proposed section also makes it clear that coronial proceedings include the following kinds of the proceedings:

- (a) the holding of an inquest or inquiry,
- (b) proceedings to determine whether or not to hold, or to continue to hold, an inquest or inquiry,
- (c) proceedings of an interlocutory or similar nature (including proceedings to deal with evidential matters or case management issues).

There is no comparable provision in the *Coroners Act 1980*.

**Clause 47** provides that, subject to limited exceptions, hearings in coronial proceedings are to be held in public. The proposed section re-enacts (with some modifications) the provisions of section 30 of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to hearings conducted for coronial proceedings generally.

**Clause 48** provides that generally coronial proceedings must be conducted without a jury. The proposed section does enable the State Coroner to direct that an inquest or inquiry be held before a jury, but only if the State Coroner is to act as the coroner for the inquest or inquiry.

The proposed section re-enacts (with some modifications) the provisions of sections 18 and 28 of the *Coroners Act 1980*. The proposed section differs from the

provisions of section 18 of the *Coroners Act 1980* by limiting the circumstances in which juries may be used in coronial proceedings to situations where the State Coroner directs it for an inquest or inquiry. Section 18 of the *Coroners Act 1980* currently allows the State Coroner or the Minister to direct that an inquest or inquiry be held, and a relative of a deceased person to request that an inquest be held, before a jury (regardless of whether or not the State Coroner is to preside over the proceedings).

**Clause 49** enables a coroner conducting coronial proceedings to give directions in connection with the proceedings to promote better case management. There is no comparable provision in the *Coroners Act 1980*.

**Clause 50** enables the State Coroner to assume jurisdiction to conduct coronial proceedings and to give directions for a coroner to assume jurisdiction.

The proposed section re-enacts (with some modifications) the provisions of section 17A of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally. It also enables the State Coroner to give directions concerning the transfer of relevant information by the coroner who formerly conducted the proceedings to the new coroner assuming jurisdiction to deal with the proceedings.

**Clause 51** enables the State Coroner to give directions concerning investigations to be carried out for the purposes of any coronial proceedings or proposed coronial proceedings. It also enables a coroner to give directions for such purposes to police officers.

The proposed section re-enacts (with some modifications) and consolidates in one section the provisions of sections 17B and 17C of the *Coroners Act 1980*. The proposed section differs from sections 17B and 17C of the *Coroners Act 1980* by including provisions that enable the Director-General of the Attorney General's Department and the Commissioner of Police to enter into a memorandum of understanding in relation to the regulation of costs associated with the carrying out of investigations by police officers pursuant to directions under the proposed section.

**Clause 52** enables the State Coroner (with the approval of the Chief Magistrate) to issue practice notes for use in coronial proceedings. In this regard, it should be noted that proposed section 7 provides that the State Coroner is to have the same status as a Deputy Chief Magistrate. It also enables the State Coroner to approve forms for use in coronial proceedings.

There is no comparable provision in the *Coroners Act 1980*.

**Clause 53** enables a coroner investigating a death, suspected death, fire or explosion to direct a person to produce a document or other thing for the purpose of assisting the coroner in his or her investigation. The power of a coroner to give directions under the proposed section includes the power to direct a person to provide tissue in the person's possession or under the person's control that was taken from a deceased person before his or her death.



The proposed section re-enacts (with some modifications) the provisions of section 14F of the *Coroners Act 1980*. The proposed section differs from section 14F of the *Coroners Act 1980* in the following respects:

- (a) the proposed section is not limited to giving directions for the purpose of enabling a coroner to decide whether or not to dispense with the holding of an inquest or inquiry,
- (b) the proposed section makes it clear that the production of a copy of a document is sufficient compliance with a direction to produce a document unless the direction expressly requires the production of the original document,
- (c) the proposed section expressly recognises that a direction may be given to obtain tissue taken from a deceased person before his or her death.

## Part 6.2 Holding inquests and inquiries

**Clause 54** provides for a coroner who is holding an inquest or inquiry to fix a time and place for the commencement of the inquest or inquiry and to give certain particulars about that time and place to next of kin and other persons. The proposed section substantially re-enacts the provisions of section 17 of the *Coroners Act 1980*.

**Clause 55** provides that a coroner and a jury may (but need not) view the remains of a deceased person, or the scene of a fire or explosion, with which an inquest or inquiry is concerned if the coroner considers it advisable to do so. The proposed section re-enacts (with some modifications) the provisions of section 29 of the *Coroners Act 1980*. The current section has a different emphasis. It provides for there not to be a viewing unless a coroner considers it appropriate to do so.

**Clause 56** provides that a coroner has a right to take possession of, and to retain, the remains of a deceased person whenever the coroner has jurisdiction to hold or is holding an inquest concerning the person's death or suspected death. The proposed section substantially re-enacts the provisions of section 24 of the *Coroners Act 1980*.

## Part 6.3 Representation and evidentiary matters

**Clause 57** enables a coroner in coronial proceedings to grant leave to persons with a sufficient interest in the subject-matter of the proceedings to appear in person in the proceedings or be represented by an Australian legal practitioner. The proposed section also requires leave to be granted to a relative of a deceased person (or suspected deceased person) who is the subject of an inquest unless satisfied that there are exceptional circumstances justifying the refusal of leave.

The proposed section re-enacts (with some modifications) the provisions of section 32 (1) and (2) of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 58** provides that a coroner in coronial proceedings is not bound to observe the rules of procedure and evidence applicable in a court. The proposed section re-enacts (with some modifications) the provisions of section 33 of the *Coroners Act 1980*.

The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 59** provides that a coroner in coronial proceedings may examine on oath or affirmation all persons who tender evidence relevant to the proceedings or who, in the coroner's opinion, are able to give relevant evidence. The proposed section re-enacts (with some modifications) the provisions of section 31 of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 60** enables a person granted leave to appear or be represented in coronial proceedings to apply for a particular person to be examined in the proceedings. The proposed section re-enacts (with some modifications) the provisions of section 31A of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 61** provides for a procedure for giving a witness in coronial proceedings who objects to giving particular evidence a certificate which grants that person certain immunity against use of the evidence if the person can claim the privilege against self-incrimination.

The proposed section re-enacts (with some modifications) the provisions of section 33AA of the *Coroners Act 1980*. The proposed section differs from section 33AA of the *Coroners Act 1980* in the following respects:

- (a) the proposed section does not limit the power to give certificates to coroners who are Magistrates (unlike the current section) because all coroners under the proposed Act will either be Magistrates or Australian lawyers,
- (b) the proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 62** makes it an offence for a person who appears in coronial proceedings to give evidence or produce a document or any other thing to refuse to take an oath or affirmation, be examined or produce the document or other thing. The maximum penalty for the offence will be 10 penalty units (currently, \$1,100).

The proposed section re-enacts (with some modifications) the provisions of section 42 (when read with section 54 (1) of the *Coroners Act 1980*). The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 63** applies the provisions of Parts 3 (Medical examinations and law enforcement devices) and 4 (Depositions and written statements) of Chapter 6 of the *Criminal Procedure Act 1986* to evidence gathering in coronial proceedings. The proposed section re-enacts (with some modifications) the provisions of section 34A of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to inquests or inquiries, but extends to coronial proceedings generally.

**Clause 64** enables a coroner conducting a fresh inquest or inquiry to admit in evidence depositions taken at a previous inquest or inquiry. The proposed section substantially re-enacts the provisions of section 33A of the *Coroners Act 1980*.

**Clause 65** provides for the following matters:

- (a) requiring a coroner to ensure evidence given by witnesses in coronial proceedings is recorded,
- (b) the granting of access to a coroner's file by a coroner or assistant coroner by means of providing copies of material in the file,
- (c) the criteria by reference to which a coroner or assistant coroner is to decide whether granting access to a person requesting it is appropriate,
- (d) prohibiting the granting of access to a coroner's file where the coroner who prepared the file directs it.

The proposed section re-enacts (with some modifications) the provisions of section 34 of the *Coroners Act 1980*. The proposed section differs from section 34 of the *Coroners Act 1980* in the following respects:

- (a) the proposed section places the obligation to ensure that evidence is recorded on the coroner in the coronial proceedings rather than by reference to rules of court made by the Local Court Rule Committee,
- (b) the proposed section confers the power to grant access on coroners and assistant coroners rather than on coroners or, in the absence of a coroner, registrars of the Local Courts,
- (c) the proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 66** enables a coroner in coronial proceedings to issue subpoenas for the appearance of a person to give evidence or to produce a document or thing (or both). The proposed section also enables a coroner to issue an arrest warrant for a witness if the coroner considers that it is probable that the witness will not comply with a subpoena.

The proposed section re-enacts (with some modifications) the provisions of section 35 of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to inquests or inquiries, but extends to coronial proceedings generally.

**Clause 67** provides for the form of a subpoena issued under the proposed Part. The proposed section substantially re-enacts the provisions of section 36 of the *Coroners Act 1980*.

**Clause 68** provides for the manner of service of a subpoena issued under the proposed Part. The proposed section re-enacts (with some modifications) the provisions of section 37 of the *Coroners Act 1980*. The proposed section now provides for the service of a subpoena in a manner that is consistent with service of subpoenas under clause 44 of the *Local Courts (Criminal and Applications Procedure) Rule 2003*.

**Clause 69** enables a coroner to issue an arrest warrant for a person who does not appear in coronial proceedings when required to do so by subpoena. The proposed section re-enacts (with some modifications) the provisions of section 39 of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to inquests or inquiries, but extends to coronial proceedings generally.

**Clause 70** provides for the form of an arrest warrant issued under the proposed Part. The proposed section substantially re-enacts the provisions of section 41 (1)–(3) of the *Coroners Act 1980*.

**Clause 71** provides for how a person who is brought before a coroner or authorised justice (within the meaning of the *Bail Act 1978*) under an arrest warrant is to be dealt with (including the granting of bail).

The proposed section re-enacts (with some modifications) the provisions of sections 40 and 41 (3) of the *Coroners Act 1980*. The proposed section differs from section 40 of the *Coroners Act 1980* in the following respects:

- (a) the proposed section expressly provides for a person arrested under an arrest warrant to be brought before a coroner or authorised justice as soon as practicable after the person's arrest,
- (b) the proposed section enables an authorised justice as well as a coroner to deal with the arrested person,
- (c) the proposed section makes it clear that the presumption in favour of bail contained in section 9 of the *Bail Act 1978* applies in relation to the arrested person.

**Clause 72** provides that no objection may be taken or allowed to any subpoena or arrest warrant in respect of any alleged defect in the subpoena or arrest warrant in substance or in form. The proposed section substantially re-enacts the provisions of section 38 of the *Coroners Act 1980*.

## Part 6.4 Disclosure of information

**Clause 73** defines when a matter is *published* for the purposes of the proposed Part. The proposed section re-enacts (with some modifications) the provisions of section 46 of the *Coroners Act 1980*. The proposed section (unlike the current section) includes matter that is published by means of the Internet.

**Clause 74** enables a coroner in coronial proceedings to order that the room or building in which the proceedings are being heard be cleared of witnesses or other persons or that evidence given in the proceedings not be published. A failure to comply with such an order will be an offence punishable by a maximum penalty of:

- (a) in the case of an individual—10 penalty units (currently, \$1,100) or imprisonment for 6 months, or
- (b) in any other case—50 penalty units (currently, \$5,500).

The proposed section re-enacts and consolidates in one section (with some modifications) the provisions of sections 44 (1), (5) and (6) and 45 (1) (and

section 45 (4) in its application to these provisions) of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 75** enables a coroner in coronial proceedings to make an order (a ***non-publication order***) restricting or prohibiting the publication of certain information about a death or suspected death if it appears to the coroner that it was self-inflicted. The proposed section also prohibits the publication of a report of an inquest that finds that a death was self-inflicted unless the coroner permits the publication.

The proposed section makes it an offence for a person to contravene (or cause the contravention) a non-publication order or the provision of the proposed section prohibiting publication of a report on an inquest that finds a death was self-inflicted. The maximum penalty for the offence will be:

- (a) in the case of an individual—10 penalty units (currently, \$1,100) or imprisonment for 6 months, or
- (b) in any other case—50 penalty units (currently, \$5,500).

The proposed section re-enacts and consolidates in one section (with some modifications) the provisions of sections 44 (2)–(4) and 45 (1) and (2) (and section 45 (4) in its application to these provisions) of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 76** makes it an offence for a person to publish, without the express permission of the coroner in coronial proceedings, any of the following matters:

- (a) any question asked of a witness that the coroner has forbidden or disallowed,
- (b) any warning that a coroner has given to a witness that he or she is not compelled to answer a question,
- (c) any objection made by a witness to giving evidence on the ground that the evidence may tend to prove that the witness has committed an offence.

The maximum penalty for the offence will be:

- (a) in the case of an individual—10 penalty units (currently, \$1,100) or imprisonment for 6 months, or
- (b) in any other case—50 penalty units (currently, \$5,500).

The proposed section re-enacts (with some modifications) the provisions of section 45 (3) (and section 45 (4) in its application to section 45 (3)) of the *Coroners Act 1980*. The proposed section (unlike the current section) is not limited to the holding of inquests or inquiries, but extends to coronial proceedings generally.

**Clause 77** provides that nothing in proposed Part 6.4 prohibits or prevents:

- (a) the publication of a judgment of a court that contains matter the publication of which would otherwise have been prohibited by the proposed Part, or

- (b) the publication of matter in such other circumstances as may be prescribed by the regulations.

There is no comparable provision in the *Coroners Act 1980*.

## Part 6.5 Resolution of coronial proceedings

**Clause 78** sets out the procedure to be followed if:

- (a) it appears to a coroner who is holding (or who proposes to hold) an inquest or inquiry concerning a matter that a person has been charged with an indictable offence in circumstances where the offence raises the issue of whether the person caused the matter to which the inquest or inquiry relates, or
- (b) the coroner holding an inquest or inquiry concerning a matter forms the opinion from evidence given in the proceedings that there is a reasonable prospect that a jury would convict a person of an indictable offence in circumstances where the offence would raise the issue of whether the person caused the matter to which the inquest or inquiry relates.

The proposed section provides that the functions of a coroner are limited to the following functions:

- (a) in the case of an inquest concerning a death—taking evidence to establish the death, the identity of the deceased and the date and place of death,
- (b) in the case of an inquiry concerning a fire or explosion—taking evidence to establish the date and place of the fire or explosion,
- (c) suspending the inquest or inquiry (and discharging the jury if there is one) after taking such evidence and forwarding relevant evidence and information to the Director of Public Prosecutions.

The proposed section substantially re-enacts the provisions of section 19 of the *Coroners Act 1980*.

**Clause 79** enables a coroner to commence or resume an inquest or inquiry that has been suspended because of a person being charged with (or there being evidence that may lead to a person being charged with) an indictable offence if the charge for the offence has been finally determined or the coroner has been notified that no proceedings for the offence will be taken.

The proposed section substantially re-enacts the provisions of section 20 of the *Coroners Act 1980*.

**Clause 80** requires a coroner who is holding an inquest concerning a death or suspected death of a person to terminate the inquest if it appears to the coroner that the person has not died or if the jury for an inquest brings in a preliminary verdict to that effect following the coroner's request for a preliminary verdict. The proposed section also requires the coroner to make a finding to that effect (if there is no jury) and record it in writing.

The proposed section substantially re-enacts the provisions of section 21 of the *Coroners Act 1980*.

**Clause 81** requires the coroner holding an inquest or inquiry to record in writing the coroner's findings or the jury's verdict (if there is a jury) at the conclusion or suspension of the inquest or inquiry.

The proposed section substantially re-enacts the provisions of section 22 of the *Coroners Act 1980*.

**Clause 82** enables a coroner who holds an inquest or inquiry (and, if there is a jury, the jury) to make recommendations in relation to any matter connected with the death, suspected death, fire or explosion with which the inquest or inquiry is concerned.

The proposed section re-enacts (with some modifications) the provisions of section 22A of the *Coroners Act 1980*. The proposed section (unlike the current section) will require the coroner to forward any such recommendations to:

- (a) the State Coroner (unless the coroner is the State Coroner), and
- (b) any persons or bodies to which recommendations are directed, and
- (c) the Minister, and
- (d) any other Minister (if any) that administers legislation, or who is responsible for the persons or bodies, to which recommendations relate.

**Clause 83** provides for the circumstances in which a fresh inquest or inquiry concerning a matter that was previously the subject of another inquest or inquiry may be held. The proposed section also requires a fresh inquest or inquiry to be held if an application for it is made and the State Coroner is of the opinion that it is necessary or desirable to do so based on new evidence or facts.

The proposed section substantially re-enacts and consolidates in one section the provisions of sections 23 and 23A of the *Coroners Act 1980*.

## Chapter 7 Powers of Supreme Court

**Clause 84** enables the Supreme Court, on the application of the Minister or any other person, to order that an inquest or inquiry be held if it is satisfied that it is necessary or desirable to do so in the interests of justice. The proposed section substantially re-enacts the provisions of section 47 (1) of the *Coroners Act 1980*.

**Clause 85** enables the Supreme Court, on the application of the Minister or any other person, to quash an inquest or inquiry that has been held (or purportedly held) and order that a fresh inquest or inquiry be held. The proposed section substantially re-enacts the provisions of section 47 (2) of the *Coroners Act 1980*.

**Clause 86** requires the Minister to be served with an application for an order made under the proposed Chapter if the application is made by a person other than the Minister. The proposed section also provides that the Minister is entitled to be heard in any application for an order under the proposed Chapter.

**Clause 87** requires the State Coroner to be served with any order made by the Supreme Court under the proposed Chapter. If the order served on the State Coroner

requires that an inquest or inquiry is to be held, the State Coroner is required to arrange for it to be held.

The proposed section re-enacts (with some modifications) the provisions of section 47 (3)–(6) of the *Coroners Act 1980*. The proposed section (unlike the current provisions) places the obligation to ensure that an inquest or inquiry is held pursuant to an order of the Supreme Court on the State Coroner rather than the Minister.

## Chapter 8 Post mortem investigative procedures

### Part 8.1 Investigation directions, exhumations and related matters

**Clause 88** provides that regard is to be had to the dignity of a deceased person when a post mortem examination or other examination or test is conducted on the remains of the deceased person. The proposed section also provides that if more than one procedure is available to a person conducting a post mortem examination to establish the cause and manner of a deceased person's death, the person conducting the examination is to endeavour to use the least invasive procedures that are appropriate in the circumstances.

The proposed section substantially re-enacts the provisions of section 53AA of the *Coroners Act 1980* in relation to the provisions concerning the dignity of the deceased person. The provisions dealing with the use of the least invasive procedures for a post mortem examination are new provisions for which there are no comparable provisions in the *Coroners Act 1980*.

**Clause 89** enables a coroner (or an assistant coroner at a coroner's direction) to give any of the following kinds of directions (a *post mortem investigation direction*) to an appropriate medical investigator if the coroner considers that it is necessary or desirable to do so for the purpose of assisting in the investigation of the death of a deceased person under the proposed Act:

- (a) a direction that a post mortem examination be conducted on the remains of the deceased person,
- (b) a direction that a special examination or test be conducted on the remains, or the contents of the body, of the deceased person or on such other matters or things (including tissue obtained before the person's death) specified in the direction,
- (c) a direction that a review of medical records of a deceased person be conducted,
- (d) a direction that a new examination, test or review be conducted if it appears to the coroner that a previous report on an examination, test or review did not satisfactorily explain the cause of death of a deceased person.

The proposed section defines an *appropriate medical investigator* to mean any of the following persons:

- (a) a Coronial Medical Officer,



- (b) a pathologist,
- (c) any other person that the coroner considers has appropriate qualifications to conduct (or has the capacity to arrange for another appropriately qualified person to conduct) the examination, test or review specified in the direction.

The proposed section makes it clear that the power to give such a direction includes the power to direct an appropriate medical investigator to arrange for another appropriately qualified person to carry out the examination, test or review specified in the direction.

The proposed section also allows a coroner to give a post mortem investigation direction to an appropriate medical investigator that directs the investigator to conduct (or arrange for another person to conduct) an examination of human remains for the purpose of determining whether the remains are those of a stillborn child.

The proposed section requires a person to whom a post mortem investigation examination is given to provide a written report (a *post mortem investigation report*) to the coroner on the results of an examination, test or review.

The proposed section makes it clear that a coroner may dispense with a post mortem examination if the coroner is satisfied (after obtaining relevant advice from police officers and medical practitioners and consulting with a senior next of kin of the deceased person and any other person that the coroner considers appropriate) that:

- (a) the deceased person died of natural causes (whether or not the precise cause of death is known), and
- (b) a senior next of kin of the deceased person has indicated to the coroner that it is not the wish of the deceased person's family that a post mortem examination be conducted on the deceased to determine the precise cause of the deceased's death.

The proposed section re-enacts and consolidates in one section (with some modifications) the provisions of sections 48, 49 and 53B (4) of the *Coroners Act 1980*. The proposed section differs from the current provisions in the following respects:

- (a) the proposed section does not re-enact the provisions of section 48 (2) and (3) of the *Coroners Act 1980* dealing with the giving of directions to a person who may have contributed to the death of the deceased person,
- (b) section 48 of the *Coroners Act 1980* does not include an express provision enabling a coroner to dispense with a post mortem examination in relation to a deceased person who died of natural causes,
- (c) section 48 does not include an express power to direct that there be a review of a deceased person's medical records or that an examination or test be conducted on tissue samples taken from a deceased person before the person's death,
- (d) the proposed section does not re-enact the provisions of section 50 of the *Coroners Act 1980*, which make it an offence for a person to whom a direction is given under section 48, 49 or 53B (4) not to obey the direction.

**Clause 90** authorises the removal, use and retention of certain tissue samples taken from a deceased person for the purposes of an investigation into the person's death or proceedings for an offence in connection with that death. The proposed section makes it clear that whole organs of a deceased person may not be retained under the proposed section following an order authorising the disposal of the person's remains without a further order of a coroner. Such an order may be made only if the coroner is satisfied that the retention of the organ is necessary or desirable to assist in the investigation of the manner or cause of the deceased person's death.

The proposed section re-enacts (with some modifications) the provisions of section 48AA (1)–(3) of the *Coroners Act 1980*. The proposed section differs from the current provisions in the following respects:

- (a) the proposed section (unlike the current section) authorises the retention and use of a tissue sample taken before a person's death where a post mortem investigation direction requires such a sample to be examined or tested,
- (b) the proposed section (unlike the current section) prohibits the retention of whole organs without further order of a coroner,
- (c) the proposed section (unlike the current section) does not contain a definition of *tissue* because that definition has been re-located to proposed section 4.

**Clause 91** enables a coroner to issue a warrant to a police officer in certain circumstances for the exhumation of the buried remains of a deceased person for the purpose of conducting a post mortem examination or other examination or test. The proposed section substantially re-enacts the provisions of section 53 of the *Coroners Act 1980*.

**Clause 92** enables the Director-General of the Department of Health to appoint Coronial Medical Officers for the purposes of the proposed Act.

Section 47A of the *Coroners Act 1980* currently provides that the regulations under that Act may make provision for or with respect to the appointment of medical practitioners as Coronial Medical Officers. Clause 5 of the *Coroners Regulation 2005* currently provides for the Director-General of the Department of Health to make such appointments. The proposed section does not re-enact the provisions of section 47A (2) of the *Coroners Act 1980* given the extensive general direction powers conferred on the State Coroner by the proposed Act and the inclusion of Coronial Medical Officers as appropriate medical investigators for the purposes of the proposed Act.

**Clause 93** requires the payment of fees calculated in accordance with the regulations to certain medical practitioners and other persons who (at the direction or request of a coroner) conduct post mortem examinations or other examinations or tests or who give evidence at inquests about examinations or tests they have conducted.

The proposed section re-enacts (with some modifications) the provisions of section 52 of the *Coroners Act 1980*. The modifications reflect changes to the structure of the public health system resulting from the enactment of the *Health Services Act 1997*.

**Clause 94** provides protection from certain civil liability for persons who conduct examinations, tests or reviews of medical records pursuant to a direction given under the proposed Act.

The proposed section re-enacts (with some modifications) the provisions of section 52A of the *Coroners Act 1980*. The proposed section differs from the current section because it extends to the review of medical records as well as to examinations and tests.

## **Part 8.2 Objections to exercise of post mortem investigative functions**

**Clause 95** defines the expression *relevant post mortem investigative function* for the purposes of the proposed Part. The expression is defined to mean any of the following functions of a coroner or assistant coroner:

- (a) the function of issuing a post mortem investigation direction for the conduct of post mortem examinations on deceased persons,
- (b) the function of authorising the retention of whole organs of deceased persons under proposed section 90.

There is no comparable provision in the *Coroners Act 1980*.

**Clause 96** enables a senior next of kin of a deceased person to request that a relevant post mortem investigative function not be exercised by a coroner or assistant coroner in relation to the deceased person. The proposed section requires a coroner to give written notice to the senior next of kin if the coroner decides to proceed with a post mortem examination or organ retention despite the senior next of kin's objection.

The proposed section re-enacts (with some modifications) the provisions of section 48A (1)–(5) of the *Coroners Act 1980*. The proposed section differs from the current provisions because it extends to the exercise of the function of authorising the retention of whole organs as well as to the function of issuing directions for the conduct of post mortem examinations.

**Clause 97** enables a senior next of kin of a deceased person who has received written notice that a coroner has decided to proceed with a post mortem examination or organ retention despite the senior next of kin's objection to apply to the Supreme Court for an order to prevent the exercise of the function.

The proposed section re-enacts (with some modifications) the provisions of section 48A (6)–(8) of the *Coroners Act 1980*. The proposed section differs from the current provisions because it extends to the exercise of the function of authorising the retention of whole organs as well as to the function of issuing directions for the conduct of post mortem examinations.

**Clause 98** enables a senior next of kin of a deceased person to authorise another person to exercise his or her functions as the senior next of kin under the proposed Part. The proposed section substantially re-enacts the provisions of section 48A (9) and (10) of the *Coroners Act 1980*.

**Clause 99** makes it clear that nothing in the proposed Part prevents a person, other than a senior next of kin of a deceased person, from objecting to the exercise of a relevant post mortem investigative function in relation to the deceased person.

The proposed section re-enacts (with some modifications) the provisions of section 48B of the *Coroners Act 1980*. The proposed section differs from the current provisions because it extends to the exercise of the function of authorising the retention of whole organs as well as to the function of issuing directions for the conduct of post mortem examinations.

## Chapter 9 Disposal of human remains

**Clause 100** makes it an offence for a person to bury or cremate human remains, or place human remains in a mausoleum or other permanent resting place, or cause the remains to be so buried, cremated or placed, without appropriate authorisation. The proposed section also makes it an offence for a person to deliver or hand over human remains for anatomical or medical research, or remove human remains (other than cremated remains) from the State, or cause such remains to be so delivered, handed over or removed, without appropriate authorisation. The maximum penalty for both offences will be 50 penalty units (currently, \$5,500).

The proposed section substantially re-enacts the provisions of section 53A (1)–(4) of the *Coroners Act 1980*. The proposed section (unlike the current section) does not contain a definition of *stillborn child* because that definition has been re-located to proposed section 4.

**Clause 101** enables a coroner, by order in writing, to authorise the disposal of human remains. The proposed section substantially re-enacts the provisions of section 53B (1)–(3) and (5) of the *Coroners Act 1980*.

## Chapter 10 Miscellaneous

**Clause 102** enables the State Coroner:

- (a) to request, in writing, the assistance of a person holding a corresponding office in another State or Territory (or a coroner in another State or Territory) in connection with the exercise of any power under the proposed Act, and
- (b) to assist a person holding a corresponding office in another State or Territory (or a coroner in another State or Territory), in connection with the exercise of a power under the law of that State or Territory, at the written request of that person.

The proposed section substantially re-enacts the provisions of section 54A of the *Coroners Act 1980*.

**Clause 103** provides for certain provisions of the *Local Courts Act 1982* relating to contempt in proceedings in a Local Court to apply in relation to coronial proceedings.

The proposed section re-enacts (with some modifications) the provisions of section 43 of the *Coroners Act 1980*. The proposed section applies to coronial

proceedings generally, and not simply to inquests and inquiries as does the current section. The proposed section also makes it clear that an assistant coroner conducting coronial proceedings must refer contempt matters to a coroner for determination.

**Clause 104** enables the Governor to make regulations for the purposes of the proposed Act. The proposed section substantially re-enacts the provisions of section 58 of the *Coroners Act 1980*.

**Clause 105** provides for how documents may be served on, or given to, a person for the purposes of the proposed Act. There is no comparable provision in the *Coroners Act 1980*.

**Clause 106** provides that proceedings for offences under the proposed Act are to be dealt with summarily before a Local Court. The proposed section substantially re-enacts the provisions of section 54 (2) of the *Coroners Act 1980*.

**Clause 107** provides for the circumstances in which directors and managers of corporations will be taken to be liable for offences committed by corporations under the proposed Act or regulations.

The proposed section re-enacts (with some modifications) the provisions of section 45 (5) and (6) of the *Coroners Act 1980*. The proposed section extends to all offences under the proposed Act, while the current provisions are limited to offences involving the contravention of an order made under section 44 (1), (2) or (5) of the *Coroners Act 1980*.

**Clause 108** repeals the *Coroners Act 1980*.

**Clause 109** provides for the review of the proposed Act in 5 years.

## **Schedule 1 Provisions relating to coronial officers**

**Schedule 1** contains general provisions concerning coronial officers, including provisions dealing with when coronial offices are vacated, remuneration of coronial officers and the effect of an appointment to a coronial office on other offices held by the person appointed.

## **Schedule 2 Savings, transitional and other provisions**

**Schedule 2** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

The provisions contained in the Schedule include the following:

- (a) provisions to continue the appointments of the current State Coroner and Deputy State Coroners,
- (b) provisions to abolish the office of Senior Deputy State Coroner,
- (c) provisions to enable current appointed coroners who are Magistrates or Australian lawyers to continue in office as appointed coroners or, if they are

- not Magistrates or Australian lawyers, to appoint them as assistant coroners (but only if they are members of staff of the Attorney General's Department),
- (d) provisions to enable assistant coroners to continue in office as assistant coroners (but only if they are members of staff of the Attorney General's Department),
  - (e) provisions to enable pending coronial proceedings to be continued and dealt with under the proposed Act,
  - (f) provisions to save the effect of certain warrants, subpoenas, directions and orders issued under the *Coroners Act 1980*,
  - (g) provisions that provide for the *Coroners Regulation 2005* to be treated as if it were a regulation made under the proposed Act.

### **Schedule 3      Consequential amendment of Acts and Regulations**

**Schedule 3** makes consequential amendments to the Acts and Regulations specified in the Schedule.

### **Schedule 4      Amendments replacing “Coroners Act 1980” with “Coroners Act 2009”**

**Schedule 4** amends the provisions of the Acts and Regulations specified in the Schedule by omitting references to “*Coroners Act 1980*” and replacing them with references to “*Coroners Act 2009*”.



New South Wales

# Coroners Bill 2009

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New South Wales

## Coroners Bill 2009

No. , 2009

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### A Bill for

An Act to provide for the appointment and functions of coroners and assistant coroners; to repeal the *Coroners Act 1980*; and for other purposes.

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**The Legislature of New South Wales enacts:** 1

## **Chapter 1 Preliminary** 2

### **1 Name of Act** 3

This Act is the *Coroners Act 2009*. 4

### **2 Commencement** 5

(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsections (2) and (3). 6 7

(2) Schedule 3.4 [1] commences: 8

(a) if Schedule 1.3 [4] to the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009* commences on or before the date of assent to this Act—on the date of assent to this Act, or 9 10 11 12

(b) if Schedule 1.3 [4] to the *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009* commences after the date of assent to this Act—on the day on which Schedule 1.3 [4] to that Act commences. 13 14 15 16

(3) Schedule 3.4 [2]–[4] commence: 17

(a) if the *Local Courts Act 1982* is repealed on or before the date of assent to this Act—on the date of assent to this Act, or 18 19

(b) if the *Local Courts Act 1982* is repealed after the date of assent to this Act—on the day on which the *Local Courts Act 1982* is repealed. 20 21 22

### **3 Objects of Act** 23

The objects of this Act are as follows: 24

(a) to provide for the appointment of coronial officers, 25

(b) to provide that Magistrates are coroners by virtue of office, 26

(c) to enable coroners to investigate certain kinds of deaths or suspected deaths in order to determine the identities of the deceased persons, the times and dates of their deaths and the manner and cause of their deaths, 27 28 29 30

(d) to enable coroners to investigate fires and explosions that destroy or damage property within the State in order to determine the causes and origins of (and in some cases, the general circumstances concerning) such fires and explosions, 31 32 33 34

(e) to enable coroners to make recommendations in relation to matters in connection with an inquest or inquiry (including 35 36

- 
- recommendations concerning public health and safety and the investigation or review of matters by persons or bodies),
- (f) to provide for certain kinds of deaths or suspected deaths to be reported and to prevent death certificates being issued in relation to certain reportable deaths,
- (g) to prohibit the disposal of human remains without appropriate authority.

**4 Definitions** (cf Coroners Act 1980, s 4)

(1) In this Act:

**adult** means an individual who is aged 18 years old or older.

**Australian law** has the same meaning as it has in the *Evidence Act 1995*.

**civil penalty** has the same meaning as it has in the *Evidence Act 1995*.

**Coronial Medical Officer** means a medical practitioner appointed under section 92.

**coronial proceedings**—see section 46.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**inquest** means an inquest concerning the death or suspected death of a person.

**inquiry** means an inquiry concerning a fire or explosion.

**place** includes any land, building, mine, ship, vehicle or aircraft or any other vessel or vehicle.

**post mortem investigation direction**—see section 89.

**post mortem investigation report**—see section 89 (7).

**practice note** means a practice note issued under section 52.

**relative**, in relation to a person who has or is suspected to have died—see section 5.

**remains** of a deceased person means the body or the remains of the body (or any part of the body or remains of the body) of the person.

**reportable death**—see section 6.

**senior coroner**—see section 22 (1).

**senior next of kin** of a deceased person means:

- (a) the deceased person's spouse, or
- (b) if the deceased person did not have a spouse or a spouse is not available—any of the deceased person's children who are adults, or

- 
- (c) if the deceased person did not have a spouse or child or a spouse or child is not available—either of the deceased person’s parents, or 1  
2  
3
- (d) if the deceased person did not have a spouse, child or living parent or a spouse, child or parent is not available—any of the deceased person’s brothers or sisters who are adults, or 4  
5  
6
- (e) if the deceased person did not have a spouse, child, living parent, brother or sister or a spouse, child, parent, brother or sister is not available: 7  
8  
9
- (i) any person who is named as an executor in the deceased person’s will, or 10  
11
- (ii) any person who was the deceased person’s legal personal representative immediately before the deceased person’s death. 12  
13  
14

**spouse** means: 15

- (a) a husband or wife, or 16
- (b) the other party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*, 17  
18

but where more than one person would so qualify as a spouse, means only the last person so to qualify. 19  
20

**stillbirth** and **stillborn child** have the same meanings as in the *Births, Deaths and Marriages Registration Act 1995*. 21  
22

**the State** means the State of New South Wales. 23

**tissue** includes an organ, or part, of a human body and a substance extracted from, or from a part of, a human body (including bodily fluid). 24  
25

**whole organ** of a deceased person means the whole or a substantial part of a visibly recognisable structural unit of the person’s body. 26  
27

- (2) Notes included in this Act do not form part of this Act. 28

**Note.** For the purposes of comparison, a number of provisions of this Act contain bracketed notes in headings drawing attention (“cf”) to equivalent or comparable (though not necessarily identical) provisions of the *Coroners Act 1980* as in force immediately before its repeal by this Act. 29  
30  
31  
32

## **5 Meaning of “relative”** (cf Coroners Act 1980, s 4 (1) and (5)) 33

- (1) For the purposes of this Act, a **relative**, in relation to a person who has or is suspected to have died, is an adult who is: 34  
35
- (a) the spouse of that person, a parent of that person, a person who stands in loco parentis to that person, a guardian of that person or a child of that person, or 36  
37  
38
- (b) if there is no relative, as defined in paragraph (a), of that person—a brother or sister of that person. 39  
40



- 
- (2) A reference in subsection (1) (a): 1
- (a) to the child of a person includes, where the person was in a 2  
domestic relationship within the meaning of the *Property* 3  
*(Relationships) Act 1984*, a reference to a person who was, by 4  
virtue of section 5 of that Act, a child of the parties to the 5  
relationship, and 6
- (b) to a parent includes a reference to a party to such a domestic 7  
relationship of which the deceased, or suspected deceased, was 8  
by virtue of section 5 of the *Property (Relationships) Act 1984*, a 9  
child. 10
- 6 Meaning of “reportable death”** (cf Coroners Act 1980, ss 12B (1) (a)–(g) and 11  
13 (1) (a)–(c), (e)–(h) and (2)) 12
- (1) For the purposes of this Act, a person’s death is a **reportable death** if the 13  
death occurs in any of the following circumstances: 14
- (a) the person died a violent or unnatural death, 15
- (b) the person died a sudden death the cause of which is unknown, 16
- (c) the person died under suspicious or unusual circumstances, 17
- (d) the person died in circumstances where the person had not been 18  
attended by a medical practitioner during the period of 6 months 19  
immediately before the person’s death, 20
- (e) the person died in circumstances where the person’s death was 21  
not the reasonably expected outcome of a health-related 22  
procedure carried out in relation to the person, 23
- (f) the person died while in or temporarily absent from a declared 24  
mental health facility within the meaning of the *Mental Health* 25  
*Act 2007* and while the person was a resident at the facility for the 26  
purpose of receiving care, treatment or assistance. 27
- (2) A reference to a medical practitioner in subsection (1) includes a 28  
reference to a person authorised to practise as a medical practitioner 29  
under a law of another State or a Territory. 30
- (3) In this section: 31
- health-related procedure** means a medical, surgical, dental or other 32  
health-related procedure (including the administration of an 33  
anaesthetic, sedative or other drug), but does not include any procedure 34  
of a kind prescribed by the regulations as being an excluded procedure. 35

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## Chapter 2    Coronial officers

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|--|----------------------|
| <b>7    State Coroner and Deputy State Coroners</b> (cf Coroners Act 1980, s 4A (1)–(3), (5) and (7))  | 1<br>2<br>3          |
| (1)    The Governor may appoint any qualified person to be the State Coroner or a Deputy State Coroner.  | 4<br>5               |
| (2)    A person is qualified to be appointed as the State Coroner or a Deputy State Coroner only if the person is a Magistrate.  | 6<br>7               |
| (3)    An appointment is to be made by the commission of the person's appointment as a Magistrate or by a subsequent commission under the public seal of the State.  | 8<br>9<br>10         |
| (4)    More than one person may hold the office of Deputy State Coroner at any one time.   | 11<br>12             |
| (5)    The State Coroner or a Deputy State Coroner holds office for such period (not exceeding 5 years) as may be specified in the commission that appointed the State Coroner or Deputy State Coroner to the office, but is eligible (if otherwise qualified) for re-appointment. | 13<br>14<br>15<br>16 |
| (6)    The State Coroner has, while holding office as such, the same status as a Deputy Chief Magistrate.  | 17<br>18             |
| (7)    The State Coroner and a Deputy State Coroner are coroners for the purposes of this Act.   | 19<br>20             |
| (8)    Parts 1 and 3 of Schedule 1 contain general provisions dealing with the vacation of the office of State Coroner or a Deputy State Coroner, remuneration and the effect of an appointment to such offices on other offices held by the person appointed.                     | 21<br>22<br>23<br>24 |
| <b>8    Acting State Coroner</b> (cf Coroners Act 1980, s 4F (1A) and (2))   | 25                   |
| (1)    The Minister may appoint a Deputy State Coroner to be Acting State Coroner during the absence from duty of the State Coroner.   | 26<br>27             |
| (2)    The Minister may make any appointment for a particular absence or for any absence that occurs from time to time.  | 28<br>29             |
| (3)    An Acting State Coroner has the functions of the State Coroner and, for the purposes of this or any other Act or law, is taken to be the State Coroner.   | 30<br>31<br>32       |
| (4)    In this section, <i>absence from duty</i> includes a vacancy in the office of State Coroner.  | 33<br>34             |

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<b>9</b>	<b>Delegation by State Coroner</b> (cf Coroners Act 1980, s 4E)	1
(1)	The State Coroner may delegate to a Deputy State Coroner or to another coroner the exercise of any of the State Coroner's functions under this Act, except as provided by subsection (2).	2
	<b>Note.</b> Section 49 of the <i>Interpretation Act 1987</i> contains general provisions relating to the delegation of functions.	3
		4
(2)	The State Coroner may not:	5
(a)	delegate the power of delegation conferred by subsection (1), or	6
(b)	delegate to a coroner who is not a Deputy State Coroner the exercise of any jurisdiction conferred or imposed on the State Coroner by Division 2 of Part 3.2.	7
		8
		9
		10
		11
<b>10</b>	<b>Functions of State Coroner and Deputy State Coroners</b> (cf Coroners Act 1980, ss 4D and 4F (1))	12
		13
(1)	The functions of the State Coroner are:	14
(a)	to oversee and co-ordinate coronial services in the State, and	15
(b)	to ensure that all deaths, suspected deaths, fires and explosions concerning which a coroner has jurisdiction to hold an inquest or inquiry are properly investigated, and	16
(c)	to ensure that an inquest or inquiry is held whenever it is required by this Act to be held or it is, in the State Coroner's opinion, desirable that it be held, and	17
(d)	to issue guidelines to coroners to assist them in the exercise or performance of their functions, and	18
(e)	to exercise such other functions as are conferred or imposed on the State Coroner by or under this or any other Act.	19
		20
		21
(2)	The State Coroner is, in the exercise of a function under this section, subject to the control and direction of the Chief Magistrate.	22
		23
(3)	The functions of a Deputy State Coroner are:	24
(a)	to exercise any functions delegated to the Deputy State Coroner by the State Coroner, and	25
(b)	to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.	26
		27
		28
		29
		30
		31
		32
<b>11</b>	<b>Information to be given to State Coroner</b> (cf Coroners Act 1980, s 4G (1))	33
	The State Coroner may issue general directions to coroners requiring them to give to the State Coroner information they receive concerning deaths, suspected deaths, fires or explosions.	34
		35
		36

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<b>12</b>	<b>Coroners</b> (cf Coroners Act 1980, ss 5 and 6)	1
(1)	The Governor may, by instrument in writing on the recommendation of the Minister, appoint any qualified person to be a coroner.	2 3
(2)	A person is qualified to be appointed as a coroner only if the person is an Australian lawyer.	4 5
(3)	An instrument of appointment may provide that the person appointed as a coroner is appointed for such period (if any) as may be specified in the instrument.	6 7 8
(4)	A person who is aged 72 years old or older may not be appointed as a coroner unless:	9 10
	(a) the Minister recommends to the Governor that the person's appointment is appropriate, and	11 12
	(b) the appointment is made for such term (not exceeding 3 years) as is specified in the person's instrument of appointment.	13 14
(5)	A coroner appointed as provided by subsection (4) is eligible for re-appointment from time to time as provided by that subsection.	15 16
(6)	The Governor may, for any cause that seems to the Governor sufficient, remove any coroner appointed under this section from office.	17 18
(7)	Parts 2 and 3 of Schedule 1 contain general provisions dealing with the vacation of the office of a coroner appointed under this section, remuneration and the effect of an appointment to such an office on other offices held by the person appointed.	19 20 21 22
<b>13</b>	<b>Assistant coroners</b> (cf Coroners Act 1980, s 5A (1) and (2))	23
(1)	The Minister may, by instrument in writing, appoint any member of staff of the Attorney General's Department to be an assistant coroner.	24 25
(2)	An instrument of appointment may provide that the person appointed as an assistant coroner is appointed for such period (if any) as may be specified in the instrument.	26 27 28
(3)	The Minister may, for any cause that seems to the Minister sufficient, remove any assistant coroner from office.	29 30
(4)	Parts 2 and 3 of Schedule 1 contain general provisions dealing with the vacation of the office of an assistant coroner, remuneration and the effect of an appointment to such an office on other offices held by the person appointed.	31 32 33 34

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<b>14</b>	<b>Appointed coroners have full coronial jurisdiction and functions</b> (cf Coroners Act 1980, s 8)	1 2
	A coroner appointed under this Act:	3
	(a) has all the jurisdiction and functions conferred or imposed on coroners by or under this Act, but	4 5
	(b) does not have any of the jurisdiction or functions of the State Coroner or a Deputy State Coroner unless appointed to such an office under this Act.	6 7 8
<b>15</b>	<b>Functions of assistant coroners</b> (cf Coroners Act 1980, s 9)	9
	(1) An assistant coroner has the following functions:	10
	(a) the function of providing administrative assistance to a coroner under the control and direction of the coroner,	11 12
	(b) such of the following functions as may be delegated in writing to the assistant coroner by the State Coroner:	13 14
	(i) the function of issuing orders for the disposal of the remains of deceased persons,	15 16
	(ii) the function of issuing post mortem investigation directions,	17 18
	(iii) the function of dispensing with the holding of inquests if death results from natural causes,	19 20
	(iv) the function of dispensing with the holding of inquiries if a fire or explosion does not occur in suspicious circumstances,	21 22 23
	(v) the function of dispensing with the holding of inquiries if a fire involved only a motor vehicle,	24 25
	(c) such other functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.	26 27
	<b>Note.</b> Section 49 of the <i>Interpretation Act 1987</i> contains general provisions relating to the delegation of functions.	28 29
	(2) An assistant coroner cannot hold an inquest or inquiry and the function of holding an inquest or inquiry cannot be delegated to an assistant coroner by the State Coroner.	30 31 32
	(3) This section does not authorise an assistant coroner to exercise any function conferred or imposed on a coroner, except as specifically provided for by delegation under this section or by this or any other Act.	33 34 35

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- 16    Magistrates have coronial functions by virtue of office** (cf Coroners Act 1980, ss 6A (4) and 10) 1  
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- (1)    A Magistrate who has not been appointed to any of the offices of State Coroner, Deputy State Coroner or coroner under this Act: 3  
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- (a)    has, by virtue of his or her office as a Magistrate, all of the jurisdiction and functions that are conferred or imposed on coroners by or under this or any other Act, and 5  
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- (b)    is taken to be a coroner, 8
- but does not have any of the jurisdiction or functions of the State Coroner or a Deputy State Coroner. 9  
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- (2)    A Magistrate who is taken to be a coroner by reason of the operation of subsection (1) ceases to have the jurisdiction and functions of a coroner, and ceases to be taken to be a coroner, on ceasing to be a Magistrate. 11  
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- (3)    Despite anything to the contrary in this Act, the Chief Magistrate may (but need not) comply with any direction given by the State Coroner under this Act in relation to the exercise by the Chief Magistrate of any function conferred or imposed on the Chief Magistrate by operation of subsection (1). 14  
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## Chapter 3 Coronial jurisdiction

### Part 3.1 General

#### 17 Coronial jurisdiction generally

- (1) In this Chapter:
- (a) Part 3.2 confers jurisdiction on coroners to hold inquests concerning certain deaths and suspected deaths of persons, and
  - (b) Part 3.3 confers jurisdiction on coroners to hold inquiries concerning certain fires and explosions that do not involve deaths or suspected deaths, and
  - (c) Part 3.4 deals with miscellaneous matters relating to the exercise of any such jurisdiction.

- (2) Subject to this Act, the jurisdiction conferred by this Chapter extends to deaths, suspected deaths, fires and explosions occurring before the commencement of this section.

**Note.** Section 19 provides that there is no jurisdiction to hold an inquest concerning a death or suspected death if it occurred more than 100 years ago. Also, Part 2 of Schedule 2 makes savings and transitional arrangements in connection with inquests and inquiries concerning deaths, suspected deaths, fires and explosions occurring before the commencement of this Act.

#### 18 Jurisdiction concerning death requires connection with the State (cf Coroners Act 1980, s 13C)

- (1) A coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears to the coroner that:
- (a) the remains of the person are in the State, or
  - (b) the death or suspected death or the cause of the death or of the suspected death occurred in the State, or
  - (c) the death or suspected death occurred outside the State but the person had a sufficient connection with the State, as referred to in subsection (2).
- (2) A person had a sufficient connection with the State if the person:
- (a) was ordinarily resident in the State when the death or suspected death occurred, or
  - (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in the State, or
  - (c) was last at some place in the State before the circumstances of his or her death or suspected death arose.

<b>19</b>	<b>No jurisdiction concerning death or suspected death unless occurring within last 100 years</b> (cf Coroners Act 1980, s 13B)	1 2
	A coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears to the coroner that (or that there is reasonable cause to suspect that) the death or suspected death occurred within the last 100 years.	3 4 5 6
<b>20</b>	<b>Jurisdiction does not depend on making of report</b>	7
	Any jurisdiction of a coroner to hold an inquest concerning a death or suspected death, or an inquiry concerning a fire or explosion, arises even if the death, suspected death, fire or explosion has not been reported to a coroner or other person in accordance with a requirement to do so under this Act.	8 9 10 11 12
<b>Part 3.2</b>	<b>Inquests concerning deaths</b>	13
<b>Division 1</b>	<b>General jurisdiction to hold inquests</b>	14
<b>21</b>	<b>Inquests concerning deaths or suspected deaths</b> (cf Coroners Act 1980, s 13)	15 16
(1)	A coroner has jurisdiction to hold an inquest concerning the death or suspected death of a person if it appears to the coroner that:	17 18
(a)	the person's death is (or there is reasonable cause to suspect that the person's death is) a reportable death, or	19 20
(b)	a medical practitioner has not given (or there is reasonable cause to suspect that a medical practitioner has not given) a certificate as to the cause of death.	21 22 23
(2)	The reference to a medical practitioner in subsection (1) (b) includes, if it appears to the coroner that the death or suspected death occurred at a place outside the State, a reference to a person entitled under the law in force in that place to issue a certificate as to the cause of death.	24 25 26 27
<b>Division 2</b>	<b>Exclusive jurisdiction of State Coroner and Deputy State Coroners</b>	28 29
<b>22</b>	<b>Division confers exclusive jurisdiction</b> (cf Coroners Act 1980, ss 13A (2) and 13AB (2))	30 31
(1)	The jurisdiction conferred by this Division is conferred exclusively on any coroner who holds office as the State Coroner or a Deputy State Coroner (a <i>senior coroner</i> ).	32 33 34



(2)	If jurisdiction to hold an inquest concerning a death or suspected death arises both under this Division and Division 1, an inquest concerning the death or suspected death may be held only by a senior coroner.	1 2 3
<b>23</b>	<b>Jurisdiction concerning deaths in custody or as a result of police operations</b> (cf Coroners Act 1980, s 13A (1))	4 5
	A senior coroner has jurisdiction to hold an inquest concerning the death or suspected death of a person if it appears to the coroner that the person has died (or that there is reasonable cause to suspect that the person has died):	6 7 8 9
(a)	while in the custody of a police officer or in other lawful custody, or	10 11
(b)	while escaping, or attempting to escape, from the custody of a police officer or other lawful custody, or	12 13
(c)	as a result of, or in the course of, police operations, or	14
(d)	while in, or temporarily absent from, any of the following institutions or places of which the person was an inmate:	15 16
(i)	a detention centre within the meaning of the <i>Children (Detention Centres) Act 1987</i> ,	17 18
(ii)	a correctional centre within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> ,	19 20
(iii)	a lock-up, or	21
(e)	while proceeding to an institution or place referred to in paragraph (d), for the purpose of being admitted as an inmate of the institution or place and while in the company of a police officer or other official charged with the person's care or custody.	22 23 24 25
<b>24</b>	<b>Jurisdiction concerning deaths of children and disabled persons</b> (cf Coroners Act 1980, s 13AB (1), (3) and (4))	26 27
(1)	A senior coroner has jurisdiction to hold an inquest concerning the death or suspected death of a person if it appears to the coroner that the person was (or that there is reasonable cause to suspect that the person was):	28 29 30 31
(a)	a child in care, or	32
(b)	a child in respect of whom a report was made under Part 2 of Chapter 3 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> within the period of 3 years immediately preceding the child's death, or	33 34 35 36
(c)	a child who is a sibling of a child in respect of whom a report was made under Part 2 of Chapter 3 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> within the period of 3 years immediately preceding the child's death, or	37 38 39 40

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- (d) a child whose death is or may be due to abuse or neglect or that occurs in suspicious circumstances, or 1  
2
  - (e) a person (whether or not a child) who, at the time of the person's death, was living in, or was temporarily absent from, residential care provided by a service provider and authorised or funded under the *Disability Services Act 1993* or a residential centre for disabled persons, or 3  
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  - (f) a person (other than a child in care) who is in a target group within the meaning of the *Disability Services Act 1993* who receives from a service provider assistance (of a kind prescribed by the regulations) to enable the person to live independently in the community. 8  
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  - (2) If jurisdiction to hold an inquest concerning the death of a child arises under this section or section 23, the senior coroner must use his or her best endeavours to notify the following persons of any right that they have to legal representation at the inquest: 13  
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    - (a) the persons having parental responsibility for the child, 17
    - (b) the child's parents (if they do not have that responsibility), 18
    - (c) such family members as would be reasonably expected to have an immediate interest in the outcome of the inquest. 19  
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  - (3) In this section: 21

**child** means a person who is less than 18 years old. 22

**child in care** means a child or young person who is less than 18 years old: 23  
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    - (a) who is under the parental responsibility of the Minister administering the *Children and Young Persons (Care and Protection) Act 1998*, or 25  
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    - (b) for whom the Director-General of the Department of Community Services or a designated agency has the care responsibility under section 49 of the *Children and Young Persons (Care and Protection) Act 1998*, or 28  
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    - (c) who is a protected person within the meaning of section 135 of the *Children and Young Persons (Care and Protection) Act 1998*, or 32  
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    - (d) who is the subject of an out-of-home care arrangement under the *Children and Young Persons (Care and Protection) Act 1998*, or 35  
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    - (e) who is the subject of a sole parental responsibility order under section 149 of the *Children and Young Persons (Care and Protection) Act 1998*, or 37  
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    - (f) who is otherwise in the care of a service provider. 40

**parental responsibility**, in relation to a child or young person, means all the duties, powers, responsibilities and authority that, by law, parents have in relation to their children.

**residential centre for disabled persons** means:

- (a) premises declared to be a residential centre for handicapped persons under section 3A of the *Youth and Community Services Act 1973*, or
- (b) premises licensed under Part 3 of the *Youth and Community Services Act 1973*,

but does not include premises exempted under that Act from the requirement to be licensed.

**service provider** has the same meaning as it has in the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

### **Division 3 When inquest may be dispensed with**

#### **25 Coroner may dispense with inquest unless inquest required** (cf Coroners Act 1980, s 14)

- (1) A coroner who has jurisdiction to hold an inquest concerning the death or suspected death of a person may dispense with the inquest unless an inquest is required to be held under this Part.
- (2) Without limiting subsection (1), a coroner who has jurisdiction to hold an inquest concerning the death of a person may dispense with the inquest if the coroner is satisfied (after obtaining relevant advice from police officers and medical practitioners and consulting with a senior next of kin of the deceased person and any other person that the coroner considers appropriate) that:
  - (a) the deceased person died of natural causes (whether or not the precise cause of death is known), and
  - (b) a senior next of kin of the deceased person has indicated to the coroner that it is not the wish of the deceased person's family that a post mortem examination be conducted on the deceased to determine the precise cause of the deceased's death.
- (3) A coroner who has previously dispensed with the holding of an inquest concerning a death or suspected death may subsequently hold an inquest concerning the death or suspected death if the coroner is of the opinion that the discovery of new evidence or facts makes it necessary or desirable in the interests of justice to hold the inquest.

<b>26</b>	<b>Reasons to be given for dispensing with inquest</b> (cf Coroners Act 1980, s 14D)	1 2
(1)	A coroner who dispenses with an inquest must, on request by any of the following persons, give the person the coroner's written reasons for dispensing with an inquest:	3 4 5
(a)	the State Coroner,	6
(b)	the Minister,	7
(c)	any person who, in the opinion of the coroner, has a sufficient interest of any kind in the circumstances of the death or suspected death.	8 9 10
(2)	A coroner who refuses a request to give reasons because the person making it does not, in the opinion of the coroner, have a sufficient interest of any kind in the circumstances of the death or suspected death, is required, at the written request of the person, to give the person the reasons for the refusal.	11 12 13 14 15
<b>Division 4</b>	<b>When inquest is required to be held</b>	16
<b>27</b>	<b>General circumstances in which inquest required to be held</b> (cf Coroners Act 1980, s 14B)	17 18
(1)	An inquest concerning the death or suspected death of a person is required to be held in any of the following circumstances:	19 20
(a)	if it appears to the coroner concerned that the person died or might have died as a result of homicide (not including suicide),	21 22
(b)	if the jurisdiction to hold the inquest arises under section 23,	23
(c)	if it appears to the coroner concerned that:	24
(i)	it has not been sufficiently disclosed whether the person has died, or	25 26
(ii)	the person's identity and the date and place of the person's death have not been sufficiently disclosed,	27 28
(d)	if it appears to the coroner concerned that the manner and cause of the person's death have not been sufficiently disclosed (unless the case is one in which an inquest has been suspended or continued under section 78).	29 30 31 32
(2)	An inquest is not required to be held under this section if it appears to the coroner concerned that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside the State.	33 34 35 36

<b>28</b>	<b>Minister or State Coroner may direct that inquest be held</b> (cf Coroners Act 1980, s 14A)	1 2
	An inquest is required to be held if the Minister or the State Coroner directs that it be held.	3 4
<b>29</b>	<b>Direction to hold inquest where coroner has dispensed with inquest</b> (cf Coroners Act 1980, s 14E)	5 6
(1)	If a coroner has dispensed with an inquest, the State Coroner may (after considering the coroner's reasons for dispensing with the inquest and any other matters that the State Coroner considers relevant) direct a coroner to hold the inquest if the State Coroner is of the opinion that an inquest should nonetheless be held.	7 8 9 10 11
(2)	An inquest is to be held in accordance with the direction.	12
(3)	The State Coroner is not to give such a direction to a coroner who is a Magistrate (other than the coroner who dispensed with the holding of the inquest) without the Chief Magistrate's consent.	13 14 15
(4)	The State Coroner may hold the inquest instead of directing another coroner to hold the inquest.	16 17
<b>Part 3.3 Inquiries concerning fires and explosions</b>		18
<b>30</b>	<b>Inquiries concerning fires and explosions</b> (cf Coroners Act 1980, s 15 (1))	19
(1)	A coroner has jurisdiction to hold an inquiry concerning the cause and origin of a fire or explosion if the coroner is satisfied that the fire or explosion has destroyed or damaged any property within the State.	20 21 22
(2)	A coroner has jurisdiction to hold a general inquiry concerning a fire or explosion that has destroyed or damaged any property within the State, but only if the State Coroner gives a direction under this Part that such a general inquiry be held.	23 24 25 26
(3)	The jurisdiction of a coroner to hold a general inquiry concerning a fire or explosion extends to the examination of all of the circumstances concerning the fire or explosion (including, but not limited to, an examination of its cause and origin).	27 28 29 30
<b>31</b>	<b>Coroner may dispense with inquiry unless inquiry required</b> (cf Coroners Act 1980, ss 15 (2) and 15A (1))	31 32
(1)	A coroner who has jurisdiction to hold an inquiry concerning a fire or explosion may, unless an inquiry is required to be held under this Part, dispense with the inquiry if the coroner is of the opinion that:	33 34 35
(a)	the cause and origin of the fire or explosion are sufficiently disclosed, or	36 37

(b)	an inquiry into the cause and origin of the fire or explosion is unnecessary.	1
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(2)	A coroner who dispenses with the holding of an inquiry must, if requested to do so by the State Coroner, give the State Coroner written reasons for doing so.	3
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(3)	A coroner who has previously dispensed with the holding of an inquiry concerning a fire or explosion may subsequently hold an inquiry concerning the fire or explosion if the coroner is of the opinion that the discovery of new evidence or facts makes it necessary or desirable in the interests of justice to hold the inquiry.	6
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<b>32</b>	<b>When inquiry is required to be held</b> (cf Coroners Act 1980, ss 15 (3), 15A (2)–(5) and 15B)	11
		12
(1)	<b>Inquiries limited to investigating causes and origins</b>	13
	A coroner is required to hold an inquiry concerning the cause and origin of a fire or explosion that has destroyed or damaged property within the State if:	14
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		16
(a)	the coroner has been requested to hold the inquiry by an authorised public official, or	17
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(b)	the State Coroner gives a direction under this section that the coroner hold the inquiry.	19
		20
(2)	The State Coroner may direct that a coroner hold an inquiry concerning the cause and origin of a fire or explosion that has destroyed or damaged property within the State if:	21
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		23
(a)	in the case where a coroner has dispensed with the holding of an inquiry—the State Coroner, after considering the coroner’s reasons for dispensing with the inquiry and any other matters that the State Coroner considers relevant, is of the opinion that an inquiry should nonetheless be held, or	24
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(b)	in any other case—the State Coroner is of the opinion that the inquiry should be held.	29
		30
(3)	<b>General inquiries</b>	31
	A coroner is required to hold a general inquiry concerning a fire or explosion that has destroyed or damaged property within the State if the State Coroner gives a direction under this section for such a general inquiry to be held.	32
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- (4) The State Coroner must direct that a coroner hold a general inquiry concerning a fire or explosion that has destroyed or damaged property within the State if:

    - (a) an authorised public official has made a request to the State Coroner for a general inquiry to be held, or
    - (b) the State Coroner is of the opinion that a general inquiry should be held.

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  - (5) **General provisions relating to directions**

An inquiry is to be held in accordance with the direction.

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  - (6) The State Coroner is not to give such a direction to a coroner who is a Magistrate (other than a coroner who dispensed with the holding of the inquiry) without the Chief Magistrate's consent.

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  - (7) The State Coroner may hold the inquiry instead of directing another coroner to hold the inquiry.

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  - (8) **Definition**

In this section:

*authorised public official*, in relation to an inquiry concerning a fire or explosion, means any of the following persons:

    - (a) if the fire or explosion occurred in a fire district within the meaning of the *Fire Brigades Act 1989*—the Commissioner of New South Wales Fire Brigades,
    - (b) if the fire is a bush fire within the meaning of the *Rural Fires Act 1997*—the Commissioner of the NSW Rural Fire Service,
    - (c) the Minister.

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## Part 3.4 Other provisions concerning exercise of coronial jurisdiction 25 26

- 33 Coroners who are unavailable to exercise jurisdiction** (cf Coroners Act 1980, s 16)

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- (1) If a coroner is unavailable to hold an inquest or inquiry concerning a death, suspected death, fire or explosion of which the coroner has been informed, the coroner may, with the consent of another coroner (and subject to any direction given by the State Coroner under this section), refer the matter to the other coroner to be dealt with.

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- (2) If the State Coroner is satisfied that a coroner is unavailable to hold an inquest or inquiry concerning a death, suspected death, fire or explosion of which the coroner has been informed, the State Coroner may direct that another coroner hold the inquest or inquiry.

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|-----------|---|--|
| (3)       | The State Coroner is not to give such a direction to a coroner who is a Magistrate without the Chief Magistrate's consent.  | 1<br>2                                       |
| (4)       | For the purposes of this section, a coroner is <i>unavailable</i> to hold an inquest or inquiry concerning a matter if he or she is unable to act as a coroner in relation to the matter because of any of the following reasons:   | 3<br>4<br>5                                  |
|           | (a) illness,  | 6  |
|           | (b) absence from the place where the coroner ordinarily acts as coroner,  | 7<br>8                                       |
|           | (c) the coroner is unable or unwilling to deal with the matter for any other non-jurisdictional reason.   | 9<br>10                                      |
| (5)       | This section does not apply in relation to a coroner who, under this Act, dispenses with the holding of an inquest or inquiry.  | 11<br>12                                     |
| <b>34</b> | <b>Notice of particulars of death to be given to Registrar of Births, Deaths and Marriages</b> (cf Coroners Act 1980, s 16A)  | 13<br>14                                     |
| (1)       | A coroner must, for the purpose of enabling registration of the death of a person to be effected or completed, give written notice to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person if the coroner:   | 15<br>16<br>17<br>18                         |
|           | (a) holds an inquest concerning the death, or   | 19   |
|           | (b) dispenses with the holding of an inquest concerning the death, or   | 20   |
|           | (c) suspends an inquest concerning the death.   | 21   |
| (2)       | If a coroner is satisfied (whether before or during an inquest concerning the death of a person) that there will be a delay in concluding the inquest and that the coroner is able, on the basis of such evidence as the coroner considers sufficient, to determine the particulars relating to the death of the person, the coroner may, for the purpose of enabling registration of the death of the person to be effected or completed, make that determination and give written notice of the determination to the Registrar of Births, Deaths and Marriages. | 22<br>23<br>24<br>25<br>26<br>27<br>28<br>29 |
| (3)       | A notice under this section must not include any matter that incriminates any person.   | 30<br>31                                     |
| (4)       | For the purposes of this section, <i>particulars relating to the death of a person</i> are:   | 32<br>33                                     |
|           | (a) the identity of the deceased person, and  | 34   |
|           | (b) the date, place and cause of death of the deceased person.  | 35   |



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## Chapter 4 Reporting of deaths

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| <b>35</b>  |                |
| <b>Obligation to report death or suspected death</b> (cf Coroners Act 1980, s 12A (1)–(2A) and (3))  | 2<br>3         |
| (1)  | 4              |
| This section applies to any person who has reasonable grounds to believe that a death or suspected death of another person:  | 5              |
| (a)  | 6              |
| is a reportable death or occurred in circumstances that would be examinable under Division 2 of Part 3.2, and  | 7              |
| (b)  | 8              |
| has not been reported in accordance with subsection (2).   |                |
| (2)  | 9              |
| A person to whom this section applies must report the death or suspected death concerned to a police officer, a coroner or an assistant coroner as soon as possible after becoming aware of the grounds referred to in subsection (1). | 10<br>11<br>12 |
| Maximum penalty (subsection (2)): 10 penalty units.  | 13             |
| (3)  | 14             |
| A police officer to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner or assistant coroner as soon as possible after the report is made.                  | 15<br>16       |
| (4)  | 17             |
| An assistant coroner to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner as soon as possible after the report is made.                                   | 18<br>19       |
| (5)  | 20             |
| A coroner to whom a death or suspected death is reported under this section is required to inform the State Coroner of the report as soon as practicable after the report is made.   | 21<br>22       |
| <b>36</b>  |                |
| <b>State Coroner to inform Ombudsman about certain child or disability deaths</b> (cf Coroners Act 1980, s 12A (3A) and (3B))  | 23<br>24       |
| (1)  | 25             |
| The State Coroner is to provide the Ombudsman, in accordance with subsection (2), with all relevant material held by the State Coroner relating to:  | 26<br>27       |
| (a)  | 28             |
| any death or suspected death of a person in any of the circumstances referred to in section 24 (1), or   | 29             |
| (b)  | 30             |
| any death of a person who is less than 18 years old in the circumstances referred to in section 23 (d).  | 31             |
| (2)  | 32             |
| The relevant material referred to in subsection (1) is to be provided as soon as practicable after:  | 33             |
| (a)  | 34             |
| a decision is made not to hold an inquest concerning the death or suspected death, or  | 35             |
| (b)  | 36             |
| if an inquest is held—the conclusion or suspension of the inquest.   |                |

(3)	The requirements of this section are in addition to any requirements of Part 6 of the <i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i> .	1 2 3
<b>37</b>	<b>State Coroner to report on deaths in custody</b> (cf Coroners Act 1980, ss 12A (4)–(8))	4 5
(1)	The State Coroner is to make a written report to the Minister containing a summary of the details of the deaths or suspected deaths that:	6 7
(a)	the State Coroner has been informed about under section 35 or 38, and	8 9
(b)	appear to the State Coroner to involve the death or suspected death of a person in circumstances referred to in section 23.	10 11
(2)	A report under subsection (1) is to be made for the period of 12 months commencing on 1 January of each year. A report is to be made within 2 months after the end of the period to which it relates.	12 13 14
(3)	The Minister is to cause a copy of the report made to the Minister under subsection (1) to be tabled in each House of Parliament within 21 days after the report is made.	15 16 17
(4)	If a House of Parliament is not sitting when the Minister seeks to cause a copy of the report to be tabled before it, the Minister is to cause a copy of the report to be presented to the Clerk of that House of Parliament.	18 19 20
(5)	A copy of the report presented to the Clerk of a House of Parliament under this section:	21 22
(a)	is, on presentation and for all purposes, taken to have been laid before the House, and	23 24
(b)	may be printed by authority of the Clerk of the House, and	25
(c)	if so printed, is taken to be a document published by or under the authority of the House, and	26 27
(d)	is to be recorded:	28
(i)	in the case of the Legislative Council—in the Minutes of the Proceedings of the Legislative Council, and	29 30
(ii)	in the case of the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly,	31 32
	on the first sitting day of the House after receipt of the copy of the report by the Clerk.	33 34
<b>38</b>	<b>Medical practitioner must not certify cause of death if death is reportable</b> (cf Coroners Act 1980, ss 12A (2), (2A) and (3) and 12B)	35 36
(1)	A medical practitioner must not give a certificate as to the cause of death of a person for the purposes of notification of the cause of death under	37 38

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- the *Births, Deaths and Marriages Registration Act 1995* if the medical practitioner is of the opinion that:
- (a) the person's death is a reportable death, or
  - (b) the person died in circumstances that would be examinable under Division 2 of Part 3.2.
- (2) Despite subsection (1), a medical practitioner may give a certificate as to the cause of death of a person if the medical practitioner is of the opinion that the person:
- (a) was aged 72 years old or older, and
  - (b) died in circumstances other than in any of the circumstances referred to in paragraphs (b)–(f) of the definition of ***reportable death*** in section 6 (1) or in section 23 or 24 (1), and
  - (c) died after sustaining an injury from an accident, being an accident that was attributable to the age of that person, contributed substantially to the death of the person and was not caused by an act or omission by any other person.
- (3) A medical practitioner may not certify the cause of death of a person in accordance with subsection (2) if, before the certificate is given, a relative of the deceased person indicates to the medical practitioner that he or she objects to the giving of the certificate.
- (4) If a medical practitioner certifies the cause of death of a person in accordance with subsection (2), the certificate must state that it is given in pursuance of that subsection.
- (5) A medical practitioner who is prevented from certifying the cause of death of a person because of this section must, as soon as practicable after the death, report that death to a police officer.
- (6) A police officer to whom a death is reported under this section is required to report the death to a coroner or assistant coroner as soon as possible after the report is made.
- (7) An assistant coroner to whom a death is reported under this section is required to report the death to a coroner as soon as possible after the report is made.
- (8) A coroner to whom a death is reported under this section is required to inform the State Coroner of the report as soon as practicable after the report is made.

## Chapter 5      Coronial investigation scenes

### 39      Definitions (cf Coroners Act 1980, s 23C)

In this Chapter:

*coronial investigation scene* means a coronial investigation scene established under section 41.

*coronial investigation scene order*—see section 40.

*coronial investigation scene power* means a function specified in section 43 (1) or (2).

### 40      Order establishing coronial investigation scene (cf Coroners Act 1980, s 23D)

- (1) If a coroner considers that an investigation should, for the purposes of an inquest or inquiry, be carried out at a particular place, a coroner may issue an order (a *coronial investigation scene order*) in writing or by telephone to a police officer or other person to:
  - (a) establish a coronial investigation scene at a specified place, and
  - (b) exercise coronial investigation scene powers in accordance with this Chapter, and
  - (c) enter and stay at the place for those purposes.
- (2) A coronial investigation scene order may be made:
  - (a) before the commencement of an inquest or inquiry, or
  - (b) after the commencement but before the completion of an inquest or inquiry.
- (3) This Chapter applies to a place of any kind, whether or not a public place.
- (4) A person acting under the authority of a coronial investigation scene order may, for the purposes of exercising coronial investigation scene powers, obtain the assistance of any other person.
- (5) A coronial investigation scene order authorises a police officer or other person specified in the order (or a person assisting the person acting under the authority of the order) to enter any place referred to in that order.
- (6) A copy of a telephone coronial investigation scene order is to be provided to the police officer or other person to whom it is issued.
- (7) In this section:

*telephone* means radio, facsimile or any other communication device.

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<b>41</b>	<b>Establishment of coronial investigation scene</b> (cf Coroners Act 1980, s 23E)	1
(1)	A police officer or other person may establish a coronial investigation scene at a place pursuant to a coronial investigation scene order in any way that is reasonably appropriate in the circumstances.	2 3 4
(2)	A police officer or other person who establishes a coronial investigation scene must, if reasonably appropriate in the circumstances, give the public notice that the place is a coronial investigation scene.	5 6 7
<b>42</b>	<b>Exercise of powers at coronial investigation scene</b> (cf Coroners Act 1980, s 23F)	8 9
(1)	A police officer or other person may exercise any of the coronial investigation scene powers if:	10 11
(a)	a coronial investigation scene has been established, and	12
(b)	the police officer or other person exercising the power suspects on reasonable grounds that it is necessary to do so to preserve evidence relevant to an investigation by the coroner.	13 14 15
(2)	A police officer or other person may exercise the coronial investigation scene powers for the period of time specified in the coronial investigation scene order concerned.	16 17 18
<b>43</b>	<b>Coronial investigation scene powers</b> (cf Coroners Act 1980, s 23G)	19
(1)	A police officer or other person may, in accordance with this Chapter and a coronial investigation scene order, exercise the following functions at, or in relation to, a coronial investigation scene:	20 21 22
(a)	direct a person to leave the coronial investigation scene or remove a vehicle, vessel or aircraft from the coronial investigation scene,	23 24 25
(b)	remove from the coronial investigation scene a person who fails to comply with a direction to leave the coronial investigation scene or a vehicle, vessel or aircraft a person fails to remove from the coronial investigation scene,	26 27 28 29
(c)	direct a person not to enter the coronial investigation scene,	30
(d)	prevent a person from entering a coronial investigation scene,	31
(e)	prevent a person from removing evidence from, or otherwise interfering with, the coronial investigation scene or anything in it and, for that purpose, detain and search the person,	32 33 34
(f)	remove or cause to be removed an obstruction from the coronial investigation scene,	35 36
(g)	perform any necessary investigation, including, for example, search the coronial investigation scene and inspect anything in it to obtain evidence in relation to the inquest or inquiry,	37 38 39

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(h)	for the purpose of performing any necessary investigation, conduct any examination or process,	1 2
(i)	open anything at the coronial investigation scene that is locked,	3
(j)	take electricity, gas or any other utility, for use at the coronial investigation scene,	4 5
(k)	direct the occupier of the place or a person apparently involved in the management or control of the place to maintain a continuous supply of electricity at the place,	6 7 8
(l)	photograph or otherwise record the coronial investigation scene and anything in it,	9 10
(m)	seize and detain all or part of a thing that might provide evidence in relation to the inquest or inquiry or provide evidence of the commission of an offence,	11 12 13
(n)	dig up anything at the coronial investigation scene,	14
(o)	remove wall or ceiling linings or floors of a building, or panels of a vehicle,	15 16
(p)	take possession of the remains of a deceased person on behalf of the coroner, including body tissue, clothing and items apparently in the possession of the deceased person,	17 18 19
(q)	remove or cause the removal of the remains of a deceased person to any location nominated by the coroner,	20 21
(r)	any other function reasonably necessary or incidental to a function conferred by this section.	22 23
(2)	The power conferred by this section to seize and detain a thing includes:	24
(a)	a power to remove the thing from the coronial investigation scene when it is found, and	25 26
(b)	a power to guard the thing in or on the coronial investigation scene.	27 28
(3)	Nothing in this Chapter prevents a police officer or other person who is lawfully at a place from exercising a coronial investigation scene power or doing any other thing, if the occupier of the place consents.	29 30 31
<b>44</b>	<b>Obstruction or hindrance of person executing coronial investigation scene order</b> (cf Coroners Act 1980, s 23H)	32 33
	A person must not, on production to the person of a coronial investigation scene order, obstruct or hinder the person to whom the order was issued in the exercise of his or her powers under this Chapter arising by virtue of the order.	34 35 36 37
	Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.	38 39

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<b>45</b>	<b>Chapter does not limit other powers</b> (cf Coroners Act 1980, s 23I)	1
	Nothing in this Chapter limits any power that a police officer or other	2
	person has apart from this Chapter to enter a place or to do any other	3
	thing when at the place.	4

## Chapter 6 Coronial proceedings

### Part 6.1 General

#### 46 Meaning of “coronial proceedings”

- (1) In this Act, *coronial proceedings* are any proceedings conducted by a coroner or assistant coroner for the purposes of this Act concerning the investigation of a death, suspected death, fire or explosion.
- (2) Without limiting subsection (1), coronial proceedings include the following:
  - (a) the holding of an inquest or inquiry,
  - (b) proceedings to determine whether or not to hold, or to continue to hold, an inquest or inquiry,
  - (c) proceedings of an interlocutory or similar nature (including proceedings to deal with evidential matters or case management issues).

#### 47 Hearings in coronial proceedings generally to be open to public (cf Coroners Act 1980, s 30)

- (1) Any hearing conducted in coronial proceedings is to be open to the public, except as provided by this section and section 74.  
**Note.** See also section 74 for situations in which a coroner may order all or any persons to go and remain outside the room or building in which coronial proceedings are being heard.
- (2) Nothing in subsection (1) prevents a coroner hearing coronial proceedings 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.
- (3) In such a case, the coroner is to note on the record of the proceedings the special circumstances that in the coroner’s opinion make such a course of action necessary or desirable.

#### 48 Coronial proceedings may be conducted with jury only if State Coroner directs (cf Coroners Act 1980, ss 18 and 28)

- (1) Coronial proceedings are to be conducted without a jury, except as provided by subsection (2).
- (2) An inquest or inquiry is to be held before a coroner with a jury if the State Coroner directs it.



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| (3)       | The State Coroner may direct that an inquest or inquiry be held before a coroner with a jury only if:  | 1  |
|           |  | 2  |
| (a)       | the State Coroner is to act as the coroner for the inquest or inquiry, and   | 3  |
|           |  | 4  |
| (b)       | the State Coroner considers that there are sufficient reasons to justify the inquest or inquiry being held with a jury.  | 5  |
|           |  | 6  |
| (4)       | An inquest or inquiry that would, but for this subsection, be held before a coroner and a jury at a place that is not a place for which a jury district is constituted under the <i>Jury Act 1977</i> is to be held at the nearest place for which there is a jury district constituted. | 7  |
|           |  | 8  |
|           |  | 9  |
|           |  | 10 |
| (5)       | The State Coroner must notify the Sheriff of the need for a jury for an inquest or inquiry as soon as practicable after the State Coroner gives a direction under this section that the inquest or inquiry is to be held before a jury.  | 11 |
|           |  | 12 |
|           |  | 13 |
|           |  | 14 |
| <b>49</b> | <b>Case management directions by coroner</b>   | 15 |
| (1)       | Subject to any relevant practice notes, a coroner in coronial proceedings may give such directions as the coroner thinks fit for the speedy determination of the real issues with which the proceedings are concerned.   | 16 |
|           |  | 17 |
|           |  | 18 |
|           |  | 19 |
| (2)       | In particular, the coroner may do any one or more of the following:  | 20 |
| (a)       | direct relevant persons in the proceedings to take specified steps in relation to the proceedings,   | 21 |
|           |  | 22 |
| (b)       | direct relevant persons in the proceedings as to the time within which specified steps in the proceedings must be completed,   | 23 |
|           |  | 24 |
| (c)       | give such other directions with respect to the conduct of proceedings as the coroner considers appropriate.  | 25 |
|           |  | 26 |
| (3)       | In this section, a <b>relevant person</b> , in relation to coronial proceedings, means any of the following persons:   | 27 |
|           |  | 28 |
| (a)       | any person who is appearing in the proceedings personally,   | 29 |
| (b)       | any person who is being represented in the proceedings,  | 30 |
| (c)       | any person who is acting as a representative of another person in the proceedings,   | 31 |
|           |  | 32 |
| (d)       | any person assisting the coroner in conducting the proceedings.  | 33 |
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<b>50</b>	<b>State Coroner may assume and give directions concerning exercise of jurisdiction</b> (cf Coroners Act 1980, s 17A)	1
		2
(1)	The State Coroner may do any one or more of the following:	3
(a)	give directions requiring a specified coroner to conduct coronial proceedings that have not yet commenced,	4
		5
(b)	personally assume the jurisdiction to conduct particular coronial proceedings,	6
		7
(c)	direct that a specified coroner assume the jurisdiction to hold particular coronial proceedings from another coroner in circumstances where the other coroner has been informed of the matter that gives rise to the jurisdiction,	8
		9
		10
		11
(d)	direct that a coroner from whom jurisdiction has been assumed (the <b>former coroner</b> ) following a direction under paragraph (c) is to provide the coroner who assumes the jurisdiction with all relevant information concerning the matter that the former coroner has received.	12
		13
		14
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		16
(2)	The State Coroner may only give a direction concerning the assumption of a coroner's jurisdiction before the coroner:	17
		18
(a)	decides to dispense with the holding of an inquest or inquiry, or	19
(b)	commences an inquest or inquiry in exercise of that jurisdiction.	20
(3)	The State Coroner is not to give a direction to a coroner who is a Magistrate to assume jurisdiction without the Chief Magistrate's consent.	21
		22
		23
<b>51</b>	<b>Directions concerning investigations</b> (cf Coroners Act 1980, ss 17B and 17C)	24
(1)	The State Coroner may give to a coroner directions concerning investigations to be carried out for the purposes of any coronial proceedings or proposed coronial proceedings.	25
		26
		27
(2)	A coroner may give a police officer directions concerning investigations to be carried out for the purposes of coronial proceedings or proposed coronial proceedings.	28
		29
		30
(3)	The Director-General of the Attorney General's Department may enter into a memorandum of understanding with the Commissioner of Police in relation to the regulation of costs associated with the carrying out of investigations by police officers pursuant to directions under this section.	31
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		35
(4)	The memorandum of understanding may be amended, revoked or replaced from time to time.	36
		37
(5)	The functions of giving directions under subsection (2) and carrying out investigations pursuant to such directions must, as far as practicable, be	38
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exercised in conformity with the memorandum of understanding.  
However, a failure to comply with this subsection does not itself  
invalidate anything done by a coroner or police officer.

**52 Practice notes and approval of forms**

- (1) The State Coroner may:
  - (a) issue practice notes for or with respect to the practice and procedure to be followed in coronial proceedings, and
  - (b) approve forms for use in coronial proceedings.
- (2) The State Coroner may not issue a practice note under this section without the Chief Magistrate's approval.
- (3) A practice note:
  - (a) must be published in the Gazette, and
  - (b) takes effect on the day on which it is published in the Gazette or, if a later day or days are specified in the practice note for that purpose, on the later day or days so specified.
- (4) A practice note issued under this section may be amended or repealed by a further practice note issued under this section.
- (5) Subject to subsection (6), sections 40 and 41 of the *Interpretation Act 1987* apply to a practice note issued under this section in the same way as they apply to a statutory rule.
- (6) For the purpose of applying section 40 of the *Interpretation Act 1987* to a practice note issued under this section, a reference in that section to the publication of a statutory rule is to be read as a reference to the publication of the practice note as provided by subsection (3).

**53 Power to obtain documents and things for purposes of coronial investigation** (cf Coroners Act 1980, s 14F)

- (1) For the purpose of assisting a coroner in the investigation of a death, suspected death, fire or explosion, the coroner may, by notice in writing served on a person, direct the person to produce a document or other thing to the coroner or another person specified in the notice at a time and place specified in the notice.
- (2) The power to give such a direction includes (without limitation):
  - (a) the power to direct that a document be produced relating to the medical care or treatment of a person, and
  - (b) the power to direct a person to provide any tissue in the person's possession or under the person's control that was taken from a deceased person before his or her death.

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| (3) | The coroner is to withdraw a direction under this section if it appears to the coroner that:   | 1  |
|     |  | 2  |
| (a) | any person would be entitled on grounds of privilege to refuse to produce the document or other thing in a court of law, and   | 3  |
|     |  | 4  |
| (b) | the person does not consent to compliance with the direction.  | 5  |
| (4) | A natural person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate the person, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it. | 6  |
|     |  | 7  |
|     |  | 8  |
|     |  | 9  |
| (5) | A person must not, without reasonable excuse, fail to comply with a notice served on the person under this section.  | 10 |
|     |  | 11 |
|     | Maximum penalty (subsection (5)): 10 penalty units.  | 12 |
| (6) | If a direction under this section requires the production of a document, the production of a copy of the document is taken to be sufficient compliance with the direction unless the direction expressly requires the production of the original document.                             | 13 |
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|     |  | 16 |
| (7) | Nothing in this section limits any other power that a coroner may have under this Act to obtain evidence.  | 17 |
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## Part 6.2 Holding inquests and inquiries 19

### 54 Time and place of inquest or inquiry (cf Coroners Act 1980, s 17) 20

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| (1) | If an inquest or inquiry is to be held under this Act by a coroner, the coroner:   | 21 |
|     |  | 22 |
| (a) | must fix a time and place for the commencement of the inquest or inquiry, and  | 23 |
|     |  | 24 |
| (b) | must give particulars of the time and place to any person who has given notice in writing to the coroner of his or her intention to seek leave to appear or to be represented at the inquest or inquiry, and                           | 25 |
|     |  | 26 |
|     |  | 27 |
|     |  | 28 |
| (c) | in the case of an inquest concerning the death or suspected death of a person—must give particulars of the time and place to the person's next of kin if the coroner has been informed of the name and address of the next of kin, and | 29 |
|     |  | 30 |
|     |  | 31 |
|     |  | 32 |
| (d) | may give particulars of the time and place to any person who has, in the opinion of the coroner, a sufficient interest in the subject-matter of the inquest or inquiry.  | 33 |
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(2)	Without limiting subsection (1) (b), (c) or (d), the particulars that are to be given under any of those paragraphs are taken to be given if a notice specifying the particulars is sent by post to the person to whom the particulars are to be given.	1 2 3 4
<b>55</b>	<b>Coroner may view deceased person's remains or scene of fire or explosion</b> (cf Coroners Act 1980, s 29)	5 6
(1)	A coroner may (but need not) view the remains of a deceased person, or the scene of a fire or explosion, with which coronial proceedings are concerned if the coroner considers it advisable to do so.	7 8 9
(2)	If an inquest or inquiry is being held before a jury, the coroner may (but need not) allow the jury to view the remains of the deceased person, or the scene of the fire or explosion, with which inquest or inquiry is concerned.	10 11 12 13
<b>56</b>	<b>Coroner's right to possession of deceased person's remains</b> (cf Coroners Act 1980, s 24)	14 15
(1)	A coroner has a right to take possession of and retain the remains of a deceased person whenever the coroner has jurisdiction to hold or is holding an inquest concerning the death or suspected death of the person.	16 17 18 19
(2)	This right of the coroner has priority over any other right to possession of the remains of a person but otherwise does not affect any other such right.	20 21 22
(3)	This section does not prevent the making of an order by a coroner under section 101 or the disposal of the remains of a deceased person in accordance with such an order.	23 24 25
(4)	This section does not limit any rights that the coroner has apart from this Act.	26 27
<b>Part 6.3</b>	<b>Representation and evidentiary matters</b>	28
<b>57</b>	<b>Representation in coronial proceedings</b> (cf Coroners Act 1980, s 32 (1) and (2))	29 30
(1)	The coroner in coronial proceedings may grant leave to any person, who in the opinion of the coroner has a sufficient interest in the subject-matter of the proceedings, to appear in person in the proceedings or to be represented by an Australian legal practitioner.	31 32 33 34
(2)	Any person granted such leave may examine and cross-examine any witnesses on matters relevant to the proceedings.	35 36
(3)	A coroner holding an inquest concerning the death or suspected death of a person must grant leave under subsection (1) to any person who is	37 38

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a relative of the deceased person (or suspected deceased person) unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave.	1
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(4) If an inquest or inquiry is held before a jury:	4
(a) a person appearing, and an Australian legal practitioner representing a person, at the inquest or inquiry is entitled to make an opening and a closing address to the jury, and	5
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	7
(b) the person assisting the coroner may make an opening and a closing address to the jury and in addition has a right of reply in respect of any closing address made pursuant to paragraph (a).	8
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<b>58 Rules of procedure and evidence</b> (cf Coroners Act 1980, s 33)	11
(1) A coroner in coronial proceedings is not bound to observe the rules of procedure and evidence that are applicable to proceedings before a court of law.	12
	13
	14
(2) Except as otherwise provided by this Act, a witness in coronial proceedings who is a natural person cannot be compelled to answer any question or produce any document that might tend:	15
	16
	17
(a) to incriminate the witness for an offence against or arising under an Australian law or a law of a foreign country, or	18
	19
(b) to make the witness liable to a civil penalty.	20
<b>59 Witnesses may be required to give evidence on oath or affirmation</b> (cf Coroners Act 1980, s 31)	21
	22
(1) The coroner in coronial proceedings may examine on oath or affirmation all persons who:	23
	24
(a) tender evidence relevant to the proceedings, or	25
(b) are able, in the opinion of the coroner, to give evidence relevant to the proceedings.	26
	27
(2) For the purposes of subsection (1), the coroner:	28
(a) may require a person who appears in the proceedings to give evidence to take an oath or to make an affirmation in a form approved by the coroner, and	29
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	31
(b) may administer an oath to, or take an affirmation from, a person appearing in the proceedings.	32
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<b>60</b>	<b>Persons granted leave may apply for witness to be examined</b> (cf Coroners Act 1980, s 31A)	1 2
(1)	A person granted leave to appear or be represented in coronial proceedings may apply to the coroner to have a particular person examined in the proceedings. Such an application can be made before or during the hearing of the proceedings.	3 4 5 6
(2)	A coroner who refuses such an application must give the applicant the reasons for refusing the application.	7 8
(3)	The coroner is required to deal with such an application as soon as reasonably practicable after it is made and in any case before the proceedings are concluded.	9 10 11
<b>61</b>	<b>Privilege in respect of self-incrimination</b> (cf Coroners Act 1980, s 33AA)	12
(1)	This section applies if a witness in coronial proceedings objects to giving particular evidence, or evidence on a particular matter, on the ground that the evidence may tend to prove that the witness:	13 14 15
(a)	has committed an offence against or arising under an Australian law or a law of a foreign country, or	16 17
(b)	is liable to a civil penalty.	18
(2)	The coroner in the coronial proceedings must determine whether or not there are reasonable grounds for the objection.	19 20
(3)	If the coroner determines that there are reasonable grounds for the objection, the coroner is to inform the witness:	21 22
(a)	that the witness need not give the evidence unless required by the coroner to do so under subsection (4), and	23 24
(b)	that the coroner will give a certificate under this section if:	25
(i)	the witness willingly gives the evidence without being required to do so under subsection (4), or	26 27
(ii)	the witness gives the evidence after being required to do so under subsection (4), and	28 29
(c)	of the effect of such a certificate.	30
(4)	The coroner may require the witness to give the evidence if the coroner is satisfied that:	31 32
(a)	the evidence does not tend to prove that the witness has committed an offence against or arising under, or is liable to a civil penalty under, a law of a foreign country, and	33 34 35
(b)	the interests of justice require that the witness give the evidence.	36

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| (5)       | If the witness either willingly gives the evidence without being required to do so under subsection (4), or gives it after being required to do so under that subsection, the coroner must cause the witness to be given a certificate under this section in respect of the evidence. | 1<br>2<br>3<br>4 |
| (6)       | The coroner is also to cause a witness to be given a certificate under this section if:   | 5<br>6           |
|           | (a) the objection has been overruled, and   | 7                |
|           | (b) after the evidence has been given, the coroner finds that there were reasonable grounds for the objection.  | 8<br>9           |
| (7)       | In any proceeding in a NSW court within the meaning of the <i>Evidence Act 1995</i> or before any person or body authorised by a law of the State, or by consent of parties, to hear, receive and examine evidence:   | 10<br>11<br>12   |
|           | (a) evidence given by a person in respect of which a certificate under this section has been given, and   | 13<br>14         |
|           | (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given evidence,  | 15<br>16<br>17   |
|           | cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence.   | 18<br>19         |
| (8)       | Subsection (7) has effect despite any challenge, review, quashing or calling into question on any ground of the decision to give, or the validity of, the certificate concerned.  | 20<br>21<br>22   |
| (9)       | A reference in this section to doing an act includes a reference to failing to act.   | 23<br>24         |
| (10)      | A certificate under this section can only be given in respect of evidence that is required to be given by a natural person.   | 25<br>26         |
| <b>62</b> | <b>Refusal of witness to be examined</b> (cf Coroners Act 1980, ss 42 and 54 (1))   | 27               |
|           | A person who appears (whether or not on subpoena or warrant) to give evidence or to produce any document or thing in coronial proceedings must not, without lawful excuse:  | 28<br>29<br>30   |
|           | (a) refuse to take the oath or affirmation, or  | 31               |
|           | (b) refuse to be examined on oath or affirmation, or  | 32               |
|           | (c) having taken the oath or made an affirmation, refuse to answer any question relevant to the subject-matter of the proceedings, or   | 33<br>34         |
|           | (d) refuse or fail to produce the document or thing.  | 35               |
|           | Maximum penalty: 10 penalty units.  | 36               |



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<b>63</b>	<b>Documentary evidence</b> (cf Coroners Act 1980, s 34A)	1
	Parts 3 and 4 of Chapter 6 of the <i>Criminal Procedure Act 1986</i> apply to	2
	and in respect of any coronial proceedings in the same way as they apply	3
	to and in respect of proceedings before a court, and any function	4
	exercisable by an authorised person under those Parts may, for the	5
	purposes of coronial proceedings, be exercised by a coroner.	6
<b>64</b>	<b>Fresh inquest or inquiry—admission of previous depositions</b> (cf	7
	Coroners Act 1980, s 33A)	8
(1)	A coroner holding a fresh inquest or inquiry may admit in evidence the	9
	depositions taken at any previous inquest or inquiry.	10
(2)	Subsection (1) is subject to the terms of an order made by a court for the	11
	holding of the fresh inquest or inquiry.	12
	<b>Note.</b> Section 83 provides for the circumstances in which a fresh inquest or	13
	inquiry concerning a matter may be held by a coroner following the termination	14
	or conclusion of a previous inquest or inquiry concerning the matter. Also,	15
	section 85 enables the Supreme Court to order that a fresh inquest or inquiry be	16
	held in certain circumstances.	17
<b>65</b>	<b>Records of evidence</b> (cf Coroners Act 1980, s 34)	18
(1)	The coroner in coronial proceedings is to ensure that the evidence of	19
	every witness in the proceedings is recorded.	20
(2)	Subject to this section, a coroner or assistant coroner is to supply a	21
	person with a copy of a coroner's file (or a part of that file) at the request	22
	of the person if:	23
(a)	the coroner or assistant coroner is satisfied that it is appropriate	24
	for the person to be granted access to the file (or a part of the file),	25
	and	26
(b)	the person pays the fee that is payable in a Local Court for the	27
	provision of a copy of a document (other than a copy of a	28
	judgment or order or the reasons for a judgment or order) or such	29
	other fee as may be prescribed by (or calculated in accordance	30
	with) the regulations.	31
(3)	In determining whether it is appropriate to grant a person access to a	32
	coroner's file (or a part of the file), the coroner or assistant coroner	33
	making the determination is to have regard to the following matters:	34
(a)	the principle that coronial proceedings should generally be open	35
	to the public,	36
(b)	if the coroner's file relates to a deceased person—the impact on	37
	the relatives of the deceased person of allowing access,	38
(c)	the connection that the person requesting access has to the	39
	proceedings concerned,	40

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(d)	the reasons why access is being sought,	1
(e)	any other matter that the coroner or assistant coroner considers relevant.	2 3
(4)	A coroner who conducts coronial proceedings may, by notation on the coroner's file on the matter, direct that a copy of the whole or a particular part of the file is not to be supplied under this section.	4 5 6
(5)	A direction by a coroner under subsection (4) must include a statement of the coroner's reasons for the direction.	7 8
(6)	A copy of a coroner's file (or of any part of the file) is not to be supplied under this section in contravention of:	9 10
(a)	a direction by a coroner under subsection (4), or	11
(b)	an order made under section 74.	12
(7)	In this section:	13
	<i>coroner's file</i> means the documents (including the depositions of witnesses, transcripts and written findings) that form part of the file kept by a coroner in respect of a death, suspected death, fire or explosion.	14 15 16
<b>66</b>	<b>Subpoena for appearance or warrant for arrest of witness</b> (cf Coroners Act 1980, s 35)	17 18
(1)	If it appears to a coroner that any person is likely to be able to give material evidence in coronial proceedings, or is likely to have in his or her possession or power any document or thing required for the purposes of evidence in the proceedings, the coroner may issue any of the following subpoenas:	19 20 21 22 23
(a)	a subpoena for the appearance of the person to be examined as a witness,	24 25
(b)	a subpoena for the person to produce the document or thing,	26
(c)	a subpoena both for the appearance of that person to be examined as a witness and to produce the document or thing.	27 28
(2)	However, if the coroner is satisfied by evidence on oath or affirmation that it is probable that the person will not comply with a subpoena unless compelled to do so, the coroner may issue a warrant in the first instance for the arrest of that person.	29 30 31 32
(3)	A coroner may exercise a function under this section in respect of coronial proceedings being conducted by another coroner, but only with the consent of that other coroner.	33 34 35

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(4)	A person is not bound to produce any document or thing:	1
(a)	not specified or otherwise sufficiently described in a subpoena or arrest warrant issued under this section in respect of the person, or	2 3 4
(b)	that the person would not be bound to produce on a subpoena for production in the Supreme Court.	5 6
(5)	An assistant coroner may, at the direction of a coroner given in a particular case, exercise the power of the coroner to issue a subpoena or arrest warrant under this section.	7 8 9
<b>67</b>	<b>Form of subpoena</b> (cf Coroners Act 1980, s 36)	10
	A subpoena issued under this Part must:	11
(a)	be signed by the coroner or assistant coroner issuing it, and	12
(b)	be directed to the person whose appearance is required or who is required to produce a document or thing, and	13 14
(c)	require that person to appear at a certain time and place before the coroner conducting the coronial proceedings concerned to testify what the person knows concerning the subject-matter of the proceedings or to produce any document or thing specified or described in the subpoena.	15 16 17 18 19
<b>68</b>	<b>Manner of service of subpoena</b> (cf Coroners Act 1980, s 37)	20
(1)	A subpoena issued under this Part must be served by:	21
(a)	a police officer, or	22
(b)	where the coroner or assistant coroner issuing the subpoena so directs—the Sheriff, or a sheriff’s officer, within the meaning of the <i>Sheriff Act 2005</i> .	23 24 25
(2)	Service of a subpoena may be effected:	26
(a)	by handing it to the person to whom it is directed, or	27
(b)	if the person is an inmate of a correctional centre (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i> ):	28 29
(i)	by handing it to the officer in charge of the correctional centre, or	30 31
(ii)	by sending it by post or facsimile or other electronic transmission to the officer in charge at the correctional centre, or	32 33 34
(c)	if the person is a police officer or a public officer:	35
(i)	by sending it by post or facsimile to the person’s business address, or	36 37

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| (ii) | by sending it by electronic communication to the person's business email address, or   | 1  |
|      |  | 2  |
| (d)  | if the person is not a police officer, public officer or inmate:   | 3  |
| (i)  | by sending it by post or facsimile to the person's residential address, or   | 4  |
|      |  | 5  |
| (ii) | by sending it by electronic communication to the person's email address, or  | 6  |
|      |  | 7  |
| (e)  | if the person is represented by a legal practitioner—by leaving it, with the consent of the relevant legal practitioner for the person, at the relevant legal practitioner's address for service or by sending it to that address by post or facsimile or by sending it to the legal practitioner's email address for service by electronic communication. | 8  |
|      |  | 9  |
|      |  | 10 |
|      |  | 11 |
|      |  | 12 |
|      |  | 13 |
| (3)  | If, on tender of a subpoena, the person refuses to accept it, it may be served by putting it down in the person's presence after the person has been told of the nature of the subpoena.   | 14 |
|      |  | 15 |
|      |  | 16 |
| (4)  | Service of a subpoena in the manner specified in subsection (2) or (3) may be proved by the oath or affirmation of the person who served it attending the coronial proceedings concerned, by his or her affidavit or otherwise.  | 17 |
|      |  | 18 |
|      |  | 19 |
|      |  | 20 |
| (5)  | In this section:   | 21 |
|      | <b>public officer</b> means any of the following persons, but only when acting in an official capacity:  | 22 |
|      |  | 23 |
| (a)  | an employee in the Public Service or the NSW Police Force,   | 24 |
| (b)  | an officer or employee of a statutory body representing the Crown,   | 25 |
|      |  | 26 |
| (c)  | an employee of a council within the meaning of the <i>Local Government Act 1993</i> ,  | 27 |
|      |  | 28 |
| (d)  | an officer or employee of a livestock health and pest authority within the meaning of the <i>Rural Lands Protection Act 1998</i> ,   | 29 |
|      |  | 30 |
| (e)  | the Director of Public Prosecutions, Deputy Director of Public Prosecutions or Solicitor for Public Prosecutions,  | 31 |
|      |  | 32 |
| (f)  | an officer or employee of a body declared by the regulations to be a public body for the purposes of this definition.  | 33 |
|      |  | 34 |
|      | <b>relevant legal practitioner</b> for a person means:   | 35 |
| (a)  | if the person is represented only by a solicitor—the solicitor, or   | 36 |
| (b)  | if the person is represented only by a barrister under a direct access arrangement—the barrister, or   | 37 |
|      |  | 38 |

(c)	if the person is represented by both a solicitor and a barrister—the solicitor.	1 2
<b>69</b>	<b>Arrest warrants for non-appearance in response to subpoena</b> (cf Coroners Act 1980, s 39)	3 4
	If a person who has been issued with a subpoena to appear in coronial proceedings does not appear at the time and place specified in the subpoena, the coroner before whom the person was required to appear may, on proof of the due service of the subpoena on the person and if no just excuse is offered for the person's non-appearance, issue a warrant for the arrest of the person.	5 6 7 8 9 10
<b>70</b>	<b>Form of warrant</b> (cf Coroners Act 1980, s 41 (1)–(3))	11
(1)	An arrest warrant issued by a coroner or assistant coroner under this Part must:	12 13
(a)	be signed by the coroner or assistant coroner, and	14
(b)	be directed to:	15
(i)	a named police officer, or	16
(ii)	a person authorised by law to execute a warrant to arrest, or	17
(iii)	the senior police officer of the area where the warrant is to be executed, or	18 19
(iv)	the senior police officer and all other police officers, or	20
(v)	generally all police officers, and	21
(c)	name or otherwise describe the person to be arrested, and	22
(d)	order that the person be arrested and brought before a coroner to testify what the person knows concerning the subject-matter of the coronial proceedings or to produce the document or writing specified or described in the warrant.	23 24 25 26
(2)	An arrest warrant is to be returnable at a time and place to be stated in the warrant.	27 28
(3)	An arrest warrant may be executed by arresting the person against whom it is directed at any place in the State.	29 30
<b>71</b>	<b>Arrest of witness under arrest warrant</b> (cf Coroners Act 1980, ss 40 and 41 (3))	31
(1)	A person arrested under an arrest warrant issued under this Part is to be brought before a coroner or authorised justice as soon as practicable after the person's arrest.	32 33 34
(2)	Subject to subsection (3), a person arrested under an arrest warrant may be dealt with in the same way as a witness arrested under a warrant issued under section 231 of the <i>Criminal Procedure Act 1986</i> .	35 36 37

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(3)	A coroner or authorised justice before whom a person is brought after having been arrested under an arrest warrant issued under this Part:	1
		2
(a)	must, subject to the <i>Bail Act 1978</i> , order that a warrant be issued for the committal of the person to a correctional centre or other place of security, and	3
		4
		5
(b)	must order the person to be brought before a coroner at such time and place as is specified in the order.	6
		7
(4)	The <i>Bail Act 1978</i> applies to the person (not being an accused person within the meaning of that Act) in the same way as it applies to an accused person within the meaning of that Act to whom section 9 of that Act applies and, for that purpose, bail may be granted to such a person under that Act with respect to the period between:	8
		9
		10
		11
		12
(a)	the person's being brought before a coroner under a warrant for the purpose of being examined as a witness or producing a document or thing, and	13
		14
		15
(b)	the person's being examined as a witness or producing the document or thing.	16
		17
(5)	In this section:	18
	<i>authorised justice</i> has the same meaning as in the <i>Bail Act 1978</i> .	19
<b>72</b>	<b>Certain defects immaterial</b> (cf Coroners Act 1980, s 38)	20
	No objection may be taken or allowed to any subpoena or arrest warrant in respect of any alleged defect in the subpoena or warrant in substance or in form.	21
		22
		23
<b>Part 6.4</b>	<b>Disclosure of information</b>	24
<b>73</b>	<b>Meaning of "published"</b> (cf Coroners Act 1980, s 46)	25
	For the purposes of this Part, matter is <i>published</i> only if it is:	26
(a)	inserted in any newspaper or any other periodical publication, or	27
(b)	publicly exhibited, or	28
(c)	broadcast by radio or by television, or	29
(d)	published by means of the Internet.	30

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<b>74</b>	<b>Powers of coroner to clear court and prevent publication of evidence</b> (cf Coroners Act 1980, ss 44 (1), (5) and (6) and 45 (1) and (4))	1 2
(1)	A coroner in coronial proceedings may, if of the opinion that it would be in the public interest to do so, order:	3 4
(a)	any or all persons (including witnesses in the proceedings) to go and remain outside the room or building in which the proceedings are being heard, or	5 6 7
(b)	that any evidence given in the proceedings not be published.	8
(2)	For the purposes of subsection (1), the coroner may, in forming an opinion as to the public interest, have regard (without limitation) to the following matters:	9 10 11
(a)	the principle that coronial proceedings should generally be open to the public,	12 13
(b)	in the case of an order that is proposed to be made in relation to a witness in the proceedings—the likelihood that the evidence of the witness might be influenced by other evidence given in the proceedings if the witness is present when that other evidence is given,	14 15 16 17 18
(c)	national security,	19
(d)	the personal security of the public or any person.	20
(3)	A person must not contravene an order made under this section.	21
	Maximum penalty: 10 penalty units or imprisonment for 6 months (in the case of an individual) or 50 penalty units (in any other case).	22 23
<b>75</b>	<b>Powers of coroner in relation to reports or proceedings concerning self-inflicted deaths</b> (cf Coroners Act 1980, ss 44 (2)–(4) and 45 (1), (2) and (4))	24 25
(1)	A coroner may make an order under this section (a <i>non-publication order</i> ) if it appears to the coroner (whether by reason of information reported or received under Chapter 4 or during the course of coronial proceedings) that a death or suspected death is self-inflicted.	26 27 28 29
(2)	A non-publication order may prohibit or restrict any or all of the following:	30 31
(a)	the publication of any report (or any further report) of the proceedings (or any specified part of the proceedings) until after the coroner has made his or her findings or, in the case of an inquest held before a jury, the jury has brought in its verdict,	32 33 34 35

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| (b)  | the publication of any matter (including the publication of any photograph or other pictorial representation) that identifies any particular person:  | 1  |
|      |   | 2  |
|      |   | 3  |
| (i)  | as being a person whose death or suspected death may have been self-inflicted, or   | 4  |
|      |   | 5  |
| (ii) | as being a relative of a person whose death or suspected death may have been self-inflicted.  | 6  |
|      |   | 7  |
| (3)  | For the purposes of subsection (2) (b), the following persons are relatives of a person whose death or suspected death may have been self-inflicted:  | 8  |
|      |   | 9  |
|      |   | 10 |
| (a)  | the spouse of that person, a parent of that person, a person who stands in loco parentis to that person, a guardian of that person or a child of that person,   | 11 |
|      |   | 12 |
|      |   | 13 |
| (b)  | a person who, at the time of the death or suspected death, was living with that person as her husband or his wife,  | 14 |
|      |   | 15 |
| (c)  | a brother or sister of that person.   | 16 |
| (4)  | To the extent to which a non-publication order prohibits the publication of any matter referred to in subsection (2) (b), the order continues to have effect after the coroner has made his or her findings, or after the jury (if any) has brought in its verdict, but only if the order expressly so provides.              | 17 |
|      |   | 18 |
|      |   | 19 |
|      |   | 20 |
|      |   | 21 |
| (5)  | If a finding is made in an inquest to the effect that the death of a person was self-inflicted, a report of the proceedings (or any part of the proceedings) must not be published after the finding unless (and to the extent that) the coroner holding the inquest makes an order permitting the publication of the report. | 22 |
|      |   | 23 |
|      |   | 24 |
|      |   | 25 |
|      |   | 26 |
| (6)  | A coroner may make an order under subsection (5) only if the coroner is of the opinion that it is desirable in the public interest to permit a report of the proceedings (or part of the proceedings) of the inquest to be published.   | 27 |
|      |   | 28 |
|      |   | 29 |
|      |   | 30 |
| (7)  | A person must not contravene (or cause the contravention of):   | 31 |
| (a)  | a non-publication order, or   | 32 |
| (b)  | the provisions of subsection (5).   | 33 |
|      | Maximum penalty: 10 penalty units or imprisonment for 6 months (in the case of an individual) or 50 penalty units (in any other case).  | 34 |
|      |   | 35 |



<b>76</b>	<b>Publication of questions, warnings, objections and incriminating evidence</b> (cf Coroners Act 1980, s 45 (3) and (4))	1 2
	A person must not publish any of the following matters without the express permission of the coroner in the coronial proceedings concerned:	3 4 5
	(a) any question asked of a witness that the coroner has forbidden or disallowed,	6 7
	(b) any warning that a coroner has given to a witness that he or she is not compelled to answer a question,	8 9
	(c) any objection made by a witness to giving evidence on the ground that the evidence may tend to prove that the witness has committed an offence.	10 11 12
	Maximum penalty: 10 penalty units or imprisonment for 6 months (in the case of an individual) or 50 penalty units (in any other case).	13 14
<b>77</b>	<b>Certain matters not prohibited or prevented</b>	15
	Nothing in this Part prohibits or prevents:	16
	(a) the publication of a judgment of a court that contains matter the publication of which would otherwise have been prohibited by this Part, or	17 18 19
	(b) the publication of matter in such other circumstances as may be prescribed by the regulations.	20 21
<b>Part 6.5</b>	<b>Resolution of coronial proceedings</b>	22
<b>78</b>	<b>Procedure at inquest or inquiry involving indictable offence</b> (cf Coroners Act 1980, s 19)	23 24
	(1) This section applies in relation to any of the following inquests or inquiries:	25 26
	(a) an inquest or inquiry held by a coroner to whom it appears (whether before the commencement or during the course of the inquest or inquiry) that:	27 28 29
	(i) a person has been charged with an indictable offence, and	30
	(ii) the indictable offence raises the issue of whether the person caused the death, suspected death, fire or explosion with which the inquest or inquiry is concerned,	31 32 33

- (b) an inquest or inquiry if, at any time during the course of the inquest or inquiry, the coroner forms the opinion (having regard to all of the evidence given up to that time) that:
        - (i) the evidence is capable of satisfying a jury beyond reasonable doubt that a known person has committed an indictable offence, and
        - (ii) there is a reasonable prospect that a jury would convict the known person of the indictable offence, and
        - (iii) the indictable offence would raise the issue of whether the known person caused the death, suspected death, fire or explosion with which the inquest or inquiry is concerned.
- (2) If this section applies to an inquest or inquiry as provided by subsection (1) (a), the coroner:
  - (a) may commence the inquest or inquiry, or continue it if it has commenced, but only for the purpose of taking evidence to establish:
    - (i) in the case of an inquest—the death, the identity of the deceased person and the date and place of death, or
    - (ii) in the case of an inquiry—the date and place of the fire or explosion, and
  - (b) after taking that evidence (or if that evidence has been taken), must suspend the inquest or inquiry and, if there is a jury, must discharge the jury.
- (3) If this section applies to an inquest or inquiry as provided by subsection (1) (b), the coroner may:
  - (a) continue the inquest or inquiry and record under section 81 (1) or (2) the coroner’s findings or, if there is a jury, the verdict of the jury, or
  - (b) suspend the inquest or inquiry and, if there is a jury, discharge the jury.
- (4) The coroner is required to forward to the Director of Public Prosecutions:
  - (a) the depositions taken at an inquest or inquiry to which this section applies, and
  - (b) in the case of an inquest or inquiry referred to in subsection (1) (b)—a written statement signed by the coroner that specifies the name of the known person and the particulars of the indictable offence concerned.

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<b>79</b>	<b>Procedure following suspension of inquest or inquiry</b> (cf Coroners Act 1980, s 20)	1 2
(1)	Subject to subsections (3) and (5), a coroner who has suspended, or not commenced, an inquest or inquiry under section 78 may make an order:	3 4
(a)	that the inquest or inquiry is to resume or commence (as the case may be), or	5 6
(b)	to dispense with the resumption or holding of the inquest or inquiry.	7 8
(2)	An order under subsection (1) may be made on a coroner's own motion or on the application of a person who has been granted leave to appear or to be represented at the inquest or inquiry.	9 10 11
(3)	If a person has been charged with an indictable offence in which the question of whether the person caused a death, suspected death, fire or explosion is in issue, an inquest or inquiry that has been suspended, or that has not commenced, under section 78 may not be resumed or commenced (as the case may be) until the charge is finally determined.	12 13 14 15 16
(4)	For the purposes of subsection (3), a charge is taken to be <i>finally determined</i> if:	17 18
(a)	the person has been discharged from proceedings with respect to the offence to which the charge relates, or	19 20
(b)	no further appeal can be made in proceedings in respect of the charge without an extension of time being granted, or	21 22
(c)	the Attorney General or the Director of Public Prosecutions directs that no further proceedings be taken against the person in respect of the charge.	23 24 25
(5)	If the coroner has suspended an inquest or inquiry after forming the opinion referred to in section 78 (1) (b) (and a person has not been charged as referred to in subsection (3) in relation to an indictable offence), the suspended inquest or inquiry may not be resumed until the Attorney General or the Director of Public Prosecutions advises that no proceedings will be taken against the known person (as referred to in section 78 (1) (b)) in relation to the indictable offence.	26 27 28 29 30 31 32
(6)	If the coroner who suspended, or did not commence, an inquest or inquiry under section 78 is not available to resume, commence or dispense with the inquest or inquiry for any reason, the State Coroner or a coroner authorised by the State Coroner, may resume, commence or dispense with the inquest or inquiry in accordance with this section.	33 34 35 36 37

<b>80</b>	<b>Procedure at inquest if finding that person did not die</b> (cf Coroners Act 1980, s 21)	1 2
(1)	If, at any time during the course of an inquest concerning the death or suspected death of a person, it appears to the coroner from the evidence that the person has not died:	3 4 5
(a)	where there is no jury—the coroner must make a finding that the person has not died and terminate the inquest, or	6 7
(b)	where there is a jury—the coroner may request the jury to bring in a preliminary verdict as to whether or not the person has died.	8 9
(2)	The following provisions apply when a preliminary verdict is brought in by a jury following a request by the coroner referred to in subsection (1) (b):	10 11 12
(a)	if the verdict of the jury is that the person has not died—the coroner must terminate the inquest and discharge the jury,	13 14
(b)	if the verdict of the jury is that the person has died or that it is uncertain whether the person has died—the inquest is to be resumed.	15 16 17
(3)	If a coroner terminates an inquest under this section, the coroner must record in writing the coroner’s findings or, if there is a jury, the jury’s verdict.	18 19 20
<b>81</b>	<b>Findings of coroner or jury verdict to be recorded</b> (cf Coroners Act 1980, s 22)	21 22
(1)	The coroner holding an inquest concerning the death or suspected death of a person must, at its conclusion or on its suspension, record in writing the coroner’s findings or, if there is a jury, the jury’s verdict, as to whether the person died and, if so:	23 24 25 26
(a)	the person’s identity, and	27
(b)	the date and place of the person’s death, and	28
(c)	in the case of an inquest that is being concluded—the manner and cause of the person’s death.	29 30
(2)	The coroner holding an inquiry concerning a fire or explosion must, at its conclusion or on its suspension, record in writing the coroner’s findings or, if there is a jury, the jury’s verdict:	31 32 33
(a)	as to the date and place of the fire or explosion, and	34
(b)	in the case of an inquiry that is being concluded—as to the circumstances of the fire or explosion.	35 36
(3)	Any record made under subsection (1) or (2) must not indicate or in any way suggest that an offence has been committed by any person.	37 38

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<b>82</b>	<b>Coroner or jury may make recommendations</b> (cf Coroners Act 1980, s 22A)	1
(1)	A coroner (whether or not there is a jury) or a jury may make such recommendations as the coroner or jury considers necessary or desirable to make in relation to any matter connected with the death, suspected death, fire or explosion with which an inquest or inquiry is concerned.	2 3 4 5 6
(2)	Without limiting subsection (1), the following are matters that can be the subject of a recommendation:	7 8
(a)	public health and safety,	9
(b)	that a matter be investigated or reviewed by a specified person or body.	10 11
(3)	The record made under section 81 is to include any recommendations made by the coroner or jury. The record must not indicate or in any way suggest that an offence has been committed by any person.	12 13 14
(4)	The coroner is to ensure that a copy of a record that includes recommendations made under this section is provided, as soon as is reasonably practicable, to:	15 16 17
(a)	the State Coroner (unless the coroner is the State Coroner), and	18
(b)	any person or body to which a recommendation included in the record is directed, and	19 20
(c)	the Minister, and	21
(d)	any other Minister (if any) that administers legislation, or who is responsible for the person or body, to which a recommendation in the record relates.	22 23 24
<b>83</b>	<b>When fresh inquests and inquiries may be conducted</b> (cf Coroners Act 1980, ss 23 and 23A)	25 26
(1)	This section provides for the circumstances in which:	27
(a)	a new inquest (a <i>fresh inquest</i> ) concerning the death or suspected death of a person may be held even though the death or suspected death was previously the subject of another inquest (a <i>previous inquest</i> ), and	28 29 30 31
(b)	a new inquiry (a <i>fresh inquiry</i> ) concerning a fire or explosion may be held even though the fire or explosion was previously the subject of another inquiry (a <i>previous inquiry</i> ).	32 33 34
(2)	A fresh inquest may be held if:	35
(a)	a previous inquest was terminated before its conclusion because it appeared to the coroner that the person did not die, or	36 37

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| (b) | a previous inquest was concluded and the coroner's finding, or the jury's recorded verdict, was that the person did not die or that it is uncertain whether the person had died.   | 1<br>2<br>3          |
| (3) | If the remains of a person are found in the State, a fresh inquest may be held concerning the death of the person even though a previous inquest was held concerning the suspected death of the person.  | 4<br>5<br>6          |
| (4) | A fresh inquest or inquiry must be held if:  | 7                    |
| (a) | an application for a fresh inquest or inquiry is made under this section, and  | 8<br>9               |
| (b) | on the basis of the application, the State Coroner is of the opinion that the discovery of new evidence or facts makes it necessary or desirable in the interests of justice to hold a fresh inquest or inquiry.   | 10<br>11<br>12<br>13 |
| (5) | An application for a fresh inquest or inquiry may only be made by a police officer or by a person who was granted leave to appear or be represented at a previous inquest or inquiry.  | 14<br>15<br>16       |
| (6) | If a successful application for a fresh inquest or inquiry is made under this section, the State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it.   | 17<br>18<br>19       |
| (7) | The findings on the fresh inquest or inquiry may be expressed to be in addition to or in substitution for the findings on any previous inquest or inquiry (even if the previous inquest or inquiry was a fresh inquest or inquiry).                              | 20<br>21<br>22<br>23 |
| (8) | This section does not limit or otherwise affect any other power of a coroner (including the State Coroner) to hold a fresh inquest or inquiry and does not limit or affect the provisions of this Act with respect to the termination or suspension of inquests. | 24<br>25<br>26<br>27 |

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## Chapter 7 Powers of Supreme Court

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| <b>84 Orders for inquests or inquiries</b> (cf Coroners Act 1980, s 47 (1))   | 2  |
| (1) The Supreme Court may, on the application of the Minister or any other person, make any of the following orders if the Court is satisfied that it is necessary or desirable to do so in the interests of justice:   | 3  |
| (a) an order that an inquest concerning a death or suspected death be held,   | 4  |
| (b) an order that an inquiry concerning a fire or explosion should be held.   | 5  |
| (2) An order may be made under this section regardless of whether an inquest concerning the death or suspected death or an inquiry concerning the fire or explosion has been partly held and terminated or suspended.   | 6  |
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| <b>85 Orders for fresh inquests or inquiries</b> (cf Coroners Act 1980, s 47 (2))   | 10 |
| The Supreme Court may, on the application of the Minister or any other person, make an order that an inquest or inquiry that has been (or that has purportedly been) held be quashed and that a new inquest or inquiry be held if the Court is satisfied that it is necessary or desirable to do so in the interests of justice because of: | 11 |
| (a) fraud, or   | 12 |
| (b) the rejection of evidence, or   | 13 |
| (c) an irregularity of proceedings, or  | 14 |
| (d) an insufficiency of inquiry, or   | 15 |
| (e) the discovery of new evidence or facts, or  | 16 |
| (f) any other reason.   | 17 |
| <b>86 Notification of application</b> (cf Coroners Act 1980, s 47 (2A) and (2B))  | 18 |
| (1) If an application for an order under this Chapter is made by a person other than the Minister, notice of the application must be served on the Minister in accordance with the rules of court of the Supreme Court.   | 19 |
| (2) The Minister is entitled to be heard on the hearing of any application for an order under this Chapter.   | 20 |
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| <b>87 State Coroner to be served with orders</b> (cf Coroners Act 1980, s 47 (3)–(6))   | 23 |
| (1) If the Supreme Court makes an order under this Chapter, the order must be served on the State Coroner within 21 days after it is made in accordance with the rules of court of the Court or any directions given by that Court in making the order.   | 24 |
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| (2) | If the State Coroner is served with an order made by the Supreme Court under this Chapter that an inquest or inquiry (or a fresh inquest or inquiry) be held:                                  | 1  |
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|     |  | 3  |
| (a) | the State Coroner is to hold the inquest or inquiry or direct another coroner to hold the inquest or inquiry, and  | 4  |
|     |  | 5  |
| (b) | any coroner who is to hold the inquest or inquiry is taken to have jurisdiction to hold it under this Act.   | 6  |
|     |  | 7  |
| (3) | Despite any other provision of this Act, a coroner who has jurisdiction to hold an inquest or inquiry by virtue of subsection (2) may not dispense with the holding of the inquest or inquiry. | 8  |
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## Chapter 8 Post mortem investigative procedures

### Part 8.1 Investigation directions, exhumations and related matters

#### 88 Dignity of deceased person to be respected (cf Coroners Act 1980, s 53AA)

- (1) When a post mortem examination or other examination or test is conducted on the remains of a deceased person under this Part, regard is to be had to the dignity of the deceased person.
- (2) If more than one procedure is available to a person conducting a post mortem examination to establish the cause and manner of a deceased person's death, the person conducting the examination is to endeavour to use the least invasive procedures that are appropriate in the circumstances.
- (3) Without limiting subsection (2), examples of procedures that are less invasive than a full post mortem examination of the remains of a deceased person include (but are not limited to) the following:
  - (a) an external examination of the remains,
  - (b) a radiological examination of the remains,
  - (c) blood and tissue sampling,
  - (d) a partial post mortem examination.

#### 89 Coroner may give certain post mortem investigation directions (cf Coroners Act 1980, ss 48, 49 and 53B (4))

- (1) A coroner may, by written order, give any one or more of the following directions (a *post mortem investigation direction*) to an appropriate medical investigator if the coroner considers that it is necessary or desirable to do so for the purpose of assisting in the investigation of the death of a deceased person under this Act:
  - (a) a direction that the investigator conduct (or arrange for another person to conduct) a post mortem examination on the remains of the deceased person,
  - (b) a direction that the investigator conduct (or arrange for another person to conduct) a special examination or test specified in the direction of:
    - (i) the remains of the deceased person, or
    - (ii) the contents of the person's body or any part of the person's body, or

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- (iii) such other matters or things as the coroner considers ought to be examined for the purpose of coronial proceedings (including, without limitation, any tissue taken from the deceased person before the person's death),
- (c) a direction that the investigator conduct (or arrange for another person to conduct) a review of the medical records of the deceased person, which may include consultations with medical practitioners involved in the treatment of the deceased person,
- (d) if it appears to the coroner that the cause of death of the deceased person has not been satisfactorily explained by a report given pursuant to a previous post mortem investigation direction (whether given by the same investigator or another person)—a direction that the investigator conduct (or arrange for another person to conduct) another examination, test or review of the kind referred to in paragraph (a), (b) or (c) (whether or not it is of the same kind as that specified in the previous direction).
- (2) In addition to the kinds of directions referred to in subsection (1), the coroner may also give a post mortem investigation direction to an appropriate medical investigator that directs the investigator to conduct (or arrange for another person to conduct) an examination of human remains for the purpose of determining whether the remains are those of a stillborn child.
- (3) An *appropriate medical investigator* for the purposes of a post mortem investigation direction is any of the following persons:
- (a) a Coronial Medical Officer,
- (b) a pathologist,
- (c) any other person that the coroner considers has appropriate qualifications to conduct (or has the capacity to arrange for another appropriately qualified person to conduct) the examination, test or review specified in the direction.
- (4) A post mortem investigation direction is subject to such limitations (if any) as may be specified in the order.
- (5) The following provisions apply in relation to a post mortem investigation direction that requires or permits an appropriate medical investigator to arrange for another person to conduct an examination, test or review specified in the direction:
- (a) the investigator may (subject to any limitations specified in the direction) arrange for a person (the *selected person*) to conduct the examination, test or review if the investigator considers that the person has appropriate qualifications to do so,

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(b)	the selected person is authorised to conduct the examination, test or review on behalf of the investigator,	1 2
(c)	the investigator may, for the purposes of subsection (7), rely on any report prepared by the selected person on the examination, test or review.	3 4 5
(6)	Without limiting subsection (1), a coroner may decide to dispense with a post mortem examination on a deceased person if the coroner is satisfied (after obtaining relevant advice from police officers and medical practitioners and consulting with a senior next of kin of the deceased person and any other person that the coroner considers appropriate) that:	6 7 8 9 10 11
(a)	the deceased person died of natural causes (whether or not the precise cause of death is known), and	12 13
(b)	a senior next of kin of the deceased person has indicated to the coroner that it is not the wish of the deceased person's family that a post mortem examination be conducted on the deceased to determine the precise cause of the deceased's death.	14 15 16 17
(7)	A person to whom a post mortem investigation direction is given must, as soon as is reasonably practicable after the examination, test or review specified in the direction is completed, provide the coroner with a written report (a <i>post mortem investigation report</i> ) on the results of the examination, test or review.	18 19 20 21 22
(8)	If a post mortem investigation report relates to a review of the medical records of a deceased person, the report is to contain a statement from the person who conducted the review about the person's opinion (if any) as to the probable cause of death based on that review.	23 24 25 26
(9)	An assistant coroner may, in accordance with the directions of a coroner given either generally or in a particular case, exercise any function of the coroner under this section.	27 28 29
<b>90</b>	<b>Retention and use of human tissue pursuant to direction</b> (cf Coroners Act 1980, s 48AA (1)–(3))	30 31
(1)	This section applies to a post mortem investigation direction for the conduct of an examination or test in relation to a deceased person's remains.	32 33 34
(2)	A post mortem investigation direction to which this section applies is taken to authorise the removal and use of tissue from the body of the deceased person for any of the following purposes:	35 36 37
(a)	an investigation by a coroner of the person's death,	38
(b)	an investigation of any offence,	39
(c)	proceedings for any offence.	40

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- (3) A post mortem investigation direction to which this section applies is also taken to authorise the following:
- (a) the retention of small samples of any of the following tissue removed from the body of the deceased person under subsection (2):
    - (i) bodily fluid,
    - (ii) skin, hair and nails,
    - (iii) any other tissue retained in the form of a tissue slide or tissue block which enables microscopic examination of the tissue,
    - (iv) such tissue as may be directed in writing by a coroner in any particular case,
  - (b) if the tissue is tissue that was taken from the deceased person before his or her death—the retention of the tissue,
 

**Note.** Section 53 (2) (b) enables a coroner to give directions to a person to provide any tissue taken from a deceased person before his or her death to a specified person for the purposes of investigating the deceased person's death. Section 89 (1) (b) (iii) enables a coroner to give a post mortem investigation direction that any such tissue be examined or tested.
  - (c) the use of any sample retained under paragraph (a) or (b) for any of the following purposes:
    - (i) the exercise by a coroner of his or her functions under this Act,
    - (ii) an investigation of any offence,
    - (iii) any legal proceedings (whether or not in connection with an offence),
    - (iv) a purpose authorised by an authority given under the *Human Tissue Act 1983* that is sufficient authority to use the tissue for that purpose,
    - (v) in relation to a sample referred to in paragraph (a) (iii), any medical, therapeutic or scientific purpose,
    - (vi) such other purposes as may be prescribed by the regulations.
- (4) However, nothing in this section authorises the retention of whole organs of a deceased person after a coroner makes an order authorising the disposal of the deceased person's remains unless a coroner makes a further order under subsection (5) authorising the retention.
- (5) A coroner may make an order authorising the retention of specified whole organs of a deceased person only if the coroner is satisfied that the retention is necessary or desirable to assist in the investigation of the manner or cause of the person's death.

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(6)	A coroner who makes an order under subsection (5) is to cause notice of the making of the order to be given to a senior next of kin of the deceased person as soon as is reasonably practicable after the order is made.	1 2 3 4
(7)	This section does not limit the rights of a coroner under section 56 and does not affect anything authorised by or under any other law.	5 6
<b>91</b>	<b>Warrant for exhumation of deceased's remains</b> (cf Coroners Act 1980, s 53)	7
(1)	A coroner may issue a warrant (an <i>exhumation warrant</i> ) to a police officer for the exhumation of the remains of a deceased person who has been buried if the coroner considers it desirable to do so for the purpose of directing any of the following:	8 9 10 11
(a)	a post mortem examination, or a further or more complete post mortem examination, of the remains (or part of the remains),	12 13
(b)	a special examination or test, or a further or more complete special examination or test, of the remains (or part of the remains).	14 15 16
(2)	Subject to subsection (3), an exhumation warrant may be issued if:	17
(a)	an inquest concerning the death of the deceased person has not been held, or	18 19
(b)	an inquest concerning the death of the deceased person has been suspended because of a person being charged with (or there being evidence that may lead to a person being charged with) an indictable offence, or	20 21 22 23
(c)	an inquest concerning the death of the deceased person was terminated following a finding that the person had not died, or	24 25
(d)	an inquest concerning the death of the deceased person was not completed for any other reason, or	26 27
(e)	the Supreme Court has quashed an inquest concerning the death of the deceased person and ordered that a fresh inquest be held.	28 29
(3)	If a previous inquest concerning the death of the deceased person has been suspended or terminated as referred to in subsection (2) (b) or (c), the coroner may not issue an exhumation warrant unless the inquest may be resumed or a fresh inquest may (or is required to be) held under this Act.	30 31 32 33 34
(4)	A police officer to whom an exhumation warrant has been issued is to cause the warrant to be executed and, following its execution, is to report the fact to the coroner.	35 36 37

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<b>92</b>	<b>Coronial Medical Officers</b> (cf Coroners Act 1980, s 47A)	1
	The Director-General of the Department of Health may appoint such	2
	medical practitioners as the Director-General is satisfied are suitably	3
	qualified to be Coronial Medical Officers for the purposes of this Act.	4
<b>93</b>	<b>Remuneration of medical practitioners and other persons</b> (cf Coroners Act 1980, s 52)	5
		6
(1)	This section applies to a medical practitioner or any other person who, in accordance with a direction or request of a coroner, does any of the following:	7
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		9
(a)	conducts any post mortem examination or any special examination or test,	10
		11
(b)	attends and gives evidence at an inquest with respect to a post mortem examination or special examination or test conducted by the medical practitioner or other person.	12
		13
		14
(2)	Subject to subsection (3), a medical practitioner or other person to whom this section applies is entitled to be paid fees calculated at the rate prescribed by the regulations (the <i>prescribed fees</i> ).	15
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		17
(3)	A medical practitioner or other person is not entitled to be paid the prescribed fees for carrying out a function referred to in subsection (1) if the medical practitioner or other person carried out the function in his or her capacity as an employee of a public health organisation, correctional centre or other public institution.	18
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(4)	A medical practitioner who is a visiting practitioner (within the meaning of the <i>Health Services Act 1997</i> ) of a public health organisation is not an employee of the organisation for the purposes of subsection (3).	23
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		25
(5)	In this section:	26
	<i>public health organisation</i> has the same meaning as in the <i>Health Services Act 1997</i> .	27
		28
<b>94</b>	<b>Protection for persons acting under coroner's direction</b> (cf Coroners Act 1980, s 52A)	29
		30
	Anything done or omitted to be done by a medical practitioner or other person does not subject the person to any action, liability, claim or demand if the act or omission was done or omitted to be done in good faith for the purposes of:	31
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(a)	conducting a post mortem examination or other examination or test pursuant to a direction under this Act, or	35
		36
(b)	conducting a review of the medical records of a deceased person pursuant to a direction under this Act.	37
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## Part 8.2    Objections to exercise of post mortem                   investigative functions

### 95    Meaning of “relevant post mortem investigative function”

For the purposes of this Part, a *relevant post mortem investigative function* means any of the following functions of a coroner or assistant coroner:

- (a) the function of issuing a post mortem investigation direction for the conduct of post mortem examinations on deceased persons,
- (b) the function of authorising the retention of whole organs of deceased persons under section 90.

### 96    Objections by senior next of kin to exercise of relevant post mortem           investigative functions (cf Coroners Act 1980, s 48A (1)–(5))

- (1) A senior next of kin of a deceased person may, by notice in writing, request a coroner or an assistant coroner not to exercise a relevant post mortem investigative function in relation to the deceased person.
- (2) If such a request is made, an assistant coroner must not make any further decision concerning the exercise of the relevant post mortem investigative function but must refer the matter to a coroner.
- (3) If the coroner decides that the post mortem examination or whole organ retention concerned is necessary or is desirable, the coroner must immediately cause written notice of that decision to be given to the senior next of kin who made the request.
- (4) The notice must:
  - (a) if the objection relates to the conduct of a post mortem examination—indicate the earliest time at which the post mortem examination may be conducted (being a time that is not earlier than 48 hours after the senior next of kin has been given the notice), and
  - (b) state that the senior next of kin may apply to the Supreme Court for an order that a post mortem examination not be conducted or a whole organ not be retained (as the case requires).

### 97    Applications to Supreme Court by senior next of kin (cf Coroners Act 1980, s 48A (6)–(8))

- (1) A senior next of kin to whom a notice has been given under section 96 may apply to the Supreme Court within 48 hours after the notice was given for an order that a relevant post mortem investigative function not be exercised.

(2)	The making of the application to the Supreme Court operates to stay the operation of any order or direction of the coroner for the exercise of the relevant post mortem investigative function.	1 2 3
(3)	On any such application, the Supreme Court may make any of the following orders if the Court is satisfied that it is necessary or desirable in the circumstances to do so:	4 5 6
(a)	in the case of an application concerning a post mortem examination being conducted on a deceased person:	7 8
(i)	an order that the post mortem examination not be conducted, or	9 10
(ii)	an order that a post mortem examination be conducted subject to such limitations as the Court may specify in the order, or	11 12 13
(iii)	an order confirming the direction of the coroner,	14
(b)	in the case of an application concerning the retention of a whole organ of a deceased person:	15 16
(i)	an order that the whole organ not be retained, or	17
(ii)	an order confirming the order of the coroner.	18
<b>98</b>	<b>Senior next of kin may authorise another person to exercise functions</b> (cf Coroners Act 1980, s 48A (9) and (10))	19 20
(1)	A senior next of kin of a deceased person may, by instrument in writing, authorise another person to exercise his or her functions as senior next of kin under this Part.	21 22 23
(2)	In such a case, the person so authorised:	24
(a)	may make a request under this Part if a copy of his or her authority to exercise the functions of the senior next of kin is provided to the coroner or assistant coroner concerned with that request, and	25 26 27 28
(b)	is taken, for the purposes of this Part (other than subsection (1)), to be the senior next of kin of the deceased person.	29 30
<b>99</b>	<b>Objection to exercise of relevant post mortem investigative functions by other persons</b> (cf Coroners Act 1980, s 48B)	31 32
(1)	Nothing in this Part prevents a person, other than the deceased person's senior next of kin, from objecting to the exercise of a relevant post mortem investigative function in relation to a deceased person.	33 34 35



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| (2) | If such an objection is made to an assistant coroner, the assistant coroner must not make any further decision concerning the exercise of the function but must refer the matter to a coroner. | 1<br>2<br>3 |
| (3) | The other provisions of this Part do not apply in relation to any such objection.  | 4<br>5      |

## Chapter 9      Disposal of human remains

<b>100</b>	<b>Unauthorised disposal of human remains</b> (cf Coroners Act 1980, s 53A (1)–(4))	2
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(1)	A person must not bury or cremate human remains, or place human remains in a mausoleum or other permanent resting place, or cause the remains to be so buried, cremated or placed, unless:	4
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(a)	the person has been given, or has in his or her possession, an appropriate disposal authorisation for the disposal of the remains, or	7
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		9
(b)	the disposal of the remains is otherwise authorised by the regulations.	10
		11
	Maximum penalty: 50 penalty units.	12
(2)	A person must not deliver or hand over human remains for anatomical or medical research, or remove human remains (other than cremated remains) from the State, or cause such remains to be so delivered, handed over or removed, unless:	13
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(a)	an appropriate disposal authorisation for the disposal of the remains has been issued, or	17
		18
(b)	the disposal of the remains is otherwise authorised by the regulations.	19
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	Maximum penalty: 50 penalty units.	21
(3)	An <b>appropriate disposal authorisation</b> is:	22
(a)	in relation to the disposal of the remains of a deceased person (other than a stillborn child)—any of the following documents:	23
		24
(i)	a notice given by a medical practitioner for the purpose of section 39 of the <i>Births, Deaths and Marriages Registration Act 1995</i> relating to the deceased person,	25
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(ii)	an order made by a coroner under section 101 authorising the disposal of the remains,	28
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(iii)	a certificate issued under section 51 of the <i>Births, Deaths and Marriages Registration Act 1995</i> that relates to the deceased person, or	30
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(b)	in relation to the disposal of the remains of a stillborn child—any of the following documents:	33
		34
(i)	a certificate or notice given by a medical practitioner for the purpose of section 12 (3) of the <i>Births, Deaths and Marriages Registration Act 1995</i> relating to the stillborn child,	35
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(ii)	an order made by a coroner under section 101 authorising the disposal of the remains.	1 2
<b>101</b>	<b>Order authorising disposal of human remains</b> (cf Coroners Act 1980, s 53B (1)–(3) and (5))	3 4
(1)	A coroner may, by order in writing, authorise the disposal of human remains.	5 6
(2)	Without limiting subsection (1), the order may be made by a coroner who:	7 8
(a)	is holding, has held or is intending to hold an inquest in respect of the death, or	9 10
(b)	has dispensed with the holding of an inquest in respect of the death.	11 12
(3)	If the remains are that of a stillborn child and a medical practitioner has not certified the cause of death of the child, the order may be made by a coroner who has been informed by a police officer of the stillbirth and who is, after consideration of any information in the possession of the coroner, satisfied as to the occurrence of the stillbirth.	13 14 15 16 17
	<b>Note.</b> A post mortem investigation direction may be given by a coroner to an appropriate medical investigator under section 89 (2) for the conduct of an examination of human remains for the purpose of determining whether the remains are those of a stillborn child.	18 19 20 21
(4)	If an order is made under subsection (1) authorising the disposal of human remains and it is established at an inquest that the remains were those of a stillborn child, the order is valid and is taken to have been made under subsection (3).	22 23 24 25

## Chapter 10 Miscellaneous

<b>102</b>	<b>Assistance to and from coroners in other jurisdictions</b> (cf Coroners Act 1980, s 54A)	2
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(1)	The State Coroner may request in writing that the person holding a corresponding office in another State or a Territory provide assistance in connection with the exercise by the State Coroner or another coroner of any power under this Act.	4
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(2)	The State Coroner, at the written request of the person holding a corresponding office in another State or a Territory, may provide assistance to that person or a coroner of that State or Territory in connection with the exercise of a power under the law of that State or Territory.	8
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(3)	For the purpose of providing assistance, the State Coroner or a coroner may exercise any of his or her powers under this Act irrespective of whether he or she would, apart from this section, have authority to exercise that power.	13
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	<b>Note.</b> The State Coroner has, in addition to all the powers of a coroner, a general function of overseeing and coordinating coronial services and ensuring that inquests and other investigations are held. The assistance provided may involve the exercise of administrative powers by the State Coroner or the exercise by him or her or another coroner of coronial powers.	17
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(4)	For the purposes of this section, this Act applies as if the matter that is the subject of the request or direction were the subject of an investigation under this Act.	22
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<b>103</b>	<b>Contempt</b> (cf Coroners Act 1980, s 43)	25
(1)	Subject to subsections (2) and (3), the provisions of sections 27A and 27B of the <i>Local Courts Act 1982</i> are taken to apply to coronial proceedings as if any reference in those provisions to a Local Court or Magistrate were a reference to the coroner or assistant coroner conducting the coronial proceedings.	26
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(2)	An assistant coroner conducting coronial proceedings cannot exercise a power conferred by subsection (1) to deal with a contempt or alleged contempt in the proceedings, but must instead refer the matter to a coroner for determination.	31
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(3)	A coroner to whom a contempt matter in coronial proceedings is referred under subsection (2) may determine the matter as if the contempt or alleged contempt had been committed while the coroner was conducting the proceedings.	35
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<b>104 Regulations</b> (cf Coroners Act 1980, s 58)	1
(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	2 3 4 5
(2) In particular, the regulations may make provision for or with respect to any of the following matters:	6 7
(a) the conduct of and procedure for coronial proceedings,	8
(b) the functions of the State Coroner and of the Deputy State Coroners,	9 10
(c) forms to be used under this Act,	11
(d) the allowance to be paid to witnesses attending coronial proceedings.	12 13
(3) Without limiting subsection (1), the regulations may make provision for or with respect to the use of an electronic case management system whose use, in respect of coronial proceedings, is authorised by an order in force under section 14C of the <i>Electronic Transactions Act 2000</i> , including provisions for or with respect to:	14 15 16 17 18
(a) the kinds of coronial proceedings in respect of which that system may or must be used, and	19 20
(b) the kinds of documents that may or must be filed in connection with coronial proceedings by means of that system, and	21 22
(c) the kinds of documents that may or must be issued in connection with coronial proceedings by means of that system, and	23 24
(d) the practice and procedure to be followed in connection with documents that are filed or issued by means of that system, and	25 26
(e) the persons to whom, the circumstances in which and the conditions on which access may be given to information contained on that system in connection with coronial proceedings.	27 28 29 30
(4) The regulations may create offences punishable by a penalty not exceeding 5 penalty units.	31 32
<b>105 Service or giving of documents</b>	33
(1) A document that is authorised or required by this Act or the regulations to be served on or given to any person may be served or given:	34 35
(a) in the case of a natural person:	36
(i) by delivering it to the person personally, or	37

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(ii)	by sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or	1 2 3 4 5
(iii)	by sending it by facsimile transmission to the facsimile number of the person, or	6 7
(b)	in the case of a body corporate:	8
(i)	by leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or	9 10 11 12 13
(ii)	by sending it by facsimile transmission to the facsimile number of the body corporate.	14 15
(2)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in any other manner.	16 17 18
<b>106</b>	<b>Nature of proceedings for offences</b> (cf Coroners Act 1980, s 54 (2))	19
	Proceedings for an offence under this Act or the regulations may be dealt with summarily before a Local Court.	20 21
<b>107</b>	<b>Offences by corporations</b> (cf Coroners Act 1980, s 45 (5) and (6))	22
(1)	If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.	23 24 25 26 27
(2)	A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.	28 29 30
(3)	Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.	31 32 33
<b>108</b>	<b>Repeal of Coroners Act 1980 No 27</b>	34
	The <i>Coroners Act 1980</i> is repealed.	35

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<b>109</b>	<b>Review of Act</b>	1
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	2 3 4
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	5 6
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	7 8

<b>Schedule 1</b>	<b>Provisions relating to coronial officers</b>	1
<b>Part 1</b>	<b>State Coroner and Deputy State Coroners</b>	2
<b>1</b>	<b>Application of Public Sector Employment and Management Act 2002</b> (cf Coroners Act 1980, s 4A (9))	3 4
	The <i>Public Sector Employment and Management Act 2002</i> (including Chapter 5 of that Act) does not apply to or in respect of the appointment or employment of the State Coroner or a Deputy State Coroner.	5 6 7
<b>2</b>	<b>Vacation of office as State Coroner or Deputy State Coroner</b> (cf Coroners Act 1980, s 4B)	8 9
(1)	A person vacates the office of State Coroner or Deputy State Coroner if the person:	10 11
(a)	dies, or	12
(b)	ceases to be a Magistrate, or	13
(c)	resigns the office by instrument in writing addressed to the Governor, or	14 15
(d)	completes the person's term of office and is not re-appointed.	16
(2)	A person does not cease to be a coroner or a Magistrate merely because of vacating the office of State Coroner or Deputy State Coroner.	17 18
<b>3</b>	<b>Remuneration</b> (cf Coroners Act 1980, s 4C)	19
	The State Coroner and a Deputy State Coroner are entitled to be paid:	20
(a)	remuneration in accordance with the <i>Statutory and Other Offices Remuneration Act 1975</i> , and	21 22
(b)	such travelling and subsistence allowances as the Minister may from time to time determine in respect of each of them.	23 24
<b>Part 2</b>	<b>Coroners and assistant coroners</b>	25
<b>4</b>	<b>Part-time arrangements</b> (cf Coroners Act 1980, s 5 (3))	26
(1)	A person's appointment as a coroner:	27
(a)	if the person is a Magistrate—is taken to be on either a full-time or part-time basis, according to whether the person holds the office of Magistrate on a full-time or part-time basis, or	28 29 30
(b)	if the person is not a Magistrate—is taken to be an appointment on a full-time basis unless the appointment is expressed, in the person's instrument of appointment, to be on a part-time basis.	31 32 33



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(2)	A coroner who is not a Magistrate, although not appointed on a part-time basis, may, by agreement in writing entered into with the State Coroner, exercise the functions of the office of coroner on a part-time basis.	1 2 3 4
<b>5</b>	<b>Vacation of office as an appointed coroner or assistant coroner</b> (cf Coroners Act 1980, ss 5A (3) and 6A (1)–(3))	5 6
(1)	A person appointed to the office of coroner or assistant coroner vacates that office if the person:	7 8
(a)	dies, or	9
(b)	resigns the office by instrument in writing addressed to the Minister, or	10 11
(c)	ceases to hold office as such by operation of clause 6, or	12
(d)	is removed from office, or	13
(e)	in the case of a person holding office for a term—completes the person’s term of office and is not re-appointed, or	14 15
(f)	in the case of a person holding office as a coroner (but without limiting paragraphs (a)–(e)):	16 17
(i)	ceases to be qualified for appointment as a coroner for the purposes of section 12, or	18 19
(ii)	attains the age of 72 years where the person was appointed to the office before attaining that age, or	20 21
(g)	in the case of a person holding office as an assistant coroner (but without limiting paragraphs (a)–(e)):	22 23
(i)	is appointed as a coroner, or	24
(ii)	ceases to be a member of staff of the Attorney General’s Department.	25 26
(2)	A person who is a Magistrate does not cease to be a Magistrate merely because of vacating the office of coroner or assistant coroner.	27 28
<b>6</b>	<b>Oaths or affirmations to be taken or made by coroners and assistant coroners</b> (cf Coroners Act 1980, s 7)	29 30
(1)	A person appointed as a coroner who is not a Magistrate must not act as a coroner unless the person has:	31 32
(a)	taken and subscribed the oath of allegiance and the judicial oath prescribed by the <i>Oaths Act 1900</i> or made and subscribed solemn affirmations in the form of those oaths, and	33 34 35
(b)	transmitted them to the Minister.	36

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(2)	A person appointed as an assistant coroner must not act as an assistant coroner unless the person has:	1
		2
(a)	taken and subscribed the oath of allegiance prescribed by the <i>Oaths Act 1900</i> or made and subscribed a solemn affirmation in the form of that oath, and	3
		4
(b)	transmitted it to the Minister.	5
		6
(3)	Any such oath or affirmation may be taken or made before and may be administered and received by any Magistrate.	7
		8
(4)	A person appointed as a coroner who does not, within 3 months after appointment as a coroner, take the oaths or make the affirmations referred to in subclause (1) ceases to hold office as coroner when that period ends.	9
		10
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(5)	A person appointed as an assistant coroner who does not, within 3 months after appointment as an assistant coroner, take the oath or make the affirmation referred to in subclause (2) ceases to hold office as assistant coroner when that period ends.	13
		14
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<b>7</b>	<b>Remuneration</b>	17
(1)	A person appointed as a coroner or assistant coroner who is a public servant is not entitled, while a public servant, to be paid any remuneration for acting as a coroner or assistant coroner that is in addition to his or her remuneration as a public servant.	18
		19
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		21
(2)	A person appointed as a coroner or assistant coroner who is not a public servant is entitled to be paid such remuneration, and such travelling and subsistence allowances, as the Minister may from time to time determine.	22
		23
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		25
(3)	In this clause:	26
	<i>public servant</i> means a member of staff of a Department within the meaning of the <i>Public Sector Employment and Management Act 2002</i> .	27
		28
<b>Part 3</b>	<b>General provisions</b>	29
<b>8</b>	<b>Definitions</b>	30
	In this Part, <i>coronial officer</i> means any of the following:	31
(a)	the State Coroner,	32
(b)	a Deputy State Coroner,	33
(c)	a coroner appointed under this Act,	34
(d)	a Magistrate exercising coronial jurisdiction conferred on the Magistrate by section 16,	35
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(e) an assistant coroner,	1
and <i>coronial office</i> has a corresponding meaning.	2
<b>9 Effect of appointment and service as coroner</b> (cf Coroners Act 1980, s 4A (6) and (8))	3
(1) Except as provided by section 7 (6), the appointment of a Magistrate as a coronial officer does not affect the Magistrate's tenure of office, rank, title, status or precedence as a Magistrate.	5
(2) The service of a Magistrate as a coronial officer is taken, for all purposes, to be service as a Magistrate.	8
<b>10 Continuation of proceedings after vacation of office</b>	10
(1) A person who vacates office as a coronial officer otherwise than by death or having been removed from office may, despite vacating his or her office, continue to hear and determine and otherwise deal with any proceedings that have been heard, or partly heard, by the person before vacating his or her office.	11
(2) While a person continues to deal with, under subclause (1), any proceedings that have been heard or partly heard by the person before vacating office, the person has all the entitlements and functions of a coronial officer that the person had immediately before vacating office and, for the purpose of those proceedings, is taken to continue to be a coronial officer holding the same coronial office as the person had immediately before vacating office.	16
(3) Nothing in this clause operates to authorise a person who has vacated office as the State Coroner to continue to exercise the functions of the State Coroner generally.	23

<b>Schedule 2</b>	<b>Savings, transitional and other provisions</b>	1
		2
<b>Part 1</b>	<b>General</b>	3
<b>1</b>	<b>Regulations</b>	4
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	5
	this Act	6
		7
(2)	If the regulations so provide, any such provision may:	8
(a)	have effect despite any specified provision of this Act (including a provision of this Schedule), and	9
		10
(b)	take effect from the date of assent to the Act concerned or a later date.	11
		12
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	13
		14
		15
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	16
		17
		18
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	19
		20
		21
<b>Part 2</b>	<b>Provisions consequent on enactment of this Act</b>	22
		23
<b>Division 1</b>	<b>Interpretation</b>	24
<b>2</b>	<b>Definitions</b>	25
	In this Part:	26
	<i>former Act</i> means the <i>Coroners Act 1980</i> .	27
	<i>repeal day</i> means the day on which the former Act is repealed by this Act.	28
		29

<b>Division 2</b>	<b>Provisions relating to existing coronial officers</b>	1
<b>3</b>	<b>Current State Coroner and Deputy State Coroners</b>	2
(1)	A person who immediately before the repeal day held office as the State Coroner under the former Act is taken, on and from that day, to have been appointed and to hold office as the State Coroner under this Act until such time as he or she vacates office under this Act.	3 4 5 6
(2)	A person who immediately before the repeal day held office as a Deputy State Coroner under the former Act is taken, on and from that day, to have been appointed and to hold office as a Deputy State Coroner under this Act until such time as he or she vacates office under this Act.	7 8 9 10
(3)	A person to whom subclause (1) or (2) applies is taken to have been appointed to the office of the State Coroner or a Deputy State Coroner (as the case may be) under this Act for the balance of the term of office for which the person was appointed under the former Act.	11 12 13 14
<b>4</b>	<b>Senior Deputy State Coroner</b>	15
(1)	The office of Senior Deputy State Coroner is abolished on the repeal day.	16 17
(2)	Any Deputy State Coroner who, immediately before the repeal day, held office as the Senior Deputy State Coroner under the former Act ceases on and from that day to hold that office.	18 19 20
(3)	A person who, by operation of this clause, ceases to hold office as the Senior Deputy State Coroner:	21 22
(a)	is not entitled to any remuneration or compensation because of the loss of that office, and	23 24
(b)	continues to hold the office of a Deputy State Coroner under this Act until such time as the person vacates that office.	25 26
<b>5</b>	<b>Current appointed coroners and assistant coroners</b>	27
(1)	Any person who immediately before the repeal day held office as a coroner appointed under the former Act:	28 29
(a)	in the case of a person who is either a Magistrate or an Australian lawyer—is taken, on and from the repeal day, to have been appointed and to hold office as a coroner under this Act until such time as he or she vacates office under this Act, or	30 31 32 33
(b)	in the case of a person who is neither a Magistrate nor an Australian lawyer (but is a member of staff of the Attorney General's Department)—ceases to hold office as a coroner on the repeal day and is taken, on and from that day, to have been	34 35 36 37

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- |          |   |    |
|----------|---|----|
|          | appointed and to hold office as an assistant coroner under this Act until such time as he or she vacates office under this Act, or  | 1  |
|          |   | 2  |
| (c)      | in the case of a person who is neither a Magistrate nor an Australian lawyer and is not a member of staff of the Attorney General's Department—ceases to hold office as a coroner on the repeal day.  | 3  |
|          |   | 4  |
|          |   | 5  |
|          |   | 6  |
| (2)      | Any person who immediately before the repeal day held office as an assistant coroner under the former Act:  | 7  |
|          |   | 8  |
| (a)      | in the case of a person who is a member of staff of the Attorney General's Department—is taken, on and from the repeal day, to have been appointed and to hold office as an assistant coroner under this Act until such time as he or she vacates office under this Act, or                                 | 9  |
|          |   | 10 |
|          |   | 11 |
|          |   | 12 |
|          |   | 13 |
| (b)      | in any other case—ceases to hold office as an assistant coroner on the repeal day.  | 14 |
|          |   | 15 |
| (3)      | If a person to whom subclause (1) (a) or (b) applies was appointed as a coroner under the former Act for a specified term, the person is taken to have been appointed to the office of coroner or assistant coroner (as the case may be) under this Act for the balance of that term.                       | 16 |
|          |   | 17 |
|          |   | 18 |
|          |   | 19 |
| (4)      | Any person who ceases to hold office as a coroner or assistant coroner by operation of this clause is not entitled to any compensation because of the loss of that office.  | 20 |
|          |   | 21 |
|          |   | 22 |
| (5)      | The State Coroner may give such directions as the State Coroner considers appropriate (whether generally or specifically) with respect to:  | 23 |
|          |   | 24 |
|          |   | 25 |
| (a)      | the transfer to other coroners or assistant coroners of matters that were being dealt with by persons who have ceased to be coroners or assistant coroners by operation of this clause, and   | 26 |
|          |   | 27 |
|          |   | 28 |
| (b)      | the continuation and resolution of proceedings arising from or involving such matters.  | 29 |
|          |   | 30 |
| <b>6</b> | <b>Current Coronial Medical Officers</b>  | 31 |
|          | Any person who immediately before the repeal day held office as a Coronial Medical Officer for the purposes of the former Act is taken, on and from that day, to have been appointed and to be a Coronial Medical Officer for the purposes of this Act until such time as he or she vacates office as such. | 32 |
|          |   | 33 |
|          |   | 34 |
|          |   | 35 |
|          |   | 36 |

<b>7 Existing commissions and other instruments that appoint persons to office on or after repeal day</b>	1 2
(1) A commission or other instrument of appointment made under or for the purposes of the former Act (an <i>existing appointment instrument</i> ) that, but for the repeal of the former Act, would have operated on or after the repeal day to appoint a person to the office of State Coroner, a Deputy State Coroner, a coroner or an assistant coroner is taken on and from that day to have been issued under or for the purposes of this Act.	3 4 5 6 7 8
(2) An existing appointment instrument operates, on the day specified in the instrument, to appoint the person named in the instrument:	9 10
(a) in the case of the appointment of a person to the office of coroner where the person is not a Magistrate or Australian lawyer (but is a member of staff of the Attorney General's Department)—to the office of assistant coroner under this Act, and	11 12 13 14
(b) in any other case (but subject to subclause (3))—to the office under this Act that corresponds to the office specified in the instrument.	15 16 17
(3) An existing appointment instrument has no force or effect for the purposes of this Act if it provides for:	18 19
(a) the appointment of a person to the office of coroner where that person is not a Magistrate or Australian lawyer and not a member of staff of the Attorney General's Department, or	20 21 22
(b) the appointment of a person to the office of assistant coroner where that person is not a member of staff of the Attorney General's Department.	23 24 25
<b>8 Oaths of office required for certain coronial officers appointed before repeal day</b>	26 27
Clause 6 of Schedule 1 extends to a person appointed as a coroner or assistant coroner under the former Act who has not taken the oaths or made the affirmations required of them by section 7 of that Act as in force immediately before the repeal day.	28 29 30 31
<b>Division 3 Reports and death certificates</b>	32
<b>9 Reporting of deaths occurring before repeal day</b>	33
(1) A person who, immediately before the repeal day, had not complied with an obligation to report a death or suspected death imposed on the person by section 12A of the former Act is taken on and from the repeal day to be under an obligation to report the death or suspected death under section 35.	34 35 36 37 38

(2)	Nothing in subclause (1) prevents a person from being prosecuted or convicted for a contravention of section 12A (1) of the former Act that occurred before the repeal day.	1 2 3
<b>10</b>	<b>Death certificates in relation to deaths occurring before repeal day</b>	4
	Section 12B of the former Act, as in force immediately before the repeal day, continues to apply in relation to the giving of certificates as to the cause of any death that occurred before the repeal day.	5 6 7
<b>11</b>	<b>Provision of information to Ombudsman</b>	8
	The repeal of section 12A of the former Act does not affect any obligation that the State Coroner may have had under that section immediately before the repeal day to provide relevant material to the Ombudsman.	9 10 11 12
<b>12</b>	<b>Annual reports on deaths in custody</b>	13
	The State Coroner is to include in his or her first annual report to the Minister under section 37 any details of deaths or suspected deaths occurring before the repeal day that the State Coroner would have had to include in a report under section 12A (4) of the former Act had the former Act not been repealed.	14 15 16 17 18
<b>Division 4</b>	<b>Jurisdiction and current proceedings</b>	19
<b>13</b>	<b>Jurisdiction in relation to matters occurring before repeal day</b>	20
(1)	Any death or suspected death that occurred (or is suspected to have occurred), or any fire or explosion that occurred, before the repeal day is examinable under this Act if it would have been examinable under the former Act had the former Act not been repealed.	21 22 23 24
(2)	If any such death, suspected death, fire or explosion would have been examinable under the former Act only by the State Coroner or a Deputy State Coroner, it continues to be examinable only by the State Coroner or a Deputy State Coroner under this Act.	25 26 27 28
(3)	Nothing in this clause prevents a matter being examinable under a provision of this Act even if the matter would not have been examinable under the former Act.	29 30 31
<b>14</b>	<b>Pending or part completed inquests or inquiries</b>	32
(1)	Subject to this Part and the regulations, this Act applies in relation to any inquest or inquiry under the former Act that was pending or part completed immediately before the repeal day (a <i>current inquest or inquiry</i> ) in the same way as this Act applies to an inquest or inquiry that is commenced on or after the repeal day.	33 34 35 36 37



(2)	Without limiting subclause (1), the provisions of this Act dealing with functions of or in relation to juries extend to any current inquest or inquiry that was being held before a jury (or was required to be held before a jury under section 18 of the former Act) immediately before the repeal day as if:	1 2 3 4 5
(a)	a direction for the use of the jury had been given by the State Coroner under section 48 of this Act, and	6 7
(b)	in the case where the coroner for the current inquest or inquiry is not the State Coroner—section 48 of this Act authorised the coroner to preside over the current inquest or inquiry with the jury.	8 9 10 11
(3)	For the purpose of facilitating the continuation and conclusion of a current inquest or inquiry, the coroner holding the inquest or inquiry may give such directions concerning the conduct of the inquest or inquiry as seem appropriate to the coroner in the circumstances.	12 13 14 15
<b>15</b>	<b>Re-opening inquests and inquiries and use of depositions taken in former proceedings</b>	16 17
	Subject to the regulations:	18
(a)	the provisions of this Act that enable or require a fresh inquest or fresh inquiry to be held (or that enable or require a suspended or terminated inquest or inquiry to be resumed or continued) extend to inquests or inquiries that were previously held, suspended or terminated under the former Act (or any previous Act or other law dealing with coronial inquests or inquiries), and	19 20 21 22 23 24
(b)	the provisions of this Act that enable a coroner who has dispensed with holding an inquest or inquiry concerning a matter to subsequently hold an inquest or inquiry concerning the matter extend to inquests or inquiries that the coroner dispensed with under the former Act (or any previous Act or other law dealing with coronial inquests or inquiries), and	25 26 27 28 29 30
(c)	the provisions of section 64 of this Act extend to depositions taken at any inquest or inquiry previously held under the former Act (or any previous Act or other law dealing with coronial inquests or inquiries).	31 32 33 34
<b>16</b>	<b>Orders of Supreme Court under section 47 of former Act</b>	35
(1)	This clause applies to an order made by the Supreme Court under section 47 of the former Act if:	36 37
(a)	the order is in force immediately before the repeal day, and	38

(b)	the Minister administering the former Act has not, before the repeal day, endorsed the name of a coroner on a copy of the order for the purposes of that section.	1 2 3
(2)	Section 87 of this Act is taken to extend to an order to which this clause applies as if the State Coroner had been served with the order under that section on the repeal day.	4 5 6
<b>17</b>	<b>Existing warrants and subpoenas</b>	7
(1)	Any warrant or subpoena in force under a provision of the former Act immediately before the repeal day is taken, on and from that day, to be a warrant or subpoena in force under the provision of this Act that corresponds or substantially corresponds to the provision in the former Act, and may be executed and enforced accordingly.	8 9 10 11 12
(2)	Without limiting subclause (1), a warrant for the apprehension of a person in force under the former Act immediately before the repeal day is taken, on and from that day, to be a warrant for the arrest of the person issued under Part 6.3 of this Act, and may be executed and enforced accordingly.	13 14 15 16 17
<b>Division 5</b>	<b>Miscellaneous</b>	18
<b>18</b>	<b>Continuation of Coroners Regulation 2005</b>	19
	The <i>Coroners Regulation 2005</i> is taken on and from the repeal day to be a regulation under this Act, and may be amended and repealed accordingly.	20 21 22
<b>19</b>	<b>References to former Act and this Act</b>	23
(1)	In any other Act or in any instrument made under another Act (and except as provided by subclauses (2) and (3)):	24 25
(a)	subject to paragraph (b), a reference to the former Act is to be read on and from the repeal day as a reference to this Act, and	26 27
(b)	a reference to a provision of the former Act is to be read on and from the repeal day as a reference to the provision or provisions (if any) of this Act that correspond or substantially correspond to the provision of the former Act.	28 29 30 31
(2)	Subclause (1) does not apply to a reference to the former Act in any of the following provisions:	32 33
(a)	Schedule 3 to the <i>Births, Deaths and Marriages Registration Act 1995</i> ,	34 35
(b)	Schedule 1 to the <i>Local Courts Act 1982</i> ,	36
(c)	Schedule 8 to the <i>Jury Act 1977</i> ,	37

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(d)	Schedule 1 to the <i>Subordinate Legislation (Repeal) Act 1985</i> ,	1
(e)	such other provisions of other Acts, or instruments made under other Acts, as may be prescribed by the regulations.	2
		3
(3)	A reference to this Act in any of the following provisions is to be read as including a reference to the former Act:	4
		5
(a)	section 39 (2) and (4) of the <i>Births, Deaths and Marriages Registration Act 1995</i> ,	6
		7
(b)	section 45U (1) (c) (iii) of the <i>Commission for Children and Young People Act 1998</i> ,	8
		9
(c)	such other provisions of other Acts, or instruments made under other Acts, as may be prescribed by the regulations.	10
		11
<b>20</b>	<b>General savings provision</b>	12
(1)	Subject to this Part and the regulations, anything done under or for the purposes of a provision of the former Act is, to the extent that the thing has effect immediately before the repeal day, taken on and from that day to have been done under or for the purposes of the provision of this Act (if any) that corresponds or substantially corresponds to the provision of the former Act.	13
		14
		15
		16
		17
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(2)	Without limiting subclause (1) (and subject to this Part and the regulations), any dispensation, delegation, notice, notification, notation, objection, request, order or direction in force or having effect under a provision of the former Act immediately before the repeal day is taken on and from that day to be a dispensation, delegation, notice, notification, notation, objection, request, order or direction in force or having effect under the provision of this Act (if any) that corresponds or substantially corresponds to the provision of the former Act.	19
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## Schedule 3 Consequential amendment of Acts and Regulations

### 3.1 Anatomy Act 1977 No 126

#### Section 9 Conditions of taking possession of body

Omit “section 53A of the *Coroners Act 1980*” from section 9 (b).

Insert instead “section 100 of the *Coroners Act 2009*”.

### 3.2 Births, Deaths and Marriages Registration Act 1995 No 62

#### [1] Section 38 Circumstances in which death must not be registered

Omit “section 53B of the *Coroners Act 1980*” from section 38 (1) (b).

Insert instead “section 101 of the *Coroners Act 2009*”.

#### [2] Section 38 (1) (c)

Omit “section 16A (1) or (2) of the *Coroners Act 1980*”.

Insert instead “section 34 (1) or (2) of the *Coroners Act 2009*”.

#### [3] Section 39 Notification of deaths by doctors

Omit “*Coroners Act 1980*<sup>1</sup>” from section 39 (2) (b).

Insert instead “*Coroners Act 2009*”.

#### [4] Section 39 (2), note

Omit the note.

#### [5] Section 39 (3)

Omit “section 12B of the *Coroners Act 1980*”.

Insert instead “section 38 of the *Coroners Act 2009*”.

### 3.3 Children and Young Persons (Care and Protection) Act 1998 No 157

#### Section 180 Functions—generally

Omit “section 13A or 13AB of the *Coroners Act 1980*” from section 180 (2) (a).

Insert instead “the *Coroners Act 2009*”.

<b>3.4 Coroners Act 2009</b>	1
<b>[1] Section 24 Jurisdiction concerning deaths of children and disabled persons</b>	2
Omit “section 135” from paragraph (c) of the definition of <i>child in care</i> in section 24 (3).	3
Insert instead “section 135A”.	4
<b>[2] Section 65 Records of evidence</b>	5
Omit “a Local Court” from section 65 (2) (b). Insert instead “the Local Court”.	6
<b>[3] Section 103 Contempt</b>	7
Omit “sections 27A and 27B of the <i>Local Courts Act 1982</i> ” and “a Local Court” from section 103 (1).	9
Insert instead “section 24 of the <i>Local Court Act 2007</i> ” and “the Local Court”, respectively.	10
<b>[4] Section 106 Nature of proceedings for offences</b>	11
Omit “a Local Court”. Insert instead “the Local Court”.	12
<b>3.5 Coroners Regulation 2005</b>	13
<b>[1] Clause 3A</b>	14
Insert after clause 3:	15
<b>3A Procedures excluded from definition of “health-related procedure” in section 6 (3) of Act</b>	16
The following are excluded procedures for the purposes of the definition of <i>health-related procedure</i> in section 6 (3) of the Act:	17
(a) the giving of an intravenous injection,	18
(b) the giving of an intramuscular injection,	19
(c) intravenous therapy,	20
(d) the insertion of a line or cannula,	21
(e) artificial ventilation,	22
(f) cardio-pulmonary resuscitation,	23
(g) urethral catheterisation,	24
(h) the insertion of a naso-gastric tube,	25
(i) intra-arterial blood gas collection,	26
(j) venipuncture for blood collection for testing,	27

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	(k) the giving of a subcutaneous injection or infusion,	1
	(l) ear syringing,	2
	(m) acupuncture.	3
<b>[2]</b>	<b>Clause 4 Composition of juries for inquests concerning mining accidents at Broken Hill: section 18</b>	4
	Omit the clause.	5
<b>[3]</b>	<b>Clause 5 Coronial Medical Officers: section 47A</b>	6
	Omit the clause.	7
<b>[4]</b>	<b>Clause 6 Fees payable to medical practitioners and odontologists: section 93</b>	8
	Omit “section 52” and “an order”.	9
	Insert instead “section 93” and “a direction”, respectively.	10
<b>3.6</b>	<b>Health Administration Act 1982 No 135</b>	11
	<b>Section 23 Specially privileged information</b>	12
	Omit “an order under section 14F (1) of the <i>Coroners Act 1980</i> ” and “section 13 (1) (f)” from section 23 (5).	13
	Insert instead “a direction under section 53 (1) of the <i>Coroners Act 2009</i> ” and “paragraph (e) of the definition of <i>reportable death</i> in section 6 (1)”, respectively.	14
<b>3.7</b>	<b>Jury Act 1977 No 18</b>	15
	<b>Section 4 Definitions</b>	16
	Omit “section 18 of the <i>Coroners Act 1980</i> ” from the definition of <i>coronial inquest</i> in section 4 (1).	17
	Insert instead “section 48 of the <i>Coroners Act 2009</i> ”.	18

## Schedule 4 Amendments replacing “Coroners Act 1980” with “Coroners Act 2009”

Each Act and Regulation specified in Column 1 of the Table of amendments below is amended by omitting “*Coroners Act 1980*” wherever occurring in the provision of that Act or Regulation specified in Column 2 of the Table and by inserting instead “*Coroners Act 2009*”:

### Table of amendments

Column 1	Column 2
<i>Anatomy Act 1977</i> No 126	Sections 8B (1), 14 (6) (a) and 15 (3)
<i>Births, Deaths and Marriages Registration Act 1995</i> No 62	Sections 39 (4) and 51
<i>Commission for Children and Young People Act 1998</i> No 146	Section 45U (1) (c) (iii)
<i>Coroners Regulation 2005</i>	Clause 3 (1) (definition of “the Act”)
<i>Court Security Act 2005</i> No 1	Section 4 (1) (definition of “court”)
<i>Crimes (Administration of Sentences) Act 1999</i> No 93	Section 74 (2)
<i>Criminal Procedure Act 1986</i> No 209	Sections 285 (6) (definition of “Judge”) and 286 (3) (definition of “Judge”)
<i>Freedom of Information Act 1989</i> No 5	Section 6 (1) (definition of “judicial functions”)
<i>Health Administration Act 1982</i> No 135	Section 23 (6)
<i>Health Records and Information Privacy Act 2002</i> No 71	Section 13 (3) (definition of “judicial functions of a court or tribunal”)
<i>Human Tissue Act 1983</i> No 164	Sections 25 (1), 30 (1), 31 (2) (note), 31B (1), 31C (note), 34A (3) and 36 (4) (a)
<i>Jury Act 1977</i> No 18	Section 23 (3)
<i>Medical Practice Act 1992</i> No 94	Section 66AA (2)
<i>Passenger Transport Act 1990</i> No 39	Sections 46BA (5) (c) and 46BC (2) (c)
<i>Privacy and Personal Information Protection Act 1998</i> No 133	Section 6 (3) (definition of “judicial functions”)

Coroners Bill 2009

Schedule 4 Amendments replacing “Coroners Act 1980” with “Coroners Act 2009”

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Column 1	Column 2
<i>Public Health (Disposal of Bodies) Regulation 2002</i>	Clauses 3 (1) (definition of “coroner”), 9 (3), 15 (5), 38 (1) (c) and (2) (c), 39 (2) (a) and 40 (1)
<i>Rail Safety Act 2008</i> No 97	Sections 67 (5) (c) and 69 (2) (c)
<i>Sheriff Act 2005</i> No 6	Section 6 (3) (definition of “legal proceedings”)
<i>Witness Protection Act 1995</i> No 87	Section 31A (definition of “relevant proceeding”)

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