

FIRST PRINT

## CORONERS (AMENDMENT) BILL 1986

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Registration of Births, Deaths and Marriages (Coroners) Amendment Bill 1986 is cognate with this Bill.

The object of this Bill is to make various amendments to the Coroners Act 1980—

- (a) to enable the delegation to an officer of a Local Court of the power to dispense with the holding of an inquest into a fire involving a motor vehicle;
- (b) to require particulars of the commencement of an inquest to be given to the next-of-kin of the deceased;
- (c) to limit the right to request a jury in an inquest after the inquest has commenced or shortly before it is due to commence;
- (d) to enable depositions taken at a previous inquest or inquiry to be admitted in evidence at a fresh inquest or inquiry;
- (e) to remove the necessity to transcribe all depositions recorded by a means other than writing;
- (f) to ensure that the Minister is informed of, and is entitled to be heard on, an application made to the Supreme Court for an inquest or inquiry; and
- (g) for other purposes.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Schedule 1 (1) and (2) provide that a coroner or deputy coroner employed in the Local Courts Administration, Attorney General's Department, ceases to hold office on ceasing to be so employed instead of ceasing to hold office (as at present) only on ceasing to be employed in the Public Service.

Schedule 1 (3) enables Magistrates to delegate to an officer of a Local Court their power to dispense with the holding of an inquiry into a fire involving a motor vehicle. Under the Principal Act an inquiry may be dispensed with if the circumstances of the fire are sufficiently disclosed or an inquiry is otherwise unnecessary.

Schedule 1 (4) requires notice of the commencement of an inquest to be given to the next-of-kin of the deceased if the coroner has been informed of the name and address of the next-of-kin. At present the coroner may give notice to the next-of-kin, but is not obliged to do so.

Schedule 1 (5) limits the right to request a jury in an inquest. Unless the coroner gives leave, a request cannot be made after the inquest has commenced or within 14 days before it is due to commence if the person had, at least 7 days before making the request, been given notice of the commencement of the inquest.

Schedule 1 (6) makes it clear that the limitations on the holding of a fresh inquest or inquiry after a person has been charged with an offence apply in all cases, including where the charge is laid as a consequence of the findings of the coroner on the previous inquest or inquiry.

Schedule 1 (7) places beyond doubt the power of a coroner to admit in evidence at a fresh inquest or inquiry the depositions taken at the previous inquest or inquiry.

Schedule 1 (8) removes the necessity to transcribe all depositions recorded by a means other than writing.

Schedule 1 (9) enables a coroner to direct that a summons for the appearance of a person at an inquest or inquiry be served by the sheriff instead of a member of the police force.

Schedule 1 (10) deals with applications to the Supreme Court (otherwise than by the Minister) for the holding of an inquest or inquiry or for the holding of a fresh inquest or inquiry. Under the proposed amendments a copy of the application is required to be served on the Minister and the Minister is given a right to be heard on the hearing of the application. A copy of any order made by the Court is to be served on the Minister within 21 days after the order is made.

Schedule 2 makes amendments to the Principal Act by way of statute law revision.

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# CORONERS (AMENDMENT) BILL 1986

NEW SOUTH WALES



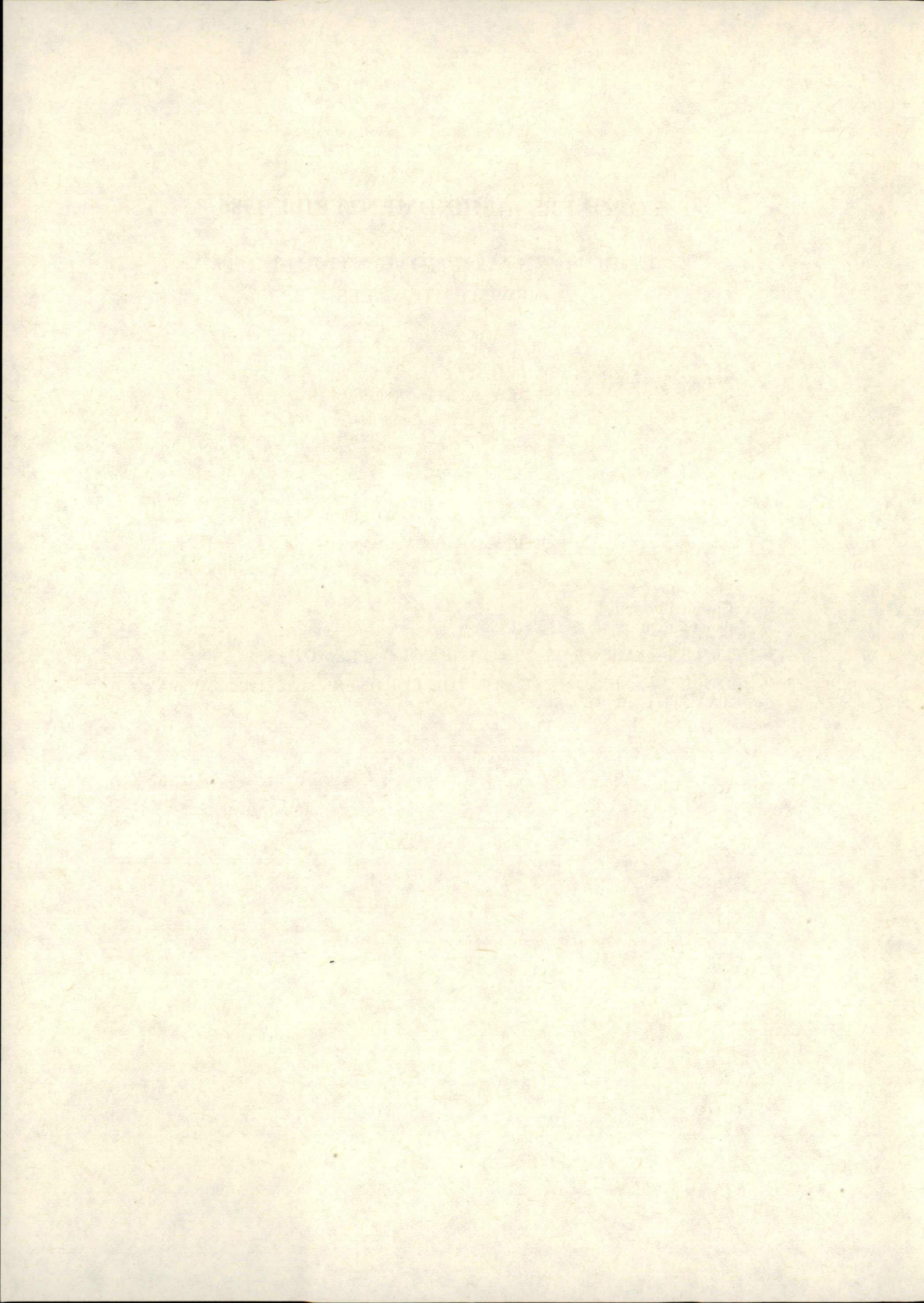
## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 27, 1980

SCHEDULE 1—AMENDMENTS TO THE CORONERS ACT 1980

SCHEDULE 2—AMENDMENTS TO THE CORONERS ACT 1980 BY WAY OF  
STATUTE LAW REVISION

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# CORONERS (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

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## A BILL FOR

An Act to amend the Coroners Act 1980 to make further provision with respect to the holding by coroners of inquests and inquiries.

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See also Registration of Births, Deaths and Marriages (Coroners) Amendment Bill 1986.

*Coroners (Amendment) 1986*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**5 Short title**

1. This Act may be cited as the "Coroners (Amendment) Act 1986".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- 10 (2) Except as provided by subsection (1), this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 27, 1980**

- 15 3. The Coroners Act 1980 is amended in the manner set forth in Schedules 1 and 2.

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**SCHEDULE 1**

(Sec. 3)

**AMENDMENTS TO THE CORONERS ACT 1980**

- (1) Section 6 (**Age qualification for coroners and deputy coroners**)—
- 20 Section 6 (2)—  
Omit the subsection.
- (2) Section 6A—  
After section 6, insert:  
**Vacation of office of coroners and deputy coroners**
- 25 6A. (1) A coroner or deputy coroner ceases to hold office on attaining the age of 70 years.

*Coroners (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE CORONERS ACT 1980—*continued*

(2) A coroner or deputy coroner who is employed in the Local Courts Administration, Attorney General's Department, ceases to hold office as a coroner or deputy coroner on ceasing, after the commencement of this section, to be so employed.

5 (3) A coroner or deputy coroner who was, immediately before the commencement of this section, a public servant but was not employed in the Local Courts Administration, Attorney General's Department, ceases to hold office as a coroner or deputy coroner on ceasing, after that commencement, to be a  
10 public servant.

(4) A Magistrate who is a coroner by reason of the operation of section 10 ceases to hold office as a coroner on ceasing to be a Magistrate.

15 (5) The amendments made to this Act by the Coroners (Amendment) Act 1986 do not revive the appointment of a person who previously ceased to be a coroner or deputy coroner on attaining the age of 70 years or ceasing to be a public servant.

(3) Section 12 (**Delegation by Magistrates**)—

(a) Section 12 (1) (c)—

20 Omit "or".

(b) Section 12 (1) (d), (e)—

Omit section 12 (1) (d), insert instead:

(d) to dispense with the holding of an inquiry where the fire involved only a motor vehicle; or

25 (e) in relation to any prescribed matters,

(4) Section 17 (**Time and place of inquest or inquiry**)—

(a) Section 17 (1) (b)—

Omit "and" where lastly occurring.

*Coroners (Amendment) 1986*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE CORONERS ACT 1980—*continued*

(b) Section 17 (1) (b1)—

After section 17 (1) (b), insert:

- 5 (b1) in the case of an inquest concerning the death or suspected death of a person—shall 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

(c) Section 17 (2)—

After “(b)”, insert “, (b1)”.

(5) Section 18 (**Inquests and inquiries with or without juries**)—

10 Section 18 (2A)—

After section 18 (2), insert:

(2A) A person is not entitled, without the leave of the coroner, to make a request under subsection (2) (b) for an inquest to be held before the coroner with a jury if—

- 15 (a) the request is made on or after the commencement of the inquest or within 14 days before that commencement; and
- (b) the person had, at least 7 days before making the request, been given particulars of the commencement of the inquest under section 17.

20 (6) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**)—

Section 20 (1) (a)—

- 25 After “in issue”, insert “(including where a person has been so charged after the coroner has terminated the inquest or inquiry after coming to the opinion that a prima facie case for an indictable offence has been established against a known person)”.

(7) Section 33A—

After section 33, insert:



*Coroners (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE CORONERS ACT 1980—*continued***Fresh inquest or inquiry—admission of previous depositions**

33A. (1) A coroner holding a fresh inquest or inquiry may admit in evidence the depositions taken at any previous inquest or inquiry.

5 (2) Subsection (1) is subject to the terms of an order made by a court for the holding of the fresh inquest or inquiry.

**(8) Section 34 (Depositions to be taken)—**

Section 34 (5)—

After section 34 (4), insert:

10 (5) Depositions which have been recorded by a means other than writing may be filed under subsection (3) without being transcribed.

**(9) Section 37 (Manner of service of summons)—**

(a) Section 37 (1)—

15 Omit “by a member of the police force”.

(b) Section 37 (1A)—

After section 37 (1), insert:

(1A) A summons issued under section 35 (1) shall be served by—

20 (a) a member of the police force; or

(b) where the coroner issuing the summons so directs—the sheriff or a person employed in the office of the sheriff.

(c) Section 37 (2)—

Omit “member of the police force”, insert instead “person”.

*Coroners (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE CORONERS ACT 1980—*continued*(10) Section 47 (**Powers of Supreme Court to order inquest or inquiry**)—

## Section 47 (2A)–(2C)—

After section 47 (2), insert:

5 (2A) Except where an application for an order under subsection (1) or (2) is made by or under the authority of the Minister, notice of an application under subsection (1) or (2) shall be served on the Minister in accordance with the rules of the Supreme Court.

10 (2B) The Minister is entitled to be heard on the hearing of any application under subsection (1) or (2).

15 (2C) Where the Supreme Court makes an order under subsection (1) or (2), the order shall, within 21 days after it is made, be served on the Minister in accordance with the rules of that Court or any directions given by that Court in making the order.

## SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE CORONERS ACT 1980 BY WAY OF STATUTE LAW  
REVISION

## 20 (1) Section 3—

Omit the section.

## (2) Section 20 (2)—

Omit “or of Her Majesty in Council”.

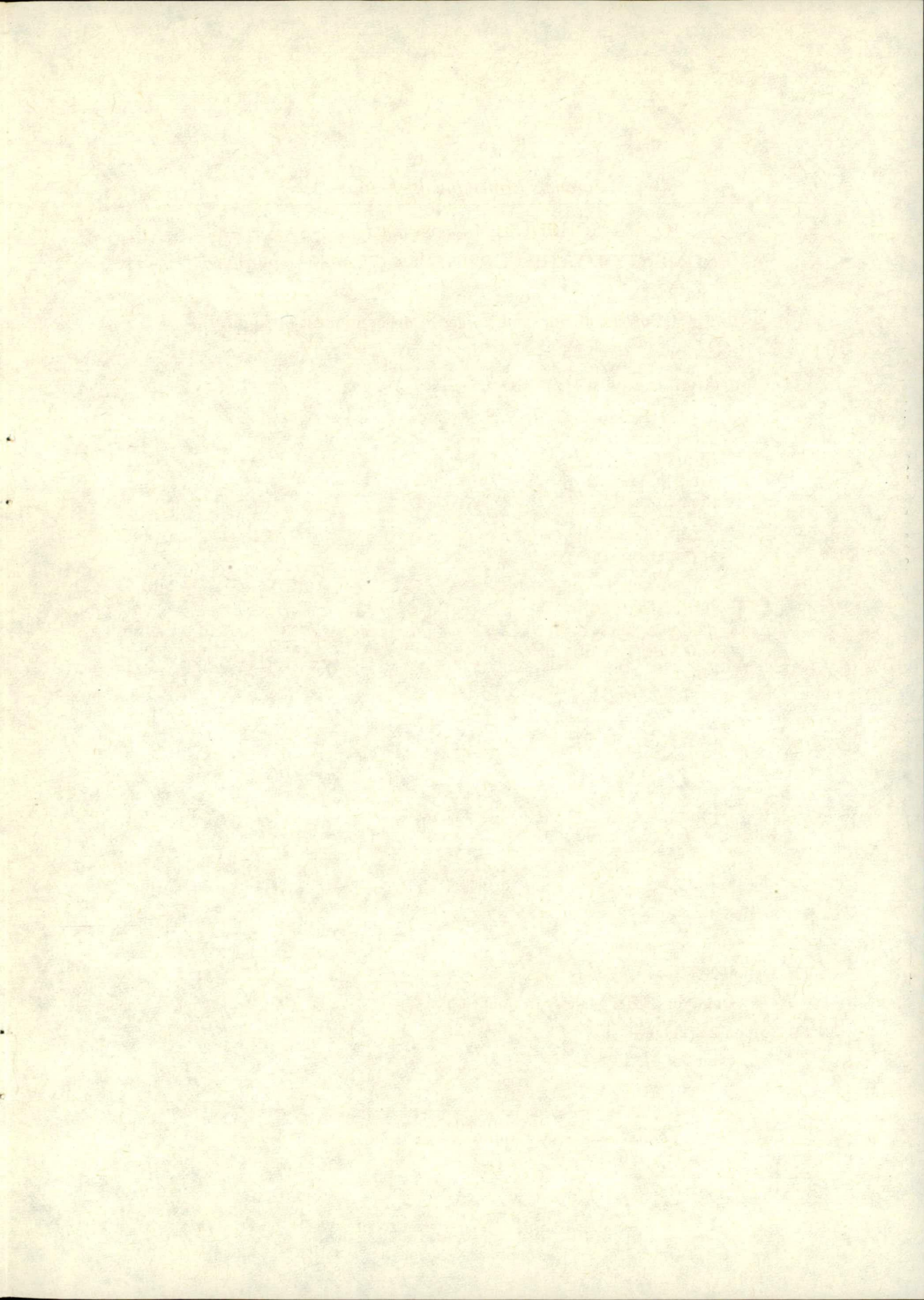
## (3) Section 22 (1) (c)—

25 Omit “or 21”.

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 BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986





# CORONERS (AMENDMENT) ACT 1986 No. 29

NEW SOUTH WALES



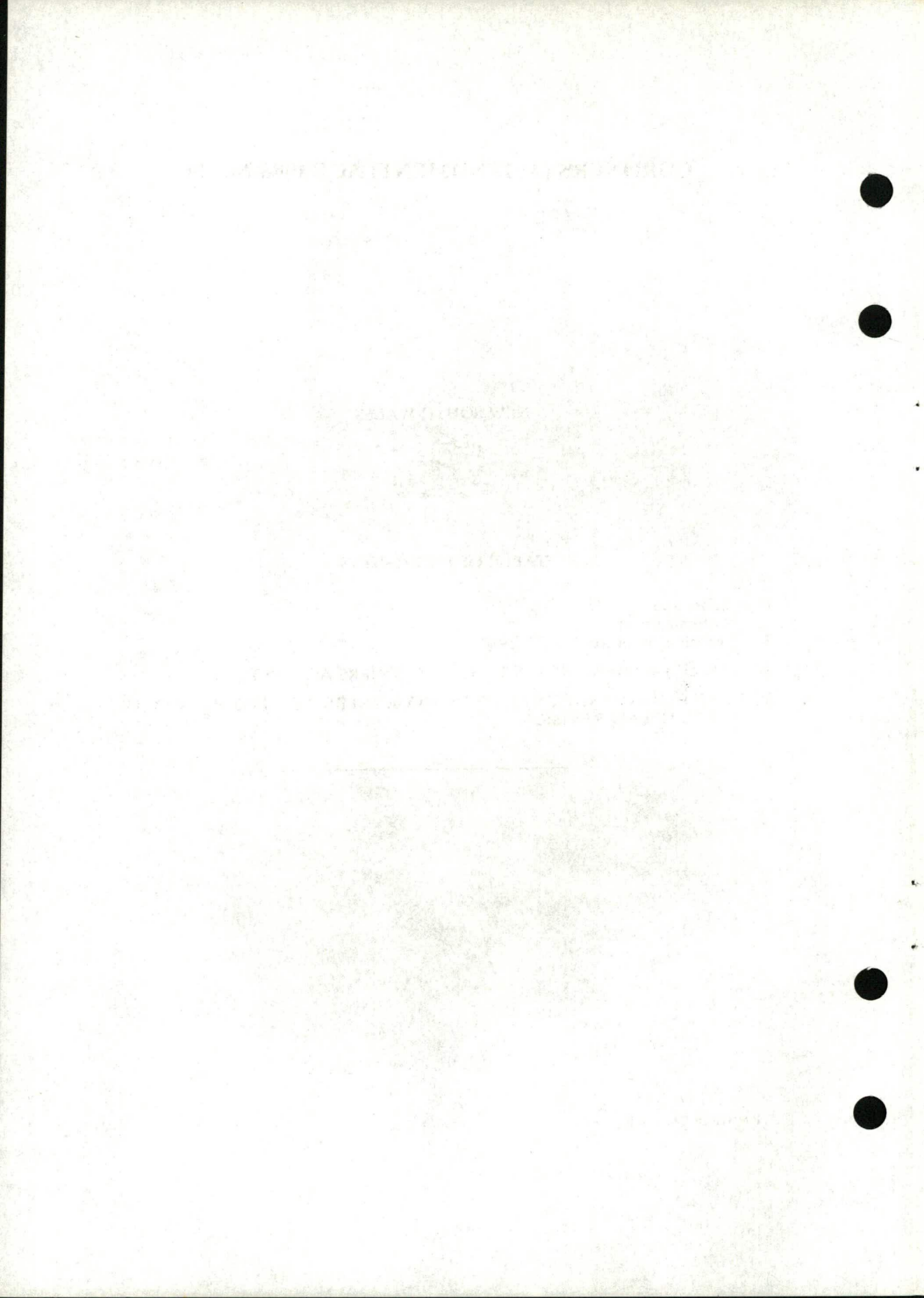
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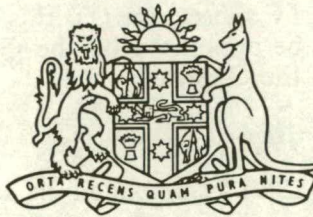
SCHEDULE 2—AMENDMENTS TO THE CORONERS ACT 1980 BY WAY OF  
STATUTE LAW REVISION

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**CORONERS (AMENDMENT) ACT 1986 No. 29**

**NEW SOUTH WALES**



**Act No. 29, 1986**

An Act to amend the Coroners Act 1980 to make further provision with respect to the holding by coroners of inquests and inquiries. [Assented to 6 May 1986.]

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See also Registration of Births, Deaths and Marriages (Coroners) Amendment Act 1986.

*Coroners (Amendment) 1986*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Coroners (Amendment) Act 1986".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

- (2) Except as provided by subsection (1), this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 27, 1980**

3. The Coroners Act 1980 is amended in the manner set forth in Schedules 1 and 2.

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**SCHEDULE 1**

(Sec. 3)

**AMENDMENTS TO THE CORONERS ACT 1980**

- (1) Section 6 (**Age qualification for coroners and deputy coroners**)—

Section 6 (2)—

Omit the subsection.

- (2) Section 6A—

After section 6, insert:

**Vacation of office of coroners and deputy coroners**

6A. (1) A coroner or deputy coroner ceases to hold office on attaining the age of 70 years.



*Coroners (Amendment) 1986*

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SCHEDULE 1—*continued*AMENDMENTS TO THE CORONERS ACT 1980—*continued*

(2) A coroner or deputy coroner who is employed in the Local Courts Administration, Attorney General's Department, ceases to hold office as a coroner or deputy coroner on ceasing, after the commencement of this section, to be so employed.

(3) A coroner or deputy coroner who was, immediately before the commencement of this section, a public servant but was not employed in the Local Courts Administration, Attorney General's Department, ceases to hold office as a coroner or deputy coroner on ceasing, after that commencement, to be a public servant.

(4) A Magistrate who is a coroner by reason of the operation of section 10 ceases to hold office as a coroner on ceasing to be a Magistrate.

(5) The amendments made to this Act by the Coroners (Amendment) Act 1986 do not revive the appointment of a person who previously ceased to be a coroner or deputy coroner on attaining the age of 70 years or ceasing to be a public servant.

(3) Section 12 (**Delegation by Magistrates**)—

(a) Section 12 (1) (c)—

Omit "or".

(b) Section 12 (1) (d), (e)—

Omit section 12 (1) (d), insert instead:

(d) to dispense with the holding of an inquiry where the fire involved only a motor vehicle; or

(e) in relation to any prescribed matters,

(4) Section 17 (**Time and place of inquest or inquiry**)—

(a) Section 17 (1) (b)—

Omit "and" where lastly occurring.

*Coroners (Amendment) 1986*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE CORONERS ACT 1980—*continued*

(b) Section 17 (1) (b1)—

After section 17 (1) (b), insert:

- (b1) in the case of an inquest concerning the death or suspected death of a person—shall 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

(c) Section 17 (2)—

After “(b)”, insert “, (b1)”.

(5) Section 18 (**Inquests and inquiries with or without juries**)—

Section 18 (2A)—

After section 18 (2), insert:

(2A) A person is not entitled, without the leave of the coroner, to make a request under subsection (2) (b) for an inquest to be held before the coroner with a jury if—

- (a) the request is made on or after the commencement of the inquest or within 14 days before that commencement; and
- (b) the person had, at least 7 days before making the request, been given particulars of the commencement of the inquest under section 17.

(6) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**)—

Section 20 (1) (a)—

After “in issue”, insert “(including where a person has been so charged after the coroner has terminated the inquest or inquiry after coming to the opinion that a prima facie case for an indictable offence has been established against a known person)”.

(7) Section 33A—

After section 33, insert:

*Coroners (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE CORONERS ACT 1980—*continued***Fresh inquest or inquiry—admission of previous depositions**

33A. (1) A coroner holding a fresh inquest or inquiry may admit in evidence the depositions taken at any previous inquest or inquiry.

(2) Subsection (1) is subject to the terms of an order made by a court for the holding of the fresh inquest or inquiry.

**(8) Section 34 (Depositions to be taken)—****Section 34 (5)—**

After section 34 (4), insert:

(5) Depositions which have been recorded by a means other than writing may be filed under subsection (3) without being transcribed.

**(9) Section 37 (Manner of service of summons)—****(a) Section 37 (1)—**

Omit “by a member of the police force”.

**(b) Section 37 (1A)—**

After section 37 (1), insert:

(1A) A summons issued under section 35 (1) shall be served by—

(a) a member of the police force; or

(b) where the coroner issuing the summons so directs—the sheriff or a person employed in the office of the sheriff.

**(c) Section 37 (2)—**

Omit “member of the police force”, insert instead “person”.

*Coroners (Amendment) 1986*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE CORONERS ACT 1980—*continued*

(10) Section 47 (**Powers of Supreme Court to order inquest or inquiry**)—

Section 47 (2A)–(2C)—

After section 47 (2), insert:

(2A) Except where an application for an order under subsection (1) or (2) is made by or under the authority of the Minister, notice of an application under subsection (1) or (2) shall be served on the Minister in accordance with the rules of the Supreme Court.

(2B) The Minister is entitled to be heard on the hearing of any application under subsection (1) or (2).

(2C) Where the Supreme Court makes an order under subsection (1) or (2), the order shall, within 21 days after it is made, be served on the Minister in accordance with the rules of that Court or any directions given by that Court in making the order.

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SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE CORONERS ACT 1980 BY WAY OF STATUTE LAW  
REVISION

(1) Section 3—

Omit the section.

(2) Section 20 (2)—

Omit “or of Her Majesty in Council”.

*Coroners (Amendment) 1986*

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SCHEDULE 2—*continued*

AMENDMENTS TO THE CORONERS ACT 1980 BY WAY OF STATUTE LAW  
REVISION—*continued*

- (3) Section 22 (1) (c)—  
Omit “or 21”.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

