

FIRST PRINT

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Coroners Act 1980 for the following purposes:

- (a) to provide that appointments of coroner by the Governor are in future to be made on the recommendation of the Minister (See Schedule 1 (9) (a));
- (b) to abolish the office of deputy coroner and provide instead for the appointment of assistant coroners to provide administrative assistance to coroners and to exercise some of the functions of coroners, as training for appointment as coroner (See Schedule 1 (8), (9) (b), (c), (10), (11), (12) (a), (13), (14));
- (c) to apply the Act to explosions in the same way as it currently applies to fires (so as to enable inquiries to be held by coroners into explosions, whether or not they result in fires) (See Schedule 1 (1), (2) (a), (c), (5), (7), (19), (21), (22) (b), (c), (23)–(26), (30) (b), (41));
- (d) to extend the meaning of “relative” in the Act by including as parents persons who are guardians or who stand in the legal relationship of parent (See Schedule 1 (2) (b));
- (e) to provide for the appointment of up to 2 Deputy State Coroners (instead of only one as at present) and for the appointment of one as the Senior Deputy State Coroner to act as State Coroner during the illness or absence or a vacancy in the office of the State Coroner (See Schedule 1 (3), (4), (6));
- (f) to re-enact an existing provision which requires coroners’ inquests and inquiries held in the Sydney metropolitan area to be held only by coroners who are Magistrates (with a redefinition of the area to which the provision applies) and to remove a provision which allows a coroner who is a Magistrate to delegate some of his or her powers as coroner (See Schedule 1 (15), (16), (17) (e));
- (g) to alter the provisions dealing with the obligation to report a death to a coroner so as to enable a death to be reported to an assistant coroner (as an alternative to reporting to a coroner) (See Schedule 1 (17) (b)–(d));

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- (h) to re-write existing sections 13 and 14 (dealing with the situations in which an inquest can be held and the situations in which an inquest can be dispensed with) to make the provisions easier to understand and to make the following changes to those provisions (See Schedule 1 (18)):
- to limit a coroner's jurisdiction to hold an inquest to those cases in which the death occurred not more than 100 years ago (See proposed section 13B);
 - to require an inquest to be held by the State Coroner if the death occurred in prison or other custody, while escaping custody, while proceeding to or from a place of custody, or in connection with Police operations (See proposed section 13A);
 - to add residential centres for handicapped persons to the list of institutions in which deaths are examinable by a coroner and at the same time remove the restrictions on dispensing with an inquest when a death occurs in such an institution while retaining that restriction for deaths occurring in those circumstances in which the inquest is required to be held by the State Coroner as referred to above (See proposed sections 13 (1) (h) and 14B (1) (b));
 - to expand the power of a coroner under current section 14 (6) to require production of medical records (to enable him or her to decide whether to dispense with an inquest) so as to enable a coroner to require production of any records and other things for that purpose (See proposed section 14F);
- (i) to enable a coroner or the jury in an inquest to make recommendations relating for example to matters of public health and safety (See Schedule 1 (27));
- (j) to require a fresh inquest or inquiry to be held on the application of a police officer or a person granted leave to appear at the original inquest if the discovery of new evidence or facts makes a fresh inquest or inquiry necessary or desirable in the interests of justice (See Schedule 1 (28));
- (k) to insert a specific provision to give statutory force to a coroner's common law right to possession of a person's remains whenever a coroner has jurisdiction to hold an inquest into the person's death (See Schedule 1 (29));
- (l) to make it clear that an existing requirement that all witnesses be examined on oath does not interfere with the coroner's discretion as to which witnesses to call (See Schedule 1 (31));
- (m) to provide a specific procedure whereby a person granted leave to appear at an inquest may request that a specific person be called as a witness and to require a coroner to give reasons for refusing such a request (See Schedule 1 (32));
- (n) to require it to be presumed that a relative of a person has a sufficient interest in the person's death to be granted leave to appear at the inquest, unless the coroner is satisfied that exceptional circumstances justify leave being refused (See Schedule 1 (33));
- (o) to make minor changes of an administrative nature to the procedure for the filing of depositions taken at an inquest or inquiry (See Schedule 1 (34));

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- (p) to enable the coroner who is to hold an inquest or inquiry to consent to the issue by any other coroner of a summons or warrant for the appearance of a witness at the inquest or inquiry (See Schedule 1 (35) (a) and (b), (38));
- (q) to enable an assistant coroner, at the direction of a coroner, to exercise the power of the coroner to issue a summons or warrant for the appearance of a witness (See Schedule 1 (35) (c), (36), (37), (39) (a) and (b));
- (r) to enable a person apprehended under a coroner's warrant to be taken before any justice and remanded or bailed in accordance with the procedure applicable to warrants issued by justices (See Schedule 1 (39) (c));
- (s) to insert a provision whereby a director or manager of a corporation is taken to commit the offence of publishing evidence contrary to the directions of a coroner when the corporation has committed the offence (See Schedule 1 (40));
- (t) to provide for regulations to be made dealing with the appointment of medical practitioners as Coronial Medical Officers and to allow the State Coroner to give directions to coroners requiring post mortem examinations to be carried out only by Coronial Medical Officers (See Schedule 1 (43));
- (u) to enable an assistant coroner, at the direction of a coroner, to exercise the power of the coroner to order the conduct of a post mortem examination or special examination or test (See Schedule 1 (44));
- (v) to make it clear that medical officers employed at hospitals, gaols and other public institutions are not entitled to the special payment provided by the Act for carrying out post mortem examinations in the course of the exercise of their ordinary functions (See Schedule 1 (45));
- (w) to provide protection from liability for persons carrying out post mortem examinations and other tests in accordance with a direction under the Act (See Schedule 1 (46));
- (x) to increase the maximum penalty for an offence under the Act from 5 penalty units to 10 penalty units and for an offence in the regulations from 2 penalty units to 5 penalty units (See Schedule 1 (48) and (50));
- (y) to empower the State Coroner to assist coroners in other jurisdictions (See Schedule 1 (49));
- (z) to enact savings and transitional provisions (See Schedule 1 (51));
- (aa) to make minor or consequential amendments (See Schedule 1 (12) (b), (17) (a), (20), (22) (a), (30) (a), (42), (47)).

The Bill also:

- (a) amends the Registration of Births, Deaths and Marriages Act 1973 to enable an assistant coroner, at the direction of a coroner, to exercise the power of the coroner to issue an order authorising the disposal of a body (See Schedule 2); and
 - (b) amends the Crimes Act 1900 to make it clear that a coroner's inquest is a judicial proceeding for the purposes of Part 7 (Public Justice Offences) of that Act (which contains offences for among other things tampering with evidence to be used in a judicial proceeding) (See clause 5).
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Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the amendments to the Coroners Act 1980 explained above.

Clause 4 is a formal provision that gives effect to the amendments to the Registration of Births, Deaths and Marriages Act 1973 explained above.

Clause 5 makes the amendments to the Crimes Act 1900 explained above.

Schedule 1 contains the amendments to the Coroners Act 1980.

Schedule 2 contains the amendments to the Registration of Births, Deaths and Marriages Act 1973.

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TABLE OF PROVISIONS

1. Short title
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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS
AND MARRIAGES ACT 1973

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Coroners Act 1980 to provide for the appointment of assistant coroners and to make further provision with respect to the jurisdiction and functions of coroners and the practices and procedures to be followed at coroners' inquests and inquiries; and for other purposes.

Coroners (Amendment) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Amendment) Act 1993.

Commencement

- 5 2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

10 **Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87**

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Consequential amendment of Crimes Act 1900 No. 40, sec. 311 (Definitions)

- 15 5. The Crimes Act 1900 is amended:
- (a) by inserting in the definition of "judicial officer" in section 311 (1) after the word "tribunal" the words "and includes a coroner";
 - (b) by omitting from the definition of "judicial tribunal" in section 311 (1) the words "(including an arbitrator)" and by inserting instead
- 20 the words "(including a coroner and an arbitrator)".

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

- (1) Long title:

After "fires", insert "and explosions".

- 25 (2) Section 4 (Definitions):

- (a) In the definition of "inquiry" in section 4 (1), after "fire", insert "or explosion".

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) Omit paragraph (a) of the definition of “relative” in section 4 (1), insert instead:
 - (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
 - (c) In section 4 (2), after “fire” wherever occurring, insert “or explosion”.
- (3) **Section 4A (State Coroners and Deputy State Coroners):**

 - (a) In section 4A (1), omit “a Deputy State Coroner”, insert instead “up to 2 Deputy State Coroners”.
 - (b) After section 4A (1), insert:
 - (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
 - (c) From section 4A (5)–(9), omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (4) **Sections 4C, 4E:**

Omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (5) **Section 4D (Functions of the State Coroner):**

From section 4D (b), omit “and fires”, insert instead “, fires and explosions”.
- (6) **Section 4F (Functions of Deputy State Coroner):**

 - (a) Omit section 4F (1), insert instead:
 - (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
 - (1A) A Deputy State Coroner is to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) From section 4F (2), omit “the Deputy State Coroner”, insert instead “a Deputy State Coroner”.

5 (7) Section 4G (**Information to be given to State Coroner**):

From section 4G (1), omit “or fires”, insert instead “, fires or explosions”.

(8) Part 2, heading:

Omit the heading, insert instead:

10 **PART 2—THE OFFICES OF CORONER AND
 ASSISTANT CORONER**

(9) Section 5 (**Appointment of coroners**):

- (a) In section 5 (1), after “Governor may by instrument in writing”, insert “on the recommendation of the Minister”.

15 (b) Omit section 5 (3).

- (c) From section 5 (4), omit “or deputy coroner”.

(10) Section 5A:

After section 5, insert:

Assistant coroners

20 5A. (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

(2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.

25 (3) A person’s appointment as an assistant coroner ceases to have effect on the person’s appointment as a coroner.

(11) Section 6 (**Age qualification for coroners and assistant coroners**):

30 Omit “or deputy coroner”, insert instead “or assistant coroner”.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (12) Section 6A (**Vacation of office of coroners and assistant coroners**):
- (a) From section 6A (1)–(3), omit “or deputy coroner” wherever occurring, insert instead “or assistant coroner”. 5
 - (b) From section 6A (2) and (3), omit “Attorney General’s Department” wherever occurring, insert instead “Department of Courts Administration”.
- (13) Section 7 (**Oath of allegiance for coroners and assistant coroners**): 10
- (a) From section 7 (1), omit “or deputy coroner”.
 - (b) After section 7 (1), insert:
 - (1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the Oaths Act 1900 or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister. 15
 - (c) From section 7 (3), omit “or deputy coroner” and “or deputy coroner, as the case may be,”. 20
 - (d) After section 7 (3), insert:
 - (4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner. 25
- (14) Section 9:
- Omit the section, insert instead:
- Functions of assistant coroners**
9. (1) An assistant coroner has and may exercise the following functions: 30
- (a) the function of providing administrative assistance to a coroner under the direction and control of the coroner;
 - (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.
- (2) This section does not confer on an assistant coroner any jurisdiction (in particular the jurisdiction to hold an inquest or inquiry) and does not authorise an assistant 35

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 coroner to exercise any function conferred or imposed on a
 coroner, except as specifically provided by this or any other
 Act.

(15) Section 11 (**Only Magistrates to act as coroners in certain
 police districts**):

Omit the section.

(16) Section 12 (**Delegation by Magistrates**):

10 Omit the section.

(17) Section 12A (**Obligation to report death**):

- 15 (a) From section 12A (1) (a), omit "section 13 (3)", insert
 instead "section 13 or 13A".
- (b) From section 12A (1) (b), omit "to a coroner", insert instead
 "in accordance with this subsection".
- (c) From section 12A (1), omit "to a coroner" where secondly
 occurring, insert instead "to a coroner or assistant coroner".
- 20 (d) From section 12A (2), omit "inform a coroner of the death or
 suspected death as soon as possible", insert instead "report
 the death or suspected death to a coroner or assistant coroner
 as soon as possible".

(e) After section 12A (2), insert:

25 (2A) 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.

(2B) In the case of a death or suspected death occurring or
 suspected of having occurred within any of the following
 Local Court Districts, the coroner to whom the death or
 suspected death is reported under this section must be a
 30 Magistrate:

Northern Metropolitan District
 Southern Metropolitan District
 Western Metropolitan District
 Eastern Metropolitan District
 35 Newcastle District
 Parramatta District
 Liverpool District
 Manly District

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**SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
*continued***

Penrith District	
Richmond District	
Windsor District	5
Any other Local Court District to which the provisions of this section are applied by the regulations.	
(18) Sections 13–14F:	
Omit sections 13–14A, insert instead:	
Division 1—Cases in which inquest is to be held	10
Inquests into deaths or suspected deaths	
13. (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 the person has died, or that there is reasonable cause to suspect that the person has died, in any of the following circumstances:	15
(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;	20
(d) a medical practitioner has not given a certificate as to the cause of death;	
(e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death;	25
(f) 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;	30
(g) 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;	35
(h) the person died while in or temporarily absent from any of the following establishments and while the	

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

person was a resident at the establishment for the purpose of receiving care, treatment or assistance:

- 5 • a hospital within the meaning of the Mental Health Act 1990;
- a facility within the meaning of the Community Welfare Act 1987;
- 10 • a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973;
- a residential child care centre licensed under the Children (Care and Protection) Act 1987.

15 (2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.

20 **Some deaths examinable only by State Coroner or Deputy State Coroner**

25 13A. (1) A coroner who is the State Coroner or a Deputy State 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:

- (a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody; or
- 30 (b) as a result of or in the course of police operations; or
- (c) while in, or temporarily absent from, a detention centre within the meaning of the Children (Detention Centres) Act 1987, a prison within the meaning of the Prisons Act 1952 or a lock-up, and of which the person was an inmate; or
- 35 (d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the
- 40 person's care or custody.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner. 5

No jurisdiction unless death occurred in last 100 years

13B. 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. 10

Jurisdiction requires connection with New South Wales

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: 15

- (a) the remains of the person are in New South Wales; or
- (b) the death or suspected death or the cause of the death or of the suspected death occurred in New South Wales; or
- (c) the death or suspected death occurred outside New South Wales but the person had a sufficient connection with New South Wales, as referred to in subsection (2). 20

(2) A person had a sufficient connection with New South Wales if the person:

- (a) was ordinarily resident in New South Wales when the death or suspected death occurred; 25
- (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in New South Wales; or
- (c) was last at some place in New South Wales before the circumstances of his or her death or suspected death arose. 30

Division 2—Cases in which inquest can be dispensed with

Coroner may dispense with inquest except in some cases 35

14. A coroner who has jurisdiction to hold an inquest may dispense with the inquest except in those cases in which an inquest is required to be held.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Minister or State Coroner may direct that inquest be held

5 14A. An inquest is required to be held if the Minister or the State Coroner directs that it be held.

General cases in which inquest required to be held

14B. (1) An inquest is required to be held in the following cases:

- 10 (a) a case in which it appears to the coroner that the person died or might have died as a result of homicide (not including suicide);
- (b) a case in which the death or suspected death is examinable only by the State Coroner or a Deputy State Coroner under section 13A;
- 15 (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed;
- 20 (d) a case in which it appears to the coroner 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 terminated or continued under section 19).

25 (2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

Deaths under anaesthetic—inquest required in certain cases

30 14C. (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f).

35 (2) An inquest is required to be held if it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death.

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(3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request. 5

(4) A request under this section must be made within 28 days after the death or suspected death.

(5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales. 10

(6) A coroner who refuses a request under this section 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. 15

Reasons to be given for dispensing with inquest

14D. (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: 20

- (a) the State Coroner;
- (b) the Minister;
- (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. 25

(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. 30

Direction to hold inquest

14E. (1) If, after considering a coroner's reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner is to direct a coroner to hold the inquest. 35
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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(2) An inquest is to be held in accordance with the direction.

5 (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.

10 (4) The State Coroner may hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

Power to obtain documents etc.

15 14F. (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, 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.

20 (2) The power to give such a direction extends to permit a direction to produce a document relating to the medical care or treatment of a person.

(3) The coroner is to withdraw a direction under this section if it appears to the coroner that:

25 (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

(b) the person does not consent to compliance with the direction.

30 (4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.

35 (5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

Division 3—Inquiries into fires and explosions

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (19) Section 15 (**Inquiries into fires and explosions**):
- (a) In section 15 (1) and (2), after “fire” wherever occurring, insert “or explosion”. 5
 - (b) In section 15 (3), after “fire” where firstly and secondly occurring, insert “or explosion”.
- (20) Part 3, Division 4, heading:
Before section 16, insert:
- Division 4—Miscellaneous 10
- (21) Section 16 (**Cases where a coroner is not bound to hold an inquest or inquiry**):
After “fire” wherever occurring, insert “or explosion”.
- (22) Section 17A (**State Coroner may hold inquest etc.**):
- (a) From section 17A (1), omit “section 13”, insert instead “section 12A”. 15
 - (b) From section 17A (1) and (2), omit “or fire” wherever occurring, insert instead “, fire or explosion”.
 - (c) In section 17A (1) (a), after “the fire”, insert “or explosion”.
- (23) Section 17B (**Directions by State Coroner**): 20
From section 17B (2), omit “or fire”, insert instead “, fire or explosion”.
- (24) Section 19 (**Procedure at inquest or inquiry involving indictable offence**):
After “fire” wherever occurring, insert “or explosion”. 25
- (25) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**):
After “fire” wherever occurring, insert “or explosion”.
- (26) Section 22 (**Finding of coroner or verdict of jury to be recorded**): 30
After “fire” wherever occurring, insert “or explosion”.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(27) Section 22A:

After section 22, insert:

5 **Coroner or jury may make recommendations**

22A. (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) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made.

(3) The record made under section 22 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.

20 (28) Section 23A:

After section 23, insert:

Duty to hold fresh inquest or inquiry—new facts or evidence

25 23A. (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:

- (a) an application for the fresh inquest or inquiry is made under this section; and
- (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.

(2) 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 into the death, suspected death, fire or explosion concerned.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it.

(4) 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 held under this section). 5

(5) 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 interfere with the provisions of this Act with respect to the termination of inquests. 10

(29) Section 24: 15

Omit the section, insert instead:

Coroner's right to possession of body

24. (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person. 20

(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.

(3) This section does not prevent the making of an order by a coroner under section 49 (Order authorising the disposal of a body) of the Registration of Births, Deaths and Marriages Act 1973 or the disposal of the body of a deceased person in accordance with such an order. 25

(4) This section does not limit any rights that the coroner has apart from this Act. 30

(30) Section 29 (Coroner and jury not to view body or scene of fire or explosion):

(a) Omit "body", insert instead "remains".

(b) After "fire", insert "or explosion". 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(31) Section 31 (**Witnesses to be examined on oath**):

Omit "shall", insert instead "may".

5 (32) Section 31A:

After section 31, insert:

Persons granted leave may apply for witness to be examined

10 31A. (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry.

15 (2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.

(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 inquest or inquiry is concluded.

20 (33) Section 32 (**Representation at inquests or inquiries**):

At the end of section 32, insert:

(2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave.

30 (34) Section 34 (**Depositions to be taken**):

(a) Omit section 34 (3).

(b) From section 34 (4) (a), omit "clerk of a Local Court in whose office the depositions are filed", insert instead "appropriate official".

(c) In section 34 (4), after "the clerk of the Local Court", insert "where, or nearest to the place where, the inquest or inquiry was held".

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (d) Omit section 34 (5), insert instead:
- (5) The “**appropriate official**” for the purposes of subsection (4) is the coroner who held the inquest or inquiry or (in the absence of that coroner) the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held. 5
- (35) Section 35 (**Summons for appearance or warrant for apprehension of witness**): 10
- (a) From section 35 (1) (a), omit “by him”.
- (b) After section 35 (1), insert:
- (1A) A coroner may exercise a function under subsection (1) in respect of an inquest or inquiry not being conducted or not to be conducted by him or her, but only with the consent of the coroner who is conducting or is to conduct the inquest or inquiry. 15
- (c) After section 35 (2), insert:
- (3) An assistant coroner may, at the direction of a coroner given in a particular case, exercise the power of the coroner to issue a summons or warrant under this section. 20
- (36) Section 36 (**Form of summons**):
- (a) In section 36 (a), after “the coroner”, insert “or assistant coroner”.
- (b) In section 36 (c), after “the coroner”, insert “holding the inquest or inquiry concerned”. 25
- (37) Section 37 (**Manner of service of summons**):
- In section 37 (1A) (b), after “the coroner”, insert “or assistant coroner”.
- (38) Section 39 (**Warrants for non-appearance to summons**): 30
- Omit “coroner by whom the summons was issued”, insert instead “coroner before whom the person was required to appear”.
- (39) Section 41 (**Form of warrant**):
- (a) In section 41 (1), after “or 39”, insert “or by an assistant coroner under section 35”. 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) In section 41 (1) (a), after “coroner”, insert “or assistant coroner”.
- 5 (c) After section 41 (3), insert:
- (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the Justices Act 1902 apply to the person as if the warrant were a warrant issued under section 61 of that Act.
- 10 (40) Section 45 (**Offences**):
- After section 45 (4), insert:
- (5) If a corporation contravenes an order under section 44 (1) or (2), each person who is a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention.
- 15 (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted.
- 20 (41) Section 47 (**Powers of Supreme Court to order inquest or inquiry**):
- In section 47 (1), after “fire” wherever occurring, insert “or explosion”.
- 25 (42) Part 6, heading:
- Omit the heading, insert instead:
- PART 6—POST MORTEM EXAMINATIONS,
EXHUMATIONS AND SPECIAL TESTS**
- (43) Section 47A:
- 30 Before section 48, insert:
- Coronial Medical Officers**
- 47A. (1) The regulations may make provision for or with respect to the appointment of medical practitioners as Coronial Medical Officers for the purposes of this Act.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (2) The State Coroner may notify a coroner in writing that a particular post mortem examination to be carried out at the direction of the coroner must be carried out by a Coronial Medical Officer, and the coroner must ensure that such a notification is complied with. 5
- (44) Section 48 (**Post mortem or other examination may be ordered by coroner**):
- After section 48 (3), insert: 10
- (4) 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.
- (45) Section 52 (**Remuneration of medical practitioners**): 15
- In section 52 (2), after “or institution”, insert “or which was carried out in the course of the exercise of his or her functions as such a medical officer”.
- (46) Section 52A:
- After section 52, insert: 20
- Protection for persons acting under coroner’s direction**
- 52A. Nothing done by a medical practitioner or other person in good faith for the purposes of making a post mortem examination, or a special examination or test, pursuant to a direction under this Act subjects the person personally to any action, liability, claim or demand. 25
- (47) Section 53 (**Warrant for exhumation of body**):
- (a) In section 53 (1) (c), after “held”, insert “or the State Coroner has decided to hold a fresh inquest under section 23A”. 30
- (b) From section 53 (2), omit “section 20 or 23”, insert instead “section 20, 23 or 23A”.
- (48) Section 54 (**Penalty**):
- From section 54 (1), omit “5 penalty units”, insert instead “10 penalty units”. 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(49) Section 54A:

After section 54, insert:

5 **Assistance to coroners in other jurisdictions**

54A. The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion.

10 (50) Section 58 (**Regulations**):

In section 58 (2), omit “2 penalty units”, insert instead “5 penalty units”.

(51) Schedule 3 (**Savings and transitional provisions**):

After clause 6, insert:

15 **Coroners (Amendment) Act 1993**

7. (1) In this clause, “**the 1993 Act**” means the Coroners (Amendment) Act 1993.

20 (2) A person holding office as coroner or deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3).

25 (3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not been enacted.

30 (4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.

35 (5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.

(6) The amendments made by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those amendments.

Coroners (Amendment) 1993

**SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
*continued***

(7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.

5

(8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

**SCHEDULE 2—AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973**

10

(Sec. 4)

(1) Section 24 (**Medical certificate of cause of death**):

From section 24 (7C) (b), omit "section 13 (3) (h)", insert instead "section 13A".

(2) Section 49 (**Order authorising the disposal of a body**):

15

(a) From section 49 (1) (a) (ii), omit "section 11 (2) of the Coroners Act 1960", insert instead "the Coroners Act 1980".

(b) After section 49 (2), insert:

(3) 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. An order of an assistant coroner under this section is taken to be an order of the coroner.

20

SECOND PRINT

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS
AND MARRIAGES ACT 1973

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1993

An Act to amend the Coroners Act 1980 to provide for the appointment of assistant coroners and to make further provision with respect to the jurisdiction and functions of coroners and the practices and procedures to be followed at coroners' inquests and inquiries; and for other purposes.

Coroners (Amendment) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Amendment) Act 1993.

Commencement

- 5 2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

10 **Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87**

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Consequential amendment of Crimes Act 1900 No. 40, sec. 311 (Definitions)

- 15 5. The Crimes Act 1900 is amended:
- (a) by inserting in the definition of "judicial officer" in section 311 (1) after the word "tribunal" the words "and includes a coroner";
 - (b) by omitting from the definition of "judicial tribunal" in section 311 (1) the words "(including an arbitrator)" and by inserting instead
- 20 the words "(including a coroner and an arbitrator)".

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

- (1) Long title:

After "fires", insert "and explosions".

- 25 (2) Section 4 (**Definitions**):

- (a) In the definition of "inquiry" in section 4 (1), after "fire", insert "or explosion".

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) Omit paragraph (a) of the definition of “relative” in section 4 (1), insert instead:
 - (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
 - (c) In section 4 (2), after “fire” wherever occurring, insert “or explosion”.
- (3) Section 4A (**State Coroners and Deputy State Coroners**):
 - (a) In section 4A (1), omit “a Deputy State Coroner”, insert instead “up to 2 Deputy State Coroners”.
 - (b) After section 4A (1), insert:
 - (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
 - (c) From section 4A (5)–(9), omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (4) Sections 4C, 4E:
 - Omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (5) Section 4D (**Functions of the State Coroner**):
 - From section 4D (b), omit “and fires”, insert instead “, fires and explosions”.
- (6) Section 4F (**Functions of Deputy State Coroner**):
 - (a) Omit section 4F (1), insert instead:
 - (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
 - (1A) A Deputy State Coroner is to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) From section 4F (2), omit “the Deputy State Coroner”, insert instead “a Deputy State Coroner”.

5 (7) Section 4G (**Information to be given to State Coroner**):

From section 4G (1), omit “or fires”, insert instead “, fires or explosions”.

(8) Part 2, heading:

Omit the heading, insert instead:

10 **PART 2—THE OFFICES OF CORONER AND
ASSISTANT CORONER**

(9) Section 5 (**Appointment of coroners**):

- (a) In section 5 (1), after “Governor may by instrument in writing”, insert “on the recommendation of the Minister”.

15 (b) Omit section 5 (3).

- (c) From section 5 (4), omit “or deputy coroner”.

(10) Section 5A:

After section 5, insert:

Assistant coroners

20 5A. (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

(2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.

25 (3) A person’s appointment as an assistant coroner ceases to have effect on the person’s appointment as a coroner.

(11) Section 6 (**Age qualification for coroners and assistant coroners**):

30 Omit “or deputy coroner”, insert instead “or assistant coroner”.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (12) Section 6A (**Vacation of office of coroners and assistant coroners**):
- (a) From section 6A (1)–(3), omit “or deputy coroner” wherever occurring, insert instead “or assistant coroner”. 5
 - (b) From section 6A (2) and (3), omit “Attorney General’s Department” wherever occurring, insert instead “Department of Courts Administration”.
- (13) Section 7 (**Oath of allegiance for coroners and assistant coroners**): 10
- (a) From section 7 (1), omit “or deputy coroner”.
 - (b) After section 7 (1), insert:
 - (1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the Oaths Act 1900 or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister. 15
 - (c) From section 7 (3), omit “or deputy coroner” and “or deputy coroner, as the case may be,”. 20
 - (d) After section 7 (3), insert:
 - (4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner. 25
- (14) Section 9:
- Omit the section, insert instead:
- Functions of assistant coroners**
- 9. (1) An assistant coroner has and may exercise the following functions: 30
 - (a) the function of providing administrative assistance to a coroner under the direction and control of the coroner;
 - (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.
 - (2) This section does not confer on an assistant coroner any jurisdiction (in particular the jurisdiction to hold an inquest or inquiry) and does not authorise an assistant 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 coroner to exercise any function conferred or imposed on a
coroner, except as specifically provided by this or any other
Act.

(15) Section 11 (**Only Magistrates to act as coroners in certain
police districts**):

Omit the section.

(16) Section 12 (**Delegation by Magistrates**):

10 Omit the section.

(17) Section 12A (**Obligation to report death**):

(a) From section 12A (1) (a), omit "section 13 (3)", insert
instead "section 13 or 13A".

15 (b) From section 12A (1) (b), omit "to a coroner", insert instead
"in accordance with this subsection".

(c) From section 12A (1), omit "to a coroner" where secondly
occurring, insert instead "to a coroner or assistant coroner".

20 (d) From section 12A (2), omit "inform a coroner of the death or
suspected death as soon as possible", insert instead "report
the death or suspected death to a coroner or assistant coroner
as soon as possible".

(e) After section 12A (2), insert:

25 (2A) 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.

30 (2B) In the case of a death or suspected death occurring or
suspected of having occurred within any of the following
Local Court Districts, the coroner to whom the death or
suspected death is reported under this section must be a
Magistrate:

35 Northern Metropolitan District
Southern Metropolitan District
Western Metropolitan District
Eastern Metropolitan District
Newcastle District
Parramatta District

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- Liverpool District
 Manly District
 Penrith District 5
 Richmond District
 Windsor District
 Any other Local Court District to which the provisions of
 this section are applied by the regulations.
- (f) After section 12A (3), insert: 10
- (4) The State Coroner is to make a written report to the
 Attorney General containing a summary of the details of the
 deaths or suspected deaths of which the State Coroner has
 been informed under this section and which appear to the
 State Coroner to involve the death or suspected death of a 15
 person in circumstances referred to in section 13A (Deaths in
 custody etc. examinable only by State Coroner or Deputy
 State Coroner).
- (5) A report under subsection (4) is to be made for the
 period of 12 months commencing on 1 January 1994 and for 20
 each subsequent period of 12 months. Each report is to be
 made within 2 months after the end of the period to which it
 relates.
- (6) The Attorney General is to cause a copy of each report
 made to the Attorney General under subsection (4) to be 25
 tabled in each House of Parliament as soon as practicable
 after the report is made.
- (18) Sections 13–14F:
- Omit sections 13–14A, insert instead:
- Division 1—Cases in which inquest is to be held** 30
- Inquests into deaths or suspected deaths**
13. (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 the person has died, or that there
 is reasonable cause to suspect that the person has died, in any 35
 of the following circumstances:
- (a) the person died a violent or unnatural death;

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- 5 (b) the person died a sudden death the cause of which is unknown;
- (c) the person died under suspicious or unusual circumstances;
- (d) a medical practitioner has not given a certificate as to the cause of death;
- 10 (e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death;
- 15 (f) 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;
- 20 (g) 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;
- 25 (h) the person died while in or temporarily absent from any of the following establishments and while the person was a resident at the establishment for the purpose of receiving care, treatment or assistance:
- a hospital within the meaning of the Mental Health Act 1990;
 - 30 • a facility within the meaning of the Community Welfare Act 1987;
 - a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973;
 - 35 • a residential child care centre licensed under the Children (Care and Protection) Act 1987.
- (2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.
- 40

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner

13A. (1) A coroner who is the State Coroner or a Deputy State 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: 5

(a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody; or 10

(b) as a result of or in the course of police operations; or

(c) while in, or temporarily absent from, a detention centre within the meaning of the Children (Detention Centres) Act 1987, a prison within the meaning of the Prisons Act 1952 or a lock-up, and of which the person was an inmate; or 15

(d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the person's care or custody. 20

(2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner. 25

No jurisdiction unless death occurred in last 100 years

13B. 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. 30

Jurisdiction requires connection with New South Wales

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: 35

(a) the remains of the person are in New South Wales; or

*Coroners (Amendment) 1993*SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- 5 (b) the death or suspected death or the cause of the death
or of the suspected death occurred in New South
Wales; or
- (c) the death or suspected death occurred outside New
South Wales but the person had a sufficient connection
with New South Wales, as referred to in subsection (2).

10 (2) A person had a sufficient connection with New South
Wales if the person:

- (a) was ordinarily resident in New South Wales when the
death or suspected death occurred;
- 15 (b) was, when the death or suspected death occurred, in
the course of a journey to or from some place in New
South Wales; or
- (c) was last at some place in New South Wales before the
circumstances of his or her death or suspected death
arose.

20 **Division 2—Cases in which inquest can be
dispensed with**

Coroner may dispense with inquest except in some cases

14. A coroner who has jurisdiction to hold an inquest may
dispense with the inquest except in those cases in which an
inquest is required to be held.

25 **Minister or State Coroner may direct that inquest be held**

14A. An inquest is required to be held if the Minister or
the State Coroner directs that it be held.

General cases in which inquest required to be held

30 14B. (1) An inquest is required to be held in the following
cases:

- (a) a case in which it appears to the coroner that the
person died or might have died as a result of homicide
(not including suicide);
- 35 (b) a case in which the death or suspected death is
examinable only by the State Coroner or a Deputy
State Coroner under section 13A;

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed; 5
- (d) a case in which it appears to the coroner 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 terminated or continued under section 19). 10
- (2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales. 15
- Deaths under anaesthetic—inquest required in certain cases**
- 14C. (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f). 20
- (2) An inquest is required to be held if it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death. 25
- (3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request. 30
- (4) A request under this section must be made within 28 days after the death or suspected death. 35
- (5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 (6) A coroner who refuses a request under this section 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.

Reasons to be given for dispensing with inquest

10 14D. (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:

- (a) the State Coroner;
- (b) the Minister;
- 15 (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.

20 (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.

Direction to hold inquest

25 14E. (1) If, after considering a coroner's reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner is to direct a coroner to hold the inquest.

30 (2) An inquest is to be held in accordance with the direction.

35 (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.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(4) The State Coroner may hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

5

Power to obtain documents etc.

14F. (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, 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.

10

(2) The power to give such a direction extends to permit a direction to produce a document relating to the medical care or treatment of a person.

15

(3) The coroner is to withdraw a direction under this section if it appears to the coroner that:

(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

20

(b) the person does not consent to compliance with the direction.

(4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.

25

(5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

30

Division 3—Inquiries into fires and explosions

(19) Section 15 (**Inquiries into fires and explosions**):

(a) In section 15 (1) and (2), after “fire” wherever occurring, insert “or explosion”.

(b) In section 15 (3), after “fire” where firstly and secondly occurring, insert “or explosion”.

35

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (20) Part 3, Division 4, heading:
 Before section 16, insert:

5 **Division 4—Miscellaneous**

- (21) Section 16 (**Cases where a coroner is not bound to hold an inquest or inquiry**):

After “fire” wherever occurring, insert “or explosion”.

- (22) Section 17A (**State Coroner may hold inquest etc.**):

- 10 (a) From section 17A (1), omit “section 13”, insert instead “section 12A”.

- (b) From section 17A (1) and (2), omit “or fire” wherever occurring, insert instead “, fire or explosion”.

- (c) In section 17A (1) (a), after “the fire”, insert “or explosion”.

- 15 (23) Section 17B (**Directions by State Coroner**):

From section 17B (2), omit “or fire”, insert instead “, fire or explosion”.

- (24) Section 19 (**Procedure at inquest or inquiry involving indictable offence**):

- 20 After “fire” wherever occurring, insert “or explosion”.

- (25) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**):

After “fire” wherever occurring, insert “or explosion”.

- 25 (26) Section 22 (**Finding of coroner or verdict of jury to be recorded**):

After “fire” wherever occurring, insert “or explosion”.

- (27) Section 22A:

After section 22, insert:

Coroner or jury may make recommendations

- 30 22A. (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.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(2) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made. 5

(3) The record made under section 22 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. 10

(28) Section 23A:

After section 23, insert:

Duty to hold fresh inquest or inquiry—new facts or evidence 15

23A. (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:

- (a) an application for the fresh inquest or inquiry is made under this section; and 20
- (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.

(2) 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 into the death, suspected death, fire or explosion concerned. 25

(3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it. 30

(4) 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 held under this section). 35

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 (5) 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 interfere with the provisions of this Act with respect to the termination of inquests.

(29) Section 24:

Omit the section, insert instead:

10 **Coroner's right to possession of body**

24. (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person.

15 (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 (3) This section does not prevent the making of an order by a coroner under section 49 (Order authorising the disposal of a body) of the Registration of Births, Deaths and Marriages Act 1973 or the disposal of the body of a deceased person in accordance with such an order.

(4) This section does not limit any rights that the coroner has apart from this Act.

25 (30) Section 29 (**Coroner and jury not to view body or scene of fire or explosion**):

(a) Omit "body", insert instead "remains".

(b) After "fire", insert "or explosion".

30 (31) Section 31 (**Witnesses to be examined on oath**):

Omit "shall", insert instead "may".

(32) Section 31A:

After section 31, insert:

Persons granted leave may apply for witness to be examined

35 31A. (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry. 5

(2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.

(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 inquest or inquiry is concluded. 10

(33) Section 32 (**Representation at inquests or inquiries**):

At the end of section 32, insert:

(2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave. 15

(34) Section 34 (**Depositions to be taken**):

(a) Omit section 34 (3). 20

(b) Omit section 34 (4) (a), insert instead:

(a) shows cause sufficient in the opinion of the appropriate official why that person should be supplied with a copy of the coroner's file (or a part of that file) in respect of any matter; and 25

(c) From section 34 (4), omit "shall be supplied by the clerk of the Local Court with a copy of the depositions", insert instead "is to be supplied with a copy of the coroner's file (or a part of that file) by the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held or would have been held had it not been dispensed with". 30

(d) Omit section 34 (5), insert instead:

(5) In this section:

"appropriate official" means, in relation to a particular matter, the coroner who held, or dispensed with the holding of, the inquest or inquiry to which the matter 35

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 relates or (in the absence of that coroner) the clerk of
 the Local Court where, or nearest to the place where,
 that inquest or inquiry was held or would have been
 held had it not been dispensed with;

10 “coroner’s file” means the documents (including the
 depositions of witnesses) that form part of the file kept
 by a coroner in respect of a death, suspected death, fire
 or explosion.

15 (6) The coroner who holds or dispenses with the holding
 of an inquest or inquiry 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. A
 copy of a coroner’s file or of any part of the file is not to be
 supplied in contravention of such a direction.

20 (7) When a coroner decides under section 19 not to
 commence, or to terminate, an inquest or inquiry, a copy of
 the coroner’s file or of any part of the file is not to be
 supplied under this section.

(35) Section 35 (**Summons for appearance or warrant for
 apprehension of witness**):

(a) From section 35 (1) (a), omit “by him”.

25 (b) After section 35 (1), insert:

(1A) A coroner may exercise a function under subsection
 (1) in respect of an inquest or inquiry not being conducted or
 not to be conducted by him or her, but only with the consent
 of the coroner who is conducting or is to conduct the inquest
 or inquiry.

30 (c) After section 35 (2), insert:

(3) An assistant coroner may, at the direction of a coroner
 given in a particular case, exercise the power of the coroner
 to issue a summons or warrant under this section.

(36) Section 36 (**Form of summons**):

35 (a) In section 36 (a), after “the coroner”, insert “or assistant
 coroner”.

(b) In section 36 (c), after “the coroner”, insert “holding the
 inquest or inquiry concerned”.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (37) Section 37 (**Manner of service of summons**):
 In section 37 (1A) (b), after “the coroner”, insert “or assistant coroner”. 5
- (38) Section 39 (**Warrants for non-appearance to summons**):
 Omit “coroner by whom the summons was issued”, insert instead “coroner before whom the person was required to appear”.
- (39) Section 41 (**Form of warrant**): 10
 (a) In section 41 (1), after “or 39”, insert “or by an assistant coroner under section 35”.
 (b) In section 41 (1) (a), after “coroner”, insert “or assistant coroner”.
 (c) After section 41 (3), insert: 15
 (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the Justices Act 1902 apply to the person as if the warrant were a warrant issued under section 61 of that Act. 20
- (40) Section 45 (**Offences**):
 After section 45 (4), insert:
 (5) If a corporation contravenes an order under section 44 (1) or (2), each person who is a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention. 25
 (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted. 30
- (41) Section 47 (**Powers of Supreme Court to order inquest or inquiry**):
 In section 47 (1), after “fire” wherever occurring, insert “or explosion”.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(42) Part 6, heading:

Omit the heading, insert instead:

5 **PART 6—POST MORTEM EXAMINATIONS,
 EXHUMATIONS AND SPECIAL TESTS**

(43) Section 47A:

Before section 48, insert:

Coronial Medical Officers

10 47A. (1) The regulations may make provision for or with
 respect to the appointment of medical practitioners as
 Coronial Medical Officers for the purposes of this Act.

15 (2) The State Coroner may notify a coroner in writing that
 a particular post mortem examination to be carried out at the
 direction of the coroner must be carried out by a Coronial
 Medical Officer, and the coroner must ensure that such a
 notification is complied with.

(44) Section 48 (**Post mortem or other examination may be ordered
 by coroner**):

20 After section 48 (3), insert:

(4) 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.

25 (45) Section 52 (**Remuneration of medical practitioners**):

In section 52 (2), after “or institution”, insert “or which was
 carried out in the course of the exercise of his or her
 functions as such a medical officer”.

(46) Section 52A:

30 After section 52, insert:

Protection for persons acting under coroner’s direction

35 52A. Nothing done by a medical practitioner or other
 person in good faith for the purposes of making a post
 mortem examination, or a special examination or test,
 pursuant to a direction under this Act subjects the person
 personally to any action, liability, claim or demand.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (47) Section 53 (**Warrant for exhumation of body**):
- (a) In section 53 (1) (c), after “held”, insert “or the State Coroner has decided to hold a fresh inquest under section 23A”. 5
 - (b) From section 53 (2), omit “section 20 or 23”, insert instead “section 20, 23 or 23A”.
- (48) Section 54 (**Penalty**):
- From section 54 (1), omit “5 penalty units”, insert instead “10 penalty units”. 10
- (49) Section 54A:
- After section 54, insert:
- Assistance to coroners in other jurisdictions**
- 54A. The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion. 15
- (50) Section 58 (**Regulations**):
- In section 58 (2), omit “2 penalty units”, insert instead “5 penalty units”. 20
- (51) Schedule 3 (**Savings and transitional provisions**):
- After clause 6, insert:
- Coroners (Amendment) Act 1993**
- 7. (1) In this clause, “**the 1993 Act**” means the Coroners (Amendment) Act 1993. 25
 - (2) A person holding office as coroner or deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3). 30

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 (3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not been enacted.

10 (4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.

15 (5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.

(6) The amendments made by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those amendments.

20 (7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.

(8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

25 SCHEDULE 2—AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973

(Sec. 4)

(1) Section 24 (**Medical certificate of cause of death**):

30 From section 24 (7C) (b), omit "section 13 (3) (h)", insert instead "section 13A".

(2) Section 49 (**Order authorising the disposal of a body**):

(a) From section 49 (1) (a) (ii), omit "section 11 (2) of the Coroners Act 1960", insert instead "the Coroners Act 1980".

Coroners (Amendment) 1993

**SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS,
DEATHS AND MARRIAGES ACT 1973—*continued***

(b) After section 49 (2), insert:

(3) 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. An order of an assistant coroner under this section is taken to be an order of the coroner.

CORONERS (AMENDMENT) ACT 1993 No. 79

NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS
AND MARRIAGES ACT 1973

CORONERS (AMENDMENT) ACT 1993 No. 79

NEW SOUTH WALES



Act No. 79, 1993

An Act to amend the Coroners Act 1980 to provide for the appointment of assistant coroners and to make further provision with respect to the jurisdiction and functions of coroners and the practices and procedures to be followed at coroners' inquests and inquiries; and for other purposes.
[Assented to 24 November 1993]

Coroners (Amendment) Act 1993 No. 79

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Amendment) Act 1993.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Consequential amendment of Crimes Act 1900 No. 40, sec. 311 (Definitions)

5. The Crimes Act 1900 is amended:
- (a) by inserting in the definition of "judicial officer" in section 311 (1) after the word "tribunal" the words "and includes a coroner";
 - (b) by omitting from the definition of "judicial tribunal" in section 311 (1) the words "(including an arbitrator)" and by inserting instead the words "(including a coroner and an arbitrator)".

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

- (1) Long title:

After "fires", insert "and explosions".

- (2) Section 4 (**Definitions**):

- (a) In the definition of "inquiry" in section 4 (1), after "fire", insert "or explosion".

Coroners (Amendment) Act 1993 No. 79

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) Omit paragraph (a) of the definition of “relative” in section 4 (1), insert instead:
 - (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
 - (c) In section 4 (2), after “fire” wherever occurring, insert “or explosion”.
- (3) **Section 4A (State Coroners and Deputy State Coroners):**
- (a) In section 4A (1), omit “a Deputy State Coroner”, insert instead “up to 2 Deputy State Coroners”.
 - (b) After section 4A (1), insert:
 - (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
 - (c) From section 4A (5)–(9), omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (4) **Sections 4C, 4E:**
- Omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (5) **Section 4D (Functions of the State Coroner):**
- From section 4D (b), omit “and fires”, insert instead “, fires and explosions”.
- (6) **Section 4F (Functions of Deputy State Coroner):**
- (a) Omit section 4F (1), insert instead:
 - (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
 - (1A) A Deputy State Coroner is to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.

Coroners (Amendment) Act 1993 No. 79

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) From section 4F (2), omit “the Deputy State Coroner”, insert instead “a Deputy State Coroner”.

(7) Section 4G (**Information to be given to State Coroner**):

From section 4G (1), omit “or fires”, insert instead “, fires or explosions”.

(8) Part 2, heading:

Omit the heading, insert instead:

**PART 2—THE OFFICES OF CORONER AND
ASSISTANT CORONER**

(9) Section 5 (**Appointment of coroners**):

- (a) In section 5 (1), after “Governor may by instrument in writing”, insert “on the recommendation of the Minister”.

- (b) Omit section 5 (3).

- (c) From section 5 (4), omit “or deputy coroner”.

(10) Section 5A:

After section 5, insert:

Assistant coroners

5A. (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

(2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.

(3) A person’s appointment as an assistant coroner ceases to have effect on the person’s appointment as a coroner.

(11) Section 6 (**Age qualification for coroners and assistant coroners**):

Omit “or deputy coroner”, insert instead “or assistant coroner”.

Coroners (Amendment) Act 1993 No. 79

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(12) Section 6A (**Vacation of office of coroners and assistant coroners**):

- (a) From section 6A (1)–(3), omit “or deputy coroner” wherever occurring, insert instead “or assistant coroner”.
- (b) From section 6A (2) and (3), omit “Attorney General’s Department” wherever occurring, insert instead “Department of Courts Administration”.

(13) Section 7 (**Oath of allegiance for coroners and assistant coroners**):

- (a) From section 7 (1), omit “or deputy coroner”.
- (b) After section 7 (1), insert:

(1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the Oaths Act 1900 or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister.
- (c) From section 7 (3), omit “or deputy coroner” and “or deputy coroner, as the case may be,”.
- (d) After section 7 (3), insert:

(4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner.

(14) Section 9:

Omit the section, insert instead:

Functions of assistant coroners

9. (1) An assistant coroner has and may exercise the following functions:

- (a) the function of providing administrative assistance to a coroner under the direction and control of the coroner;
- (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.

(2) This section does not confer on an assistant coroner any jurisdiction (in particular the jurisdiction to hold an inquest or inquiry) and does not authorise an assistant

Coroners (Amendment) Act 1993 No. 79

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

coroner to exercise any function conferred or imposed on a coroner, except as specifically provided by this or any other Act.

(15) Section 11 (**Only Magistrates to act as coroners in certain police districts**):

Omit the section.

(16) Section 12 (**Delegation by Magistrates**):

Omit the section.

(17) Section 12A (**Obligation to report death**):

- (a) From section 12A (1) (a), omit “section 13 (3)”, insert instead “section 13 or 13A”.
- (b) From section 12A (1) (b), omit “to a coroner”, insert instead “in accordance with this subsection”.
- (c) From section 12A (1), omit “to a coroner” where secondly occurring, insert instead “to a coroner or assistant coroner”.
- (d) From section 12A (2), omit “inform a coroner of the death or suspected death as soon as possible”, insert instead “report the death or suspected death to a coroner or assistant coroner as soon as possible”.
- (e) After section 12A (2), insert:

(2A) 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.

(2B) In the case of a death or suspected death occurring or suspected of having occurred within any of the following Local Court Districts, the coroner to whom the death or suspected death is reported under this section must be a Magistrate:

Northern Metropolitan District
Southern Metropolitan District
Western Metropolitan District
Eastern Metropolitan District
Newcastle District
Parramatta District

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Liverpool District

Manly District

Penrith District

Richmond District

Windsor District

Any other Local Court District to which the provisions of this section are applied by the regulations.

(f) After section 12A (3), insert:

(4) The State Coroner is to make a written report to the Attorney General containing a summary of the details of the deaths or suspected deaths of which the State Coroner has been informed under this section and which appear to the State Coroner to involve the death or suspected death of a person in circumstances referred to in section 13A (Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner).

(5) A report under subsection (4) is to be made for the period of 12 months commencing on 1 January 1994 and for each subsequent period of 12 months. Each report is to be made within 2 months after the end of the period to which it relates.

(6) The Attorney General is to cause a copy of each report made to the Attorney General under subsection (4) to be tabled in each House of Parliament within 21 days after the report is made.

(7) If a House of Parliament is not sitting when the Attorney General seeks to comply with subsection (6), the Attorney General is required to present a copy of the report to the Clerk of the House.

(8) Material presented to the Clerk under this section:

- (a) on presentation and for all purposes, is taken to have been laid before the House of Parliament; and
- (b) is required to be printed by authority of the Clerk; and
- (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by order or under the authority of the House; and

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the material by the Clerk.

(18) Sections 13–14F:

Omit sections 13–14A, insert instead:

Division 1—Cases in which inquest is to be held

Inquests into deaths or suspected deaths

13. (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 the person has died, or that there is reasonable cause to suspect that the person has died, 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) a medical practitioner has not given a certificate as to the cause of death;
- (e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death;
- (f) 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;
- (g) 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;

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(h) the person died while in or temporarily absent from any of the following establishments and while the person was a resident at the establishment for the purpose of receiving care, treatment or assistance:

- a hospital within the meaning of the Mental Health Act 1990;
- a facility within the meaning of the Community Welfare Act 1987;
- a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973;
- a residential child care centre licensed under the Children (Care and Protection) Act 1987.

(2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.

Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner

13A. (1) A coroner who is the State Coroner or a Deputy State 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:

- (a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody; or
- (b) as a result of or in the course of police operations; or
- (c) while in, or temporarily absent from, a detention centre within the meaning of the Children (Detention Centres) Act 1987, a prison within the meaning of the Prisons Act 1952 or a lock-up, and of which the person was an inmate; or

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the person's care or custody.

(2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner.

No jurisdiction unless death occurred in last 100 years

13B. 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.

Jurisdiction requires connection with New South Wales

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 New South Wales; or
- (b) the death or suspected death or the cause of the death or of the suspected death occurred in New South Wales; or
- (c) the death or suspected death occurred outside New South Wales but the person had a sufficient connection with New South Wales, as referred to in subsection (2).

(2) A person had a sufficient connection with New South Wales if the person:

- (a) was ordinarily resident in New South Wales when the death or suspected death occurred;
- (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in New South Wales; or
- (c) was last at some place in New South Wales before the circumstances of his or her death or suspected death arose.

**SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
*continued*****Division 2—Cases in which inquest can be
dispensed with****Coroner may dispense with inquest except in some cases**

14. A coroner who has jurisdiction to hold an inquest may dispense with the inquest except in those cases in which an inquest is required to be held.

Minister or State Coroner may direct that inquest be held

14A. An inquest is required to be held if the Minister or the State Coroner directs that it be held.

General cases in which inquest required to be held

14B. (1) An inquest is required to be held in the following cases:

- (a) a case in which it appears to the coroner that the person died or might have died as a result of homicide (not including suicide);
- (b) a case in which the death or suspected death is examinable only by the State Coroner or a Deputy State Coroner under section 13A;
- (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed;
- (d) a case in which it appears to the coroner 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 terminated or continued under section 19).

(2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Deaths under anaesthetic—inquest required in certain cases

14C. (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f).

(2) An inquest is required to be held if it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death.

(3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request.

(4) A request under this section must be made within 28 days after the death or suspected death.

(5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

(6) A coroner who refuses a request under this section 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.

Reasons to be given for dispensing with inquest

14D. (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:

- (a) the State Coroner;
- (b) the Minister;
- (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.

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(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.

Direction to hold inquest

14E. (1) If, after considering a coroner's reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner is to direct a coroner to hold the inquest.

(2) An inquest is to be held in accordance with the direction.

(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.

(4) The State Coroner may hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

Power to obtain documents etc.

14F. (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, 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 extends to permit a direction to produce a document relating to the medical care or treatment of a person.

(3) The coroner is to withdraw a direction under this section if it appears to the coroner that:

- (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

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continued

(b) the person does not consent to compliance with the direction.

(4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.

(5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

Division 3—Inquiries into fires and explosions

(19) Section 15 (**Inquiries into fires and explosions**):

(a) In section 15 (1) and (2), after “fire” wherever occurring, insert “or explosion”.

(b) In section 15 (3), after “fire” where firstly and secondly occurring, insert “or explosion”.

(20) Part 3, Division 4, heading:

Before section 16, insert:

Division 4—Miscellaneous

(21) Section 16 (**Cases where a coroner is not bound to hold an inquest or inquiry**):

After “fire” wherever occurring, insert “or explosion”.

(22) Section 17A (**State Coroner may hold inquest etc.**):

(a) From section 17A (1), omit “section 13”, insert instead “section 12A”.

(b) From section 17A (1) and (2), omit “or fire” wherever occurring, insert instead “, fire or explosion”.

(c) In section 17A (1) (a), after “the fire”, insert “or explosion”.

(23) Section 17B (**Directions by State Coroner**):

From section 17B (2), omit “or fire”, insert instead “, fire or explosion”.

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continued

- (24) Section 19 (**Procedure at inquest or inquiry involving indictable offence**):

After “fire” wherever occurring, insert “or explosion”.

- (25) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**):

After “fire” wherever occurring, insert “or explosion”.

- (26) Section 22 (**Finding of coroner or verdict of jury to be recorded**):

After “fire” wherever occurring, insert “or explosion”.

- (27) Section 22A:

After section 22, insert:

Coroner or jury may make recommendations

22A. (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) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made.

(3) The record made under section 22 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.

- (28) Section 23A:

After section 23, insert:

Duty to hold fresh inquest or inquiry—new facts or evidence

23A. (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:

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continued

- (a) an application for the fresh inquest or inquiry is made under this section; and
- (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.

(2) 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 into the death, suspected death, fire or explosion concerned.

(3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it.

(4) 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 held under this section).

(5) 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 interfere with the provisions of this Act with respect to the termination of inquests.

(29) Section 24:

Omit the section, insert instead:

Coroner's right to possession of body

24. (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person.

(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.

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continued

(3) This section does not prevent the making of an order by a coroner under section 49 (Order authorising the disposal of a body) of the Registration of Births, Deaths and Marriages Act 1973 or the disposal of the body of a deceased person in accordance with such an order.

(4) This section does not limit any rights that the coroner has apart from this Act.

(30) Section 29 (**Coroner and jury not to view body or scene of fire or explosion**):

(a) Omit “body”, insert instead “remains”.

(b) After “fire”, insert “or explosion”.

(31) Section 31 (**Witnesses to be examined on oath**):

Omit “shall”, insert instead “may”.

(32) Section 31A:

After section 31, insert:

Persons granted leave may apply for witness to be examined

31A. (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry.

(2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.

(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 inquest or inquiry is concluded.

(33) Section 32 (**Representation at inquests or inquiries**):

At the end of section 32, insert:

(2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave.

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continued

- (3) When an inquest or inquiry is held before a coroner with a jury:
- (a) a person appearing, and a barrister or solicitor representing a person, at the inquest or inquiry is entitled to make an opening and a closing address to the jury; and
 - (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).
- (34) Section 34 (**Depositions to be taken**):
- (a) Omit section 34 (3).
 - (b) Omit section 34 (4) (a), insert instead:
 - (a) shows cause sufficient in the opinion of the appropriate official why that person should be supplied with a copy of the coroner's file (or a part of that file) in respect of any matter; and
 - (c) From section 34 (4), omit "shall be supplied by the clerk of the Local Court with a copy of the depositions", insert instead "is to be supplied with a copy of the coroner's file (or a part of that file) by the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held or would have been held had it not been dispensed with".
 - (d) Omit section 34 (5), insert instead:
 - (5) In this section:
 - "**appropriate official**" means, in relation to a particular matter, the coroner who held, or dispensed with the holding of, the inquest or inquiry to which the matter relates or (in the absence of that coroner) the clerk of the Local Court where, or nearest to the place where, that inquest or inquiry was held or would have been held had it not been dispensed with;
 - "**coroner's file**" means the documents (including the depositions of witnesses) that form part of the file kept by a coroner in respect of a death, suspected death, fire or explosion.

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(6) The coroner who holds or dispenses with the holding of an inquest or inquiry 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. A copy of a coroner's file or of any part of the file is not to be supplied in contravention of such a direction.

(7) A direction by a coroner under subsection (6) must include a statement of the coroner's reasons for the direction. A copy of that statement is to be made available to any person who applies to be supplied with a copy of the coroner's file or any part of it.

(8) When a coroner decides under section 19 not to commence, or to terminate, an inquest or inquiry, a copy of the coroner's file or of any part of the file is not to be supplied under this section.

(35) Section 35 (**Summons for appearance or warrant for apprehension of witness**):

(a) From section 35 (1) (a), omit "by him".

(b) After section 35 (1), insert:

(1A) A coroner may exercise a function under subsection (1) in respect of an inquest or inquiry not being conducted or not to be conducted by him or her, but only with the consent of the coroner who is conducting or is to conduct the inquest or inquiry.

(c) After section 35 (2), insert:

(3) An assistant coroner may, at the direction of a coroner given in a particular case, exercise the power of the coroner to issue a summons or warrant under this section.

(36) Section 36 (**Form of summons**):

(a) In section 36 (a), after "the coroner", insert "or assistant coroner".

(b) In section 36 (c), after "the coroner", insert "holding the inquest or inquiry concerned".

(37) Section 37 (**Manner of service of summons**):

In section 37 (1A) (b), after "the coroner", insert "or assistant coroner".

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continued

- (38) Section 39 (**Warrants for non-appearance to summons**):
Omit “coroner by whom the summons was issued”, insert instead “coroner before whom the person was required to appear”.
- (39) Section 41 (**Form of warrant**):
- (a) In section 41 (1), after “or 39”, insert “or by an assistant coroner under section 35”.
 - (b) In section 41 (1) (a), after “coroner”, insert “or assistant coroner”.
 - (c) After section 41 (3), insert:
 - (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the Justices Act 1902 apply to the person as if the warrant were a warrant issued under section 61 of that Act.
- (40) Section 45 (**Offences**):
After section 45 (4), insert:
 - (5) If a corporation contravenes an order under section 44 (1) or (2), each person who is a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention.
 - (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted.
- (41) Section 47 (**Powers of Supreme Court to order inquest or inquiry**):
In section 47 (1), after “fire” wherever occurring, insert “or explosion”.
- (42) Part 6, heading:
Omit the heading, insert instead:

**PART 6—POST MORTEM EXAMINATIONS,
EXHUMATIONS AND SPECIAL TESTS**

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(43) Section 47A:

Before section 48, insert:

Coronial Medical Officers

47A. (1) The regulations may make provision for or with respect to the appointment of medical practitioners as Coronial Medical Officers for the purposes of this Act.

(2) The State Coroner may notify a coroner in writing that a particular post mortem examination to be carried out at the direction of the coroner must be carried out by a Coronial Medical Officer, and the coroner must ensure that such a notification is complied with.

(44) Section 48 (**Post mortem or other examination may be ordered by coroner**):

After section 48 (3), insert:

(4) 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.

(45) Section 52 (**Remuneration of medical practitioners**):

In section 52 (2), after “or institution”, insert “or which was carried out in the course of the exercise of his or her functions as such a medical officer”.

(46) Section 52A:

After section 52, insert:

Protection for persons acting under coroner’s direction

52A. Nothing done by a medical practitioner or other person in good faith for the purposes of making a post mortem examination, or a special examination or test, pursuant to a direction under this Act subjects the person personally to any action, liability, claim or demand.

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continued

(47) Section 53 (**Warrant for exhumation of body**):

- (a) In section 53 (1) (c), after “held”, insert “or the State Coroner has decided to hold a fresh inquest under section 23A”.
- (b) From section 53 (2), omit “section 20 or 23”, insert instead “section 20, 23 or 23A”.

(48) Section 54 (**Penalty**):

From section 54 (1), omit “5 penalty units”, insert instead “10 penalty units”.

(49) Section 54A:

After section 54, insert:

Assistance to coroners in other jurisdictions

54A. The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion.

(50) Section 58 (**Regulations**):

In section 58 (2), omit “2 penalty units”, insert instead “5 penalty units”.

(51) Schedule 3 (**Savings and transitional provisions**):

After clause 6, insert:

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7. (1) In this clause, “**the 1993 Act**” means the Coroners (Amendment) Act 1993.

(2) A person holding office as coroner or deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3).

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not been enacted.

(4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.

(5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.

(6) The amendments made by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those amendments.

(7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.

(8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

**SCHEDULE 2—AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973**

(Sec. 4)

(1) Section 24 (Medical certificate of cause of death):

From section 24 (7C) (b), omit “section 13 (3) (h)”, insert instead “section 13A”.

(2) Section 49 (Order authorising the disposal of a body):

(a) From section 49 (1) (a) (ii), omit “section 11 (2) of the Coroners Act 1960”, insert instead “the Coroners Act 1980”.

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SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS,
DEATHS AND MARRIAGES ACT 1973—*continued*

(b) After section 49 (2), insert:

(3) 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. An order of an assistant coroner under this section is taken to be an order of the coroner.

[*Minister's second reading speech made in—*
Legislative Assembly on 21 April 1993
Legislative Council on 10 November 1993]

FIRST PRINT

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Coroners Act 1980 for the following purposes:

- (a) to provide that appointments of coroner by the Governor are in future to be made on the recommendation of the Minister (See Schedule 1 (9) (a));
- (b) to abolish the office of deputy coroner and provide instead for the appointment of assistant coroners to provide administrative assistance to coroners and to exercise some of the functions of coroners, as training for appointment as coroner (See Schedule 1 (8), (9) (b), (c), (10), (11), (12) (a), (13), (14));
- (c) to apply the Act to explosions in the same way as it currently applies to fires (so as to enable inquiries to be held by coroners into explosions, whether or not they result in fires) (See Schedule 1 (1), (2) (a), (c), (5), (7), (19), (21), (22) (b), (c), (23)–(26), (30) (b), (41));
- (d) to extend the meaning of “relative” in the Act by including as parents persons who are guardians or who stand in the legal relationship of parent (See Schedule 1 (2) (b));
- (e) to provide for the appointment of up to 2 Deputy State Coroners (instead of only one as at present) and for the appointment of one as the Senior Deputy State Coroner to act as State Coroner during the illness or absence or a vacancy in the office of the State Coroner (See Schedule 1 (3), (4), (6));
- (f) to re-enact an existing provision which requires coroners’ inquests and inquiries held in the Sydney metropolitan area to be held only by coroners who are Magistrates (with a redefinition of the area to which the provision applies) and to remove a provision which allows a coroner who is a Magistrate to delegate some of his or her powers as coroner (See Schedule 1 (15), (16), (17) (e));
- (g) to alter the provisions dealing with the obligation to report a death to a coroner so as to enable a death to be reported to an assistant coroner (as an alternative to reporting to a coroner) (See Schedule 1 (17) (b)–(d));

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- (h) to re-write existing sections 13 and 14 (dealing with the situations in which an inquest can be held and the situations in which an inquest can be dispensed with) to make the provisions easier to understand and to make the following changes to those provisions (See Schedule 1 (18)):
- to limit a coroner's jurisdiction to hold an inquest to those cases in which the death occurred not more than 100 years ago (See proposed section 13B);
 - to require an inquest to be held by the State Coroner if the death occurred in prison or other custody, while escaping custody, while proceeding to or from a place of custody, or in connection with Police operations (See proposed section 13A);
 - to add residential centres for handicapped persons to the list of institutions in which deaths are examinable by a coroner and at the same time remove the restrictions on dispensing with an inquest when a death occurs in such an institution while retaining that restriction for deaths occurring in those circumstances in which the inquest is required to be held by the State Coroner as referred to above (See proposed sections 13 (1) (h) and 14B (1) (b));
 - to expand the power of a coroner under current section 14 (6) to require production of medical records (to enable him or her to decide whether to dispense with an inquest) so as to enable a coroner to require production of any records and other things for that purpose (See proposed section 14F);
- (i) to enable a coroner or the jury in an inquest to make recommendations relating for example to matters of public health and safety (See Schedule 1 (27));
- (j) to require a fresh inquest or inquiry to be held on the application of a police officer or a person granted leave to appear at the original inquest if the discovery of new evidence or facts makes a fresh inquest or inquiry necessary or desirable in the interests of justice (See Schedule 1 (28));
- (k) to insert a specific provision to give statutory force to a coroner's common law right to possession of a person's remains whenever a coroner has jurisdiction to hold an inquest into the person's death (See Schedule 1 (29));
- (l) to make it clear that an existing requirement that all witnesses be examined on oath does not interfere with the coroner's discretion as to which witnesses to call (See Schedule 1 (31));
- (m) to provide a specific procedure whereby a person granted leave to appear at an inquest may request that a specific person be called as a witness and to require a coroner to give reasons for refusing such a request (See Schedule 1 (32));
- (n) to require it to be presumed that a relative of a person has a sufficient interest in the person's death to be granted leave to appear at the inquest, unless the coroner is satisfied that exceptional circumstances justify leave being refused (See Schedule 1 (33));
- (o) to make minor changes of an administrative nature to the procedure for the filing of depositions taken at an inquest or inquiry (See Schedule 1 (34));

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- (p) to enable the coroner who is to hold an inquest or inquiry to consent to the issue by any other coroner of a summons or warrant for the appearance of a witness at the inquest or inquiry (See Schedule 1 (35) (a) and (b), (38));
- (q) to enable an assistant coroner, at the direction of a coroner, to exercise the power of the coroner to issue a summons or warrant for the appearance of a witness (See Schedule 1 (35) (c), (36), (37), (39) (a) and (b));
- (r) to enable a person apprehended under a coroner's warrant to be taken before any justice and remanded or bailed in accordance with the procedure applicable to warrants issued by justices (See Schedule 1 (39) (c));
- (s) to insert a provision whereby a director or manager of a corporation is taken to commit the offence of publishing evidence contrary to the directions of a coroner when the corporation has committed the offence (See Schedule 1 (40));
- (t) to provide for regulations to be made dealing with the appointment of medical practitioners as Coronial Medical Officers and to allow the State Coroner to give directions to coroners requiring post mortem examinations to be carried out only by Coronial Medical Officers (See Schedule 1 (43));
- (u) to enable an assistant coroner, at the direction of a coroner, to exercise the power of the coroner to order the conduct of a post mortem examination or special examination or test (See Schedule 1 (44));
- (v) to make it clear that medical officers employed at hospitals, gaols and other public institutions are not entitled to the special payment provided by the Act for carrying out post mortem examinations in the course of the exercise of their ordinary functions (See Schedule 1 (45));
- (w) to provide protection from liability for persons carrying out post mortem examinations and other tests in accordance with a direction under the Act (See Schedule 1 (46));
- (x) to increase the maximum penalty for an offence under the Act from 5 penalty units to 10 penalty units and for an offence in the regulations from 2 penalty units to 5 penalty units (See Schedule 1 (48) and (50));
- (y) to empower the State Coroner to assist coroners in other jurisdictions (See Schedule 1 (49));
- (z) to enact savings and transitional provisions (See Schedule 1 (51));
- (aa) to make minor or consequential amendments (See Schedule 1 (12) (b), (17) (a), (20), (22) (a), (30) (a), (42), (47)).

The Bill also:

- (a) amends the Registration of Births, Deaths and Marriages Act 1973 to enable an assistant coroner, at the direction of a coroner, to exercise the power of the coroner to issue an order authorising the disposal of a body (See Schedule 2); and
 - (b) amends the Crimes Act 1900 to make it clear that a coroner's inquest is a judicial proceeding for the purposes of Part 7 (Public Justice Offences) of that Act (which contains offences for among other things tampering with evidence to be used in a judicial proceeding) (See clause 5).
-

Coroners (Amendment) 1993

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the amendments to the Coroners Act 1980 explained above.

Clause 4 is a formal provision that gives effect to the amendments to the Registration of Births, Deaths and Marriages Act 1973 explained above.

Clause 5 makes the amendments to the Crimes Act 1900 explained above.

Schedule 1 contains the amendments to the Coroners Act 1980.

Schedule 2 contains the amendments to the Registration of Births, Deaths and Marriages Act 1973.

FIRST PRINT

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS
AND MARRIAGES ACT 1973

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Coroners Act 1980 to provide for the appointment of assistant coroners and to make further provision with respect to the jurisdiction and functions of coroners and the practices and procedures to be followed at coroners' inquests and inquiries; and for other purposes.

Coroners (Amendment) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Amendment) Act 1993.

Commencement

- 5 2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

10 **Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87**

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Consequential amendment of Crimes Act 1900 No. 40, sec. 311 (Definitions)

- 15 5. The Crimes Act 1900 is amended:
- (a) by inserting in the definition of "judicial officer" in section 311 (1) after the word "tribunal" the words "and includes a coroner";
 - (b) by omitting from the definition of "judicial tribunal" in section 311 (1) the words "(including an arbitrator)" and by inserting instead
- 20 the words "(including a coroner and an arbitrator)".

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

- (1) Long title:

After "fires", insert "and explosions".

- 25 (2) Section 4 (Definitions):

- (a) In the definition of "inquiry" in section 4 (1), after "fire", insert "or explosion".

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) Omit paragraph (a) of the definition of “relative” in section 4 (1), insert instead:
 - (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
 - (c) In section 4 (2), after “fire” wherever occurring, insert “or explosion”.
- (3) **Section 4A (State Coroners and Deputy State Coroners):**

 - (a) In section 4A (1), omit “a Deputy State Coroner”, insert instead “up to 2 Deputy State Coroners”.
 - (b) After section 4A (1), insert:
 - (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
 - (c) From section 4A (5)–(9), omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (4) **Sections 4C, 4E:**

Omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (5) **Section 4D (Functions of the State Coroner):**

From section 4D (b), omit “and fires”, insert instead “, fires and explosions”.
- (6) **Section 4F (Functions of Deputy State Coroner):**

 - (a) Omit section 4F (1), insert instead:
 - (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
 - (1A) A Deputy State Coroner is to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) From section 4F (2), omit “the Deputy State Coroner”, insert instead “a Deputy State Coroner”.

- 5 (7) Section 4G (**Information to be given to State Coroner**):
 From section 4G (1), omit “or fires”, insert instead “, fires or explosions”.

- (8) Part 2, heading:
 Omit the heading, insert instead:

10 **PART 2—THE OFFICES OF CORONER AND
 ASSISTANT CORONER**

- (9) Section 5 (**Appointment of coroners**):

- (a) In section 5 (1), after “Governor may by instrument in writing”, insert “on the recommendation of the Minister”.
 15 (b) Omit section 5 (3).
 (c) From section 5 (4), omit “or deputy coroner”.

- (10) Section 5A:

After section 5, insert:

Assistant coroners

- 20 5A. (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

- (2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.
 25

(3) A person’s appointment as an assistant coroner ceases to have effect on the person’s appointment as a coroner.

- (11) Section 6 (**Age qualification for coroners and assistant coroners**):

- 30 Omit “or deputy coroner”, insert instead “or assistant coroner”.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (12) Section 6A (**Vacation of office of coroners and assistant coroners**):
- (a) From section 6A (1)–(3), omit “or deputy coroner” wherever occurring, insert instead “or assistant coroner”. 5
 - (b) From section 6A (2) and (3), omit “Attorney General’s Department” wherever occurring, insert instead “Department of Courts Administration”.
- (13) Section 7 (**Oath of allegiance for coroners and assistant coroners**): 10
- (a) From section 7 (1), omit “or deputy coroner”.
 - (b) After section 7 (1), insert:
 - (1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the Oaths Act 1900 or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister. 15
 - (c) From section 7 (3), omit “or deputy coroner” and “or deputy coroner, as the case may be,”. 20
 - (d) After section 7 (3), insert:
 - (4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner. 25
- (14) Section 9:
- Omit the section, insert instead:
- Functions of assistant coroners**
9. (1) An assistant coroner has and may exercise the following functions: 30
- (a) the function of providing administrative assistance to a coroner under the direction and control of the coroner;
 - (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.
- (2) This section does not confer on an assistant coroner any jurisdiction (in particular the jurisdiction to hold an inquest or inquiry) and does not authorise an assistant 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 coroner to exercise any function conferred or imposed on a
 coroner, except as specifically provided by this or any other
 Act.

(15) Section 11 (**Only Magistrates to act as coroners in certain
 police districts**):

Omit the section.

(16) Section 12 (**Delegation by Magistrates**):

10 Omit the section.

(17) Section 12A (**Obligation to report death**):

- 15 (a) From section 12A (1) (a), omit "section 13 (3)", insert
 instead "section 13 or 13A".
- (b) From section 12A (1) (b), omit "to a coroner", insert instead
 "in accordance with this subsection".
- (c) From section 12A (1), omit "to a coroner" where secondly
 occurring, insert instead "to a coroner or assistant coroner".
- 20 (d) From section 12A (2), omit "inform a coroner of the death or
 suspected death as soon as possible", insert instead "report
 the death or suspected death to a coroner or assistant coroner
 as soon as possible".

(e) After section 12A (2), insert:

25 (2A) 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.

(2B) In the case of a death or suspected death occurring or
 suspected of having occurred within any of the following
 Local Court Districts, the coroner to whom the death or
 suspected death is reported under this section must be a
 30 Magistrate:

Northern Metropolitan District
 Southern Metropolitan District
 Western Metropolitan District
 Eastern Metropolitan District
 35 Newcastle District
 Parramatta District
 Liverpool District
 Manly District

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Penrith District	
Richmond District	
Windsor District	5
Any other Local Court District to which the provisions of this section are applied by the regulations.	
(18) Sections 13–14F:	
Omit sections 13–14A, insert instead:	
Division 1—Cases in which inquest is to be held	10
Inquests into deaths or suspected deaths	
13. (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 the person has died, or that there is reasonable cause to suspect that the person has died, in any of the following circumstances:	15
(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;	20
(d) a medical practitioner has not given a certificate as to the cause of death;	
(e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death;	25
(f) 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;	30
(g) 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;	35
(h) the person died while in or temporarily absent from any of the following establishments and while the	

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

person was a resident at the establishment for the purpose of receiving care, treatment or assistance:

- 5 • a hospital within the meaning of the Mental Health Act 1990;
- a facility within the meaning of the Community Welfare Act 1987;
- 10 • a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973;
- a residential child care centre licensed under the Children (Care and Protection) Act 1987.

15 (2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.

20 **Some deaths examinable only by State Coroner or Deputy State Coroner**

 13A. (1) A coroner who is the State Coroner or a Deputy State 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:

- 25 (a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody; or
- 30 (b) as a result of or in the course of police operations; or
- (c) while in, or temporarily absent from, a detention centre within the meaning of the Children (Detention Centres) Act 1987, a prison within the meaning of the Prisons Act 1952 or a lock-up, and of which the person was an inmate; or
- 35 (d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the
- 40 person's care or custody.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner. 5

No jurisdiction unless death occurred in last 100 years

13B. 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. 10

Jurisdiction requires connection with New South Wales

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: 15

- (a) the remains of the person are in New South Wales; or
- (b) the death or suspected death or the cause of the death or of the suspected death occurred in New South Wales; or
- (c) the death or suspected death occurred outside New South Wales but the person had a sufficient connection with New South Wales, as referred to in subsection (2). 20

(2) A person had a sufficient connection with New South Wales if the person:

- (a) was ordinarily resident in New South Wales when the death or suspected death occurred; 25
- (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in New South Wales; or
- (c) was last at some place in New South Wales before the circumstances of his or her death or suspected death arose. 30

Division 2—Cases in which inquest can be dispensed with

Coroner may dispense with inquest except in some cases 35

14. A coroner who has jurisdiction to hold an inquest may dispense with the inquest except in those cases in which an inquest is required to be held.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Minister or State Coroner may direct that inquest be held

5 14A. An inquest is required to be held if the Minister or the State Coroner directs that it be held.

General cases in which inquest required to be held

14B. (1) An inquest is required to be held in the following cases:

- 10 (a) a case in which it appears to the coroner that the person died or might have died as a result of homicide (not including suicide);
- (b) a case in which the death or suspected death is examinable only by the State Coroner or a Deputy State Coroner under section 13A;
- 15 (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed;
- 20 (d) a case in which it appears to the coroner 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 terminated or continued under section 19).

25 (2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

Deaths under anaesthetic—inquest required in certain cases

30 14C. (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f).

35 (2) An inquest is required to be held if it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death.

40

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request. 5

(4) A request under this section must be made within 28 days after the death or suspected death.

(5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales. 10

(6) A coroner who refuses a request under this section 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. 15

Reasons to be given for dispensing with inquest

14D. (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: 20

- (a) the State Coroner;
- (b) the Minister;
- (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. 25

(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. 30

Direction to hold inquest

14E. (1) If, after considering a coroner's reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner is to direct a coroner to hold the inquest. 35
40

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(2) An inquest is to be held in accordance with the direction.

5 (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.

10 (4) The State Coroner may hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

Power to obtain documents etc.

15 14F. (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, 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.

20 (2) The power to give such a direction extends to permit a direction to produce a document relating to the medical care or treatment of a person.

(3) The coroner is to withdraw a direction under this section if it appears to the coroner that:

25 (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

(b) the person does not consent to compliance with the direction.

30 (4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.

35 (5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

Division 3—Inquiries into fires and explosions

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (19) Section 15 (**Inquiries into fires and explosions**):
- (a) In section 15 (1) and (2), after “fire” wherever occurring, insert “or explosion”. 5
 - (b) In section 15 (3), after “fire” where firstly and secondly occurring, insert “or explosion”.
- (20) Part 3, Division 4, heading:
 Before section 16, insert:
- Division 4—Miscellaneous 10
- (21) Section 16 (**Cases where a coroner is not bound to hold an inquest or inquiry**):
 After “fire” wherever occurring, insert “or explosion”.
- (22) Section 17A (**State Coroner may hold inquest etc.**):
- (a) From section 17A (1), omit “section 13”, insert instead “section 12A”. 15
 - (b) From section 17A (1) and (2), omit “or fire” wherever occurring, insert instead “, fire or explosion”.
 - (c) In section 17A (1) (a), after “the fire”, insert “or explosion”.
- (23) Section 17B (**Directions by State Coroner**): 20
 From section 17B (2), omit “or fire”, insert instead “, fire or explosion”.
- (24) Section 19 (**Procedure at inquest or inquiry involving indictable offence**):
 After “fire” wherever occurring, insert “or explosion”. 25
- (25) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**):
 After “fire” wherever occurring, insert “or explosion”.
- (26) Section 22 (**Finding of coroner or verdict of jury to be recorded**): 30
 After “fire” wherever occurring, insert “or explosion”.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(27) Section 22A:

After section 22, insert:

5 **Coroner or jury may make recommendations**

22A. (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) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made.

(3) The record made under section 22 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.

20 (28) Section 23A:

After section 23, insert:

Duty to hold fresh inquest or inquiry—new facts or evidence

25 23A. (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:

- (a) an application for the fresh inquest or inquiry is made under this section; and
- (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.

(2) 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 into the death, suspected death, fire or explosion concerned.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it.

(4) 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 held under this section). 5

(5) 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 interfere with the provisions of this Act with respect to the termination of inquests. 10

(29) Section 24: 15

Omit the section, insert instead:

Coroner's right to possession of body

24. (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person. 20

(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.

(3) This section does not prevent the making of an order by a coroner under section 49 (Order authorising the disposal of a body) of the Registration of Births, Deaths and Marriages Act 1973 or the disposal of the body of a deceased person in accordance with such an order. 25

(4) This section does not limit any rights that the coroner has apart from this Act. 30

(30) Section 29 (Coroner and jury not to view body or scene of fire or explosion):

(a) Omit "body", insert instead "remains".

(b) After "fire", insert "or explosion". 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(31) Section 31 (**Witnesses to be examined on oath**):

Omit “shall”, insert instead “may”.

5 (32) Section 31A:

After section 31, insert:

Persons granted leave may apply for witness to be examined

10 31A. (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry.

15 (2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.

(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 inquest or inquiry is concluded.

20 (33) Section 32 (**Representation at inquests or inquiries**):

At the end of section 32, insert:

25 (2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave.

(34) Section 34 (**Depositions to be taken**):

(a) Omit section 34 (3).

30 (b) From section 34 (4) (a), omit “clerk of a Local Court in whose office the depositions are filed”, insert instead “appropriate official”.

(c) In section 34 (4), after “the clerk of the Local Court”, insert “where, or nearest to the place where, the inquest or inquiry was held”.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (d) Omit section 34 (5), insert instead:
- (5) The “**appropriate official**” for the purposes of subsection (4) is the coroner who held the inquest or inquiry or (in the absence of that coroner) the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held. 5
- (35) Section 35 (**Summons for appearance or warrant for apprehension of witness**): 10
- (a) From section 35 (1) (a), omit “by him”.
- (b) After section 35 (1), insert:
- (1A) A coroner may exercise a function under subsection (1) in respect of an inquest or inquiry not being conducted or not to be conducted by him or her, but only with the consent of the coroner who is conducting or is to conduct the inquest or inquiry. 15
- (c) After section 35 (2), insert:
- (3) An assistant coroner may, at the direction of a coroner given in a particular case, exercise the power of the coroner to issue a summons or warrant under this section. 20
- (36) Section 36 (**Form of summons**):
- (a) In section 36 (a), after “the coroner”, insert “or assistant coroner”.
- (b) In section 36 (c), after “the coroner”, insert “holding the inquest or inquiry concerned”. 25
- (37) Section 37 (**Manner of service of summons**):
- In section 37 (1A) (b), after “the coroner”, insert “or assistant coroner”.
- (38) Section 39 (**Warrants for non-appearance to summons**): 30
- Omit “coroner by whom the summons was issued”, insert instead “coroner before whom the person was required to appear”.
- (39) Section 41 (**Form of warrant**):
- (a) In section 41 (1), after “or 39”, insert “or by an assistant coroner under section 35”. 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) In section 41 (1) (a), after “coroner”, insert “or assistant coroner”.
- 5 (c) After section 41 (3), insert:
- (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the Justices Act 1902 apply to the person as if the warrant were a warrant issued under section 61 of that Act.
- 10 (40) Section 45 (**Offences**):
- After section 45 (4), insert:
- (5) If a corporation contravenes an order under section 44 (1) or (2), each person who is a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention.
- 15 (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted.
- 20 (41) Section 47 (**Powers of Supreme Court to order inquest or inquiry**):
- In section 47 (1), after “fire” wherever occurring, insert “or explosion”.
- 25 (42) Part 6, heading:
- Omit the heading, insert instead:
- PART 6—POST MORTEM EXAMINATIONS,
EXHUMATIONS AND SPECIAL TESTS**
- (43) Section 47A:
- 30 Before section 48, insert:
- Coronial Medical Officers**
- 47A. (1) The regulations may make provision for or with respect to the appointment of medical practitioners as Coronial Medical Officers for the purposes of this Act.

Coroners (Amendment) 1993

**SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
*continued***

- (2) The State Coroner may notify a coroner in writing that a particular post mortem examination to be carried out at the direction of the coroner must be carried out by a Coronial Medical Officer, and the coroner must ensure that such a notification is complied with. 5
- (44) Section 48 (**Post mortem or other examination may be ordered by coroner**):
- After section 48 (3), insert: 10
- (4) 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.
- (45) Section 52 (**Remuneration of medical practitioners**): 15
- In section 52 (2), after “or institution”, insert “or which was carried out in the course of the exercise of his or her functions as such a medical officer”.
- (46) Section 52A:
- After section 52, insert: 20
- Protection for persons acting under coroner’s direction**
- 52A. Nothing done by a medical practitioner or other person in good faith for the purposes of making a post mortem examination, or a special examination or test, pursuant to a direction under this Act subjects the person personally to any action, liability, claim or demand. 25
- (47) Section 53 (**Warrant for exhumation of body**):
- (a) In section 53 (1) (c), after “held”, insert “or the State Coroner has decided to hold a fresh inquest under section 23A”. 30
- (b) From section 53 (2), omit “section 20 or 23”, insert instead “section 20, 23 or 23A”.
- (48) Section 54 (**Penalty**):
- From section 54 (1), omit “5 penalty units”, insert instead “10 penalty units”. 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(49) Section 54A:

After section 54, insert:

5 **Assistance to coroners in other jurisdictions**

54A. The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion.

10 (50) Section 58 (**Regulations**):

In section 58 (2), omit “2 penalty units”, insert instead “5 penalty units”.

(51) Schedule 3 (**Savings and transitional provisions**):

After clause 6, insert:

15 **Coroners (Amendment) Act 1993**

7. (1) In this clause, “**the 1993 Act**” means the Coroners (Amendment) Act 1993.

20 (2) A person holding office as coroner or deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3).

25 (3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not been enacted.

30 (4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.

35 (5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.

(6) The amendments made by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those amendments.

Coroners (Amendment) 1993

**SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
*continued***

(7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.

5

(8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

**SCHEDULE 2—AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973**

10

(Sec. 4)

(1) Section 24 (**Medical certificate of cause of death**):

From section 24 (7C) (b), omit “section 13 (3) (h)”, insert instead “section 13A”.

(2) Section 49 (**Order authorising the disposal of a body**):

15

(a) From section 49 (1) (a) (ii), omit “section 11 (2) of the Coroners Act 1960”, insert instead “the Coroners Act 1980”.

(b) After section 49 (2), insert:

(3) 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. An order of an assistant coroner under this section is taken to be an order of the coroner.

20

SECOND PRINT

CORONERS (AMENDMENT) BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
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4. Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87
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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS
AND MARRIAGES ACT 1973

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1993

An Act to amend the Coroners Act 1980 to provide for the appointment of assistant coroners and to make further provision with respect to the jurisdiction and functions of coroners and the practices and procedures to be followed at coroners' inquests and inquiries; and for other purposes.

Coroners (Amendment) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Amendment) Act 1993.

Commencement

- 5 2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

10 **Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87**

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Consequential amendment of Crimes Act 1900 No. 40, sec. 311 (Definitions)

- 15 5. The Crimes Act 1900 is amended:
- (a) by inserting in the definition of "judicial officer" in section 311 (1) after the word "tribunal" the words "and includes a coroner";
 - (b) by omitting from the definition of "judicial tribunal" in section 311 (1) the words "(including an arbitrator)" and by inserting instead
- 20 the words "(including a coroner and an arbitrator)".

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

- (1) Long title:

After "fires", insert "and explosions".

- 25 (2) Section 4 (**Definitions**):

- (a) In the definition of "inquiry" in section 4 (1), after "fire", insert "or explosion".

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) Omit paragraph (a) of the definition of “relative” in section 4 (1), insert instead:
 - (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
 - (c) In section 4 (2), after “fire” wherever occurring, insert “or explosion”.
- (3) Section 4A (**State Coroners and Deputy State Coroners**):
 - (a) In section 4A (1), omit “a Deputy State Coroner”, insert instead “up to 2 Deputy State Coroners”.
 - (b) After section 4A (1), insert:
 - (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
 - (c) From section 4A (5)–(9), omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (4) Sections 4C, 4E:
 - Omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (5) Section 4D (**Functions of the State Coroner**):
 - From section 4D (b), omit “and fires”, insert instead “, fires and explosions”.
- (6) Section 4F (**Functions of Deputy State Coroner**):
 - (a) Omit section 4F (1), insert instead:
 - (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
 - (1A) A Deputy State Coroner is to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) From section 4F (2), omit “the Deputy State Coroner”, insert instead “a Deputy State Coroner”.

5 (7) Section 4G (**Information to be given to State Coroner**):

From section 4G (1), omit “or fires”, insert instead “, fires or explosions”.

(8) Part 2, heading:

Omit the heading, insert instead:

10 **PART 2—THE OFFICES OF CORONER AND
ASSISTANT CORONER**

(9) Section 5 (**Appointment of coroners**):

- (a) In section 5 (1), after “Governor may by instrument in writing”, insert “on the recommendation of the Minister”.

15 (b) Omit section 5 (3).

- (c) From section 5 (4), omit “or deputy coroner”.

(10) Section 5A:

After section 5, insert:

Assistant coroners

20 5A. (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

(2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.

25 (3) A person’s appointment as an assistant coroner ceases to have effect on the person’s appointment as a coroner.

(11) Section 6 (**Age qualification for coroners and assistant coroners**):

30 Omit “or deputy coroner”, insert instead “or assistant coroner”.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (12) Section 6A (**Vacation of office of coroners and assistant coroners**):
- (a) From section 6A (1)–(3), omit “or deputy coroner” wherever occurring, insert instead “or assistant coroner”. 5
 - (b) From section 6A (2) and (3), omit “Attorney General’s Department” wherever occurring, insert instead “Department of Courts Administration”.
- (13) Section 7 (**Oath of allegiance for coroners and assistant coroners**): 10
- (a) From section 7 (1), omit “or deputy coroner”.
 - (b) After section 7 (1), insert:
 - (1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the Oaths Act 1900 or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister. 15
 - (c) From section 7 (3), omit “or deputy coroner” and “or deputy coroner, as the case may be,”. 20
 - (d) After section 7 (3), insert:
 - (4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner. 25
- (14) Section 9:
- Omit the section, insert instead:
- Functions of assistant coroners**
- 9. (1) An assistant coroner has and may exercise the following functions: 30
 - (a) the function of providing administrative assistance to a coroner under the direction and control of the coroner;
 - (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.
 - (2) This section does not confer on an assistant coroner any jurisdiction (in particular the jurisdiction to hold an inquest or inquiry) and does not authorise an assistant 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 coroner to exercise any function conferred or imposed on a
coroner, except as specifically provided by this or any other
Act.

(15) Section 11 (**Only Magistrates to act as coroners in certain
police districts**):

Omit the section.

(16) Section 12 (**Delegation by Magistrates**):

10 Omit the section.

(17) Section 12A (**Obligation to report death**):

- (a) From section 12A (1) (a), omit "section 13 (3)", insert
instead "section 13 or 13A".
- 15 (b) From section 12A (1) (b), omit "to a coroner", insert instead
"in accordance with this subsection".
- (c) From section 12A (1), omit "to a coroner" where secondly
occurring, insert instead "to a coroner or assistant coroner".
- (d) From section 12A (2), omit "inform a coroner of the death or
suspected death as soon as possible", insert instead "report
20 the death or suspected death to a coroner or assistant coroner
as soon as possible".
- (e) After section 12A (2), insert:

25 (2A) 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.

(2B) In the case of a death or suspected death occurring or
suspected of having occurred within any of the following
Local Court Districts, the coroner to whom the death or
suspected death is reported under this section must be a
30 Magistrate:

Northern Metropolitan District
Southern Metropolitan District
Western Metropolitan District
Eastern Metropolitan District
35 Newcastle District
Parramatta District

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Liverpool District	
Manly District	
Penrith District	5
Richmond District	
Windsor District	
Any other Local Court District to which the provisions of this section are applied by the regulations.	
(f) After section 12A (3), insert:	10
(4) The State Coroner is to make a written report to the Attorney General containing a summary of the details of the deaths or suspected deaths of which the State Coroner has been informed under this section and which appear to the State Coroner to involve the death or suspected death of a person in circumstances referred to in section 13A (Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner).	15
(5) A report under subsection (4) is to be made for the period of 12 months commencing on 1 January 1994 and for each subsequent period of 12 months. Each report is to be made within 2 months after the end of the period to which it relates.	20
(6) The Attorney General is to cause a copy of each report made to the Attorney General under subsection (4) to be tabled in each House of Parliament as soon as practicable after the report is made.	25
(18) Sections 13–14F:	
Omit sections 13–14A, insert instead:	
Division 1—Cases in which inquest is to be held	30
Inquests into deaths or suspected deaths	
13. (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 the person has died, or that there is reasonable cause to suspect that the person has died, in any of the following circumstances:	35
(a) the person died a violent or unnatural death;	

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- 5 (b) the person died a sudden death the cause of which is unknown;
- (c) the person died under suspicious or unusual circumstances;
- (d) a medical practitioner has not given a certificate as to the cause of death;
- 10 (e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death;
- 15 (f) 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;
- 20 (g) 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;
- 25 (h) the person died while in or temporarily absent from any of the following establishments and while the person was a resident at the establishment for the purpose of receiving care, treatment or assistance:
- a hospital within the meaning of the Mental Health Act 1990;
 - 30 • a facility within the meaning of the Community Welfare Act 1987;
 - a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973;
 - 35 • a residential child care centre licensed under the Children (Care and Protection) Act 1987.
- (2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.
- 40

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner

13A. (1) A coroner who is the State Coroner or a Deputy State 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: 5

(a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody; or 10

(b) as a result of or in the course of police operations; or

(c) while in, or temporarily absent from, a detention centre within the meaning of the Children (Detention Centres) Act 1987, a prison within the meaning of the Prisons Act 1952 or a lock-up, and of which the person was an inmate; or 15

(d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the person's care or custody. 20

(2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner. 25

No jurisdiction unless death occurred in last 100 years

13B. 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. 30

Jurisdiction requires connection with New South Wales

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: 35

(a) the remains of the person are in New South Wales; or

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- 5 (b) the death or suspected death or the cause of the death
or of the suspected death occurred in New South
Wales; or
- (c) the death or suspected death occurred outside New
South Wales but the person had a sufficient connection
with New South Wales, as referred to in subsection (2).

10 (2) A person had a sufficient connection with New South
Wales if the person:

- (a) was ordinarily resident in New South Wales when the
death or suspected death occurred;
- 15 (b) was, when the death or suspected death occurred, in
the course of a journey to or from some place in New
South Wales; or
- (c) was last at some place in New South Wales before the
circumstances of his or her death or suspected death
arose.

20 **Division 2—Cases in which inquest can be
dispensed with**

Coroner may dispense with inquest except in some cases

14. A coroner who has jurisdiction to hold an inquest may
dispense with the inquest except in those cases in which an
inquest is required to be held.

25 **Minister or State Coroner may direct that inquest be held**

14A. An inquest is required to be held if the Minister or
the State Coroner directs that it be held.

General cases in which inquest required to be held

30 14B. (1) An inquest is required to be held in the following
cases:

- (a) a case in which it appears to the coroner that the
person died or might have died as a result of homicide
(not including suicide);
- 35 (b) a case in which the death or suspected death is
examinable only by the State Coroner or a Deputy
State Coroner under section 13A;

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed; 5
- (d) a case in which it appears to the coroner 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 terminated or continued under section 19). 10
- (2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales. 15
- Deaths under anaesthetic—inquest required in certain cases**
- 14C. (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f). 20
- (2) An inquest is required to be held if it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death. 25
- (3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request. 30
- (4) A request under this section must be made within 28 days after the death or suspected death. 35
- (5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 (6) A coroner who refuses a request under this section 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.

Reasons to be given for dispensing with inquest

10 14D. (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:

- (a) the State Coroner;
- (b) the Minister;
- 15 (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.

20 (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.

Direction to hold inquest

25 14E. (1) If, after considering a coroner's reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner is to direct a coroner to hold the inquest.

30 (2) An inquest is to be held in accordance with the direction.

35 (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.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(4) The State Coroner may hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

5

Power to obtain documents etc.

14F. (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, 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.

10

(2) The power to give such a direction extends to permit a direction to produce a document relating to the medical care or treatment of a person.

15

(3) The coroner is to withdraw a direction under this section if it appears to the coroner that:

(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

20

(b) the person does not consent to compliance with the direction.

(4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.

25

(5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

30

Division 3—Inquiries into fires and explosions

(19) Section 15 (**Inquiries into fires and explosions**):

(a) In section 15 (1) and (2), after “fire” wherever occurring, insert “or explosion”.

(b) In section 15 (3), after “fire” where firstly and secondly occurring, insert “or explosion”.

35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (20) Part 3, Division 4, heading:
 Before section 16, insert:

5

Division 4—Miscellaneous

- (21) Section 16 (**Cases where a coroner is not bound to hold an inquest or inquiry**):

After “fire” wherever occurring, insert “or explosion”.

- (22) Section 17A (**State Coroner may hold inquest etc.**):

10

(a) From section 17A (1), omit “section 13”, insert instead “section 12A”.

(b) From section 17A (1) and (2), omit “or fire” wherever occurring, insert instead “, fire or explosion”.

(c) In section 17A (1) (a), after “the fire”, insert “or explosion”.

15

- (23) Section 17B (**Directions by State Coroner**):

From section 17B (2), omit “or fire”, insert instead “, fire or explosion”.

- (24) Section 19 (**Procedure at inquest or inquiry involving indictable offence**):

20

After “fire” wherever occurring, insert “or explosion”.

- (25) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**):

After “fire” wherever occurring, insert “or explosion”.

25

- (26) Section 22 (**Finding of coroner or verdict of jury to be recorded**):

After “fire” wherever occurring, insert “or explosion”.

- (27) Section 22A:

After section 22, insert:

Coroner or jury may make recommendations

30

22A. (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.

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(2) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made. 5

(3) The record made under section 22 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. 10

(28) Section 23A:

After section 23, insert:

Duty to hold fresh inquest or inquiry—new facts or evidence 15

23A. (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:

- (a) an application for the fresh inquest or inquiry is made under this section; and 20
- (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.

(2) 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 into the death, suspected death, fire or explosion concerned. 25

(3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it. 30

(4) 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 held under this section). 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 (5) 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 interfere with the provisions of this Act with respect to the termination of inquests.

(29) Section 24:

Omit the section, insert instead:

10 **Coroner's right to possession of body**

24. (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person.

15 (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 (3) This section does not prevent the making of an order by a coroner under section 49 (Order authorising the disposal of a body) of the Registration of Births, Deaths and Marriages Act 1973 or the disposal of the body of a deceased person in accordance with such an order.

(4) This section does not limit any rights that the coroner has apart from this Act.

25 (30) Section 29 (**Coroner and jury not to view body or scene of fire or explosion**):

(a) Omit "body", insert instead "remains".

(b) After "fire", insert "or explosion".

(31) Section 31 (**Witnesses to be examined on oath**):

30 Omit "shall", insert instead "may".

(32) Section 31A:

After section 31, insert:

Persons granted leave may apply for witness to be examined

35 31A. (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry. 5

(2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.

(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 inquest or inquiry is concluded. 10

(33) Section 32 (**Representation at inquests or inquiries**):

At the end of section 32, insert:

(2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave. 15

(34) Section 34 (**Depositions to be taken**):

(a) Omit section 34 (3). 20

(b) Omit section 34 (4) (a), insert instead:

(a) shows cause sufficient in the opinion of the appropriate official why that person should be supplied with a copy of the coroner's file (or a part of that file) in respect of any matter; and 25

(c) From section 34 (4), omit "shall be supplied by the clerk of the Local Court with a copy of the depositions", insert instead "is to be supplied with a copy of the coroner's file (or a part of that file) by the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held or would have been held had it not been dispensed with". 30

(d) Omit section 34 (5), insert instead:

(5) In this section:

"appropriate official" means, in relation to a particular matter, the coroner who held, or dispensed with the holding of, the inquest or inquiry to which the matter 35

Coroners (Amendment) 1993

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 relates or (in the absence of that coroner) the clerk of
 the Local Court where, or nearest to the place where,
 that inquest or inquiry was held or would have been
 held had it not been dispensed with;

10 “coroner’s file” means the documents (including the
 depositions of witnesses) that form part of the file kept
 by a coroner in respect of a death, suspected death, fire
 or explosion.

15 (6) The coroner who holds or dispenses with the holding
 of an inquest or inquiry 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. A
 copy of a coroner’s file or of any part of the file is not to be
 supplied in contravention of such a direction.

20 (7) When a coroner decides under section 19 not to
 commence, or to terminate, an inquest or inquiry, a copy of
 the coroner’s file or of any part of the file is not to be
 supplied under this section.

(35) Section 35 (**Summons for appearance or warrant for
 apprehension of witness**):

(a) From section 35 (1) (a), omit “by him”.

25 (b) After section 35 (1), insert:

(1A) A coroner may exercise a function under subsection
 (1) in respect of an inquest or inquiry not being conducted or
 not to be conducted by him or her, but only with the consent
 of the coroner who is conducting or is to conduct the inquest
 or inquiry.

30 (c) After section 35 (2), insert:

(3) An assistant coroner may, at the direction of a coroner
 given in a particular case, exercise the power of the coroner
 to issue a summons or warrant under this section.

(36) Section 36 (**Form of summons**):

35 (a) In section 36 (a), after “the coroner”, insert “or assistant
 coroner”.

(b) In section 36 (c), after “the coroner”, insert “holding the
 inquest or inquiry concerned”.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (37) Section 37 (**Manner of service of summons**):
 In section 37 (1A) (b), after “the coroner”, insert “or assistant coroner”. 5
- (38) Section 39 (**Warrants for non-appearance to summons**):
 Omit “coroner by whom the summons was issued”, insert instead “coroner before whom the person was required to appear”.
- (39) Section 41 (**Form of warrant**): 10
 (a) In section 41 (1), after “or 39”, insert “or by an assistant coroner under section 35”.
 (b) In section 41 (1) (a), after “coroner”, insert “or assistant coroner”.
 (c) After section 41 (3), insert: 15
 (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the Justices Act 1902 apply to the person as if the warrant were a warrant issued under section 61 of that Act. 20
- (40) Section 45 (**Offences**):
 After section 45 (4), insert:
 (5) If a corporation contravenes an order under section 44 (1) or (2), each person who is a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention. 25
 (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted. 30
- (41) Section 47 (**Powers of Supreme Court to order inquest or inquiry**):
 In section 47 (1), after “fire” wherever occurring, insert “or explosion”.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(42) Part 6, heading:

Omit the heading, insert instead:

5 **PART 6—POST MORTEM EXAMINATIONS,
EXHUMATIONS AND SPECIAL TESTS**

(43) Section 47A:

Before section 48, insert:

Coronial Medical Officers

10 47A. (1) The regulations may make provision for or with
respect to the appointment of medical practitioners as
Coronial Medical Officers for the purposes of this Act.

15 (2) The State Coroner may notify a coroner in writing that
a particular post mortem examination to be carried out at the
direction of the coroner must be carried out by a Coronial
Medical Officer, and the coroner must ensure that such a
notification is complied with.

(44) Section 48 (**Post mortem or other examination may be ordered
by coroner**):

20 After section 48 (3), insert:

(4) 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.

25 (45) Section 52 (**Remuneration of medical practitioners**):

In section 52 (2), after “or institution”, insert “or which was
carried out in the course of the exercise of his or her
functions as such a medical officer”.

(46) Section 52A:

30 After section 52, insert:

Protection for persons acting under coroner’s direction

35 52A. Nothing done by a medical practitioner or other
person in good faith for the purposes of making a post
mortem examination, or a special examination or test,
pursuant to a direction under this Act subjects the person
personally to any action, liability, claim or demand.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (47) Section 53 (**Warrant for exhumation of body**):
- (a) In section 53 (1) (c), after “held”, insert “or the State Coroner has decided to hold a fresh inquest under section 23A”. 5
 - (b) From section 53 (2), omit “section 20 or 23”, insert instead “section 20, 23 or 23A”.
- (48) Section 54 (**Penalty**):
- From section 54 (1), omit “5 penalty units”, insert instead “10 penalty units”. 10
- (49) Section 54A:
- After section 54, insert:
- Assistance to coroners in other jurisdictions**
- 54A. The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion. 15
- (50) Section 58 (**Regulations**):
- In section 58 (2), omit “2 penalty units”, insert instead “5 penalty units”. 20
- (51) Schedule 3 (**Savings and transitional provisions**):
- After clause 6, insert:
- Coroners (Amendment) Act 1993**
- 7. (1) In this clause, “**the 1993 Act**” means the Coroners (Amendment) Act 1993. 25
 - (2) A person holding office as coroner or deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3). 30

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

5 (3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not been enacted.

10 (4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.

15 (5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.

(6) The amendments made by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those amendments.

20 (7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.

(8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

25 SCHEDULE 2—AMENDMENT OF REGISTRATION OF
 BIRTHS, DEATHS AND MARRIAGES ACT 1973

(Sec. 4)

(1) Section 24 (**Medical certificate of cause of death**):

30 From section 24 (7C) (b), omit "section 13 (3) (h)", insert instead "section 13A".

(2) Section 49 (**Order authorising the disposal of a body**):

(a) From section 49 (1) (a) (ii), omit "section 11 (2) of the Coroners Act 1960", insert instead "the Coroners Act 1980".

Coroners (Amendment) 1993

**SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS,
DEATHS AND MARRIAGES ACT 1973—*continued***

(b) After section 49 (2), insert:

(3) 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. An order of an assistant coroner under this section is taken to be an order of the coroner.

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NEW SOUTH WALES



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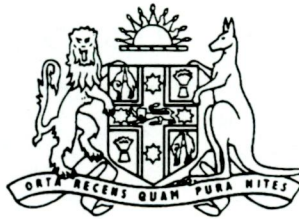
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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS
AND MARRIAGES ACT 1973

CORONERS (AMENDMENT) ACT 1993 No. 79

NEW SOUTH WALES



Act No. 79, 1993

An Act to amend the Coroners Act 1980 to provide for the appointment of assistant coroners and to make further provision with respect to the jurisdiction and functions of coroners and the practices and procedures to be followed at coroners' inquests and inquiries; and for other purposes.
[Assented to 24 November 1993]

Coroners (Amendment) Act 1993 No. 79

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Amendment) Act 1993.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Consequential amendment of Crimes Act 1900 No. 40, sec. 311 (Definitions)

5. The Crimes Act 1900 is amended:
- (a) by inserting in the definition of "judicial officer" in section 311 (1) after the word "tribunal" the words "and includes a coroner";
 - (b) by omitting from the definition of "judicial tribunal" in section 311 (1) the words "(including an arbitrator)" and by inserting instead the words "(including a coroner and an arbitrator)".

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

- (1) Long title:

After "fires", insert "and explosions".

- (2) Section 4 (**Definitions**):

- (a) In the definition of "inquiry" in section 4 (1), after "fire", insert "or explosion".

Coroners (Amendment) Act 1993 No. 79

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) Omit paragraph (a) of the definition of “relative” in section 4 (1), insert instead:
 - (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
 - (c) In section 4 (2), after “fire” wherever occurring, insert “or explosion”.
- (3) **Section 4A (State Coroners and Deputy State Coroners):**
- (a) In section 4A (1), omit “a Deputy State Coroner”, insert instead “up to 2 Deputy State Coroners”.
 - (b) After section 4A (1), insert:
 - (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
 - (c) From section 4A (5)–(9), omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (4) **Sections 4C, 4E:**
- Omit “the Deputy State Coroner” wherever occurring, insert instead “a Deputy State Coroner”.
- (5) **Section 4D (Functions of the State Coroner):**
- From section 4D (b), omit “and fires”, insert instead “, fires and explosions”.
- (6) **Section 4F (Functions of Deputy State Coroner):**
- (a) Omit section 4F (1), insert instead:
 - (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
 - (1A) A Deputy State Coroner is to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.

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SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (b) From section 4F (2), omit “the Deputy State Coroner”, insert instead “a Deputy State Coroner”.

(7) Section 4G (**Information to be given to State Coroner**):

From section 4G (1), omit “or fires”, insert instead “, fires or explosions”.

(8) Part 2, heading:

Omit the heading, insert instead:

**PART 2—THE OFFICES OF CORONER AND
ASSISTANT CORONER**

(9) Section 5 (**Appointment of coroners**):

- (a) In section 5 (1), after “Governor may by instrument in writing”, insert “on the recommendation of the Minister”.
(b) Omit section 5 (3).
(c) From section 5 (4), omit “or deputy coroner”.

(10) Section 5A:

After section 5, insert:

Assistant coroners

5A. (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

(2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.

(3) A person’s appointment as an assistant coroner ceases to have effect on the person’s appointment as a coroner.

(11) Section 6 (**Age qualification for coroners and assistant coroners**):

Omit “or deputy coroner”, insert instead “or assistant coroner”.

Coroners (Amendment) Act 1993 No. 79

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(12) Section 6A (**Vacation of office of coroners and assistant coroners**):

- (a) From section 6A (1)–(3), omit “or deputy coroner” wherever occurring, insert instead “or assistant coroner”.
- (b) From section 6A (2) and (3), omit “Attorney General’s Department” wherever occurring, insert instead “Department of Courts Administration”.

(13) Section 7 (**Oath of allegiance for coroners and assistant coroners**):

- (a) From section 7 (1), omit “or deputy coroner”.
- (b) After section 7 (1), insert:

(1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the Oaths Act 1900 or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister.
- (c) From section 7 (3), omit “or deputy coroner” and “or deputy coroner, as the case may be,”.
- (d) After section 7 (3), insert:

(4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner.

(14) Section 9:

Omit the section, insert instead:

Functions of assistant coroners

9. (1) An assistant coroner has and may exercise the following functions:

- (a) the function of providing administrative assistance to a coroner under the direction and control of the coroner;
- (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.

(2) This section does not confer on an assistant coroner any jurisdiction (in particular the jurisdiction to hold an inquest or inquiry) and does not authorise an assistant

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continued

coroner to exercise any function conferred or imposed on a coroner, except as specifically provided by this or any other Act.

(15) Section 11 (**Only Magistrates to act as coroners in certain police districts**):

Omit the section.

(16) Section 12 (**Delegation by Magistrates**):

Omit the section.

(17) Section 12A (**Obligation to report death**):

- (a) From section 12A (1) (a), omit “section 13 (3)”, insert instead “section 13 or 13A”.
- (b) From section 12A (1) (b), omit “to a coroner”, insert instead “in accordance with this subsection”.
- (c) From section 12A (1), omit “to a coroner” where secondly occurring, insert instead “to a coroner or assistant coroner”.
- (d) From section 12A (2), omit “inform a coroner of the death or suspected death as soon as possible”, insert instead “report the death or suspected death to a coroner or assistant coroner as soon as possible”.
- (e) After section 12A (2), insert:

(2A) 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.

(2B) In the case of a death or suspected death occurring or suspected of having occurred within any of the following Local Court Districts, the coroner to whom the death or suspected death is reported under this section must be a Magistrate:

Northern Metropolitan District
Southern Metropolitan District
Western Metropolitan District
Eastern Metropolitan District
Newcastle District
Parramatta District

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Liverpool District

Manly District

Penrith District

Richmond District

Windsor District

Any other Local Court District to which the provisions of this section are applied by the regulations.

(f) After section 12A (3), insert:

(4) The State Coroner is to make a written report to the Attorney General containing a summary of the details of the deaths or suspected deaths of which the State Coroner has been informed under this section and which appear to the State Coroner to involve the death or suspected death of a person in circumstances referred to in section 13A (Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner).

(5) A report under subsection (4) is to be made for the period of 12 months commencing on 1 January 1994 and for each subsequent period of 12 months. Each report is to be made within 2 months after the end of the period to which it relates.

(6) The Attorney General is to cause a copy of each report made to the Attorney General under subsection (4) to be tabled in each House of Parliament within 21 days after the report is made.

(7) If a House of Parliament is not sitting when the Attorney General seeks to comply with subsection (6), the Attorney General is required to present a copy of the report to the Clerk of the House.

(8) Material presented to the Clerk under this section:

- (a) on presentation and for all purposes, is taken to have been laid before the House of Parliament; and
- (b) is required to be printed by authority of the Clerk; and
- (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by order or under the authority of the House; and

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continued

- (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the material by the Clerk.

(18) Sections 13–14F:

Omit sections 13–14A, insert instead:

Division 1—Cases in which inquest is to be held

Inquests into deaths or suspected deaths

13. (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 the person has died, or that there is reasonable cause to suspect that the person has died, 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) a medical practitioner has not given a certificate as to the cause of death;
- (e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death;
- (f) 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;
- (g) 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;

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(h) the person died while in or temporarily absent from any of the following establishments and while the person was a resident at the establishment for the purpose of receiving care, treatment or assistance:

- a hospital within the meaning of the Mental Health Act 1990;
- a facility within the meaning of the Community Welfare Act 1987;
- a residential centre for handicapped persons licensed under the Youth and Community Services Act 1973;
- a residential child care centre licensed under the Children (Care and Protection) Act 1987.

(2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.

Deaths in custody etc. examinable only by State Coroner or Deputy State Coroner

13A. (1) A coroner who is the State Coroner or a Deputy State 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:

- (a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody; or
- (b) as a result of or in the course of police operations; or
- (c) while in, or temporarily absent from, a detention centre within the meaning of the Children (Detention Centres) Act 1987, a prison within the meaning of the Prisons Act 1952 or a lock-up, and of which the person was an inmate; or

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

- (d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the person's care or custody.

(2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner.

No jurisdiction unless death occurred in last 100 years

13B. 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.

Jurisdiction requires connection with New South Wales

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 New South Wales; or
- (b) the death or suspected death or the cause of the death or of the suspected death occurred in New South Wales; or
- (c) the death or suspected death occurred outside New South Wales but the person had a sufficient connection with New South Wales, as referred to in subsection (2).

(2) A person had a sufficient connection with New South Wales if the person:

- (a) was ordinarily resident in New South Wales when the death or suspected death occurred;
- (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in New South Wales; or
- (c) was last at some place in New South Wales before the circumstances of his or her death or suspected death arose.

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

**Division 2—Cases in which inquest can be
dispensed with**

Coroner may dispense with inquest except in some cases

14. A coroner who has jurisdiction to hold an inquest may dispense with the inquest except in those cases in which an inquest is required to be held.

Minister or State Coroner may direct that inquest be held

14A. An inquest is required to be held if the Minister or the State Coroner directs that it be held.

General cases in which inquest required to be held

14B. (1) An inquest is required to be held in the following cases:

- (a) a case in which it appears to the coroner that the person died or might have died as a result of homicide (not including suicide);
- (b) a case in which the death or suspected death is examinable only by the State Coroner or a Deputy State Coroner under section 13A;
- (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed;
- (d) a case in which it appears to the coroner 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 terminated or continued under section 19).

(2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

Deaths under anaesthetic—inquest required in certain cases

14C. (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f).

(2) An inquest is required to be held if it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death.

(3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request.

(4) A request under this section must be made within 28 days after the death or suspected death.

(5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

(6) A coroner who refuses a request under this section 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.

Reasons to be given for dispensing with inquest

14D. (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:

- (a) the State Coroner;
- (b) the Minister;
- (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.

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(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.

Direction to hold inquest

14E. (1) If, after considering a coroner's reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner is to direct a coroner to hold the inquest.

(2) An inquest is to be held in accordance with the direction.

(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.

(4) The State Coroner may hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

Power to obtain documents etc.

14F. (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, 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 extends to permit a direction to produce a document relating to the medical care or treatment of a person.

(3) The coroner is to withdraw a direction under this section if it appears to the coroner that:

- (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

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continued

(b) the person does not consent to compliance with the direction.

(4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.

(5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

Division 3—Inquiries into fires and explosions

(19) Section 15 (**Inquiries into fires and explosions**):

(a) In section 15 (1) and (2), after “fire” wherever occurring, insert “or explosion”.

(b) In section 15 (3), after “fire” where firstly and secondly occurring, insert “or explosion”.

(20) Part 3, Division 4, heading:

Before section 16, insert:

Division 4—Miscellaneous

(21) Section 16 (**Cases where a coroner is not bound to hold an inquest or inquiry**):

After “fire” wherever occurring, insert “or explosion”.

(22) Section 17A (**State Coroner may hold inquest etc.**):

(a) From section 17A (1), omit “section 13”, insert instead “section 12A”.

(b) From section 17A (1) and (2), omit “or fire” wherever occurring, insert instead “, fire or explosion”.

(c) In section 17A (1) (a), after “the fire”, insert “or explosion”.

(23) Section 17B (**Directions by State Coroner**):

From section 17B (2), omit “or fire”, insert instead “, fire or explosion”.

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- (24) Section 19 (**Procedure at inquest or inquiry involving indictable offence**):

After “fire” wherever occurring, insert “or explosion”.

- (25) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**):

After “fire” wherever occurring, insert “or explosion”.

- (26) Section 22 (**Finding of coroner or verdict of jury to be recorded**):

After “fire” wherever occurring, insert “or explosion”.

- (27) Section 22A:

After section 22, insert:

Coroner or jury may make recommendations

22A. (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) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made.

(3) The record made under section 22 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.

- (28) Section 23A:

After section 23, insert:

Duty to hold fresh inquest or inquiry—new facts or evidence

23A. (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:

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- (a) an application for the fresh inquest or inquiry is made under this section; and
- (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.

(2) 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 into the death, suspected death, fire or explosion concerned.

(3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it.

(4) 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 held under this section).

(5) 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 interfere with the provisions of this Act with respect to the termination of inquests.

(29) Section 24:

Omit the section, insert instead:

Coroner's right to possession of body

24. (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person.

(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.

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continued

(3) This section does not prevent the making of an order by a coroner under section 49 (Order authorising the disposal of a body) of the Registration of Births, Deaths and Marriages Act 1973 or the disposal of the body of a deceased person in accordance with such an order.

(4) This section does not limit any rights that the coroner has apart from this Act.

(30) Section 29 (**Coroner and jury not to view body or scene of fire or explosion**):

(a) Omit “body”, insert instead “remains”.

(b) After “fire”, insert “or explosion”.

(31) Section 31 (**Witnesses to be examined on oath**):

Omit “shall”, insert instead “may”.

(32) Section 31A:

After section 31, insert:

Persons granted leave may apply for witness to be examined

31A. (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry.

(2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.

(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 inquest or inquiry is concluded.

(33) Section 32 (**Representation at inquests or inquiries**):

At the end of section 32, insert:

(2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave.

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- (3) When an inquest or inquiry is held before a coroner with a jury:
- (a) a person appearing, and a barrister or solicitor representing a person, at the inquest or inquiry is entitled to make an opening and a closing address to the jury; and
 - (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).
- (34) Section 34 (**Depositions to be taken**):
- (a) Omit section 34 (3).
 - (b) Omit section 34 (4) (a), insert instead:
 - (a) shows cause sufficient in the opinion of the appropriate official why that person should be supplied with a copy of the coroner's file (or a part of that file) in respect of any matter; and
 - (c) From section 34 (4), omit "shall be supplied by the clerk of the Local Court with a copy of the depositions", insert instead "is to be supplied with a copy of the coroner's file (or a part of that file) by the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held or would have been held had it not been dispensed with".
 - (d) Omit section 34 (5), insert instead:
 - (5) In this section:
 - "**appropriate official**" means, in relation to a particular matter, the coroner who held, or dispensed with the holding of, the inquest or inquiry to which the matter relates or (in the absence of that coroner) the clerk of the Local Court where, or nearest to the place where, that inquest or inquiry was held or would have been held had it not been dispensed with;
 - "**coroner's file**" means the documents (including the depositions of witnesses) that form part of the file kept by a coroner in respect of a death, suspected death, fire or explosion.

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(6) The coroner who holds or dispenses with the holding of an inquest or inquiry 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. A copy of a coroner's file or of any part of the file is not to be supplied in contravention of such a direction.

(7) A direction by a coroner under subsection (6) must include a statement of the coroner's reasons for the direction. A copy of that statement is to be made available to any person who applies to be supplied with a copy of the coroner's file or any part of it.

(8) When a coroner decides under section 19 not to commence, or to terminate, an inquest or inquiry, a copy of the coroner's file or of any part of the file is not to be supplied under this section.

(35) Section 35 (**Summons for appearance or warrant for apprehension of witness**):

(a) From section 35 (1) (a), omit "by him".

(b) After section 35 (1), insert:

(1A) A coroner may exercise a function under subsection (1) in respect of an inquest or inquiry not being conducted or not to be conducted by him or her, but only with the consent of the coroner who is conducting or is to conduct the inquest or inquiry.

(c) After section 35 (2), insert:

(3) An assistant coroner may, at the direction of a coroner given in a particular case, exercise the power of the coroner to issue a summons or warrant under this section.

(36) Section 36 (**Form of summons**):

(a) In section 36 (a), after "the coroner", insert "or assistant coroner".

(b) In section 36 (c), after "the coroner", insert "holding the inquest or inquiry concerned".

(37) Section 37 (**Manner of service of summons**):

In section 37 (1A) (b), after "the coroner", insert "or assistant coroner".

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- (38) Section 39 (**Warrants for non-appearance to summons**):
Omit “coroner by whom the summons was issued”, insert instead “coroner before whom the person was required to appear”.
- (39) Section 41 (**Form of warrant**):
- (a) In section 41 (1), after “or 39”, insert “or by an assistant coroner under section 35”.
 - (b) In section 41 (1) (a), after “coroner”, insert “or assistant coroner”.
 - (c) After section 41 (3), insert:
 - (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the Justices Act 1902 apply to the person as if the warrant were a warrant issued under section 61 of that Act.
- (40) Section 45 (**Offences**):
After section 45 (4), insert:
- (5) If a corporation contravenes an order under section 44 (1) or (2), each person who is a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention.
 - (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted.
- (41) Section 47 (**Powers of Supreme Court to order inquest or inquiry**):
In section 47 (1), after “fire” wherever occurring, insert “or explosion”.
- (42) Part 6, heading:
Omit the heading, insert instead:

**PART 6—POST MORTEM EXAMINATIONS,
EXHUMATIONS AND SPECIAL TESTS**

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
continued

(43) Section 47A:

Before section 48, insert:

Coronial Medical Officers

47A. (1) The regulations may make provision for or with respect to the appointment of medical practitioners as Coronial Medical Officers for the purposes of this Act.

(2) The State Coroner may notify a coroner in writing that a particular post mortem examination to be carried out at the direction of the coroner must be carried out by a Coronial Medical Officer, and the coroner must ensure that such a notification is complied with.

(44) Section 48 (**Post mortem or other examination may be ordered by coroner**):

After section 48 (3), insert:

(4) 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.

(45) Section 52 (**Remuneration of medical practitioners**):

In section 52 (2), after “or institution”, insert “or which was carried out in the course of the exercise of his or her functions as such a medical officer”.

(46) Section 52A:

After section 52, insert:

Protection for persons acting under coroner’s direction

52A. Nothing done by a medical practitioner or other person in good faith for the purposes of making a post mortem examination, or a special examination or test, pursuant to a direction under this Act subjects the person personally to any action, liability, claim or demand.

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continued

(47) Section 53 (**Warrant for exhumation of body**):

- (a) In section 53 (1) (c), after “held”, insert “or the State Coroner has decided to hold a fresh inquest under section 23A”.
- (b) From section 53 (2), omit “section 20 or 23”, insert instead “section 20, 23 or 23A”.

(48) Section 54 (**Penalty**):

From section 54 (1), omit “5 penalty units”, insert instead “10 penalty units”.

(49) Section 54A:

After section 54, insert:

Assistance to coroners in other jurisdictions

54A. The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion.

(50) Section 58 (**Regulations**):

In section 58 (2), omit “2 penalty units”, insert instead “5 penalty units”.

(51) Schedule 3 (**Savings and transitional provisions**):

After clause 6, insert:

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7. (1) In this clause, “**the 1993 Act**” means the Coroners (Amendment) Act 1993.

(2) A person holding office as coroner or deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3).

SCHEDULE 1—AMENDMENT OF CORONERS ACT 1980—
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(3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not been enacted.

(4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.

(5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.

(6) The amendments made by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those amendments.

(7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.

(8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

**SCHEDULE 2—AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973**

(Sec. 4)

(1) Section 24 (Medical certificate of cause of death):

From section 24 (7C) (b), omit “section 13 (3) (h)”, insert instead “section 13A”.

(2) Section 49 (Order authorising the disposal of a body):

(a) From section 49 (1) (a) (ii), omit “section 11 (2) of the Coroners Act 1960”, insert instead “the Coroners Act 1980”.

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SCHEDULE 2—AMENDMENT OF REGISTRATION OF BIRTHS,
DEATHS AND MARRIAGES ACT 1973—*continued*

(b) After section 49 (2), insert:

(3) 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. An order of an assistant coroner under this section is taken to be an order of the coroner.

[*Minister's second reading speech made in—
Legislative Assembly on 21 April 1993
Legislative Council on 10 November 1993*]