

South Australia

Coroners Act 2003

An Act to provide for the appointment of the State Coroner and other coroners; to establish the Coroner's Court; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Coroners Act 2003*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

anaesthetic means a local or general anaesthetic, and includes the administration of a sedative or analgesic;

body of a dead person means the whole, or any part, of the body (whatever its physical state may be);

coroner means—

- (a) the State Coroner; or

- (b) a Deputy State Coroner; or
- (c) any other coroner appointed under Part 2;

Coroner's Court or **Court** means the Coroner's Court of South Australia;

corresponding authorisation, in relation to the body of a dead person, means an authorisation under a corresponding law by a coroner (within the meaning of that corresponding law) that corresponds to an authorisation—

- (a) for the release of the body of the dead person from the control of the coroner; or
- (b) for the disposal of human remains in respect of the body of the dead person;

corresponding law means—

- (a) the *Coroners Act 1997* (Australian Capital Territory);
- (b) the *Coroners Act 2009* (New South Wales);
- (c) the *Coroners Act 1993* (Northern Territory);
- (d) the *Coroners Act 2003* (Queensland);
- (e) the *Coroners Act 1995* (Tasmania);
- (f) the *Coroners Act 2008* (Victoria);
- (g) the *Coroners Act 1996* (Western Australia);

death in custody means the death of a person where there is reason to believe that the death occurred, or the cause of death, or a possible cause of death, arose, or may have arisen, while the person—

- (a) was being detained in any place within the State under any Act or law, including any Act or law providing for home detention (and, for the purposes of this paragraph, a detainee who is absent from the place of his or her detention but is in the custody of an escort will be regarded as being in detention, but not otherwise); or
- (b) was in the process of being apprehended or was being held—
 - (i) at any place (whether within or outside the State)—by a person authorised to do so under any Act or law of the State; or
 - (ii) at any place within the State—by a person authorised to do so under the law of any other jurisdiction; or
- (c) was evading apprehension by a person referred to in paragraph (b); or
- (d) was escaping or attempting to escape from any place or person referred to in paragraph (a) or (b);

Deputy State Coroner—see section 5;

investigator means—

- (a) a police officer; or
- (b) a person appointed under this Act to be an investigator;

legal practitioner has the same meaning as in the *Legal Practitioners Act 1981*;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

premises means any land, building, structure, vehicle, vessel or aircraft;

reportable death means the State death (other than a State death to which subsection (2) applies) of a person—

- (a) by unexpected, unnatural, unusual, violent or unknown cause; or
- (b) on an aircraft during a flight, or on a vessel during a voyage; or
- (c) in custody; or
- (d) that occurs during or as a result, or within 24 hours, of—
 - (i) the carrying out of a surgical procedure or an invasive medical or diagnostic procedure; or
 - (ii) the administration of an anaesthetic for the purposes of carrying out such a procedure,

not being a procedure specified by the regulations to be a procedure to which this paragraph does not apply;

- (e) that occurs at a place other than a hospital but within 24 hours of—
 - (i) the person having been discharged from a hospital after being an inpatient of the hospital; or
 - (ii) the person having sought emergency treatment at a hospital; or
- (f) where the person was, at the time of death—
 - (i) a protected person under the *Aged and Infirm Persons' Property Act 1940* or the *Guardianship and Administration Act 1993*; or
 - (ii) in the custody or under the guardianship of the Minister or Chief Executive under the *Children and Young People (Safety) Act 2017*; or
 - (iii) a patient in an approved treatment centre under the *Mental Health Act 1993* or the *Mental Health Act 2009*; or
 - (iv) a resident of a licensed supported residential facility under the *Supported Residential Facilities Act 1992*; or
 - (v) accommodated in a hospital or other treatment facility for the purposes of being treated for drug addiction; or
- (g) that occurs in the course or as a result, or within 24 hours, of the person receiving medical treatment to which consent has been given under Part 5 of the *Guardianship and Administration Act 1993* or Part 2A of the *Consent to Medical Treatment and Palliative Care Act 1995*; or
- (h) where no certificate as to the cause of death¹ has been given to the Registrar of Births, Deaths and Marriages; or
- (i) that occurs in circumstances prescribed by the regulations;

State includes—

- (a) the sea that is within the adjacent area in respect of the State (as defined for the purposes of the *Coastal Waters (State Powers) Act 1980* (Cth)); and
- (b) the airspace above that sea;

State Coroner means the person holding or acting in the office of State Coroner under Part 2;

State death means the death of a person—

- (a) that occurred in the State; or
 - (b) where the place of death is unknown but it is reasonably possible that the death occurred in the State; or
 - (c) where the body of the person is in the State; or
 - (d) a cause of which occurred, or possibly occurred, in the State; or
 - (e) where, at the time of death, the person was ordinarily a resident in the State; or
 - (f) in the case of a death on an aircraft or vessel—where the flight or voyage was to a place of disembarkation in the State.
- (2) For the purposes of this Act, the death of a person is not reportable if—
- (a) the person dies outside of the State; and
 - (b) a coroner under a corresponding law has issued a corresponding authorisation in respect of the body of the dead person.
- (3) For the purposes of this Act, a reference to the circumstances of an event may be taken to include matters related to or arising out of the event or its aftermath.

Note—

- 1 See section 36(3) of the *Births, Deaths and Marriages Registration Act 1996*.

Part 2—Administration

4—Appointment of State Coroner

- (1) There will be a State Coroner.
- (2) The State Coroner will be appointed by the Governor.
- (3) A person is not eligible for appointment as the State Coroner unless he or she is a magistrate.
- (4) The State Coroner—
 - (a) will be appointed for a term of 7 years, and on conditions, determined by the Governor; and
 - (b) is, on the expiration of a term of office, eligible for reappointment; and
 - (c) will be paid a salary and allowances determined by the Remuneration Tribunal.

5—Magistrates to be Deputy State Coroners

Each Magistrate is a Deputy State Coroner for the purposes of this Act.

6—Appointment of coroners

- (1) The Governor may appoint a legal practitioner of at least 5 years standing to be a coroner.
- (2) A coroner appointed under this section will be paid the fees (if any) fixed by regulation.

7—Functions of State Coroner

- (1) The State Coroner has the following functions:
 - (a) to administer the Coroner's Court;
 - (b) to oversee and co-ordinate coronial services in the State;
 - (c) to perform such other functions as are conferred on the State Coroner by or under this Act or any other Act.
- (2) In the absence of the State Coroner from official duties, responsibility for performance of the State Coroner's functions during that absence devolves on a Deputy State Coroner nominated by the Attorney-General.

8—Delegation of State Coroner's administrative functions and powers

- (1) The State Coroner may delegate any of the State Coroner's administrative functions or powers (other than this power of delegation) under this Act or any other Act to—
 - (a) another coroner; or
 - (b) the principal administrative officer of the Coroner's Court; or
 - (c) any other suitable person.
- (2) A delegation under this section—
 - (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not derogate from the power of the State Coroner to act in any matter.

9—Appointment of investigators

- (1) The Attorney-General may, by notice in the Gazette, appoint a person to be an investigator for the purposes of this Act.
- (2) The Attorney-General must provide each investigator appointed under this section with a certificate of identification in a form approved by the Attorney-General.
- (3) On ceasing to be an investigator, the former investigator must surrender the certificate to the Attorney-General.

Maximum penalty: \$2 500.

- (4) An investigator must produce the certificate (or, in the case of a police officer not in uniform, his or her warrant card) at the request of any person in relation to whom the investigator is exercising powers under this Act.

Part 3—Coroner's Court

Division 1—Coroner's Court and its staff

10—Establishment of Court

The Coroner's Court of South Australia is established.

11—Court of record

The Coroner's Court is a court of record.

12—Seal

- (1) The Coroner's Court will have such seals as are necessary for the transaction of its business.
- (2) A document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

13—Jurisdiction of Court

- (1) The jurisdiction of the Coroner's Court is to hold inquests in order to ascertain the cause or circumstances of the events prescribed by or under this Act or any other Act.
- (2) In ascertaining the cause or circumstances of an event, the Coroner's Court is to promote the public interest in open justice which may include, without limitation—
 - (a) the public identification of a person, public sector agency or other organisation involved in the event, in particular in circumstances where it appears that such a person, agency or organisation caused or contributed to a death; or
 - (b) requiring a person, public sector agency or other organisation to provide information about and explain their action or inaction in the circumstances of the event; or
 - (c) assessing, subject to this Act, the accountability and responsibility of a person, public sector agency or other organisation involved in the event.

14—Constitution of Court

- (1) The Coroner's Court is to be constituted of a coroner.
- (2) The Court may, at any one time, be separately constituted of a coroner for the holding of a number of separate inquests.
- (3) If the coroner constituting the Court for the purposes of any proceedings dies or is for any other reason unable to continue with the proceedings, the Court constituted of another coroner may complete the proceedings.

15—Administrative and ancillary staff

- (1) The administrative and ancillary staff of the Coroner's Court consists of—
 - (a) any legal practitioner appointed to assist the Court as counsel; and
 - (b) any other persons appointed to the non-judicial staff of the Court.
- (2) The administrative and ancillary staff of the Court will be appointed under the *Courts Administration Act 1993*.

16—Responsibilities of staff

A member of the administrative and ancillary staff of the Coroner's Court is responsible to the State Coroner (through any properly constituted administrative superior) for the proper and efficient discharge of his or her duties.

Division 2—Practice and procedure of Coroner's Court

17—Time and place of sittings

- (1) The Coroner's Court may sit at any time (including a Sunday).
- (2) The Court may sit at any place (either within or outside the State).
- (3) The Court will sit at such times and places as the State Coroner may direct.

18—Adjournment from time to time and place to place

The Coroner's Court may—

- (a) adjourn proceedings from time to time and from place to place; or
- (b) adjourn proceedings to a time and place to be fixed; or
- (c) order the transfer of proceedings from place to place.

19—Inquests to be open

- (1) Subject to Part 8 of the *Evidence Act 1929* or to any other Act, inquests held by the Coroner's Court must be open to the public.
- (2) However, the Court may also exercise the powers conferred on the Court under that Part relating to clearing courts and suppressing publication of evidence if the Court considers it desirable to do so in the interests of national security and, for that purpose, that Part will apply accordingly.

20—Right of appearance and taking evidence

- (1) The following persons are entitled to appear personally or by counsel in proceedings before the Coroner's Court:
 - (a) the Attorney-General;
 - (b) any person who, in the opinion of the Court, has a sufficient interest in the subject or result of the proceedings.
- (2) A person appearing before the Court under subsection (1) may examine and cross-examine any witness testifying in the proceedings.
- (3) The Court may accept evidence in the proceedings from a witness by affidavit or by written statement verified by declaration in the form prescribed by the rules.

- (4) However, if the witness is a child under the age of 12 years or a person who is illiterate or has an intellectual disability, the witness's statement may be in the form of a written statement taken down by a coroner or an investigator at an interview with the witness and verified by the coroner or investigator, by declaration in the form prescribed by the rules, as an accurate record of the witness's oral statement.
- (5) The Court may require a person who has given evidence by affidavit or written statement to attend before the Court for the purposes of examination and cross-examination.
- (6) If—
 - (a) a written statement made by a person under this section is false or misleading in a material particular; and
 - (b) the person knew that the statement was false or misleading,the person is guilty of an offence.
Maximum penalty: Imprisonment for 2 years.

20A—Right of appearance for nominated representative of families

- (1) This section applies to proceedings before the Coroner's Court relating to the death or disappearance of a person.
- (2) Without limiting any other provision of this Act, the nominated representative of the family of a person to whom proceedings to which this section applies is entitled to appear in those proceedings and may examine and cross-examine any witness testifying in the proceedings.
- (3) The reasonable legal costs of the nominated representative may be the subject of an application for legal assistance under the *Legal Services Commission Act 1977* which is to be determined in accordance with that Act.
- (4) For the purposes of this section, a reference to the ***nominated representative*** of a family will be taken to be a reference to a legal practitioner—
 - (a) engaged by or on behalf of the family to represent them in particular proceedings; and
 - (b) nominated, in accordance with any rules of the Court, by the family as their nominated representative.
- (5) In this section—

Aboriginal or Torres Strait Islander person means a person who—
 - (a) is a descendant of the indigenous inhabitants of Australia or the Torres Strait Islands; and
 - (b) regards themselves as Aboriginal or Torres Strait Islander or, if they are a child, is regarded as Aboriginal or Torres Strait Islander by at least 1 of their parents;

adult means a person of or over the age of 18;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

family, in relation to a person, means—

- (a) the person's senior next of kin; and
- (b) in relation to an Aboriginal or Torres Strait Islander person, includes any person held to be related to the person according to Aboriginal kinship rules, or Torres Strait Islander kinship rules, as the case may require;

parent of a child includes a guardian of the child;

senior next of kin for a deceased person or person who has disappeared means—

- (a) the spouse or domestic partner of the person (and if the person had more than 1 spouse or domestic partner, the person's most recent spouse or domestic partner);
- (b) if the person did not have a spouse or domestic partner or if they are not available—any adult child of the person;
- (c) if the person did not have a spouse, domestic partner or adult child or if they are not available—a parent of the person;
- (d) if the person did not have a spouse, domestic partner, adult child or living parent or if they are not available—any adult brother or sister of the person;
- (e) if the person did not have a spouse, domestic partner, adult child, living parent or adult brother or sister or if they are not available—
 - (i) any person who is named as an executor in the person's will; or
 - (ii) any person who was the person's legal personal representative immediately before the person's death or disappearance;

spouse—a person is the spouse of another if they are legally married.

Part 4—Inquests

21—Holding of inquests

- (1) The Coroner's Court must hold an inquest to ascertain the cause or circumstances of the following events:
 - (a) a death in custody;
 - (b) if the State Coroner considers it necessary or desirable to do so, or the Attorney-General so directs—
 - (i) any other reportable death or a death that would, but for section 3(2), have been a reportable death; or
 - (ii) the disappearance from any place of a person ordinarily resident in the State; or
 - (iii) the disappearance from, or within, the State of any person; or
 - (iv) a fire or accident that causes injury to person or property; or
 - (v) the death of a person (whether before or after the commencement of this subparagraph) who apparently died from natural causes, as certified by a medical practitioner, while—

- (A) subject to an order under section 32(1)(b) of the *Guardianship and Administration Act 1993*; or
- (B) —
- subject to an inpatient treatment order under Part 5 of the *Mental Health Act 2009*; and
 - held in a ward (however described) of a hospital or other facility that is an approved treatment centre under the *Mental Health Act 2009* where the whole of the ward is not set aside for the treatment of persons with a mental illness;
- (c) any other event if so required under some other Act.
- (2) However, if a person has been charged in criminal proceedings with causing the event that is, or is to be, the subject of an inquest, the Court may not commence or proceed further with the inquest until the criminal proceedings have been disposed of, withdrawn or permanently stayed.
- (3) An inquest may be held to ascertain the cause or circumstances of more than one event.
- (4) For the purposes of subsection (1)(a) and the definition of ***death in custody*** in section 3(1), the death or apparent death of a person (whether before or after the commencement of this subsection) from natural causes, as certified by a medical practitioner, while—
- (a) subject to an inpatient treatment order under Part 5 of the *Mental Health Act 2009*; and
 - (b) held in a ward (however described) of a hospital or other facility that is an approved treatment centre under the *Mental Health Act 2009* where the whole of the ward is set aside for the treatment of persons with a mental illness,
- will be taken to be a death in custody.
- (5) Despite the definition of ***death in custody*** in section 3(1), for the purposes of subsection (1)(a), the death or apparent death of a person (whether before or after the commencement of this subsection) from natural causes, as certified by a medical practitioner, while—
- (a) subject to an order under section 32(1)(b) of the *Guardianship and Administration Act 1993*; or
 - (b) —
 - (i) subject to an inpatient treatment order under Part 5 of the *Mental Health Act 2009*; and
 - (ii) held in a ward (however described) of a hospital or other facility that is an approved treatment centre under the *Mental Health Act 2009* where the whole of the ward is not set aside for the treatment of persons with a mental illness,
- will not be taken to be a death in custody.

(6) In this section—

mental illness has the same meaning as in the *Mental Health Act 2009*;

treatment has the same meaning as in the *Mental Health Act 2009*.

22—Power of inquiry

(1) The following powers may be exercised—

(a) by the State Coroner for the purposes of determining whether or not it is necessary or desirable to hold an inquest; or

(b) by the Coroner's Court for the purposes of an inquest,

namely, powers:

(c) to enter at any time and by force (if necessary) any premises in which the State Coroner or Court reasonably believes there is the body of a dead person and view the body;

(d) to enter at any time and by force (if necessary) any premises and inspect and remove anything in or on the premises;

(e) to take photographs, films and audio, video or other recordings;

(f) to examine, copy or take extracts from any records or documents;

(g) to issue a warrant for the removal of the body of a dead person to a specified place;

(h) to issue a warrant for the exhumation of the body, or retrieval of the ashes, of a dead person (an *exhumation warrant*);

(i) to direct a medical practitioner who is a pathologist, or some other person or body considered by the State Coroner or the Court to be suitably qualified, to perform or to cause to be performed, as the case may require—

(i) a post-mortem examination of the body of a dead person; and

(ii) any other examinations or tests consequent on the post-mortem examination.

(2) An exhumation warrant of the State Coroner may only be issued with the approval of the Attorney-General.

(3) An investigator may exercise the powers under subsection (1)(c) to (f) if directed to do so by the State Coroner or the Coroner's Court for the purposes referred to in that subsection and, in doing so, must comply with any directions given by the State Coroner or the Court for the purpose.

(4) A person exercising a power or executing a warrant under this section may be accompanied by such assistants as the person thinks fit.

(5) If a person—

(a) hinders or obstructs a person exercising a power or executing a warrant under this section or any assistant accompanying such a person; or

(b) fails to comply with a direction given by such a person under this section, he or she is—

- (c) in the case of hindering or obstructing, or failing to comply with a direction of, the Court—guilty of a contempt of the Court;
- (d) in any other case—guilty of an offence and liable to a penalty not exceeding \$10 000.

23—Proceedings on inquests

- (1) The Coroner's Court may, for the purposes of an inquest—
 - (a) by summons, require the appearance before the inquest of any person; or
 - (b) by summons, require the production of any relevant records or documents and, in the case of a record or document that is not in the English language, require the production of a written statement in the English language of the contents of the record or document; or
 - (c) inspect any records or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the records or documents or their contents; or
 - (d) require any person to make an oath or affirmation to answer truthfully questions put by the Court or by any person appearing before the Court; or
 - (e) require any person appearing before the Court (whether summoned to appear or not) to answer any questions put by the Court or by any person appearing before the Court.
- (2) If—
 - (a) a person fails without reasonable excuse to comply with a summons to appear before the Court; or
 - (b) there are grounds for believing that, if such a summons were issued, a person would not comply with it,the Court may issue a warrant to have the person arrested and brought before the Court.
- (3) If a person who is in custody has been summoned under this section to appear before the Court, the manager of the place in which the person is being detained must cause the person to be brought to the Court as required by the summons.
- (4) Subject to section 23A, a person who—
 - (a) fails, without reasonable excuse, to comply with a summons issued to appear, or to produce records or documents, before the Court; or
 - (b) having been served with a summons to produce a written statement of the contents of a record or document in the English language fails, without reasonable excuse, to comply with the summons or produces a statement that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (c) refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Court; or
 - (d) refuses to obey a lawful direction of the Court; or

- (e) misbehaves before the Court, wilfully insults the Court or interrupts the proceedings of the Court,
commits a contempt of the Court.
- (5) However, a person is not required to answer a question, or to produce a record or document, under this section if answering the question, or producing the record or document, would result in a breach of legal professional privilege.
- (6) This section does not derogate from Parts 7 and 8 of the *Health Care Act 2008*.

23A—Privilege in respect of self-incrimination and penalty

- (1) This section applies if a person objects to answering a question, or producing a record or document, at an inquest on the ground that the answer, record or document may tend to—
 - (a) in the case of a natural person—incriminate the person in respect of an Australian law or a foreign law; or
 - (b) in any case—make the person liable to a penalty under an Australian law or a foreign law.
- (2) The Court must determine whether or not there are reasonable grounds for the objection.
- (3) If the Court determines that there are reasonable grounds for the objection, the Court is to inform the person—
 - (a) that the person need not answer the question, or produce the record or document, unless required by the Court to do so under subsection (4); and
 - (b) that the Court will give a certificate under this section if—
 - (i) the person willingly answers the question, or produces the record or document, without being required to do so under subsection (4); or
 - (ii) the person answers the question, or produces the record or document, after being required to do so under subsection (4); and
 - (c) of the effect of such a certificate.
- (4) The Court may require the person to answer the question, or produce the record or document, if the Court is satisfied that—
 - (a) the answer, record or document does not tend to incriminate the person in respect of, or make the person liable to a penalty under, a foreign law; and
 - (b) the interests of justice require that the person answer the question, or produce the record or document.
- (5) If the person—
 - (a) willingly answers the question, or produces the record or document, without being required to do so under subsection (4); or
 - (b) answers the question, or produces the record or document, after being required to do so under subsection (4),

the Court must cause the person to be given a certificate under this section in respect of the answer, record or document.

- (6) The Court must also cause a person to be given a certificate under this section if—
- (a) the objection has been overruled; and
 - (b) after the question has been answered, or the record or document produced, the Court finds that there were reasonable grounds for the objection.
- (7) A certificate under this section may relate to more than 1 question, record or document (or to a combination of 1 or more questions, 1 or more records and 1 or more documents).
- (8) In any proceeding in a court or before any person or body authorised by a law of this State, or by consent of parties, to hear, receive and examine evidence—
- (a) an answer given, or a record or document produced, by a person in respect of which a certificate under this section has been given; and
 - (b) any information, document or thing obtained as a direct or indirect consequence of the person having answered a question, or produced a record or document,
- cannot be used against the person.
- (9) However, subsection (8) does not apply to a criminal proceeding in respect of the falsity of the answer given, or the record or document produced.
- (10) Subsection (8) has effect despite any challenge, review, quashing or calling into question on any ground of the decision to give, or the validity of, the certificate concerned.
- (11) This section does not derogate from Parts 7 and 8 of the *Health Care Act 2008*.
- (12) In this section—

Australian law means a law of this State, another State, the Commonwealth or a Territory of the Commonwealth;

foreign law means a law of a foreign country or of a part of, or in force in a part of, a foreign country.

24—Principles governing inquests

In holding an inquest, the Coroner's Court—

- (a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and
- (b) must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

25—Findings on inquests

- (1) The Coroner's Court must, as soon as practicable after the completion of an inquest, give its findings in writing setting out as far as has been ascertained the cause and circumstances of the event that was the subject of the inquest.
- (2) The Court may add to its findings any recommendation that, in the opinion of the Court—
 - (a) might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest; or

- (b) relates to a matter arising from the inquest, including (but not limited to) matters concerning—
 - (i) the quality of care, treatment and supervision of the dead person prior to death; and
 - (ii) public health or safety; and
 - (iii) the administration of justice,and is, in the circumstances, an appropriate matter on which to make a recommendation.
- (3) However, the Court must not make any finding, or suggestion, of criminal or civil liability.
- (4) The Court must, as soon as practicable after the completion of the inquest, forward a copy of its findings and any recommendations—
 - (a) to the Attorney-General and any relevant Minister other than the Attorney-General; and
 - (b) in the case of an inquest into a death in custody—
 - (ii) to each person who appeared personally or by counsel at the inquest; and
 - (iii) to any other person who, in the opinion of the Court, has a sufficient interest in the matter.
- (5) Each relevant Minister must, within 8 sitting days of the expiration of 6 months after receipt of a copy of a recommendation resulting from an inquest—
 - (a) cause a report to be laid before each House of Parliament—
 - (i) giving details of any action taken or proposed to be taken in consequence of the recommendation; or
 - (ii) if no action has been taken or is proposed to be taken—giving reasons for not taking action or proposing to take action; and
 - (b) forward a copy of the report to the State Coroner.
- (6) The State Coroner may, at any time after the provision of a report under subsection (5), request a supplementary report to be prepared by the Minister that addresses any matter that the State Coroner considers necessary arising out of the report.
- (7) If the State Coroner makes a request under subsection (6), the Minister to whom the request was made must, within 8 sitting days of the expiration of 6 months after receiving the request—
 - (a) cause a supplementary report to be laid before each House of Parliament addressing the matters requested to be addressed by the State Coroner; and
 - (b) forward a copy of the supplementary report to the State Coroner.

(8) In this section—

relevant Minister, in relation to findings and recommendations of the Court, means—

- (a) if a recommendation is directed to a Minister, or to an agency or other instrumentality of the Crown, as a result of the inquest—the Minister to whom, or the Minister responsible for the agency or other instrumentality of the Crown to which, the recommendation is directed; or
- (b) in any other case—the Attorney-General.

26—Re-opening of inquests

- (1) The Coroner's Court may re-open an inquest at any time and must do so if the Attorney-General so directs the State Coroner.
- (2) If an inquest is re-opened, the Court may do one or more of the following:
 - (a) confirm any previous finding;
 - (b) set aside any previous finding;
 - (c) substitute a finding that appears justified by the evidence.

27—Appeals from findings made on inquests

- (1) The Attorney-General or a person who has a sufficient interest in a finding made on an inquest may, subject to this section and in accordance with the rules of the appellate court, appeal to the Supreme Court against the finding.
- (2) The appeal lies to the Supreme Court constituted of a single Judge (but the Judge may, if the Judge thinks fit, refer the appeal for hearing and determination by the Court of Appeal).
- (3) An application under subsection (1) must be made within one month after the findings on the inquest are given by the Coroner's Court.
- (4) However, the Supreme Court may, in its discretion, extend the time fixed for making an application, even if the time for making the application has ended.
- (5) On an appeal, the appellate court may, if the interests of justice so require, re-hear witnesses or receive fresh evidence.
- (6) On the hearing of the appeal, the appellate court may exercise any one or more of the following powers:
 - (a) it may confirm or set aside the finding subject to the appeal;
 - (b) it may substitute a finding that appears justified by the evidence;
 - (c) it may order that the inquest be re-opened, or that a fresh inquest be held;
 - (d) it may make any other order (including an order for costs) that may be necessary or desirable in the circumstances.
- (7) For the purposes of this section, a person has a sufficient interest in a finding made on an inquest if—
 - (a) the finding affects or may affect that person's pecuniary interests; or
 - (b) the finding reflects adversely on that person's competence in his or her trade, profession or occupation; or

- (c) the person has, in the opinion of the Supreme Court, some other interest sufficient to ground an application under this section.

Part 5—Reporting of deaths

28—Reporting of deaths

- (1) A person must, immediately after becoming aware of a death that is or may be a reportable death, notify the State Coroner or (except in the case of a death in custody) a police officer of the death, unless the person believes on reasonable grounds that the death has already been reported, or that the State Coroner is otherwise aware of the death.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (2) The person notifying the State Coroner or police officer must—
 - (a) give the State Coroner or police officer any information that the person has in relation to the death; and
 - (b) if the person is a medical practitioner who was responsible for the medical care of the dead person prior to death or who examined the body of the person after death—give his or her opinion as to the cause of death.

Maximum penalty: \$5 000.

- (3) A police officer must, on being notified of a death under this section, immediately notify the State Coroner of the death and of any information that the police officer has, or has been given, in relation to the matter.

29—Finding to be made as to cause of notified reportable death

- (1) Subject to subsection (2), if the State Coroner is notified under this Act of a reportable death, a finding as to the cause of the death must be made—
 - (a) if an inquest is held into the death—by the Coroner's Court;
 - (b) in any other case—by the State Coroner.
- (2) However, if—
 - (a) an inquest is not required to be held in relation to the reportable death; and
 - (b) the State Coroner, after obtaining relevant medical information or advice, has reasonable grounds to believe that the death was due to natural causes; and
 - (c) a senior next of kin for the deceased person indicates their consent (in writing and in accordance with any requirements of the State Coroner or prescribed by the regulations) to no further investigation, inquiry or inquest being conducted for the purpose of determining the precise cause of death,

the State Coroner may make a finding that the death was due to undetermined natural causes.

- (3) In this section—

adult means a person of or over the age of 18;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

parent of a child includes a guardian of the child;

senior next of kin for a deceased person means—

- (a) the spouse or domestic partner of the person (and if the person had more than 1 spouse or domestic partner, the person's most recent spouse or domestic partner);
- (b) if the person did not have a spouse or domestic partner or if they are not available—any adult child of the person;
- (c) if the person did not have a spouse, domestic partner or adult child or if they are not available—a parent of the person;
- (d) if the person did not have a spouse, domestic partner, adult child or living parent or if they are not available—any adult brother or sister of the person;
- (e) if the person did not have a spouse, domestic partner, adult child, living parent or adult brother or sister or if they are not available—
 - (i) any person who is named as an executor in the person's will; or
 - (ii) any person who was the person's legal personal representative immediately before the person's death;

spouse—a person is the spouse of another if they are legally married.

Part 6—Miscellaneous

30—Order for removal of body for interstate inquest

The State Coroner may, if he or she has reasonable grounds to believe that an inquest will be held in another State or a Territory of the Commonwealth into the death outside the State of a person whose body is within the State, issue a warrant for the removal of the body to that other State or Territory.

31—State Coroner or Court may provide assistance to coroners elsewhere

The State Coroner or the Coroner's Court may exercise any powers under this Act for the purpose of assisting a coroner of another State or a Territory of the Commonwealth to conduct an investigation, inquiry or inquest under the law of that State or Territory into any event, whether or not there is otherwise jurisdiction under this Act to hold an inquest into that event.

32—Authorisation for disposal of human remains

- (1) If there has been a reportable death and the body of the dead person is within the State, the body is under the exclusive control of the State Coroner until the State Coroner—
 - (a) considers that the body is not further required for the purposes of an inquest into the death of the person; and
 - (b) issues an authorisation for the disposal of human remains in respect of the body.

- (2) If the State Coroner becomes aware of a dispute as to who may be entitled at law to possession of the body of a dead person for the purposes of its disposal, the State Coroner may refrain from issuing an authorisation for the disposal of human remains in respect of the body until the dispute is resolved.

33—Immunities

- (1) A coroner has the same protections, privileges and immunities from liability as a Judge of the Supreme Court.
- (2) A member of the administrative and ancillary staff of the Coroner's Court, an investigator or a person assisting an investigator incurs no civil or criminal liability for an honest act or omission in carrying out or purportedly carrying out official functions.

34—Confidentiality

A person must not divulge information about a person obtained (whether by the person divulging the information or by some other person) in the course of the administration of this Act, except—

- (a) where the information is publicly known; or
- (b) as required or authorised by this Act or any other Act or law; or
- (c) as reasonably required in connection with the administration of this Act or any other Act; or
- (d) for the purposes of legal proceedings arising out of the administration of this Act; or
- (e) to a government agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
- (f) with the consent of the person to whom the information relates.

Maximum penalty: \$10 000.

35—Coroners may not be called as witnesses

- (1) Despite any other provision of this Act, a coroner cannot be called to give evidence before a court or tribunal about anything coming to his or her knowledge in the course of the administration of this Act.
- (2) Subsection (1) does not apply in relation to proceedings against a coroner for an offence.

36—Punishment of contempts

The Coroner's Court may punish a contempt as follows:

- (a) it may impose a fine not exceeding \$10 000;
- (b) it may commit to prison for a specified term, not exceeding 2 years, or until the contempt is purged.

37—Accessibility of evidence etc

- (1) Subject to this section, the State Coroner must, on application by a member of the public, allow the applicant to inspect or obtain a copy of any of the following:
 - (a) any process relating to proceedings and forming part of the records of the Coroner's Court;
 - (b) a transcript of evidence taken by the Court in any proceedings;
 - (c) any documentary material admitted into evidence in any proceedings;
 - (d) a transcript of the written findings and any recommendations of the Court;
 - (e) an order made by the Court.
- (2) A member of the public may inspect or obtain a copy of the following material only with the permission of the State Coroner:
 - (a) material that was not taken or received in open court;
 - (b) material that the Coroner's Court has suppressed from publication;
 - (c) a photograph, slide, film, video tape, audio tape or other form of recording from which a visual image or sound can be produced;
 - (d) material of a class prescribed by the regulations.
- (3) The State Coroner may permit inspection or copying of material referred to in subsection (2) subject to any condition the State Coroner considers appropriate, including a condition limiting the publication or use of the material.
- (4) A decision by the State Coroner on an application under this section is final and not subject to any form of review.
- (5) The State Coroner may charge a fee, fixed by regulation, for inspection or copying of material under this section.

37A—Release of records to family when no inquest held

- (1) Subject to this section, the State Coroner must, unless the State Coroner is satisfied that it is not in the interests of justice to do so, on application by the family of a person the subject of an event in relation to which the State Coroner determines an inquest is not to be held under this Act or an earlier enactment (whether the determination was made before or after the commencement of this section), provide to the applicant a copy of all records held by the State Coroner in respect of the event.
- (2) An application may only be made under subsection (1) in respect of an event in relation to which the State Coroner determines an inquest is not to be held—
 - (a) if the event is a reportable death—after the expiration of 20 years following the making of a finding as to the cause of death or a finding that the death was due to undetermined natural causes; or
 - (b) in any other case—after the expiration of 20 years following the determination that an inquest is not to be held in relation to the event.
- (3) The ability of a person to make an application under this section does not derogate from the ability of the person to make an application under section 37.

- (4) For the avoidance of doubt, records that may be provided under subsection (1) include the following:
- (a) material that was not taken or received in open court;
 - (b) a photograph, slide, film, video tape, audio tape or other form of recording from which a visual image or sound can be produced;
 - (c) material of a class that is prescribed by the regulations pursuant to section 37(2)(d).
- (5) Material that has been suppressed from publication under this Act or any other Act (subject to that other Act) may only be provided under this section if the State Coroner is satisfied that it is in the interests of justice to do so.
- (6) The State Coroner may provide a copy of records under this section subject to any condition the State Coroner considers appropriate, including a condition limiting the publication or use of the records.
- (7) If a copy of a record to be released under this section identifies an individual, the State Coroner may redact or otherwise modify the copy of the record to the extent necessary to remove the identity of the individual from the copy if satisfied that the interests of justice require it in the circumstances of the particular case.
- (8) The State Coroner may not charge a fee in relation to—
- (a) an application for the provision of copies of records under this section; or
 - (b) the provision of copies of records under this section.
- (9) In this section—
- Aboriginal or Torres Strait Islander person** means a person who—
- (a) is a descendant of the indigenous inhabitants of Australia or the Torres Strait Islands; and
 - (b) regards themselves as Aboriginal or Torres Strait Islander or, if they are a child, is regarded as Aboriginal or Torres Strait Islander by at least 1 of their parents;

adult means a person of or over the age of 18;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

earlier enactment means—

- (a) the *Coroners Act 1975*; or
- (b) the *Coroners Act 1935*; or
- (c) any other Act or law of this State providing for the holding of an inquest into the death or disappearance of a person;

family, in relation to a person, means—

- (a) the person's senior next of kin; and
- (b) in relation to an Aboriginal or Torres Strait Islander person, includes any person held to be related to the person according to Aboriginal kinship rules, or Torres Strait Islander kinship rules, as the case may require;

parent of a child includes a guardian of the child;

senior next of kin for a person the subject of an event in relation to which the State Coroner determines an inquest is not to be held means—

- (a) the spouse or domestic partner of the person (and if the person had more than 1 spouse or domestic partner, the person's most recent spouse or domestic partner);
- (b) if the person did not have a spouse or domestic partner or if they are not available—any adult child of the person;
- (c) if the person did not have a spouse, domestic partner or adult child or if they are not available—a parent of the person;
- (d) if the person did not have a spouse, domestic partner, adult child or living parent or if they are not available—any adult brother or sister of the person;
- (e) if the person did not have a spouse, domestic partner, adult child, living parent or adult brother or sister or if they are not available—
 - (i) any person who is named as an executor in the person's will; or
 - (ii) any person who was the person's legal personal representative immediately before the event in relation to which the State Coroner determines an inquest is not to be held;

spouse—a person is the spouse of another if they are legally married.

38—Provision of information derived from Court records etc

- (1) The State Coroner may, for purposes related to research, education or public policy development, or for any other sociological purpose, provide a person or body with information derived from the records of the Coroner's Court or from any other material to which the State Coroner may give members of the public access pursuant to this Act.
- (2) The provision of information under this section may be subject to such conditions as the State Coroner thinks fit.

39—Annual report

- (1) The State Coroner must, on or before 31 October in each year, make a report to the Attorney-General on the administration of the Coroner's Court and the provision of coronial services under this Act during the previous financial year.
- (2) The report must include all recommendations made by the Coroner's Court under section 25 during that financial year.
- (3) The Attorney-General must, within 12 sitting days after receiving a report under this section, cause copies of the report to be laid before both Houses of Parliament.

40—Miscellaneous provisions relating to legal process

- (1) Any process of the Coroner's Court may be issued, served or executed on a Sunday as well as any other day.
- (2) The validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

41—Service

- (1) If it is not practicable to serve any process, notice or other document relating to proceedings in the Coroner's Court in the manner otherwise prescribed or contemplated by law, the Court may, by order—
 - (a) provide for service by post; or
 - (b) make any other provision that may be necessary or desirable for service.
- (2) Any process, notice or other document served in accordance with an order under subsection (1) will, despite any other law, be taken to have been duly served.

42—Rules of Court

- (1) Rules of the Coroner's Court may be made—
 - (a) regulating the business, practice and procedure of the Court; and
 - (b) providing for the issue of summonses and warrants on behalf of the Court, the adjournment of proceedings or the exercise of any other procedural powers on behalf of the Court by the Court's principal administrative officer; and
 - (c) regulating the custody and use of the Court's seals; and
 - (d) regulating the form in which evidence is taken or received by the Court; and
 - (e) providing for and fixing the fees and allowances to be paid to witnesses and to persons performing examinations on behalf of the Court; and
 - (f) dealing with any other matter necessary or expedient for the effective and efficient operation of the Court.
- (2) Rules of the Court may be made by the State Coroner.
- (3) Rules of the Court take effect from the date of publication in the Gazette or some later date specified in the rules.

43—Regulations

The Governor may make regulations for the purposes contemplated by this Act.

Schedule—Transitional provisions

Part 16—Transitional provisions

25—Transitional provisions

- (1) A person holding office under the *Coroners Act 1975* (the *repealed Act*) immediately before the commencement of this Act will, on that commencement, continue in office for the balance of the person's term, subject to this Act.
- (2) If an inquest held under the repealed Act had not been completed before the commencement of this Act, the proceedings will continue under this Act as if the coroner holding the inquest were the Coroner's Court.
- (3) This Act applies in relation to a notification of death to a coroner or police officer under the repealed Act (whether made before or after the commencement of this Act and whether or not the death is a reportable death under this Act) as if it were a notification of a reportable death under this Act.

- (4) This Act applies to a finding of a coroner under the repealed Act as if it were a finding of the Coroner's Court under this Act.
- (5) This clause must be read in conjunction with section 16 of the *Acts Interpretation Act 1915*.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Coroners Act 2003* repealed the following:

Coroners Act 1975

Legislation amended by principal Act

The *Coroners Act 2003* amended the following:

Births, Deaths and Marriages Registration Act 1996

Births, Deaths and Marriages Registration Regulations 1996

Correctional Services Act 1982

Courts Administration Act 1993

Cremation Act 2000

Evidence Act 1929

Freedom of Information Act 1991

Harbors and Navigation Act 1993

Juries Act 1927

Local Government (Cemetery) Regulations 1995

Road Traffic Act 1961

Summary Offences Act 1953

Transplantation and Anatomy Act 1983

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2003	33	<i>Coroners Act 2003</i>	31.7.2003	1.7.2005 (<i>Gazette</i> 23.6.2005 p1899)
2006	10	<i>Statutes Amendment (Disposal of Human Remains) Act 2006</i>	29.6.2006	Pt 3 (s 6)—24.7.2006 (<i>Gazette</i> 20.7.2006 p2335)

2008	3	<i>Health Care Act 2008</i>	13.3.2008	Sch 4 (cl 5)—1.7.2008 (<i>Gazette</i> 26.6.2008 p2563)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 38 (s 70)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2010	5	<i>Health Practitioner Regulation National Law (South Australia) Act 2010</i>	1.7.2010	Sch 1 (cl 7)—1.7.2010 (<i>Gazette</i> 1.7.2010 p3338)
2011	18	<i>Coroners (Reportable Death) Amendment Act 2011</i>	26.5.2011	26.5.2011
2013	12	<i>Advance Care Directives Act 2013</i>	18.4.2013	Sch 1 (cl 14)—1.7.2014 (<i>Gazette</i> 6.2.2014 p546)
2013	26	<i>Magistrates (Miscellaneous) Amendment Act 2013</i>	27.6.2013	Sch 1 (cl 1)—4.7.2013 (<i>Gazette</i> 4.7.2013 p2970)
2017	64	<i>Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017</i>	12.12.2017	Pt 11 (s 61)—22.10.2018 (<i>Gazette</i> 19.12.2017 p5119)
2019	21	<i>Statutes Amendment (Attorney-General's Portfolio) (No 2) Act 2019</i>	19.9.2019	Pt 2 (s 4)—19.9.2019: s 2(1)
2019	45	<i>Supreme Court (Court of Appeal) Amendment Act 2019</i>	19.12.2019	Sch 1 (cl 10)—1.1.2021 (<i>Gazette</i> 10.12.2020 p5638)
2020	6	<i>Coroners (Undetermined Natural Causes) Amendment Act 2020</i>	2.4.2020	2.4.2020
2021	10	<i>Coroners (Inquests and Privilege) Amendment Act 2021</i>	25.3.2021	Pt 2 (ss 4 to 11) & Sch 1 (cl 2)—7.6.2021 (<i>Gazette</i> 27.5.2021 p1488)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	24.7.2006
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	24.7.2006
s 3		
s 3(1)	s 3 redesignated as s 3(1) by 18/2011 s 3(3)	26.5.2011
corresponding authorisation	inserted by 18/2011 s 3(1)	26.5.2011
corresponding law	inserted by 18/2011 s 3(1)	26.5.2011
medical practitioner	substituted by 5/2010 Sch 1 cl 7	1.7.2010
reportable death	amended by 18/2011 s 3(2)	26.5.2011
	amended by 12/2013 Sch 1 cl 14	1.7.2014
	amended by 64/2017 s 61	22.10.2018

Coroners Act 2003—7.6.2021

Legislative history

	amended by 10/2021 s 4(1)	7.6.2021
s 3(2)	inserted by 18/2011 s 3(3)	26.5.2011
s 3(3)	inserted by 10/2021 s 4(2)	7.6.2021
Pt 2		
s 4		
s 4(3)	amended by 26/2013 Sch 1 cl 1	4.7.2013
Pt 3		
s 13		
s 13(1)	s 13 redesignated as s 13(1) by 10/2021 s 5	7.6.2021
s 13(2)	inserted by 10/2021 s 5	7.6.2021
s 20A	inserted by 10/2021 s 6	7.6.2021
Pt 4		
s 21		
s 21(1)	amended by 18/2011 s 4	26.5.2011
	amended by 10/2021 s 7(1)	7.6.2021
ss 21(4)—(6)	inserted by 10/2021 s 7(2)	7.6.2021
s 23		
s 23(4)	amended by 10/2021 s 8(1)	7.6.2021
s 23(5)	substituted by 10/2021 s 8(2)	7.6.2021
s 23(6)	amended by 3/2008 Sch 4 cl 5	1.7.2008
s 23A	inserted by 10/2021 s 9	7.6.2021
s 25		
s 25(2)	substituted by 10/2021 s 10(1)	7.6.2021
s 25(4)	amended by 10/2021 s 10(2)	7.6.2021
	(b)(i) deleted by 10/2021 s 10(3)	7.6.2021
s 25(5)	substituted by 10/2021 s 10(4)	7.6.2021
ss 25(6)—(8)	inserted by 10/2021 s 10(4)	7.6.2021
s 27		
s 27(2)	amended by 45/2019 Sch 1 cl 10	1.1.2021
Pt 5		
s 29		
s 29(1)	s 29 amended and redesignated as s 29(1) by 6/2020 s 3(1)	2.4.2020
ss 29(2) and (3)	inserted by 6/2020 s 3(2)	2.4.2020
Pt 6		
s 32		
s 32(1)	amended by 10/2006 s 6	24.7.2006
s 33		
s 33(1)	substituted by 21/2019 s 4	19.9.2019
s 33(2)	deleted by 84/2009 s 70	1.2.2010
	inserted by 21/2019 s 4	19.9.2019
s 33(3)	<i>deleted by 84/2009 s 70</i>	<i>1.2.2010</i>
s 37A	inserted by 10/2021 s 11	7.6.2021

Sch

Pts 1—15

*omitted under Legislation Revision and
Publication Act 2002*

24.7.2006

Transitional etc provisions associated with Act or amendments

Coroners (Undetermined Natural Causes) Amendment Act 2020, Sch 1—Transitional Provision

1—Operation of amendment

Section 29 of the *Coroners Act 2003* as in force after the commencement of section 3 applies in relation to a reportable death regardless of whether the State Coroner was notified of the death before or after that commencement.

Coroners (Inquests and Privilege) Amendment Act 2021, Sch 1 Pt 2

2—Transitional provision

The amendments to section 23 of the *Coroners Act 2003* by section 8 and the insertion of section 23A of the *Coroners Act 2003* by section 9—

- (a) do not apply in respect of inquests commenced before the commencement of sections 8 and 9 (and those inquests may continue as if those sections had not been enacted); and
- (b) apply in respect of inquests commenced after the commencement of sections 8 and 9 (including inquests in respect of an event occurring before the commencement of those sections).

Historical versions

24.7.2006

1.7.2008

1.2.2010

1.7.2010

26.5.2011

4.7.2013

1.7.2014

22.10.2018

19.9.2019

2.4.2020

1.1.2021