

(Reprint No. 2)

SOUTH AUSTRALIA

CORONERS ACT 1975

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 January 1992.

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CORONERS ACT 1975

being

Coroners Act 1975 No. 28 of 1975 [Assented to 27 March 1975]¹

as amended by

Coroners Act Amendment Act 1981 No. 102 of 1981 [Assented to 23 December 1981]
Statutes Amendment (Remuneration) Act 1985 No. 59 of 1985 [Assented to 30 May 1985]²
Coroners Act Amendment Act 1986 No. 56 of 1986 [Assented to 2 October 1986]
Coroners Act Amendment Act 1987 No. 35 of 1987 [Assented to 23 April 1987]
Coroners Act Amendment Act 1988 No. 3 of 1988 [Assented to 10 March 1988]
Coroners Act Amendment Act 1990 No. 17 of 1990 [Assented to 19 April 1990]³

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 1.

An Act to provide for the appointment of coroners and to confer on them powers to inquire and hold inquests into certain events; and for other purposes.

The Parliament of South Australia enacts as follows:

PART I PRELIMINARY

Short title

1. This Act may be cited as the *Coroners Act 1975*.

* * * * *

Certain rules excluded

5. The practice and procedure to be followed by a coroner with respect to an inquest are to be as prescribed by this Act and the rules under this Act and any rules of practice or procedure with respect to an inquest arising at common law or by statute of the Imperial Parliament are hereby excluded.

Interpretation

6. In this Act, unless the contrary intention appears—

“body” in relation to a dead person means the whole, or any part, of the body, whatever its physical state may be:

“coroner” means—

(a) the State Coroner;

¹Came into operation 3 April 1975: *Gaz.* 3 April 1975, p. 1356.

²Came into operation 13 June 1985: *Gaz.* 13 June 1985, p. 2132.

³Came into operation 1 January 1992: *Gaz.* 10 October 1991, p. 1039.

(b) a Deputy State Coroner;

or

(c) any other coroner,

appointed under Part II:

“Deputy State Coroner” means a Deputy State Coroner appointed under Part II:

* * * * *

“legal practitioner” means a legal practitioner within the meaning of the *Legal Practitioners Act 1981*:

“medical practitioner” means a legally qualified medical practitioner:

“place” includes premises or land:

“the State Coroner” means the State Coroner appointed under Part II.

Note: For definition of divisional penalties see Appendix 2.

PART II
CORONERS

Appointment of State Coroner

7. (1) The Governor may appoint a legal practitioner to be the State Coroner.
- (2) The State Coroner—
- (a) is to hold office for a term, and upon conditions, determined by the Governor;
 - and
 - (b) is to be paid a salary and allowances determined by the Remuneration Tribunal.

Appointment of Deputy State Coroner

8. (1) The Governor may appoint a legal practitioner to be a Deputy State Coroner.
- (2) A Deputy State Coroner—
- (a) is to hold office for a term, and upon conditions, determined by the Governor;
 - and
 - (b) is to be paid a salary and allowances determined by the Remuneration Tribunal.

State Coroner may delegate to Deputy State Coroner

9. (1) The State Coroner may delegate to a Deputy State Coroner any of his or her functions, powers or duties under this Act.
- (2) A delegation under subsection (1) is revocable at will and does not derogate from the power of the State Coroner to act in any matter.

Absence from office of State Coroner

10. (1) Where the State Coroner is for any reason unable to discharge the duties of his or her office, the Attorney-General may direct a Deputy State Coroner to act in the office of the State Coroner during the period of the inability.
- (2) A Deputy State Coroner acting in the office of the State Coroner pursuant to subsection (1)—
- (a) has and may exercise all the powers and functions of the State Coroner;
 - and
 - (b) is to be paid an allowance (in addition to his or her salary) determined by the Governor.

Appointment of other coroners

11. (1) The Governor may appoint a Justice of the Peace, or any other person, to be a coroner.
- (2) A coroner appointed under subsection (1) is to be paid such fees, if any, as are prescribed.

PART III
INQUESTS

Jurisdiction

12. (1) Subject to this Act, an inquest may be held in order to ascertain the cause or circumstances of the following events:

- (a) the death of any person by violent, unusual or unknown cause;
- (b) the disappearance (from any place) of any person ordinarily resident within the State;

* * * * *

(da) the death of any 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 was detained in custody within the State pursuant to an Act or law of the State;

(db) the death of any 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 deceased was accommodated in an institution and that the deceased was suffering from mental illness or intellectual retardation or impairment (other than mental impairment consequent on the immediate cause of death), or was dependent on the non-therapeutic use of drugs;

(e) the disappearance from, or within, the State of any person;

or

(f) a fire or accident that causes injury to person or property.

(2) An inquest may be held into the cause of a death under subsection (1)(a) if—

- (a) the death occurred in the State;
- (b) the place of death is unknown but it is reasonably possible that the death occurred in the State;
- (c) the body of the dead person is in the State;

or

(d) the death was caused by an event that took place in the State, or such an event is a possible cause of death.

(3) For the purposes of this section—

“the State” includes—

(a) the sea that is within the adjacent area in respect of the State, as that area is defined in relation to the State for the purposes of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth;

and

(b) the airspace that is above that sea.

Power of inquiry of coroners in relation to inquests

13. (1) Subject to this section, a coroner may, where the coroner believes on reasonable grounds that it is necessary for the purposes of an inquest or the determination of whether or not an inquest is necessary or desirable—

- (a) enter at any time and by force, if necessary, into or upon any place or thing, where the coroner believes there is the body of a dead person, and view the body, or issue his or her warrant authorizing some other person to exercise such powers;
 - (b) issue his or her warrant for the removal of the body of a dead person to such place as the coroner directs;
 - (c) enter at any time and by force, if necessary, into or upon any place or thing, and inspect and remove anything in or upon that place or thing, or issue his or her warrant authorizing some other person to exercise such powers;
 - (d) with the consent of the Attorney-General, issue his or her warrant for the exhumation of the body of a dead person;
 - (e) direct a medical practitioner to perform a post-mortem examination of the body of a dead person;
- or
- (f) direct a medical practitioner, or some other person whom the coroner considers sufficiently qualified, to perform an examination or a test.

(2) A coroner exercising a power conferred by subsection (1), or a person executing a warrant issued pursuant to that subsection, may be accompanied by such assistants as the coroner, or that person, thinks fit.

(3) A person must not—

- (a) hinder or obstruct a coroner exercising a power conferred by subsection (1) or a person executing a warrant issued pursuant to that subsection, or any assistant accompanying a coroner or person pursuant to subsection (2);

or

- (b) fail to comply with a direction given pursuant to this section.

Penalty: Division 6 fine.

(4) Notwithstanding the provisions of subsection (1), a coroner may not exercise the powers conferred by that subsection in relation to—

- (a) the disappearance from, or within, the State of any person;

or

- (b) a fire or accident that causes injury to person or property,

unless the Attorney-General directs the coroner to do so.

Holding of inquests by coroners

14. (1) The State Coroner must hold an inquest or direct another coroner to hold an inquest if—

- (a) the State Coroner considers it necessary or desirable to do so;

- (b) an inquest is required to be held under any other Act;

or

- (c) the Attorney-General directs the State Coroner to do so.

(1a) The State Coroner must hold an inquest or direct another coroner to hold an inquest into the cause and circumstances of a death referred to in section 12(1)(da).

(2) A coroner, other than the State Coroner, may not hold an inquest, unless the State Coroner or the Attorney-General directs the coroner to do so.

Restrictions upon medical practitioners

15. Notwithstanding any provision of this Act, where a medical practitioner has in that capacity attended a person, that medical practitioner may not—

(a) being a coroner, hold an inquest into the death of that person;

or

(b) for the purposes of this Act, perform a post-mortem examination of the body of that person or perform any other examination or test relating to the death of that person.

Proceedings upon inquests

16. (1) A coroner holding an inquest may for the purposes of the inquest—

(a) by summons signed by the coroner, require the attendance at the inquest of any person;

(b) by summons signed by the coroner, require the production of any books, papers or documents;

(c) inspect any books, papers or documents produced before the coroner and retain them for such reasonable period as he or she thinks fit and make copies of any of them or any of their contents;

(d) require any person appearing before the coroner to make an oath or affirmation to answer truly any relevant questions put to the person by the coroner or any person appearing before the coroner;

(e) require any person appearing before the coroner (whether he or she has been summoned to appear or not) to answer any relevant questions put to the person by the coroner or any person appearing before the coroner;

(f) require any person to leave and remain outside the place of hearing of the inquest for such period as he or she directs;

and

(g) give all such directions and do all such things as he or she deems necessary or expedient.

(2) A person is not obliged to answer a question put to the person under this section, if the coroner is satisfied the answer would tend to incriminate the person, or to produce any books, papers or documents, if the coroner is satisfied their contents would tend to incriminate the person.

(3) If any person—

(a) neglects or fails to comply with the requirements of a summons issued under subsection (1);

(b) refuses or fails to comply with a requirement under subsection (1) of the coroner;

or

(c) misbehaves at an inquest, wilfully insults the coroner or interrupts the inquest, the person is guilty of an offence.

Penalty: Division 6 fine or division 6 imprisonment.

(4) The coroner may immediately dispose of proceedings for an offence against subsection (3) that occurs in the coroner's presence and on conviction of the person may issue the coroner's warrant of commitment.

(5) If any person neglects or fails to comply with the requirements of a summons issued under subsection (1) and the coroner is satisfied the summons was duly served and there was not any reasonable excuse for the neglect or failure, the coroner may issue his or her warrant for the person to be brought before the coroner at such time and place as he or she directs for the purposes of the inquest.

View of body

17. It is not necessary for an inquest into the death of a person to be held upon view of the body of the dead person.

Inquests open to public

18. Subject to this Act, an inquest is open to the public.

Inquests to be held without juries

19. An inquest is to be held by a coroner without a jury.

Time and place for holding of inquests

20. An inquest may, subject to any rules made under this Act, be held on any day (including a Sunday) and at any time and place appointed by the coroner who is to hold the inquest.

Right of appearance before coroner upon inquest

21. (1) Any person who in the opinion of a coroner holding an inquest has a sufficient interest in the subject or result of the inquest is entitled to appear personally or by counsel in the inquest.

(2) A person appearing in an inquest pursuant to subsection (1) may, subject to this Act, examine and cross-examine any witness testifying in the inquest.

Evidence and procedure upon inquests

22. A coroner holding an inquest must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms and is not bound by the rules of evidence but may inform himself or herself on any matter in such manner as he or she thinks fit.

Taking of evidence other than at inquests

23. (1) A coroner holding an inquest may accept as evidence in the inquest the affidavit of any person.

(2) Notwithstanding the provisions of subsection (1), a coroner may require a person who has made an affidavit referred to in that subsection to attend at the inquest.

Adjournment of inquests

24. (1) A coroner holding an inquest may adjourn the inquest to any time and place or to a time and place to be fixed.

(2) An adjournment pursuant to subsection (1) may, subject to any rules made under this Act, be made in such manner and upon such terms as the coroner thinks fit.

(3) The State Coroner, or a coroner acting at the direction of the State Coroner, may continue or complete an inquest commenced by another coroner.

Findings of coroners upon inquests

25. (1) A coroner must as soon as practicable after the completion of an inquest give his or her finding by writing in the prescribed form setting out as far as has been ascertained the cause and circumstances of the event that was the subject of the inquest.

(2) A coroner may add to his or her finding any recommendation that might, in his or her opinion, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.

Inquests and other legal proceedings

26. (1) A coroner must not proceed with an inquest where a person has been charged in criminal proceedings with causing the event that is, or is to be, the subject of an inquest, unless the Attorney-General directs the coroner to do so.

* * * * *

(3) A coroner holding an inquest must not in the inquest make any finding, or suggestion, of criminal or civil liability.

Returns by coroners

27. A coroner holding an inquest must after the completion of the inquest make to the Attorney-General a return in the prescribed form setting out the prescribed particulars of the inquest.

Re-opening of inquest

28. (1) A coroner has a discretion to re-open an inquest at any time.

(2) A coroner must, if the Attorney-General so directs, re-open an inquest.

(3) Where an inquest is re-opened, the coroner may—

(a) confirm any previous finding;

(b) set aside any previous finding;

(c) make a fresh finding that appears justified by the evidence.

Application to set aside findings made at inquest

28a. (1) The Supreme Court may, on the application of the Attorney-General or a person who has a sufficient interest in the finding made at an inquest, order that a coroner's finding be set aside.

(2) An application under subsection (1) must be made within one month after the coroner's finding at the inquest is published unless the Supreme Court, in its discretion, allows a longer time for the application.

(3) A finding will not be set aside under this section unless the Supreme Court is of the opinion—

(a) that the finding is against the evidence or the weight of the evidence adduced before the coroner;

or

(b) that it is desirable that the finding be set aside—

(i) because an irregularity has occurred in the proceedings or insufficient inquiry has been made;

or

(ii) because of new evidence.

(4) Where an application is made for an order setting aside a finding made at an inquest, the Supreme Court may (in addition to, or instead of, making such an order)—

(a) order that the inquest be re-opened, or that a fresh inquest be held;

(b) substitute any finding that appears justified;

(c) make such incidental or ancillary orders as it considers necessary or desirable in the circumstances of the case.

(5) A person has a sufficient interest in the finding made at an inquest if—

(a) the finding affects or may affect that person's pecuniary interests;

(b) the finding reflects adversely on that person's competence in his or her 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 IV
MISCELLANEOUS

Order for removal of body for interstate inquest

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

Burial orders

30. A burial order may be issued by a coroner where the coroner considers the body of a dead person is not further required for the purposes of an inquest into the death of that person.

Offence to fail to notify death

31. (1) A person knowing of, or becoming acquainted with, the finding of the body of a dead person, or the death of a person apparently by violent or unusual cause, must immediately notify a coroner, or a police officer, of that finding or death.

Penalty: Division 6 fine.

(2) It is a defence to a charge of an offence against subsection (1) if the person charged proves that he or she believed on reasonable grounds that a coroner, or a police officer, was aware of the finding or death.

(3) A police officer must, on being notified of a finding or death pursuant to this section, immediately notify a coroner of the finding or death and any information that the police officer has in relation to the matter.

(4) Where there is reason to believe that a death occurred, or a cause of death, or a possible cause of death, arose, or may have arisen, while the deceased was detained in custody within the State pursuant to an Act or law of the State, the person having the custody of the deceased must immediately report the death, or cause the death to be reported, to a coroner.

Penalty: Division 6 fine.

(5) Where there is reason to believe that a death occurred, or a cause of death, or a possible cause of death, arose, or may have arisen, while the deceased was accommodated in an institution and that the deceased was suffering from mental illness or intellectual retardation or impairment (other than mental impairment consequent on the immediate cause of death), or was dependent on the non-therapeutic use of drugs, the person in charge of the institution, or the part of the institution in which the deceased was accommodated, must immediately report the death, or cause the death to be reported, to a coroner.

Penalty: Division 6 fine.

(6) It is a defence to a charge of an offence against subsection (4) or (5) if the person charged proves that he or she believed on reasonable grounds that a coroner was aware of the death.

Protection for coroner and persons acting in pursuance of Act

32. No liability attaches to a coroner or any person acting in pursuance of this Act for any act or omission by the coroner in good faith in the exercise or purported exercise of powers under this Act, or in the discharge or purported discharge of duties under this Act.

Summary offences

33. Subject to this Act, proceedings for an offence against this Act are to be disposed of summarily.

Moneys for the purposes of the Act

34. The moneys required for the purposes of this Act are to be paid out of moneys provided by Parliament for those purposes.

Rules

35. (1) The State Coroner may make such rules as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those rules may—

- (a) provide for and regulate the practice and procedure to be followed in inquests;
- (b) regulate the exercise and performance by coroners of their powers and functions;

and

- (c) provide for and fix the fees and allowances to be paid to witnesses and to persons performing examinations and tests at the direction of a coroner.

APPENDIX 1

Legislative History

The *Coroners Act 1975* repealed the following Acts:

Coroners Act 1935
Coroners Act Amendment Act 1952
Coroners Act Amendment Act 1969

Long title:	amended by 17, 1990, Sched.
Sections 2 - 4:	repealed by 17, 1990, Sched.
Section 5:	amended by 17, 1990, Sched.
Section 6:	definition of "coroner" amended by 17, 1990, Sched. definition of "Deputy State Coroner" amended by 17, 1990, Sched. definition of "Government institution" repealed by 102, 1981, s. 2 definition of "legal practitioner" amended by 17, 1990, Sched. definition of "the State Coroner" amended by 17, 1990, Sched.
Section 7(2):	amended by 102, 1981, s. 3; 59, 1985, s. 5(a); 17, 1990, Sched.
Section 8(2):	amended by 59, 1985, s. 5(b); 17, 1990, Sched.
Sections 9 and 10:	amended by 17, 1990, Sched.
Section 11(2):	amended by 17, 1990, Sched.
Section 12:	amended by 102, 1981, s. 4; amended and redesignated as s. 12(1) by 56, 1986, s. 2; amended by 17, 1990, s. 3
Section 12(1)(c) and (d):	repealed by 56, 1986, s. 2(a)
Section 12(2) and (3):	inserted by 56, 1986, s. 2(b)
Section 13(1):	amended by 102, 1981, s. 5; 17, 1990, Sched.
Section 13(2):	amended by 17, 1990, Sched.
Section 13(3):	substituted by 17, 1990, s. 4
Section 13(4):	amended by 17, 1990, Sched.
Section 14(1):	substituted by 102, 1981, s. 6; amended by 17, 1990, Sched.
Section 14(1a):	inserted by 3, 1988, s. 2
Section 14(2):	amended by 17, 1990, Sched.
Section 15:	amended by 17, 1990, Sched.
Section 16(1) and (2):	amended by 17, 1990, Sched.
Section 16(3):	amended by 17, 1990, s. 5, Sched.
Section 16(4):	substituted by 17, 1990, Sched.
Section 16(5):	amended by 17, 1990, Sched.
Sections 17 - 19, 21 and 22:	amended by 17, 1990, Sched.
Section 23(2):	amended by 17, 1990, Sched.
Section 24(2):	amended by 17, 1990, Sched.
Section 25:	amended by 17, 1990, Sched.
Section 26(1):	amended by 17, 1990, Sched.
Section 26(2):	repealed by 102, 1981, s. 7(a)
Section 26(3):	amended by 102, 1981, s. 7(b); 17, 1990, Sched.
Section 27:	amended by 17, 1990, Sched.
Section 28:	amended by 102, 1981, s. 8; substituted by 35, 1987, s. 2
Section 28a:	inserted by 35, 1987, s. 2
Section 28a(4):	amended by 17, 1990, Sched.
Section 29:	amended by 17, 1990, Sched.
Section 31:	substituted by 17, 1990, s. 6
Sections 32 - 34:	amended by 17, 1990, Sched.
Section 35(2):	amended by 17, 1990, Sched.

APPENDIX 2

Divisional Penalties

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	—	\$500
10	—	\$200
11	—	\$100
12	—	\$50

Note: This appendix is provided for convenience of reference only.