

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; to make related amendments to other Acts and statutory instruments; to repeal the *Coroners Act 1975*; 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*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

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;

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 as a medical practitioner under the *Medical Practitioners Act 1983*;

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

reportable death means the State death 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 under the *Children's Protection Act 1993*; or
 - (iii) a patient in an approved treatment centre under the *Mental Health Act 1993*; 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
- (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.

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 stipendiary 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

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.

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.

Part 4—Inquests

21—Holding of inquests by Court

- (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
 - (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;
 - (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.

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) 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—
- (a) the answer to the question, or the contents of the record or document, would tend to incriminate the person of an offence; or
 - (b) 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 section 64D of the *South Australian Health Commission Act 1976*.

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 might, in the opinion of the Court, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.
- (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
 - (b) in the case of an inquest into a death in custody—
 - (i) if the Court has added to its findings a recommendation directed to a Minister or other agency or instrumentality of the Crown—to each such Minister, agency or instrumentality of the Crown; and

- (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) The Minister or the Minister responsible for the agency or other instrumentality of the Crown must, within 8 sitting days of the expiration of 6 months after receiving a copy of the findings and recommendations under subsection (4)(b)(i)—
- (a) cause a report to be laid before each House of Parliament giving details of any action taken or proposed to be taken in consequence of those recommendations; and
 - (b) forward a copy of the report to the State Coroner.

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 Full Court).
- (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

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.

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 a reportable death occurs 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 or other person exercising the jurisdiction of the Coroner's Court has the same privileges and immunities from civil liability as a Judge of the Supreme Court.
- (2) A coroner, any 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 exercising, or purportedly carrying out or exercising, official functions or powers.
- (3) A civil liability that would, but for subsection (2), attach to a person referred to in that subsection, attaches instead to the Crown.

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.

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—Related amendments, repeal and transitional provisions

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act or statutory instrument amends the Act or statutory instrument (as the case may be) so specified.

Part 2—Amendment of *Births, Deaths and Marriages Registration Act 1996*

2—Amendment of section 36—Notification of deaths by doctors

Section 36(2)(b)—Delete paragraph (b) and substitute:

- (b) must not give a notice under this section if the State Coroner or a police officer is required to be notified of the death under the *Coroners Act 2003*.

3—Amendment of section 37—Notification by State Coroner

- (1) Section 37(1)—delete subsection (1) and substitute:
 - (1) If the State Coroner is notified of a death under the *Coroners Act 2003* or is inquiring into the cause of a death, the State Coroner must, as soon as practicable, notify the Registrar of that fact.
- (2) Section 37(2)—delete "a coroner" and substitute:

the State Coroner
- (3) Section 37(2)—delete "coroner" (second occurring) and substitute:

State Coroner

4—Insertion of section 50A

Section 51—Before section 51 in Part 9 insert:

50A—Documents to be provided before disposal of remains

- (1) A person must not dispose of human remains or cause human remains to be disposed of unless he or she has received—
 - (a) —
 - (i) in the case of a still-birth—a doctor's certificate as to the cause of foetal death given under section 12;
 - (ii) in any other case—a doctor's certificate as to the cause of death given under section 36; or
 - (b) an authorisation for the disposal of human remains issued under the *Coroners Act 2003*.

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

- (2) This section does not apply in relation to the disposal of human remains by cremation.¹

Note—

¹ See section 6 of the *Cremation Act 2000*.

Part 3—Variation of *Births, Deaths and Marriages Regulations 1996 (Gazette 30.5.1996 p2675)* as varied

5—Variation of regulation 10—Information to be included in notification by funeral director etc

Regulation 10(m)—delete paragraph (m) and substitute:

- (m) —
 - (i) if a doctor's certificate as to the cause of death was given under section 36(3) of the Act—the name and address of the doctor;
 - (ii) if an authorisation for the disposal of human remains was issued under the *Coroners Act 2003*—the date of issue and the name of the person who issued it.

Part 4—Variation of *Correctional Services Act 1982*

6—Amendment of section 28—Removal of prisoner for criminal investigation, attendance in court etc

Section 28(2)—delete "justice, court or coroner" wherever occurring and substitute in each case:

court or justice

Part 5—Amendment of *Courts Administration Act 1993*

7—Amendment of section 4—Interpretation

Section 4, definition of *participating courts*, (e)—delete paragraph (e) and substitute:

- (e) the Coroner's Court; and

Part 6—Amendment of *Cremation Act 2000*

8—Amendment of section 6—Issue of cremation permit

(1) Section 6—before subsection (1) insert:

- (a1) A person must not cremate human remains, or cause, suffer or permit human remains to be cremated, unless he or she has received a cremation permit issued under this section.

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

(2) Section 6(2)(b)—delete paragraph (b) and substitute:

- (b) an authorisation for the disposal of human remains issued under the *Coroners Act 2003*.

(3) Section 6(4)—delete subsection (4) and substitute:

- (4) A doctor must not give a certificate under this section if the State Coroner or a police officer is required to be notified of the death under the *Coroners Act 2003*.

Maximum penalty: \$5 000 or imprisonment for 1 year.

9—Amendment of section 8—Attorney-General, State Coroner etc may prohibit cremation

(1) Section 8(1)—delete "or a coroner or" and substitute:

, the State Coroner or a

(2) Section 8(1)—delete "coroner" second occurring and substitute:

State Coroner

Part 7—Amendment of *Evidence Act 1929*

10—Amendment of section 59IA—Interpretation

Section 59IA, definition of *South Australian court*, (d)—delete paragraph (d) and substitute:

- (d) the Coroner's Court;

11—Amendment of section 68—Interpretation

Section 68, definitions of *court* and *court of summary jurisdiction*—delete these definitions and substitute:

court includes any person acting judicially;

12—Amendment of section 70—Disobedience to orders under this Division

Section 70(3)—delete subsection (3)

Part 8—Amendment of *Freedom of Information Act 1991*

13—Amendment of section 4—Interpretation

Section 4(1), definition of *court*—delete "or a coroner"

Part 9—Amendment of *Harbors and Navigation Act 1993*

14—Amendment of section 74—Compulsory blood tests of injured persons including water skiers

- (1) Section 74(4)—delete "certifies the cause of death, or reports the death to a coroner" and substitute:

, pursuant to Part 5 of the *Coroners Act 2003*, notifies the State Coroner or a police officer of the death
- (2) Section 74(4)(b)—delete "a coroner" and substitute:

the State Coroner
- (3) Section 74(5)—delete "A coroner who receives a notification under subsection (4)" and substitute:

The State Coroner, on receiving a notification under subsection (4),

Part 10—Amendment of *Juries Act 1927*

15—Amendment of section 92—Effect of this Act on Coroners Act

Section 92—delete "coroner's" and substitute:

coronial

Part 11—Variation of *Local Government (Cemetery) Regulations 1995 (Gazette 25.5.1995 p2503)* as varied

16—Variation of regulation 20—Exhumation, removal and re-interment

Regulation 20(2)—delete subregulation (2) and substitute:

- (2) Subregulation (1) does not apply where a warrant has been issued under the *Coroners Act 2003* for the exhumation of human remains.

Part 12—Amendment of *Road Traffic Act 1961*

17—Amendment of section 47I—Compulsory blood tests

- (1) Section 47I(4)—delete "certifies the cause of death, or reports the death to a coroner" and substitute:

, pursuant to Part 5 of the *Coroners Act 2003*, notifies the State Coroner or a police officer of the death
- (2) Section 47I(4)(b)—delete "a coroner" and substitute:

the State Coroner

- (3) Section 47I(5)—delete "A coroner who receives a notification under subsection (4)" and substitute:

The State Coroner, on receiving a notification under subsection (4),

Part 13—Amendment of *Summary Offences Act 1953*

18—Amendment of section 35—Restriction on reports of immorality etc

Section 35(2), definition of *legal proceedings*—delete "coroner's inquests and"

Part 14—Amendment of *Transplantation and Anatomy Act 1983*

19—Amendment of section 23—Consent by State Coroner

- (1) Section 23(1)—delete "1975–1981" and substitute:

2003

- (2) Section 23(1)—delete "a coroner has given his consent" and substitute:

the State Coroner has consented

- (3) Section 23(2)—delete "1975–1981" and substitute:

2003

- (4) Section 23(2)—delete "a coroner has given his consent" and substitute:

the State Coroner has consented

- (5) Section 23(3)—delete "A coroner" and substitute:

The State Coroner

- (6) Section 23(3)—after "his" insert:

or her

- (7) Section 23(4)—delete "a coroner" and substitute:

the State Coroner

- (8) Section 23(5)—delete "a coroner" and substitute:

the State Coroner

20—Amendment of section 27—Consent by State Coroner

- (1) Section 27(1)—delete "1975–1981" and substitute:

2003

- (2) Section 27(1)—delete "coroner has given his consent" and substitute:

State Coroner has consented

- (3) Section 27(2)—delete "1975–1981" and substitute:

2003

- (4) Section 27(2)—delete "coroner has given his consent" and substitute:

State Coroner has consented

- (5) Section 27(3)—delete "A coroner" and substitute:

The State Coroner

- (6) Section 27(4)—delete "a coroner" and substitute:

the State Coroner

- (7) Section 27(5)—delete "a coroner" and substitute:

the State Coroner

21—Amendment of section 28—Effect of authority under this Part

- (1) Section 28(2)—delete "a coroner pursuant to the *Coroners Act 1975-1981*" and substitute:

the State Coroner or the Coroner's Court pursuant to the *Coroners Act 2003*

- (2) Section 28(2)—delete "the coroner" and substitute:

the State Coroner or the Coroner's Court (as the case requires)

22—Amendment of section 31—Consent by State Coroner

- (1) Section 31(1)—delete "*1975-1981*" and substitute:

2003

- (2) Section 31(1)—delete "a coroner has given his consent" and substitute:

the State Coroner has consented

- (3) Section 31(2)—delete "*1975-1981*" and substitute:

2003

- (4) Section 31(2)—delete "a coroner has given his consent" and substitute:

the State Coroner has consented

- (5) Section 31(3)—delete "A coroner" and substitute:

The State Coroner

- (6) Section 31(4)—delete "a coroner" and substitute:

the State Coroner

- (7) Section 31(5)—delete "a coroner" and substitute:

the State Coroner

23—Amendment of section 38—Offences in relation to removal of tissue

Section 38(3)(b)—delete "a coroner under the *Coroners Act 1975-1981*" and substitute:

the State Coroner or the Coroner's Court under the *Coroners Act 2003*

Part 15—Repeal of *Coroners Act 1975*

24—Repeal of *Coroners Act 1975*

The *Coroners Act 1975* is repealed.

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

- 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.

Principal Act

Year	No	Title	Assent	Commencement
2003	33	<i>Coroners Act 2003</i>	31.7.2003	uncommenced