

CORONERS ACT, 1975

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CORONERS ACT, 1975

being

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

An Act to provide for the appointment of coroners and to confer on them powers to inquire and hold inquests into certain events; to repeal the Coroners Act, 1935-1969; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Coroners Act, 1975".

Short title.

2. This Act shall come into operation on a day to be fixed by proclamation¹.

Commence-
ment.

3. This Act is arranged as follows:—

Arrangement of
Act.

PART I—PRELIMINARY

PART II—CORONERS

PART III—INQUESTS

PART IV—MISCELLANEOUS.

4. (1) The following Acts are repealed:—

Repeals and
transitional
provisions.

(a) the Coroners Act, 1935;

(b) the Coroners Act Amendment Act, 1952;

and

(c) the Coroners Act Amendment Act, 1969.

(2) The persons who immediately before the commencement of this Act held the offices of City Coroner and Deputy City Coroner, shall, upon the commencement of this Act, be deemed to have been appointed to be the State Coroner and a Deputy State Coroner under this Act, and shall, subject to this Act and any conditions determined thereunder, continue in those respective offices.

(3) A reference to the City Coroner in any Act, regulation, rule, by-law, document or writing of any kind shall be read, where the context admits, as a reference to the State Coroner.

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

PART I

Certain rules
excluded.

5. The practice and procedure to be followed by a coroner with respect to an inquest shall 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;

(b) a Deputy State Coroner;

or

(c) any other coroner,

appointed under Part II of this Act:

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

“Government institution” means—

(a) an assessment centre, or a home, as defined in the Community Welfare Act, 1972-1973¹;

(b) a prison as defined in the Prisons Act, 1936-1973²;

(c) an institution as defined in the Mental Health Act, 1935-1974;

or

(d) a committal centre, or a voluntary centre, as defined in the Alcohol and Drug Addicts (Treatment) Act, 1961-1971:

“legal practitioner” means a legal practitioner within the meaning of the Legal Practitioners Act, 1936-1972:

“medical practitioner” means a legally qualified medical practitioner:

“place” includes premises or land:

“the State Coroner” means the State Coroner appointed under Part II of this Act.

PART II

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) shall hold office for a term, and upon conditions, determined by the Governor;

and

¹ Now Community Welfare Act, 1972-1975.

² Now Prisons Act, 1936-1975.

(b) shall be paid a salary of eighty per centum of the salary for the time being payable to a Judge (other than the Senior Judge) as defined in the Local and District Criminal Courts Act, 1926-1974¹.

8. (1) The Governor may appoint a legal practitioner to be a Deputy State Coroner. Appointment of Deputy State Coroner.

(2) A Deputy State Coroner—

(a) shall hold office for a term, and upon conditions, determined by the Governor;

and

(b) shall be paid a salary determined by the Governor.

9. (1) The State Coroner may delegate to a Deputy State Coroner any of his functions, powers or duties under this Act. State Coroner may delegate to Deputy State Coroner.

(2) A delegation under subsection (1) of this section shall be revocable at will and shall not derogate from the power of the State Coroner to act in any matter.

10. (1) Where the State Coroner is for any reason unable to discharge the duties of his 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. Absence from office of State Coroner.

(2) A Deputy State Coroner acting in the office of the State Coroner pursuant to subsection (1) of this section—

(a) shall have, and may exercise, all the powers and functions of the State Coroner;

and

(b) shall be paid an allowance (in addition to his salary) determined by the Governor.

11. (1) The Governor may appoint a Justice of the Peace, or any other person, to be a coroner. Appointment of other coroners.

(2) A coroner appointed under subsection (1) of this section shall be paid such fees, if any, as are prescribed.

PART III

PART III

INQUESTS

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

(a) the death within the State by violent, unusual or unknown cause of any person;

(b) the death outside the State by violent, unusual or unknown cause of any person ordinarily resident within the State;

(c) the death outside the State by violent, unusual or unknown cause of any person whose body is within the State;

(d) the death of any person while detained or accommodated in any Government institution;

¹ Now Local and District Criminal Courts Act, 1926-1975.

- (e) the disappearance from, or within, the State of any person;
- or
- (f) a fire or accident that causes injury to person or property.

Power of inquiry of coroners in relation to inquests.

13. (1) Subject to this section, a coroner may, where he 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 into or upon any place or thing, where he believes there is the body of a dead person, and view the body, or issue his warrant authorizing some other person to exercise such powers;
- (b) issue his warrant for the removal of the body of a dead person to such place as he directs;
- (c) enter into or upon any place or thing, and inspect and remove anything in or upon that place or thing, or issue his warrant authorizing some other person to exercise such powers;
- (d) with the consent of the Attorney-General, issue his 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 he considers sufficiently qualified, to perform an examination or a test.

(2) A coroner exercising a power conferred by subsection (1) of this section, 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 shall not—

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

or

- (b) fail to comply with a direction given pursuant to subsection (1) of this section.

Penalty: Five hundred dollars.

(4) Notwithstanding the provisions of subsection (1) of this section, a coroner shall 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 him to do so.

Holding of inquests by coroners.

14. (1) The State Coroner shall hold an inquest or direct another coroner to hold an inquest, if he considers it necessary or desirable that an inquest be held or if the Attorney-General directs him to do so.

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

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

Restrictions
upon medical
practitioners.

(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.

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

Proceedings
upon inquests.

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

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

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

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

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

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

and

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

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

(3) If any person—

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

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

or

(c) misbehaves at an inquest, wilfully insults the coroner or interrupts the inquest,

he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars or imprisonment for three months.

(4) The coroner may dispose of proceedings for an offence against subsection (3) of this section that occurs in his presence forthwith and upon conviction of the person may issue his warrant of commitment.

(5) If any person neglects or fails to comply with the requirements of a summons issued under subsection (1) of this section 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 warrant for the person to be brought before him at such time and place as he directs for the purposes of the inquest.

View of body.

17. It shall not be 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 shall be open to the public.

Inquests to be held without juries.

19. An inquest shall 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 shall be entitled to appear personally or by counsel in the inquest.

(2) A person appearing in an inquest pursuant to subsection (1) of this section 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 shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms and he shall not be bound by the rules of evidence but may inform himself on any matter in such manner as he 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) of this section, 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) of this section 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 shall as soon as practicable after the completion of an inquest give his 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 finding any recommendation that might, in his opinion, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.

26. (1) A coroner shall 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 him to do so.

Inquests and other legal proceedings.

(2) If upon an inquest, a coroner considers that evidence given in the inquest is sufficient to put a person upon trial for an indictable offence, he may commit that person for trial and upon that committal shall have, in relation thereto, all the powers and duties that a justice has upon such committal under the Justices Act, 1921-1974¹.

(3) Except as provided by subsection (2) of this section, a coroner holding an inquest shall not in the inquest make any finding, or suggestion, of criminal or civil liability.

27. A coroner holding an inquest shall 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.

Returns by coroners.

28. Notwithstanding the provisions of this Act, a coroner may re-open an inquest if the Attorney-General directs him to do so.

Re-opening of inquests.

PART IV

PART IV

MISCELLANEOUS

29. The State Coroner may, where he 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 warrant for the removal of the body to that other State or Territory.

Order for removal of body for interstate inquest.

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.

Burial orders.

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 shall not fail to notify a coroner, or a police officer, of that finding or death.

Offence to fail to notify coroner or police officer of death.

Penalty: Two hundred dollars.

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

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

Protection for coroner and persons acting in pursuance of Act.

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

Summary proceedings.

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

Moneys for the purposes of the Act.

¹ Now Justices Act, 1921-1975.

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) of this section, 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.
