

Act No. 36, 1912.

An Act to consolidate the enactments relating to coroners' inquests, and to magisterial inquiries into the cause of death. [26th November, 1912.]

CORONERS.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

*Preliminary.*

1. This Act may be cited as the "Coroners Act, 1912." Short title.
2. The Acts mentioned in the Schedule One to this Act are Repealed.  
to the extent therein specified hereby repealed. Schedule I.

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*Certain*

*Coroners.**Certain powers of coroners and of magistrates.*

Coroners to have powers of justices. No. 54, 1901, s. 2.

Stipendiary and police magistrates to have powers of coroners.

*Ibid.* s. 3.

**3.** Every coroner and deputy coroner shall, by virtue of his office, have the powers and the duties of a justice of the peace.

**4.** Every stipendiary or police magistrate shall, by virtue of his office, have the powers and duties of a coroner in all parts of the State, except the metropolitan police district:

Provided that nothing herein contained shall affect any jurisdiction conferred on any such magistrate by any commission of the Crown issued to him or the power or jurisdiction of any such magistrate to hold magisterial inquiries.

*Coroners sitting alone and with a jury.*

Inquisitions to be held by coroner only. No. 67, 1901, s. 33. No. 25, 1904, s. 2.

Proviso.

**5.** All inquisitions which, before the thirteenth day of December, one thousand nine hundred and four, were by law required to be held before a coroner and a jury shall, subject to the proviso hereinafter contained, be held before a coroner sitting alone:

Provided that on the request of—

- (a) a relative of the deceased; or
- (b) the secretary of any society or organisation of which the deceased was a member at the time of his death; or
- (c) the order of the Minister of Justice—

an inquisition shall be held before a coroner and a jury of six in the same manner as such inquisitions were held before the date aforesaid.

Powers of coroner when sitting alone. *Ibid.* s. 3.

**6.** A coroner, when sitting alone, under the powers conferred by this Act, may do and perform all such acts and things in or concerning any inquisition held before him, as might, before the thirteenth day of December, one thousand nine hundred and four, have been done and performed by him or by the jury, and may declare a verdict or finding as to the matter inquired into. Such verdict or finding shall have the same force and effect as the verdict or finding of a coroner's jury had before the said date.

A coroner may, on a finding or verdict by him, make all such orders and direct all such things to be done as he might, before the said date, have made or directed to be done on the verdict or finding of a jury: And he shall, subject to the provisions of this Act, perform the same duties and be subject to the same liabilities and obligations as before the said date.

Admissibility of depositions. *Ibid.* s. 4.

**7.** Depositions taken at an inquisition held before a coroner sitting alone shall, on the trial of any person, be as admissible in evidence as if such depositions had been taken at an inquisition held before a coroner and a jury.

Practice and procedure. *Ibid.* s. 5.

**8.** The practice and procedure in and concerning inquisitions held before a coroner sitting alone shall, so far as possible, and subject

to

*Coroners.*

to the provisions of this Act, be according to the practice and procedure in and concerning inquisitions held before a coroner and a jury before the thirteenth day of December, one thousand nine hundred and four.

*Copies of depositions.*

**9.** A person committed or held to bail by a coroner shall in every case where he would be entitled to copies of depositions had he been committed or held to bail by a justice of the peace be entitled to have, from the person for the time being having custody of the depositions, copies thereof upon payment of such sum, not exceeding fourpence per folio of ninety words, as the judges of the Supreme Court from time to time determine.

Person charged entitled to depositions. No. 8, 1898, s. 4.

The sum payable at the time of this Act coming into force shall continue to be payable until the said judges otherwise determine.

*Bail of persons charged with manslaughter.*

**10.** (1) Where a coroner's inquisition charges a person with the offence of manslaughter, the coroner before whom the inquest was taken, may, if he think fit, accept bail by recognisance with good and sufficient sureties for the appearance of the person charged to take his trial for such offence at such court and on such day as the Attorney-General specifies under his hand by indorsement on the recognisance; and thereupon the person charged, if in the custody of any officer of the Coroner's Court or in any gaol under any warrant of commitment for such offence, shall be discharged therefrom.

Bail in cases of manslaughter. *Ibid.* s. 3.

The Attorney-General shall give to the person charged and his sureties notice of the court and day so specified.

(2) The coroner shall cause the recognisance to be taken in the form in the Schedule Two hereto, and shall give notice of the recognisance to every person bound thereby.

Schedule II.

(3) The coroner shall return the recognisance to the proper officer of the court before whom the person charged is to be tried.

Recognisance to be returned to court.

(4) The coroner shall transmit a true copy of the deposition of the witnesses, certified under his hand, to the Attorney-General.

Copy depositions to Attorney-General.

*Attendance of medical witnesses at inquests and inquiries into cause of death.*

**11.** (1) Whenever, upon the summoning or holding of any coroner's inquest, or upon the holding of any inquiry by a justice or justices of the peace touching the death of any person, it appears to the coroner, justice, or justices that the deceased person was not at or immediately

Summons for attendance of medical witness. *Ibid.* s. 7.

*Coroners.*

immediately before his death attended by any legally qualified medical practitioner, such coroner, justice, or justices may issue a summons for the attendance as a witness at such inquest or inquiry of some legally qualified medical practitioner, in actual practice, who resides near to the place where such inquest or inquiry is holden.

Where deceased has been attended before death.

(2) Where the deceased person was attended by any such practitioner, the coroner, justice, or justices shall issue a summons for his attendance only, or if the deceased was attended by more than one such practitioner, the coroner, justice, or justices may cause all or any of them to be summoned at his or their discretion.

Post-mortem examination.  
No. 8, 1898, s. 8.

**12.** The coroner, justice, or justices, either in such summons or by an order in writing, at any time before the termination of the inquest or inquiry, may direct any legally qualified medical practitioner to perform a post-mortem examination of the body of the deceased, either with or without an analysis of the contents of the stomach or intestines:

Where death caused by improper treatment.

Provided that if in any case it appear to the coroner, justice, or justices that the death of such deceased person was probably caused, partly or entirely, by the improper or negligent treatment of any medical practitioner or other person, then such practitioner or other person shall not be allowed to perform or assist at any such examination or analysis, although he shall in every such case be allowed to be present thereat.

Additional medical evidence in certain cases.  
*Ibid.* s. 9.

**13.** Whenever it appears to the coroner, or to a majority of the jury at any such inquest, or to the justice or justices or a majority of them at any such inquiry, that the cause of death has not been satisfactorily explained by the practitioner or practitioners examined in the first instance at such inquest or inquiry, the coroner, justice, or justices shall forthwith cause any other legally qualified practitioner or practitioners to be summoned as a witness or witnesses at such inquest or inquiry and shall direct him or them to perform a post-mortem examination, with or without such analysis as aforesaid, whether such an examination has been previously performed or not:

Where majority of jury desire such evidence.

Provided that where such additional evidence is at the instance of the majority of the jury, such majority may name to the coroner any particular practitioner or practitioners whom they wish to attend, and in that case such practitioner or practitioners shall be summoned, and no other.

Remuneration to medical witnesses.  
*Ibid.* s. 10.

**14.** When any legally qualified medical practitioner attends at an inquest or inquiry in obedience to any such summons, he shall, for such attendance, and for giving evidence at such inquest or inquiry, be entitled to receive the remuneration of one guinea, and (in addition thereto) for the making of any such post-mortem examination the remuneration of two guineas, and if the place of such practitioner's residence

*Coroners.*

residence is more than ten miles distant from the place where the inquest or inquiry is holden, then he shall be entitled to a sum of one shilling for every mile of such extra distance in addition :

Provided that where the death has happened in any public hospital, gaol, or other public building, no medical officer appointed with salary to attend such hospital, gaol, or building, shall be entitled to any such remuneration. Death happening in public hospital.

**15.** Where any such summons or order of any coroner, justice, or justices is served upon any medical practitioner to whom the same is directed or is left at his usual residence in sufficient time for him to obey the same, and he, nevertheless, does not obey such summons or order, he, unless at the hearing of the case he shows a good and sufficient excuse for such neglect shall be liable to a penalty of not less than three nor more than twenty pounds, to be recovered in a summary way before any two justices of the peace. Medical witnesses neglecting to attend. No 8, 1898, s. 11.

*Attendance of prisoners.*

**16.** A coroner, for the purposes of any inquisition, may, by order in writing directed to any gaoler, cause any prisoner in any prison, gaol, or house of correction to be brought before him under secure conduct for the purpose of being present at such inquisition, and immediately after such inquisition to be returned to his former custody. Prisoner at inquisition. No. 54, 1901, s. 6.

*Accidents in mines.*

**17.** (1) With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in or about mines, the following provisions shall have effect :— Accident in coal and other mines. No. 75, 1901, ss. 4, 47, 67, 71.

- (a) Where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by the Mines Inspection Act, 1901, or the Coal Mines Regulation Act, 1902, to be given to an inspector, the coroner shall adjourn the inquest, unless an inspector, or some person on behalf of the Secretary for Mines, is present to watch the proceedings. No. 73, 1902, ss. 3, 26, 64.
- (b) The coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest.
- (c) The coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof.
- (d) If an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not

*Coroners.*

- not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section unless the majority of the jury, if there is a jury, think it necessary so to adjourn.
- (e) An inspector may at any such inquest examine any witness, subject nevertheless to the order of the coroner.
- (f) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to an inspector notice in writing of such neglect or defect.
- (g) Any person having a personal interest in, or employed in, or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury impanelled on the inquest; and no constable or other person shall summon any person disqualified under this provision, nor shall any coroner allow any such person to be sworn or to sit on the jury.
- (h) The coroner shall not allow to be sworn or to sit on the jury any person who, in his opinion, might exhibit animus against the mine owner; nevertheless, whenever it is practicable, one-half of the jurymen shall be miners:  
 Provided that the provisions of this paragraph shall not apply in the case of an explosion or accident in a coal or shale mine.
- (i) Any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the persons employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent.

**Interpretation.**

(2) In this section, unless the subject-matter or context otherwise indicates,—

“Inspector” means an inspector of mines or the Chief Inspector of Mines under the Mines Inspection Act, 1901, and an inspector of collieries under the Coal Mines Regulation Act, 1902.

“Mine” means mine of any metal or mineral as defined by the Mines Inspection Act, 1901, and mine of coal or shale as defined by the Coal Mines Regulation Act, 1902.

“Shaft” include spit.

*Coroners.*

(3) Every person who fails to comply with the provisions of this section shall be liable to a penalty not exceeding five pounds for each offence. Penalty.

(4) No prosecution shall be instituted against a coroner for any offence under this section, except with the consent in writing of the Secretary for Mines. Prosecution against a coroner.

*Power of coroners to hold inquests into the cause and origin of fires.*

- 18.** (1) When any property is destroyed or damaged by fire if— Inquests on fires. No. 8, 1898, s. 12.
- (a) the coroner having or exercising jurisdiction at the place where such fire happens ; or
  - (b) the fire brigades board for the metropolitan district whenever the fire happens within that district ; or
  - (c) the fire brigades board for any borough or municipal district to which the Fire Brigades Act, 1902, has been extended whenever such fire happens within such borough or municipal district,

consider it a fit case for inquiry, such coroner shall hold an inquest into the cause and origin of such fire.

(2) If upon any such inquest the coroner, or if there be a coroner's jury, such jury find that any person has wilfully set such property on fire, and if an indictable offence has thereby been committed, the coroner may exercise the like authority in respect to the apprehension, examination, bail, committal, or otherwise of such person, as in the case of persons charged with murder or manslaughter. Arson.

(3) The mode of procedure in the summoning of jurors and witnesses and otherwise shall be the same upon inquests into the cause and origin of fires as upon inquests in cases of death, and all laws applicable to inquests in cases of death and to the quashing of inquisitions thereupon for sufficient cause by the proper officer or jurisdiction in this behalf shall extend and apply to inquests into the cause and origin of fires and inquisitions thereupon. Procedure.

*Miscellaneous.*

**19.** The verdict of *felo-de-se* is abolished. Felo-de-se. Ibid. s. 5.

**20.** No prisoner in any prison, gaol, or house of correction shall be summoned, impanelled, or serve as a juror upon any inquisition concerning the death of a prisoner in such prison, gaol, or house of correction. Prisoners not to be jurors. No. 54, 1901, s. 4.

**21.** Whenever any person is executed the coroner for the district in which the execution takes place shall, as soon after as is practicable, Persons executed. No. 8, 1898, s. 6.

*Coroners.*

practicable, hold an inquest on the body; and on such inquest the coroner or, if there be a jury, such jury shall inquire and find whether the sentence was duly carried into execution.

inquisition on  
Sunday.  
No. 54 1901, s. 5.

**22.** An inquisition concerning the death of any person may be commenced or held on a Sunday if, in the opinion of the coroner, such course is necessary or desirable. In such case the coroner shall note on the proceedings the circumstances which in his opinion render such course necessary or desirable.

## SCHEDULES.

Sec. 2.

## SCHEDULE I.

Reference to Act.	Title or Short Title.	Extent of repeal.
No. 8, 1898 ...	Coroners' Act, 1898 ... ..	The whole.
No. 54, 1901 ...	Coroners' Act, 1901 ... ..	The whole.
No. 67, 1901 ...	Jury Act, 1901... ..	Section 33
No. 75, 1901 ...	Mines Inspection Act, 1901 ... ..	Section 47 and subsection (3) of section 71.
No. 73, 1902 ...	Coal Mines Regulation Act, 1902 ... ..	Section 26, and in section 64 all words following the words "means as aforesaid."
No. 25, 1904 ...	Coroner's Court Act, 1904 ... ..	The whole.

Sec 10.

## SCHEDULE II.

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord \_\_\_\_\_, A.B., of [labourer], L.M., of [grocer], and N.O., of [butcher], personally came before me, one of His Majesty's coroners for \_\_\_\_\_, and severally acknowledged themselves to owe to our Lord the King the several sums following, that is to say, the said A.B., the sum of \_\_\_\_\_, and the said L.M. and N.O. the sum of \_\_\_\_\_, each of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands, and tenements respectively to the use of our said Lord the King, his heirs and successors, if he, the said A.B., fail in the condition hereunder written.

Taken and acknowledged the day and year first abovementioned at  
before me

J.S.,  
Coroner.

CONDITION.

