

CORONERS (AMENDMENT) ACT 1988 No. 27

NEW SOUTH WALES



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CORONERS (AMENDMENT) ACT 1988 No. 27

NEW SOUTH WALES



Act No. 27, 1988

An Act to amend the Coroners Act 1980 to create the offices of State Coroner and Deputy State Coroner, to provide for the functions of the office holders and for other related purposes. [Assented to 6 July 1988]

*Coroners (Amendment) 1988***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Coroners (Amendment) Act 1988.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Coroners Act 1980 No. 27

3. The Coroners Act 1980 is amended as set out in Schedule 1.

Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

4. The Statutory and Other Offices Remuneration Act 1975 is amended—

- (a) by inserting after paragraph (c) of the matter relating to the office of Magistrate (under the Local Courts Act 1982) in Part 1 of Schedule 2 the following paragraphs:
 - (c1) the State Coroner;
 - (c2) the Deputy State Coroner;
- (b) by inserting at the end of Part 1 of Schedule 2 the following words:
State Coroner.
Deputy State Coroner.

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(Sec. 3)

- (1) Section 4 (**Definitions**)—

Section 4 (4)—

After section 4 (3), insert:

- (4) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

- (2) Part 1A—

After Part 1, insert:

**PART 1A—THE OFFICES OF STATE CORONER AND
DEPUTY STATE CORONER**

SCHEDULE 1—AMENDMENTS—*continued***State Coroner and Deputy State Coroner**

4A. (1) The Governor may appoint a State Coroner and a Deputy State Coroner.

(2) The appointments shall be made by written instruments.

(3) The persons appointed must be Magistrates.

(4) A Magistrate shall not be appointed unless he or she has complied with section 16 of the Local Courts Act 1982 (which relates to oaths and affirmations).

(5) The State Coroner and the Deputy State Coroner shall each hold office for such period not exceeding 5 years as may be specified in their respective instruments of appointment but are eligible (if otherwise qualified) for re-appointment.

(6) Appointment as the State Coroner or the Deputy State Coroner does not affect a Magistrate's tenure of office, rank, title, status or precedence as a Magistrate.

(7) The State Coroner and the Deputy State Coroner are coroners for the purposes of this Act.

(8) Service as the State Coroner or the Deputy State Coroner shall, for all purposes, be taken to be service as a Magistrate.

(9) The Public Service Act 1979 does not apply to the appointment of the State Coroner or the Deputy State Coroner and the State Coroner and the Deputy State Coroner are not, in their respective capacities as State Coroner and Deputy State Coroner, subject to that Act.

Vacation of office as State Coroner or Deputy State Coroner

4B. (1) A person vacates the office of State Coroner or Deputy State Coroner if the person—

(a) ceases to be a Magistrate; or

(b) resigns the office by instrument in writing addressed to the Minister; or

(c) completes the term of office and is not re-appointed.

(2) A person does not cease to be a coroner or a Magistrate merely because of vacating the office of State Coroner or Deputy State Coroner.

Remuneration

4C. The State Coroner and the Deputy State Coroner are entitled to be paid—

(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and

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- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of each of them.

Functions of State Coroner

4D. The functions of the State Coroner are—

- (a) to oversee and co-ordinate coronial services in New South Wales; and
- (b) to ensure that all deaths, suspected deaths and fires concerning which a coroner has jurisdiction to hold an inquest or inquiry are properly investigated; and
- (c) to ensure that an inquest or inquiry is held whenever it is required by this Act to be held or it is, in the State Coroner's opinion, desirable that it be held; and
- (d) to issue guidelines to coroners to assist them in the exercise or performance of their functions; and
- (e) to exercise such other functions as are conferred or imposed on the State Coroner by or under this or any other Act.

Delegation by State Coroner

4E. The State Coroner may delegate to the Deputy State Coroner or to another coroner the exercise of any of the State Coroner's functions under this Act, other than this power of delegation.

Functions of Deputy State Coroner

4F. (1) The functions of the Deputy State Coroner are—

- (a) to act in the office of the State Coroner during the illness or absence from duty of the State Coroner or a vacancy in the office of the State Coroner; and
- (b) to exercise any functions delegated to the Deputy State Coroner by the State Coroner; and
- (c) to exercise such other functions as are conferred or imposed on the Deputy State Coroner by or under this or any other Act.

(2) When acting in the office of the State Coroner, the Deputy State Coroner has all the functions of the State Coroner and shall be taken to be the State Coroner.

Information to be given to State Coroner

4G. (1) The State Coroner may issue general directions to coroners requiring them to give to the State Coroner information they receive concerning deaths, suspected deaths or fires.

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(2) A coroner who receives information to which the directions apply must comply with the directions as soon as possible and in any event before the coroner either decides to dispense with an inquest or an inquiry or does anything under section 17 (time and place of inquest or inquiry).

(3) A coroner does not cease to have jurisdiction to hold an inquest or an inquiry merely because the coroner gives information to the State Coroner under this section.

(3) Section 8 (**All appointed coroners to have full jurisdiction**)—

After “by or under this Act”, insert “but, unless appointed to the office of State Coroner or Deputy State Coroner, does not have any of the jurisdiction, powers and duties of either of those offices”.

(4) Section 10 (**Magistrates to have jurisdiction, powers and duties of coroners**)—

After “or any other Act”, insert “and shall be taken to be a coroner, but, unless appointed to the office of State Coroner or Deputy State Coroner, does not have any of the jurisdiction, powers and duties of either of those offices”.

(5) Section 14 (**Mandatory and discretionary inquests**)—

(a) Section 14 (1) (b) (ii)—

After “Minister”, insert “or the State Coroner”.

(b) Section 14 (6) (a), (b)—

Omit the paragraphs, insert instead:

(a) at the request of the State Coroner—to the State Coroner; and

(b) at the request of the Minister—to the Minister; and

(c) at the request, in writing, of any person who has, in the opinion of the coroner, a sufficient interest of any kind in the circumstances of the death or suspected death—to that person.

(6) Section 14A—

After section 14, insert:

Direction to hold inquest

14A. (1) If, after considering a coroner’s reasons for dispensing with the holding of an inquest and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquest should nonetheless be held, the State Coroner shall direct a coroner to hold the inquest.

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(2) An inquest shall be held in accordance with any such direction.

(3) The State Coroner shall not give such a direction to a coroner who is a Magistrate (other than the coroner who dispensed with the holding of the inquest) without the Chief Magistrate's consent.

(4) The State Coroner may, instead of directing another coroner to hold the inquest, hold the inquest himself or herself.

(7) Section 15A—

After section 15, insert:

Direction to hold inquiry

15A. (1) A coroner who dispenses with the holding of an inquiry shall, if requested to do so by the State Coroner, give written reasons for doing so to the State Coroner.

(2) If, after considering any such reasons and any other matters that the State Coroner considers relevant, the State Coroner is of the opinion that an inquiry should nonetheless be held, the State Coroner shall direct a coroner to hold the inquiry.

(3) An inquiry shall be held in accordance with any such direction.

(4) The State Coroner shall not give such a direction to a coroner who is a Magistrate (other than the coroner who dispensed with the holding of the inquiry) without the Chief Magistrate's consent.

(5) The State Coroner may, instead of directing another coroner to hold the inquiry, hold the inquiry himself or herself.

(8) Sections 17A, 17B—

After section 17, insert:

State Coroner may hold inquest etc.

17A. (1) If a coroner is informed (under section 13 or 15) of a death, suspected death or fire, the State Coroner may—

(a) assume the jurisdiction to hold an inquest concerning the death or suspected death or an inquiry concerning the fire;
or

(b) direct another coroner to assume that jurisdiction.

(2) The State Coroner may do so only before the coroner who was informed of the death, suspected death or fire—

(a) decides to dispense with the holding of an inquest or inquiry; or

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(b) commences the inquest or inquiry.

(3) The State Coroner shall not, without the Chief Magistrate's consent, direct a coroner who is a Magistrate to assume jurisdiction to hold an inquest or an inquiry.

Directions by State Coroner

17B. (1) The State Coroner may give to a coroner directions concerning investigations to be carried out for the purposes of an inquest or inquiry that the coroner has jurisdiction to conduct, whether or not the inquest or inquiry has commenced.

(2) The State Coroner may give to a member of the police force who has informed a coroner of a death, suspected death or fire directions concerning investigations to be carried out for the purposes of an inquest or inquiry into the death, suspected death or fire, whether or not the inquest or inquiry has commenced.

(9) Section 18 (Inquests and inquiries with or without juries)—

Section 18 (2) (a), (4)—

After "Minister" wherever occurring, insert "or the State Coroner".

(10) Section 58 (Regulations)—

Section 58 (1) (a1)—

After section 58 (1) (a), insert:

(a1) the functions of the State Coroner and of the Deputy State Coroner;

(11) Schedule 3 (Savings and transitional provisions)—

Clause 6—

After clause 5, insert:

Inquests commenced before Coroners (Amendment) Act 1988 etc.

6. (1) In this clause—

"the 1988 Act" means the Coroners (Amendment) Act 1988.

(2) All inquests and inquiries that were commenced but that, immediately before the commencement of the 1988 Act, were not completed, shall be continued and completed as if this Act had not been amended by the 1988 Act.

(3) If, before the commencement of the 1988 Act, a coroner was informed of a death, suspected death or fire but the coroner—

(a) had not commenced an inquest or inquiry into the death, suspected death or fire by that commencement; or

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(b) had dispensed with such an inquest or inquiry before that commencement,
the coroner shall be taken to have been informed of the death, suspected death or fire under this Act, as amended by the 1988 Act.
