

**CORONERS (MISCELLANEOUS AMENDMENTS)
ACT 1989 No. 237**

NEW SOUTH WALES



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**CORONERS (MISCELLANEOUS AMENDMENTS) ACT
1989 No. 237**

NEW SOUTH WALES



Act No. 237, 1989

An Act to amend the Coroners Act 1980 in relation to reports to a coroner and the continuation or termination of an inquest or inquiry; to make consequential amendments to the Registration of Births, Deaths and Marriages Act 1973; and for other purposes. [Assented to 21 December 1989]

Coroners (Miscellaneous Amendments) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Coroners (Miscellaneous Amendments) Act 1989.

Commencement

2. This Act commences on a day or days 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.

Consequential amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87

4. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 2.

Transitional provision

5. If, immediately before the amendment of section 19 of the Coroners Act 1980 by this Act, that section applied to an inquest or inquiry, whether prospective or in progress, that section, as amended by this Act, applies to the inquest or inquiry.

SCHEDULE 1 - AMENDMENT OF CORONERS ACT 1980

(Sec. 3)

(1) Part 2A:

After Part 2, insert:

PART 2A - REPORTING OF DEATHS

Obligation to report death

12A (1) A person who:

- (a) has reasonable grounds to believe that a death or suspected death would be examinable by a coroner under section 13 (3); and

SCHEDULE 1 - AMENDMENT OF CORONERS ACT
1980 - *continued*

(b) has reasonable grounds to believe that the death or suspected death has not been reported to a coroner, must report the death or suspected death to a member of the police force, or to a coroner, as soon as possible after becoming aware of those grounds.

Maximum penalty: 10 penalty units.

(2) A member of the police force to whom a death or suspected death is reported as provided by subsection (1), or by section 24 (8) of the Registration of Births, Deaths and Marriages Act 1973, is required to inform a coroner of the death or suspected death as soon as possible.

(3) A coroner to whom a death or suspected death is reported under this section is required to inform the State Coroner of the report as soon as practicable.

(2) Section 13 (**Inquests into deaths or suspected deaths**):

(a) Section 13 (1):

Omit ", on the information of a member of the police force,".

(b) Section 13 (3):

Omit ", on the information of the member of the police force who informed him of the death or suspected death,".

(c) Section 13 (3) (f):

After "nature", insert ", except in the case of a local anaesthetic administered solely for the purpose of facilitating a procedure for resuscitation from apparent or impending death".

(d) Omit section 13 (3) (h), insert instead:

(h) the person died:

(i) while in the custody of a member of the police force; or

(ii) while in, or temporarily absent from, an institution to which this subparagraph is

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SCHEDULE 1 - AMENDMENT OF CORONERS ACT
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applied by subsection (5) and of which the person was an inmate.

(e) After section 13 (4), insert:

(5) The institutions to which subsection (3) (h) (ii) applies are:

- (a) an admission centre or mental hospital, within the meaning of the Mental Health Act 1958; or
- (b) a residential child care centre licensed under the Children (Care and Protection) Act 1987; or
- (c) a facility within the meaning of the Community Welfare Act 1987; or
- (d) a detention centre within the meaning of the Children (Detention Centres) Act 1987; or
- (e) a prison within the meaning of the Prisons Act 1952 or a lock-up.

(3) Section 14:

Omit the section, insert instead:

Dispensing with inquests

14. (1) A coroner who has jurisdiction to hold an inquest is required to hold it, unless the coroner dispenses with the holding of the inquest under this section.

(2) A coroner who has jurisdiction to hold an inquest into the death, or suspected death, of a person may dispense with the holding of the inquest, unless:

- (a) subsection (3) or (4) applies in relation to the person; or
- (b) the Minister directs that an inquest be held; or
- (c) the State Coroner directs that an inquest be held.

(3) For the purposes of subsection (2) (a), this subsection applies in relation to a person if it appears to the coroner that:

SCHEDULE 1 - AMENDMENT OF CORONERS ACT
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- (a) the person died, or might have died, as a result of homicide other than suicide; or
 - (b) the person died, or might have died, as a result of the administration of an anaesthetic in the course of an operation or procedure examinable by a coroner under section 13 (3) (f); or
 - (c) the person died, or might have died, as referred to in section 13 (3) (h); or
 - (d) the matters referred to in section 22 in respect of which a finding or verdict would be required if an inquest were held have not been sufficiently disclosed in relation to the person.
- (4) For the purposes of subsection (2) (a), this subsection applies in relation to a person if:
- (a) it appears to the coroner that the person died, or might have died, while under, or within 24 hours after the administration of, an anaesthetic in the course of an operation or procedure examinable by a coroner under section 13 (3) (f); and
 - (b) within 28 days after the death, or suspected death, the coroner is requested to hold the inquest by a relative of the person or by any other person who appears to the coroner to have a sufficient interest in the death or suspected death.
- (5) Subsections (3) and (4) do not apply if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been, or is to be, held at a place outside New South Wales.
- (6) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, the coroner may, by written order, direct any person having the possession or control of any document or writing relating to the medical care or treatment of the deceased person to produce the document or writing, at a time and place specified in the order, to the coroner or to any other person specified in the order.

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SCHEDULE 1 - AMENDMENT OF CORONERS ACT
1980 - *continued*

(7) A person who does not comply with a requirement made of the person under subsection (6) is guilty of an offence against this Act.

(8) A coroner who dispenses with the holding of an inquest is required to give written reasons for the decision:

- (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 written request 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.

(9) If a coroner:

- (a) refuses a request, referred to in subsection (4) (b), made by a person other than a relative of the deceased person; or
- (b) refuses a request referred to in subsection (8) (c), because the person making the request does not, in the opinion of the coroner, have a sufficient interest of any kind in the circumstances of the death or suspected death, the coroner is required, at the written request of the person, to give the person the reasons for the refusal.

(4) Section 15 (**Inquiries into fires**):

(a) Omit section 15 (1), insert instead:

(1) A coroner has the jurisdiction and duty to hold an inquiry concerning a fire where the coroner is informed that the fire has destroyed or damaged any property within this State.

SCHEDULE 1 - AMENDMENT OF CORONERS ACT
1980 - *continued*

- (b) At the end of section 15 (3) (b), insert:
; or
(c) by the Minister or the State Coroner.
- (5) **Section 17B (Directions by State Coroner):**
(a) From section 17B (2) omit "who has informed a coroner of a death, suspected death or fire".
(b) From section 17B (2) omit "the death", insert instead "a death".
- (6) **Section 19 (Procedure at inquest or inquiry involving indictable offence):**
(a) From section 19 (1) omit "Where-", insert instead "This section applies if".
(b) From section 19 (1) omit "issue, the coroner-", insert instead "issue".
(c) Omit section 19 (1) (c), (d) and (e).
(d) From section 19 (1), omit "and discharge the jury, if any".
(e) After section 19 (1), insert:
(1A) If this section applies to an inquest or inquiry as provided by subsection (1) (a), the coroner may commence the inquest or inquiry, or continue it if it has commenced, but only for the purpose of taking evidence to establish:
(a) in the case of an inquest - the death, the identity of the deceased and the date and place of death; or
(b) in the case of an inquiry - the date and place of the fire,
and, after taking that evidence, or if that evidence has been taken, must terminate the inquest or inquiry and, if there is a jury, must discharge the jury.
(1B) If this section applies to an inquest as provided by subsection (1) (b), the coroner may continue the inquest and:

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- (a) record under section 22 (1) the findings of the coroner or, if there is a jury, the verdict of the jury, or
- (b) after taking evidence to establish the death, the identity of the deceased and the date and place of death - terminate the inquest and, if there is a jury, discharge the jury.

(1C) If this section applies to an inquiry as provided by subsection (1) (b), the coroner may continue the inquiry and:

- (a) record under section 22 (2) the findings of the coroner or, if there is a jury, the verdict of the jury, or
- (b) after taking evidence to establish the date and place of the fire - terminate the inquiry and, if there is a jury, discharge the jury.

(f) Omit section 19 (2), insert instead:

(2) The coroner is required to forward to the Director of Public Prosecutions the depositions taken at an inquest or inquiry to which this section applies together with a statement that is signed by the coroner and specifies, in the case of an inquest or inquiry referred to in subsection (1) (b), the name of the known person, and the particulars of the offence, so referred to.

(7) **Section 20 (Further inquest or inquiry after previous inquest or inquiry terminated under section 19):**

From section 20 (1) omit "section 19 (1)", insert instead "section 19 (1A), (1B) or (1C)".

(8) **Section 22 (Finding of coroner or verdict of jury to be recorded):**

(a) Section 22 (1) (c):

After "inquest", insert "continued or".

(b) Section 22 (2) (b):

After "inquiry", insert "continued or".

**SCHEDULE 1 - AMENDMENT OF CORONERS ACT
1980 - *continued***

- (9) Section 45 (**Offences**):
 - (a) Section 45 (4) (a):
Omit "\$5,000", insert instead "50 penalty units".
 - (b) Section 45 (4) (b):
Omit "\$1,000", insert instead "10 penalty units".

- (10) Section 54 (**Penalty**):
Section 54 (1):
Omit "\$500", insert instead "5 penalty units".

- (11) Section 58 (**Regulations**):
Section 58 (2):
Omit "\$200", insert instead "2 penalty units".

**SCHEDULE 2 - AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973**

(Sec. 4)

- (1) Section 24 (**Medical certificate of cause of death**):
 - (a) In section 24 (7) (a) (v), after "nature", insert ", except in the case of a local anaesthetic administered solely for the purpose of facilitating a procedure for resuscitation from apparent or impending death".
 - (b) In section 24 (7) (b), after "nature", insert ", except in the case of a local anaesthetic administered solely for the purpose of facilitating a procedure for resuscitation from apparent or impending death".
 - (c) Omit section 24 (9).

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SCHEDULE 2 - AMENDMENT OF REGISTRATION OF
BIRTHS, DEATHS AND MARRIAGES ACT 1973 - *continued*

(2) Section 25 (**Notification of particulars by coroner**):

Omit section 25 (3) (a), insert instead:

- (a) a coroner dispenses with the holding of an inquest that, by the operation of section 14 (5) of the Coroners Act 1980, the coroner is not required to hold; or
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[*Minister's second reading speech made in -
Legislative Assembly on 28 November 1989
Legislative Council on 7 December 1989*]