



New South Wales

Coroners Amendment Act 2003 No 72

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Coroners Amendment Act 2003 No 72

Act No 72, 2003

An Act to make miscellaneous amendments to the *Coroners Act 1980* with respect to the holding of inquests and inquiries; and for other purposes. [Assented to 20 November 2003]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Coroners Amendment Act 2003*.

2 Commencement

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

3 Amendment of Coroners Act 1980 No 27

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

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Insert after section 4 (1):

(1A) Notes included in this Act do not form part of this Act.

[2] Sections 4 (2), 12A (1) and (2), 12B (5), 16 (2) (a), 37 (1A) (a), 41 (1) (d), 53 (1) and 53B (3)

Omit “member of the police force” wherever occurring.

Insert instead “police officer”.

[3] Section 15 Inquiries into causes and origins of fires and explosions

Omit “concerning” wherever occurring from section 15 (1), (2) and (3).

Insert instead “into the cause and origin of”.

[4] Section 15 (2)

Omit “circumstances”. Insert instead “cause and origin”.

[5] Section 15B

Insert after section 15A:

15B General inquiries concerning fires and explosions

- (1) The following persons may request that a coroner hold a general inquiry concerning a fire or explosion that has destroyed or damaged any property within the State:
 - (a) in the case of a fire or explosion occurring within a fire district within the meaning of the *Fire Brigades Act 1989*, the New South Wales Fire Brigades, or
 - (b) in the case of a bush fire within the meaning of the *Rural Fires Act 1997*, the Commissioner of the NSW Rural Fire Service, or
 - (c) the Minister.

- (2) If a request has been made under subsection (1) or the State Coroner is of the opinion that a general inquiry concerning a fire or explosion that has destroyed or damaged any property within the State should be held, the State Coroner must direct a coroner to hold the inquiry.
- (3) An inquiry is to be held in accordance with any such direction.
- (4) The State Coroner must not give such a direction to a coroner who is a Magistrate 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.

[6] Section 17B Directions by State Coroner

Omit section 17B (2).

[7] Section 17C

Insert after section 17B:

17C Directions to police by coroners

A coroner may give a police officer directions concerning investigations to be carried out for the purposes of an inquest or inquiry into a death, suspected death, fire or explosion, whether or not the inquest or inquiry has commenced.

[8] Section 27 Inquest or inquiry on Sunday

Insert "the record of" after "note on" in section 27 (2).

[9] Sections 27 (3), 35 (2) and (3), 38 and 42 (1)

Omit "summons" wherever occurring. Insert instead "subpoena".

[10] Section 30 Place of inquest

Insert at the end of the section:

- (2) However, nothing in subsection (1) prevents a coroner holding an inquest or inquiry in a room or building that is not open to the public (such as a room or building in a correctional centre, hospital, private residence or other place not normally open to the public) if the coroner is of the opinion that special circumstances make it necessary or desirable to do so.

- (3) In such a case, the coroner is to note on the record of the proceedings the special circumstances that in his or her opinion make such a course of action necessary or desirable.

Note. See also section 44 (5) and (6) for situations in which a coroner may order all or any persons to go and remain outside the room or building in which an inquest or inquiry is being held.

[11] Section 35 Subpoena for appearance or warrant for apprehension of witness

Omit section 35 (1). Insert instead:

- (1) If it appears to a coroner that any person is likely to be able to give material evidence at any inquest or inquiry being held, or to be held, or is likely to have in his or her possession or power any document or writing required for the purposes of evidence at the inquest or inquiry, the coroner may issue any of the following subpoenas:
- (a) a subpoena for the appearance of the person to be examined as a witness,
 - (b) a subpoena for the person to produce the document or writing,
 - (c) a subpoena both for the appearance of that person to be examined as a witness and to produce the document or writing.
- (1AA) However, if the coroner is satisfied by evidence on oath or affirmation that it is probable that the person will not appear to be examined or to produce the document or writing or both appear to be examined and produce the document or writing unless compelled to do so, the coroner may issue a warrant in the first instance for the apprehension of that person.

[12] Section 35 (1A) and (2)

Omit “subsection (1)” wherever occurring. Insert instead “this section”.

[13] Section 36 Form of subpoena

Omit “summons” wherever occurring. Insert instead “subpoena”.

[14] Section 37 Manner of service of subpoena

Omit “summons” wherever occurring. Insert instead “subpoena”.

[15] Section 39 Warrants for non-appearance in response to subpoena

Omit “summons” wherever occurring. Insert instead “subpoena”.

[16] Section 41 Form of warrant

Omit section 41 (1) (b). Insert instead:

- (b) be directed to a police officer by name or generally to the senior police officer of the district or place where it is to be executed, or to that senior police officer and to all other police officers in this State, or generally to all police officers in this State,

[17] Section 44 Power of coroner to clear court and prohibit publication of matter relating to inquest or inquiry

Omit section 44 (6). Insert instead:

- (6) For the purposes of subsection (5), in forming an opinion as to the public interest, a coroner may, without limitation, have regard to the following:
 - (a) the administration of justice,
 - (b) national security,
 - (c) the personal security of the public or any person.

[18] Schedule 3 Savings and transitional provisions

Omit clause 7 (6). Insert instead:

- (6) Divisions 1 and 2 of Part 3 of the Act (other than section 13B) as inserted by Schedule 1 (18) to the 1993 Act do not apply to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of those Divisions.
- (6A) Section 13B (No jurisdiction unless death occurred in last 100 years) as inserted by Schedule 1 (18) to the 1993 Act extends to a death or suspected death that occurred, or is suspected of having occurred, before the commencement of that section.

[19] Schedule 3, clauses 13 and 14

Insert after clause 12:

13 Previous summons or warrants

A summons or warrant issued and in force before the commencement of this clause continues to have effect, and may be executed and enforced, as if any relevant section of the Act that applied in relation to that summons or warrant were still in force.

14 Inquiries into fires and explosions

Section 15B, as inserted by the *Coroners Amendment Act 2003*, and the amendments to section 15 made by that Act, do not apply to a fire or explosion that occurred before the commencement of that section or those amendments, respectively.

[Second reading speech made in—

Legislative Assembly on 29 October 2003

Legislative Council on 13 November 2003]

BY AUTHORITY