

CORONERS (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Coroners Act 1980 to create the offices of State Coroner and Deputy State Coroner. The office holders will have functions relating mainly to the oversight of coronial inquests into deaths and suspected deaths and inquiries into fires and to investigations conducted for the purposes of those inquests and inquiries. They will also hold inquests and inquiries themselves.

The Bill also makes consequential amendments to the Statutory and Other Offices Remuneration Act 1975.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed date.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 makes amendments to the Statutory and Other Offices Remuneration Act 1975 as a consequence of the proposed creation of the new offices.

SCHEDULE 1—AMENDMENTS

Creation of offices of State Coroner and Deputy State Coroner

The Bill inserts a new Part 1A (The offices of State Coroner and Deputy State Coroner) into the Coroners Act. (Schedule 1 (2)).

This Part provides for the appointment by the Governor of Magistrates as the State Coroner and the Deputy State Coroner. Their appointment will not affect their tenure or status as Magistrates (proposed section 4A).

The Bill provides for the vacation of the offices of State Coroner and Deputy State Coroner and the remuneration of the office holders (proposed sections 4B and 4C).

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The functions of the State Coroner will include the oversight and co-ordination of coronial services in New South Wales and those of the Deputy State Coroner will include acting as the State Coroner in certain circumstances (proposed sections 4D and 4F). The State Coroner will have power to delegate his or her functions to the Deputy State Coroner or to another coroner (proposed section 4E).

To facilitate the State Coroner's supervision of inquests and inquiries, the State Coroner will have power to issue directions to coroners to inform him or her of any death, suspected death or fire reported to the coroners (proposed section 4G).

The Bill makes some minor amendments as a consequence of the creation of the offices of State Coroner and Deputy State Coroner. (Schedule 1 (1), (3) and (4)).

Power of State Coroner to direct that inquest or inquiry be held

Section 14 of the Coroners Act sets out the circumstances in which a coroner has a discretion to hold an inquest into a death or suspected death and when a coroner must hold such an inquest. The Bill amends section 14 to provide that, if directed by the State Coroner to do so, a coroner must hold an inquest into a death or suspected death of a person who had sufficient connection with New South Wales (Schedule 1 (5) (a)). The other circumstances in which the Act already provides that a coroner must hold such an inquest will not be affected by the proposed amendments. Under amended section 14, a coroner will also have to give the State Coroner written reasons for the coroner's dispensing with an inquest into certain other deaths and suspected deaths if requested by the State Coroner to do so (Schedule 1 (5) (b)). A coroner's existing duty under the Act to give written reasons to the Minister or an interested person, if requested to do so, will not be affected by the proposed amendments.

At present, the only mechanism under the Coroners Act for a review of a coroner's decision to dispense with an inquest or inquiry is an application to the Supreme Court under section 47. In order to provide an alternative and more immediate means of review, the Bill inserts into the Act a new section 14A under which, if a coroner has decided to dispense with the holding of an inquest concerning a death or suspected death, the State Coroner will have power either to direct that the inquest be held or to hold it himself or herself. The Bill also inserts into the Act a new section 15A under which the State Coroner will have the same power in relation to a coroner's decision to dispense with the holding of an inquiry concerning a fire. The State Coroner will not be able to direct a coroner who is a Magistrate to hold an inquest or inquiry without the Chief Magistrate's consent unless the coroner made the initial decision to dispense with the inquest or inquiry. (Schedule 1 (6) and (7)).

Power of State Coroner to take over holding of inquests and inquiries

In keeping with the State Coroner's supervisory role, the Bill inserts into the Coroners Act a new section 17A which will enable the State Coroner to assume jurisdiction, or to direct another coroner to assume jurisdiction, from the coroner who initially had jurisdiction under section 13 or 15 to hold an inquest or inquiry. The State Coroner will be able to do so only before the coroner either decides to dispense with the holding of the inquest or inquiry or commences the inquest or inquiry. A coroner who is a Magistrate may be directed to take over a matter only with the Chief Magistrate's consent. (Schedule 1 (8)).

Power of State Coroner to issue directions

The Bill inserts into the Coroners Act a new section 17B which will enable the State Coroner to issue directions to a coroner or to a member of the police force concerning investigations to be carried out for the purposes of an inquest or an inquiry. (Schedule 1 (8)).

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Section 18 of the Coroners Act sets out the circumstances in which an inquest or inquiry must be held before a coroner and a jury. The Bill amends section 18 to provide that an inquest or inquiry must be held before a coroner and a jury if the State Coroner so directs. (Schedule 1 (9)). The other circumstances in which the Act already provides that an inquest or inquiry must be so held will not be affected by the proposed amendments.

Miscellaneous amendments

The Bill amends section 58 of the Coroners Act to enable regulations to be made for or with respect to the functions of the State Coroner and the Deputy State Coroner and inserts into Schedule 3 of that Act consequential provisions of a transitional and savings nature. (Schedule 1 (10) and (11)).
