

Coroners Act 1980 No 27

[1980-27]



New South Wales

Status Information

Currency of version

Historical version for 1 December 2002 to 19 December 2002 (accessed 25 March 2025 at 21:15)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
 - [Health Care Complaints Act 1993 No 105](#) (amended by [Statute Law \(Miscellaneous Provisions\) Act 1994 No 32](#)) (not commenced)
 - [Children and Young Persons Legislation \(Repeal and Amendment\) Act 1998 No 158](#) (not commenced)
 - [Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced)
 - [Courts Legislation Miscellaneous Amendments Act 2002 No 99](#) (not commenced)
 - [Coal Mine Health and Safety Act 2002 No 129](#) (not commenced)
- **See also**
 - [Human Tissue and Anatomy Legislation Amendment Bill 2002](#)
 - [Mine Health and Safety Bill 2002](#)

Authorisation

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File last modified 18 December 2002

Coroners Act 1980 No 27



New South Wales

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Coroners Act 1980 No 27



New South Wales

An Act with respect to the holding by coroners of inquests into deaths and suspected deaths and inquiries into fires and explosions; and to repeal the *Coroners Act 1960* and certain other Acts.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Coroners Act 1980*.

2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 (Repealed)

4 Definitions

- (1) In this Act, except so far as the context or subject-matter otherwise indicates or requires:

deposition means, where a deposition is recorded by a means other than writing, a transcript certified in the manner prescribed by regulations made under the *Justices Act 1902* of the deposition so recorded.

inquest means an inquest concerning the death or suspected death of a person.

inquiry means an inquiry concerning a fire or explosion.

justice means justice of the peace.

place includes any land, building, mine, ship, vehicle or aircraft or any other vessel or vehicle.

regulations means regulations under this Act.

relative, in relation to a person who has or is suspected to have died means:

- (a) the spouse of that person, a parent of that person, a person who stands in loco parentis to that person, a guardian of that person or a child of that person, or
- (b) (Repealed)
- (c) if there is no relative, as defined in paragraph (a), of that person, a brother or sister of that person,

who has attained the age of 18 years.

senior next of kin of a deceased person means:

- (a) the deceased person's spouse, or
- (b) if the deceased person did not have a spouse or a spouse is not available—any of the deceased person's sons or daughters who are of or above the age of 18 years, or
- (c) if the deceased person did not have a spouse, son or daughter or a spouse, son or daughter is not available—either of the deceased person's parents, or
- (d) if the deceased person did not have a spouse, son, daughter or living parent or a spouse, son, daughter or parent is not available—any of the deceased person's brothers or sisters who are of or above the age of 18 years, or
- (e) if the deceased person did not have a spouse, son, daughter, living parent, brother or sister or a spouse, son, daughter, parent, brother or sister is not available:
 - (i) any person who is named as an executor in the deceased person's will, or
 - (ii) any person who was the deceased person's personal representative immediately before the deceased person's death.

spouse means:

- (a) a husband or wife, or
- (b) the other party to a de facto relationship within the meaning of the [Property \(Relationships\) Act 1984](#),

but where more than one person would so qualify as a spouse, means only the last person so to qualify.

Supreme Court means the Supreme Court of New South Wales.

this State means the State of New South Wales.

- (2) A reference in this Act to a member of the police force informing a coroner of the death or suspected death of a person or of a fire or explosion includes a reference to any prescribed person employed by the Lord Howe Island Board so informing a coroner but only if the coroner is informed that the death occurred or is suspected of having occurred on Lord Howe Island or that the fire or explosion occurred on Lord Howe Island.
- (3) A reference in this Act to the remains of a deceased person includes a reference to any part of the remains of that person.
- (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.
- (5) For the purposes of this Act:
 - (a) a reference, in paragraph (a) of the definition of **relative** in subsection (1), to the child of a person includes, where the person was in a domestic relationship within the meaning of the *Property (Relationships) Act 1984*, a reference to a person who was, by virtue of section 5 of that Act, a child of the parties to the relationship, and
 - (b) a reference in that paragraph to a parent includes a reference to a party to such a domestic relationship of which the deceased, or suspected deceased, was by virtue of section 5 of the *Property (Relationships) Act 1984*, a child.

Part 1A The offices of State Coroner and Deputy State Coroner

4A State Coroners and Deputy State Coroners

- (1) The Governor may appoint a State Coroner and up to 3 Deputy State Coroners.
- (1A) If there is more than one Deputy State Coroner, one is to be appointed as Senior Deputy State Coroner in and by his or her instrument of appointment or a later instrument executed by the Governor.
- (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 a 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 a 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 a Deputy State Coroner are coroners for the purposes of this Act.
- (8) Service as the State Coroner or a Deputy State Coroner shall, for all purposes, be taken to be service as a Magistrate.
- (9) The *Public Sector Management Act 1988* does not apply to the appointment of the State Coroner or a Deputy State Coroner and the State Coroner and a Deputy State Coroner are not, in their respective capacities as State Coroner and Deputy State Coroner, subject to that Act.

4B Vacation of office as State Coroner or Deputy State Coroner

- (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.

4C Remuneration

The State Coroner and a Deputy State Coroner are entitled to be paid:

- (a) remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*, and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of each of them.

4D Functions of the State Coroner

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, fires and explosions 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.

4E Delegation by State Coroner

The State Coroner may delegate to a 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.

4F Functions of Deputy State Coroner

- (1) The functions of a Deputy State Coroner are to exercise any functions delegated to the Deputy State Coroner by the State Coroner and to exercise such other functions as are conferred or imposed on a Deputy State Coroner by or under this or any other Act.
- (1A) A Deputy State Coroner is 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. If there is more than one Deputy State Coroner available to act, the one to act is the Senior Deputy State Coroner.
- (2) When acting in the office of the State Coroner, a Deputy State Coroner has all the functions of the State Coroner and shall be taken to be the State Coroner.

4G Information to be given to State Coroner

- (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, fires or explosions.
- (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.

Part 2 The offices of coroner and assistant coroner

5 Appointment of coroners

- (1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be coroners.
- (2) Any such instrument may provide that the person thereby appointed shall be a coroner:

(a) at such place as may be specified in the instrument, or

(b) in and for this State.

(3) A person holding office as coroner is taken to hold the office on either a full-time or part-time basis, according to whether the person holds the office of Magistrate on a full-time or part-time basis under the *Local Courts Act 1982*.

(4) The Governor may, for any cause which to the Governor seems sufficient, remove any coroner from office.

5A Assistant coroners

(1) The Governor may by instrument in writing on the recommendation of the Minister appoint fit and proper persons to be assistant coroners.

(2) The Governor may, for any cause which to the Governor seems sufficient, remove any assistant coroner from office.

(3) A person's appointment as an assistant coroner ceases to have effect on the person's appointment as a coroner.

6 Age qualification for coroners and assistant coroners

(1) A person of or above the age of 70 years shall not be appointed as a coroner or assistant coroner.

(2) However, a person of or above the age of 70 years may be appointed as a coroner if the Minister recommends to the Governor that the appointment of that person as a coroner is appropriate. In that case:

(a) the appointment is to be made for such term (not exceeding 3 years) as is specified in the instrument of appointment of that coroner, and

(b) section 6A does not apply to that coroner.

(3) A coroner appointed under subsection (2) is eligible for reappointment under that subsection from time to time.

6A Vacation of office of coroners and assistant coroners

(1) A coroner or assistant coroner ceases to hold office on attaining the age of 70 years.

(2) A coroner or assistant coroner who is employed in the Local Courts Administration, Department of Courts Administration, ceases to hold office as a coroner or assistant coroner on ceasing, after the commencement of this section, to be so employed.

(3) A coroner or assistant coroner who was, immediately before the commencement of this section, a public servant but was not employed in the Local Courts Administration,

Department of Courts Administration, ceases to hold office as a coroner or assistant coroner on ceasing, after that commencement, to be a public servant.

- (4) A Magistrate who is a coroner by reason of the operation of section 10 ceases to hold office as a coroner on ceasing to be a Magistrate.
- (5) The amendments made to this Act by the *Coroners (Amendment) Act 1986* do not revive the appointment of a person who previously ceased to be a coroner or deputy coroner on attaining the age of 70 years or ceasing to be a public servant.

7 Oath of allegiance for coroners and assistant coroners

- (1) A coroner appointed after the commencement of this Act shall not act as such unless he or she has:
 - (a) taken and subscribed the oath of allegiance and the judicial oath prescribed by the *Oaths Act 1900*, or
 - (b) made and subscribed solemn affirmations in the form of those oaths,and unless he or she has transmitted them to the Minister.
- (1A) An assistant coroner is not to act as such unless he or she has taken and subscribed the oath of allegiance prescribed by the *Oaths Act 1900* or made and subscribed a solemn affirmation in the form of that oath, and has transmitted it to the Minister.
- (2) Any such oath or affirmation may be taken or made before and may be administered and received by any justice.
- (3) A coroner who does not, within 3 months after his or her appointment as such, take the oaths or make the affirmations referred to in subsection (1) ceases to hold office as coroner when that period ends.
- (4) An assistant coroner who does not, within 3 months after appointment, take the oath or make the affirmation referred to in subsection (1A) ceases to hold office as assistant coroner.

8 All appointed coroners to have full jurisdiction

A coroner appointed under this Act, irrespective of whether he or she is appointed to be a coroner at a specified place or in and for this State, has all the jurisdiction, powers and duties conferred or imposed on coroners by or under this Act 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.

9 Functions of assistant coroners

- (1) An assistant coroner has and may exercise the following functions:

- (a) the function of providing administrative assistance to a coroner under the control and direction of the coroner,
 - (b) such functions as may be conferred or imposed on an assistant coroner by or under this or any other Act.
- (2) An assistant coroner also has and may exercise the following functions if delegated in writing to the assistant coroner by the State Coroner:
- (a) the function of issuing orders for the disposal of dead bodies,
 - (b) the function of issuing orders for the performance of post mortem examinations,
 - (c) the function of dispensing with the holding of inquests if death results from natural causes,
 - (d) the function of dispensing with the holding of inquiries if a fire does not occur in suspicious circumstances,
 - (e) the function of dispensing with the holding of inquiries if a fire involved only a motor vehicle.
- (3) An assistant coroner cannot hold an inquest or inquiry and the function of holding an inquest or inquiry cannot be delegated to an assistant coroner by the State Coroner.
- (4) This section does not authorise an assistant coroner to exercise any function conferred or imposed on a coroner, except as specifically provided for by delegation under this section or by this or any other Act.
- (5) Section 49 of the *Interpretation Act 1987* applies to a delegation under this section.

10 Magistrates to have jurisdiction, powers and duties of coroners

A Magistrate has, by virtue of his or her office, all the jurisdiction, powers and duties conferred or imposed on coroners by or under this or any other Act 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.

11, 12 (Repealed)

Part 2A Reporting of deaths

12A Obligation to report death

- (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, 13A or 13AB, and
 - (b) has reasonable grounds to believe that the death or suspected death has not been

reported in accordance with this subsection,

must report the death or suspected death to a member of the police force, or to a coroner or assistant 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 12B (5), is required to report the death or suspected death to a coroner or assistant coroner as soon as possible.
- (2A) An assistant coroner to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner as soon as possible.
- (2B) In the case of a death or suspected death occurring or suspected of having occurred within any of the following Local Court Districts, the coroner to whom the death or suspected death is reported under this section must be a Magistrate:

Northern Metropolitan District

Southern Metropolitan District

Western Metropolitan District

Eastern Metropolitan District

Newcastle District

Parramatta District

Liverpool District

Manly District

Penrith District

Richmond District

Windsor District

Any other Local Court District to which the provisions of this section are applied by the regulations.

- (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.
- (3A) The State Coroner is to provide to the Ombudsman all relevant material held by the State Coroner relating to a death or suspected death referred to in section 13AB (1),

or the death of a person under the age of 18 years in the circumstances set out in section 13A (1) (c), as soon as practicable after a decision not to hold an inquest into the death or suspected death concerned is made or, if an inquest is held, as soon as practicable after the conclusion or termination of the inquest.

- (3B) The requirements of subsection (3A) are in addition to any requirements of Part 6 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.
- (4) The State Coroner is to make a written report to the Attorney General containing a summary of the details of the deaths or suspected deaths of which the State Coroner has been informed under this section and which appear to the State Coroner to involve the death or suspected death of a person in circumstances referred to in section 13A (Deaths in custody etc examinable only by State Coroner or Deputy State Coroner).
- (5) A report under subsection (4) is to be made for the period of 12 months commencing on 1 January 1994 and for each subsequent period of 12 months. Each report is to be made within 2 months after the end of the period to which it relates.
- (6) The Attorney General is to cause a copy of each report made to the Attorney General under subsection (4) to be tabled in each House of Parliament within 21 days after the report is made.
- (7) If a House of Parliament is not sitting when the Attorney General seeks to comply with subsection (6), the Attorney General is required to present a copy of the report to the Clerk of the House.
- (8) Material presented to the Clerk under this section:
- (a) on presentation and for all purposes, is taken to have been laid before the House of Parliament, and
 - (b) is required to be printed by authority of the Clerk, and
 - (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by order or under the authority of the House, and
 - (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the material by the Clerk.

12B Medical practitioner must not certify cause of death if death is reportable to a coroner

- (1) A medical practitioner must not give a certificate as to the cause of death of a person for the purposes of notification of the cause of death under the *Births, Deaths and Marriages Registration Act 1995* if the medical practitioner is of the opinion that the person died in any of the following circumstances:

- (a) the person died a violent or unnatural death,
 - (b) the person died a sudden death the cause of which is unknown,
 - (c) the person died under suspicious or unusual circumstances,
 - (d) the person died having not been attended by a medical practitioner within the period of 3 months immediately preceding his or her death,
 - (e) the person died while under, or as a result of, or within 24 hours after the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation or procedure or an operation or procedure of a like nature, other than a local anaesthetic administered solely for the purpose of facilitating a procedure of resuscitation from apparent or impending death,
 - (f) the person died within a year and a day after the date of any accident to which the cause of his or her death is or may be attributable,
 - (g) the person died while in or temporarily absent from a hospital within the meaning of the *Mental Health Act 1990* and while the person was a resident at the hospital for the purpose of receiving care, treatment or assistance,
 - (h) the person died in circumstances that are examinable as referred to in section 13A (Deaths in custody etc examinable only by State Coroner or Deputy State Coroner),
 - (i) the person died in circumstances that are examinable as referred to in section 13AB (Child or disability deaths examinable only by State Coroner or Deputy State Coroner).
- (2) Despite subsection (1), a medical practitioner may give a certificate as to the cause of death of a person if the medical practitioner is of the opinion that the person:
- (a) was 65 years of age or older, and
 - (b) died in circumstances other than those referred to in subsection (1) (b), (c), (d), (e), (g), (h) or (i), and
 - (c) died after sustaining an injury from an accident, being an accident that was attributable to the age of that person, contributed substantially to the death of the person and was not caused by an act or omission by any other person.
- (3) Subsection (2) does not apply if the accident concerned occurred in a hospital or nursing home.
- (4) If a medical practitioner certifies the cause of death of a person in pursuance of subsection (2), the certificate must state that it is given in pursuance of that subsection.

- (5) A medical practitioner who is prevented from certifying the cause of death of a person because of this section must, as soon as practicable after the death, report that death to a member of the police force.

Part 3 Jurisdiction of coroners

Division 1 Cases in which inquest is to be held

13 Inquests into deaths or suspected deaths

- (1) A coroner has jurisdiction to hold an inquest concerning the death or suspected death of a person if it appears to the coroner that the person has died, or that there is reasonable cause to suspect that the person has died, in any of the following circumstances:
- (a) the person died a violent or unnatural death,
 - (b) the person died a sudden death the cause of which is unknown,
 - (c) the person died under suspicious or unusual circumstances,
 - (d) a medical practitioner has not given a certificate as to the cause of death,
 - (e) the person was not attended by a medical practitioner within the period of 3 months immediately preceding his or her death or suspected death,
 - (f) the person died while under, or as a result of, or within 24 hours after the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation or procedure or an operation or procedure of a like nature, other than a local anaesthetic administered solely for the purpose of facilitating a procedure for resuscitation from apparent or impending death,
 - (g) the person died within a year and a day after the date of any accident to which the cause of his or her death or suspected death is or may be attributable,
 - (h) the person died while in or temporarily absent from a hospital within the meaning of the [Mental Health Act 1990](#) and while the person was a resident at the hospital for the purpose of receiving care, treatment or assistance.
- (2) The reference in subsection (1) (d) or (e) to a medical practitioner includes, if it appears to the coroner that the death or suspected death occurred at a place outside New South Wales, a reference to a person entitled under the law in force in that place to act as a medical practitioner.

13A Deaths in custody etc examinable only by State Coroner or Deputy State Coroner

- (1) A coroner who is the State Coroner or a Deputy State Coroner has jurisdiction to hold an inquest concerning the death or suspected death of a person if it appears to the

coroner that the person has died or that there is reasonable cause to suspect that the person has died:

- (a) while in the custody of a police officer or in other lawful custody, or while escaping or attempting to escape from the custody of a police officer or other lawful custody, or
- (b) as a result of or in the course of police operations, or
- (c) while in, or temporarily absent from, a detention centre within the meaning of the *Children (Detention Centres) Act 1987*, a correctional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999* or a lock-up, and of which the person was an inmate, or
- (d) while proceeding to an institution referred to in paragraph (c), for the purpose of being admitted as an inmate of the institution and while in the company of a police officer or other official charged with the person's care or custody.

- (2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner.

13AB Child or disability deaths examinable only by State Coroner or Deputy State Coroner

- (1) A coroner who is the State Coroner or a Deputy State Coroner has jurisdiction to hold an inquest concerning the death or suspected death of a person if it appears to the coroner that the person was, or that there is reasonable cause to suspect that the person was:
 - (a) a child in care, or
 - (b) a child in respect of whom a report was made under Part 2 of Chapter 3 of the *Children and Young Persons (Care and Protection) Act 1998* within the period of 3 years immediately preceding the child's death, or
 - (c) a child who is a sibling of a child in respect of whom a report was made under Part 2 of Chapter 3 of the *Children and Young Persons (Care and Protection) Act 1998* within the period of 3 years immediately preceding the child's death, or
 - (d) a child whose death is or may be due to abuse or neglect or that occurs in suspicious circumstances, or
 - (e) a person (whether or not a child) who, at the time of the person's death, was living in, or was temporarily absent from, residential care provided by a service provider and authorised or funded under the *Disability Services Act 1993* or a residential centre for handicapped persons, or
 - (f) a person (other than a child in care) who is in a target group within the meaning of the *Disability Services Act 1993* who receives from a service provider assistance

(of a kind prescribed by the regulations) to enable the person to live independently in the community.

- (2) If jurisdiction to hold an inquest arises under both this section and section 13, an inquest is not to be held except by the State Coroner or a Deputy State Coroner.
- (3) If jurisdiction to hold an inquest into the death of a child arises under this section or section 13A, the coroner must use his or her best endeavours to notify the following persons of any right that they have to legal representation at the inquest:
 - (a) the persons having parental responsibility for the child,
 - (b) the child's parents (if they do not have that responsibility),
 - (c) such family members as would be reasonably expected to have an immediate interest in the outcome of the inquest.

- (4) In this section:

child means a person under the age of 18 years.

child in care means a child or young person under the age of 18 years:

- (a) who is under the parental responsibility of the Minister administering the *Children and Young Persons (Care and Protection) Act 1998*, or
- (b) for whom the Director-General of the Department of Community Services or a designated agency has the care responsibility under section 49 of the *Children and Young Persons (Care and Protection) Act 1998*, or
- (c) who is a protected person within the meaning of section 135 of the *Children and Young Persons (Care and Protection) Act 1998*, or
- (d) who is the subject of an out-of-home care arrangement under the *Children and Young Persons (Care and Protection) Act 1998*, or
- (e) who is the subject of a sole parental responsibility order under section 149 of the *Children and Young Persons (Care and Protection) Act 1998*, or
- (f) who is otherwise in the care of a service provider.

parental responsibility, in relation to a child or young person, means all the duties, powers, responsibilities and authority that, by law, parents have in relation to their children.

residential centre for handicapped persons means:

- (a) premises declared to be a residential centre for handicapped persons under section 3A of the *Youth and Community Services Act 1973*, or

(b) premises licensed under Part 3 of the *Youth and Community Services Act 1973*, but does not include premises exempted under that Act from the requirement to be licensed.

service includes a statutory or other function, and **rendering** or **providing** a service includes exercising such a function.

service provider has the same meaning as it has in the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

13B No jurisdiction unless death occurred in last 100 years

A coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears to the coroner that, or that there is reasonable cause to suspect that, the death or suspected death occurred within the last 100 years.

13C Jurisdiction requires connection with New South Wales

- (1) A coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears to the coroner that:
 - (a) the remains of the person are in New South Wales, or
 - (b) the death or suspected death or the cause of the death or of the suspected death occurred in New South Wales, or
 - (c) the death or suspected death occurred outside New South Wales but the person had a sufficient connection with New South Wales, as referred to in subsection (2).
- (2) A person had a sufficient connection with New South Wales if the person:
 - (a) was ordinarily resident in New South Wales when the death or suspected death occurred,
 - (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in New South Wales, or
 - (c) was last at some place in New South Wales before the circumstances of his or her death or suspected death arose.

Division 2 Cases in which inquest can be dispensed with

14 Coroner may dispense with inquest except in some cases

A coroner who has jurisdiction to hold an inquest may dispense with the inquest except in those cases in which an inquest is required to be held.

14A Minister or State Coroner may direct that inquest be held

An inquest is required to be held if the Minister or the State Coroner directs that it be held.

14B General cases in which inquest required to be held

- (1) An inquest is required to be held in the following cases:
 - (a) a case in which it appears to the coroner that the person died or might have died as a result of homicide (not including suicide),
 - (b) a case in which the death or suspected death is examinable only by the State Coroner or a Deputy State Coroner under section 13A,
 - (c) a case in which it appears to the coroner that it has not been sufficiently disclosed whether the person has died, or that the person's identity and the date and place of the person's death have not been sufficiently disclosed,
 - (d) a case in which it appears to the coroner that the manner and cause of the person's death have not been sufficiently disclosed (unless the case is one in which an inquest has been terminated or continued under section 19).
- (2) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

14C Deaths under anaesthetic—inquest required in certain cases

- (1) An inquest is required to be held if it appears to the coroner that the person died, or might have died, as a result of the administration of an anaesthetic as referred to in section 13 (1) (f).
- (2) An inquest is required to be held if 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 as referred to in section 13 (1) (f) and the coroner has been requested to hold the inquest by any person who appears to the coroner to have a sufficient interest in the death or suspected death.
- (3) A relative of a person is taken to have a sufficient interest in the person's death or suspected death for the purposes of a request under this section and the coroner is not to refuse the relative's request.
- (4) A request under this section must be made within 28 days after the death or suspected death.
- (5) An inquest is not required to be held under this section if it appears to the coroner that an inquest or other official inquiry concerning the death or suspected death has been held, or is to be held, outside New South Wales.

- (6) A coroner who refuses a request under this section because the person making it does not, in the opinion of the coroner, have a sufficient interest of any kind in the circumstances of the death or suspected death, is required, at the written request of the person, to give the person the reasons for the refusal.

14D Reasons to be given for dispensing with inquest

- (1) A coroner who dispenses with an inquest must on request by any of the following persons give the person the coroner's written reasons for dispensing with an inquest:
 - (a) the State Coroner,
 - (b) the Minister,
 - (c) any person who, in the opinion of the coroner, has a sufficient interest of any kind in the circumstances of the death or suspected death.
- (2) A coroner who refuses a request to give reasons because the person making it does not, in the opinion of the coroner, have a sufficient interest of any kind in the circumstances of the death or suspected death, is required, at the written request of the person, to give the person the reasons for the refusal.

14E Direction to hold inquest

- (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 is to direct a coroner to hold the inquest.
- (2) An inquest is to be held in accordance with the direction.
- (3) The State Coroner is not to 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 hold the inquest himself or herself (instead of directing another coroner to hold the inquest).

14F Power to obtain documents etc

- (1) For the purpose of enabling a coroner to determine whether or not to dispense with the holding of an inquest, the coroner may, by notice in writing served on a person, direct the person to produce a document or other thing to the coroner or another person specified in the notice at a time and place specified in the notice.
- (2) The power to give such a direction extends to permit a direction to produce a document relating to the medical care or treatment of a person.
- (3) The coroner is to withdraw a direction under this section if it appears to the coroner

that:

- (a) any person would be entitled on grounds of privilege to refuse to produce the document or other thing in a court of law, and
 - (b) the person does not consent to compliance with the direction.
- (4) A person is excused from producing a document or other thing under this section on the ground that it may tend to incriminate him or her, unless the document relates to the medical care or treatment of a person, in which case the person is not excused from producing it.
- (5) A person must not without reasonable excuse fail to comply with a notice served on him or her under this section.

Maximum penalty (subsection (5)): 10 penalty units.

Division 3 Inquiries into fires and explosions

15 Inquiries into fires and explosions

- (1) A coroner has the jurisdiction and duty to hold an inquiry concerning a fire or explosion where the coroner is informed that the fire or explosion has destroyed or damaged any property within this State.
- (2) Where after consideration of any information in his or her possession relating to a fire or explosion, the coroner is of opinion that the circumstances of the fire or explosion are sufficiently disclosed or that an inquiry concerning the fire or explosion is unnecessary, the coroner may, subject to subsection (3), dispense with the holding of an inquiry concerning the fire or explosion.
- (3) A coroner shall not dispense with the holding of an inquiry concerning a fire or explosion if the coroner has been requested to hold the inquiry:
- (a) in the case of a fire or explosion occurring within a fire district within the meaning of the *Fire Brigades Act 1989*, by New South Wales Fire Brigades, or
 - (b) in the case of a bush fire within the meaning of the *Rural Fires Act 1997* by the Commissioner of the NSW Rural Fire Service, or
 - (c) by the Minister or the State Coroner.

15A Direction to hold inquiry

- (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.

Division 4 Miscellaneous

16 Cases where a coroner is not bound to hold an inquest or inquiry

- (1) A coroner having jurisdiction to hold an inquest or inquiry may refuse to hold the inquest or inquiry in any case where after being informed in accordance with this Act of the death or suspected death or of the fire or explosion concerned:
 - (a) the coroner is unable through illness, absence from the place where the coroner holds office or ordinarily acts as coroner or other cause to hold the inquest or inquiry,
 - (b) the coroner, being a person holding office as a Magistrate or clerk of a Local Court, or duly acting as a clerk of a Local Court, is after being so informed and before holding the inquest or inquiry transferred by the Chief Magistrate of the Local Courts or within the Public Service, as the case may be, from the place where the coroner held or acted in that office when the coroner was so informed to some other place or position, or
 - (c) the coroner is satisfied that the inquest or inquiry should be held by another coroner or that, except where the coroner has jurisdiction to hold an inquest under section 47, the inquest or inquiry should, on the ground of public convenience, be held by a coroner at some other place than that at which the coroner holds office or ordinarily acts as coroner.
- (2) Where a coroner refuses to hold an inquest or inquiry in a case referred to in:
 - (a) subsection (1) (a) or (c), a member of the police force, or
 - (b) subsection (1) (b), the coroner,may inform any other coroner of the death or suspected death or of the fire or explosion and that other coroner may proceed in all respects as if the firstmentioned coroner had not been informed of the death or suspected death or of the fire or explosion.

16A Notice of particulars of death to be given to Registrar of Births, Deaths and Marriages

- (1) If a coroner holds an inquest in respect of the death of a person, the coroner must, for the purpose of enabling registration of the death of the person to be effected or completed, give notice in writing to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person.
- (2) If a coroner dispenses with the holding of an inquest under section 14 or terminates an inquest under section 19, the coroner must, for the purpose of enabling registration of the death of the person to be effected or completed, give notice in writing to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person.
- (3) If a coroner is satisfied (whether before or during an inquest in respect of the death of a person) that there will be a delay in concluding the inquest and that he or she is able, on the basis of such evidence as the coroner considers sufficient, to determine the particulars relating to the death of the person, the coroner may, for the purpose of enabling registration of the death of the person to be completed or effected, make that determination and give notice of the determination in writing to the Registrar of Births, Deaths and Marriages.
- (4) A notice under this section must not include any matter incriminating any person.
- (5) In this section, a reference to the particulars relating to the death of a person is a reference to the identity of, and date, place and cause of death of, the deceased person.

Part 4 Inquests and inquiries generally

Division 1 Principal provisions

17 Time and place of inquest or inquiry

- (1) Where, under this Act, an inquest or inquiry is to be held, the coroner:
 - (a) shall fix a time and place for the commencement of the inquest or inquiry,
 - (b) shall give particulars of the time and place to any person who has given notice in writing to the coroner of his or her intention to seek leave to appear or to be represented at the inquest or inquiry,
 - (b1) in the case of an inquest concerning the death or suspected death of a person—shall give particulars of the time and place to the person's next-of-kin if the coroner has been informed of the name and address of the next-of-kin, and
 - (c) may give particulars of the time and place to any person who has, in the opinion of the coroner, a sufficient interest in the subject-matter of the inquest or inquiry.

- (2) Without limiting subsection (1) (b), (b1) or (c), particulars referred to in those paragraphs shall be deemed to have been given if a notice specifying the particulars is sent by post to the person to whom the particulars are to be given.

17A State Coroner may hold inquest etc

- (1) If a coroner is informed (under section 12A or 15) of a death, suspected death, fire or explosion, 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 explosion, 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, fire or explosion:
 - (a) decides to dispense with the holding of an inquest or inquiry, or
 - (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.

17B Directions by State Coroner

- (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 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.

18 Inquests and inquiries with or without juries

- (1) An inquest or inquiry shall, except as provided by subsection (2), be held before a coroner without a jury.
- (2) An inquest shall be held before a coroner with a jury if:
 - (a) the Minister or the State Coroner so directs, or
 - (b) a relative of the person who has died or is suspected of having died or the secretary of any society or organisation of which that person was, immediately before his or her death or suspected death, a member so requests.
- (2A) A person is not entitled, without the leave of the coroner, to make a request under subsection (2) (b) for an inquest to be held before the coroner with a jury if:

- (a) the request is made on or after the commencement of the inquest or within 14 days before that commencement, and
 - (b) the person had, at least 7 days before making the request, been given particulars of the commencement of the inquest under section 17.
- (3) Where an inquest concerning a death or suspected death caused or suspected by the coroner of having been caused by an explosion or accident in or about a mine situated wholly or partly in the Broken Hill Jury District constituted under the *Jury Act 1977* is held before a coroner with a jury, the jury shall consist of 6 persons summoned in accordance with the regulations.
- (4) An inquiry shall be held before a coroner with a jury if the Minister or the State Coroner so directs.
- (5) As soon as practicable after a coroner becomes aware that an inquest or inquiry is to be held before the coroner with a jury, the coroner must notify the sheriff of the need for a jury.

19 Procedure at inquest or inquiry involving indictable offence

- (1) This section applies if:
- (a) before an inquest or inquiry commences or at any time during the course of an inquest or inquiry, it appears to the coroner that a person has been charged with an indictable offence, or
 - (b) at any time during the course of an inquest or inquiry, the coroner is of the opinion that, having regard to all the evidence given up to that time:
 - (i) the evidence is capable of satisfying a jury beyond reasonable doubt that a known person has committed an indictable offence, and
 - (ii) there is a reasonable prospect that a jury would convict the known person of the indictable offence,

and the indictable offence is one in which the question whether the person charged or the known person caused the death or suspected death or the fire or explosion is in issue.

(c)-(e) (Repealed)

- (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 or explosion, 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:

(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 or explosion—terminate the inquiry and, if there is a jury, discharge the jury.

(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.

(3) (Repealed)

20 Further inquest or inquiry after previous inquest or inquiry terminated under section 19

(1) Notwithstanding that, under section 19 (1A), (1B) or (1C), a coroner decides not to commence, or terminates, an inquest concerning the death or suspected death of a person or an inquiry concerning a fire or explosion, an inquest or a fresh inquest concerning that death or suspected death, or an inquiry or a fresh inquiry concerning that fire or explosion, as the case may be, may subsequently be held under this Act, but shall not be held:

(a) where a person has been charged with an indictable offence in which the question whether the person caused the death or suspected death or the fire or explosion is in issue (including where a person has been so charged after the coroner has terminated the inquest or inquiry after coming to the opinion referred to in section 19 (1) (b)), until:

- (i) the charge is finally dealt with on the committal of that person for trial for the offence to a sittings of the Supreme Court or the District Court or on the person's committal to either of those courts to be dealt with as provided in section 51A of the *Justices Act 1902*,
 - (ii) the Attorney-General or the Director of Public Prosecutions directs that no further proceedings be taken against that person in respect of the charge, or
 - (iii) a justice orders or justices order that that person be discharged as to the information under inquiry before the justice or justices with respect to the charge, or
- (b) where the coroner has terminated the inquest or inquiry after coming to the opinion referred to in section 19 (1) (b) and neither the person named in the statement referred to in section 19 (2) nor any other person has been charged with an indictable offence in which the question whether the person so named or that other person caused the death or suspected death or the fire or explosion is in issue—until the Attorney-General or the Director of Public Prosecutions directs that no proceedings be taken against the person so named for the indictable offence particulars of which are set out in the statement.
- (2) For the purposes of subsection (1) (a) (i), a charge shall be deemed to be finally dealt with when no further appeal can be made in respect thereof without an extension of time being granted by the Court of Criminal Appeal or without special leave of the High Court of Australia.

21 Procedure at inquest upon finding no death

- (1) If, at any time during the course of an inquest concerning the death or suspected death of a person, it appears to the coroner from the evidence that the person has not died:
- (a) the coroner shall, if there is no jury, so find and terminate the inquest, or
 - (b) the coroner may, if there is a jury, request the jury to bring in a preliminary verdict as to whether or not the person has died.
- (2) If, pursuant to a request referred to in subsection (1) (b), the verdict of the jury is:
- (a) that the person has not died, the coroner shall terminate the inquest and discharge the jury, or
 - (b) that the person has died or that it is uncertain whether the person has died, the inquest shall be resumed.
- (3) The coroner shall, upon the termination of an inquest under this section, record in writing his or her findings or, if there is a jury, the jury's verdict.

22 Finding of coroner or verdict of jury to be recorded

- (1) The coroner holding an inquest concerning the death or suspected death of a person shall, at its conclusion or termination, record in writing his or her findings or, if there is a jury, the jury's verdict, as to whether the person died and, if so:
 - (a) the person's identity,
 - (b) the date and place of the person's death, and
 - (c) except in the case of an inquest continued or terminated under section 19, the manner and cause of the person's death.
- (2) The coroner holding an inquiry concerning a fire or explosion shall, at its conclusion or termination, record in writing his or her findings or, in the case of an inquiry held before a jury, the jury's verdict:
 - (a) except as provided in paragraph (b), as to the date and place and the circumstances of the fire or explosion,
 - (b) in the case of an inquiry continued or terminated under section 19, as to the date and place of the fire or explosion.
- (3) Any record made under the provisions of subsection (1) or (2) shall not indicate or in any way suggest that an offence has been committed by any person.
- (4) Subsection (1) does not apply in respect of an inquest terminated under section 21.

22A Coroner or jury may make recommendations

- (1) A coroner (whether or not there is a jury) or a jury may make such recommendations as the coroner or jury considers necessary or desirable to make in relation to any matter connected with the death, suspected death, fire or explosion with which an inquest or inquiry is concerned.
- (2) Public health and safety are examples of matters that can be the subject of a recommendation. A recommendation that a matter be investigated or reviewed by a specified person or body is an example of a recommendation that can be made.
- (3) The record made under section 22 is to include any recommendations made by the coroner or jury. The record must not indicate or in any way suggest that an offence has been committed by any person.

23 Further inquest

- (1) Notwithstanding that an inquest concerning the death or suspected death of a person:
 - (a) is terminated under section 21 (1) (a), or
 - (b) is concluded and the coroner's findings are, or the jury's verdict recorded under

section 22 is, that the person has not died or it is uncertain whether the person has died,

a fresh inquest concerning the death or suspected death may subsequently be held under this Act.

- (2) Where the remains of a person are found in this State, an inquest concerning the death of the person may be held notwithstanding that an inquest concerning the suspected death of the person has been held.

23A Duty to hold fresh inquest or inquiry—new facts or evidence

- (1) A fresh inquest or inquiry must be held into a death, suspected death, fire or explosion that was the subject of an inquest or inquiry that has been held if:
 - (a) an application for the fresh inquest or inquiry is made under this section, and
 - (b) on the basis of the application, the State Coroner is of the opinion that the discovery of new evidence or facts makes it necessary or desirable in the interests of justice to hold a fresh inquest or inquiry.
- (2) An application for a fresh inquest or inquiry may only be made by a police officer or by a person who was granted leave to appear or be represented at a previous inquest or inquiry into the death, suspected death, fire or explosion concerned.
- (3) The State Coroner can hold the fresh inquest or inquiry or can direct another coroner to hold it.
- (4) The findings on the fresh inquest or inquiry may be expressed to be in addition to or in substitution for the findings on any previous inquest or inquiry (even if the previous inquest or inquiry was a fresh inquest or inquiry held under this section).
- (5) This section does not limit or otherwise affect any other power of a coroner (including the State Coroner) to hold a fresh inquest or inquiry and does not interfere with the provisions of this Act with respect to the termination of inquests.

Division 2 Machinery provisions

24 Coroner's right to possession of body

- (1) A coroner has a right to take possession of and retain the remains of a person whenever the coroner has jurisdiction to hold or is holding an inquest into the death or suspected death of the person.
- (2) This right of the coroner has priority over any other right to possession of the remains of a person but otherwise does not affect any other such right.
- (3) This section does not prevent the making of an order by a coroner under section 53B

or the disposal of the body of a deceased person in accordance with such an order.

(4) This section does not limit any rights that the coroner has apart from this Act.

25 Order authorising entry of certain places

(1) Where a coroner considers that an examination should, for the purposes of an inquest or inquiry, be made in relation to any place or that any measurements or photographs should, for those purposes, be taken in relation to any place, the coroner may issue an order in writing to a specified person authorising the person to enter any specified place during a specified period and to:

(a) make such examination of:

(i) the nature and condition of the place or any equipment or machinery therein or thereon, or

(ii) any other matter or thing, or

(b) take such measurements or photographs,

as is or are specified or referred to in the order.

(2) An order may be made under subsection (1):

(a) before the commencement, or

(b) after the commencement and before the completion,

of the inquest or inquiry referred to in that subsection.

(3) A person to whom an order is issued under subsection (1) may, during the specified period, enter the specified place and:

(a) make the examination, or

(b) take the measurements or photographs,

specified or referred to in the order.

(4) A person who, upon production to the person of an order issued under subsection (1), obstructs or hinders the person to whom the order was issued in the exercise of his or her powers under this section arising by virtue of the order is guilty of an offence against this Act.

26 Coroner who is medical practitioner not to hold certain inquests

Notwithstanding any other provision of this Act, a coroner, being a medical practitioner, shall not hold an inquest concerning the death or suspected death of any person whom the coroner attended professionally at or immediately before the death or suspected

death of that person or during any illness which that person suffered before and which continued up to the person's death or suspected death.

27 Inquest or inquiry on Sunday

- (1) A coroner may commence or hold an inquest or inquiry on a Sunday if the coroner is of opinion that such a course is necessary or desirable.
- (2) In such a case, the coroner shall note on the proceedings the circumstances which in his or her opinion render such a course necessary or desirable.
- (3) A coroner may, for the purposes of this Act, do any act or issue a summons, warrant or order on a Sunday.

28 Place where inquest or inquiry before jury to be held

An inquest or inquiry which would, but for this section, be held before a coroner and a jury at any place that is not a place for which a jury district is constituted under the [Jury Act 1977](#) shall be held at the nearest such place.

29 Coroner and jury not to view body or scene of fire or explosion

A view of the remains of a deceased person or of the scene of a fire or explosion shall not, upon any inquest or inquiry be taken by the coroner or, where there is a jury, by the jury unless the coroner deems it advisable to be done.

30 Place of inquest

The room or building in which a coroner holds an inquest or inquiry shall be open to the public.

31 Witnesses to be examined on oath

The coroner holding an inquest or inquiry may examine on oath all persons:

- (a) who tender evidence relevant to the inquest or inquiry, or
- (b) who, in the opinion of the coroner, are able to give evidence relevant to the inquest or inquiry.

31A Persons granted leave may apply for witness to be examined

- (1) A person granted leave to appear or be represented at an inquest or inquiry may apply to the coroner to have a particular person examined at the inquest or inquiry. Such an application can be made before or during the holding of the inquest or inquiry.
- (2) A coroner who refuses such an application must give the applicant the reasons for refusing the application.
- (3) The coroner is required to deal with such an application as soon as reasonably

practicable after it is made and in any case before the inquest or inquiry is concluded.

32 Representation at inquests or inquiries

- (1) Any person who, in the opinion of the coroner holding an inquest or inquiry, has a sufficient interest in the subject-matter of the inquest or inquiry may by leave of the coroner appear in person at the inquest or inquiry or be represented thereat by counsel or a solicitor, and may examine and cross-examine any witnesses on matters relevant to the inquest or inquiry.
- (2) It is to be presumed that a relative of the person into whose death or suspected death an inquest is being held has a sufficient interest in the subject-matter of the inquest and the coroner must grant such a person leave under this section, unless the coroner is satisfied that there are exceptional circumstances that justify the coroner refusing leave.
- (3) When an inquest or inquiry is held before a coroner with a jury:
 - (a) a person appearing, and a barrister or solicitor representing a person, at the inquest or inquiry is entitled to make an opening and a closing address to the jury, and
 - (b) the person assisting the coroner may make an opening and a closing address to the jury and in addition has a right of reply in respect of any closing address made pursuant to paragraph (a).

33 Rules of procedure and evidence

A coroner holding an inquest or inquiry shall not be bound to observe the rules of procedure and evidence applicable to proceedings before a court of law, but no witness shall, except in accordance with section 33AA, be compelled to answer any question which criminate the witness, or tends to criminate the witness, of any offence.

33AA Privilege in respect of self-incrimination

- (1) This section applies if a witness at an inquest or inquiry held by a coroner who is a Magistrate objects to giving particular evidence on the ground that the evidence may tend to prove that the witness has committed an offence or is liable to a civil penalty.
- (2) The coroner is to cause the witness to be given a certificate under this section in respect of the evidence if the objection is overruled but, after the evidence has been given, the coroner finds that there were reasonable grounds for the objection.
- (3) If the coroner is satisfied that the evidence concerned may tend to prove that the witness has committed an offence or is liable to a civil penalty but that the interests of justice require the witness to give the evidence, the coroner may require the witness to give the evidence. If the coroner so requires, the coroner is to cause the witness to be given a certificate under this section in respect of the evidence.

- (4) In any proceedings in a NSW court (within the meaning of the *Evidence Act 1995*):
- (a) evidence given by a person in respect of which a certificate under this section has been given, and
 - (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given that answer,
- cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence.
- (5) A certificate under this section can only be given in respect of evidence that is required to be given by a natural person.

33A Fresh inquest or inquiry—admission of previous depositions

- (1) A coroner holding a fresh inquest or inquiry may admit in evidence the depositions taken at any previous inquest or inquiry.
- (2) Subsection (1) is subject to the terms of an order made by a court for the holding of the fresh inquest or inquiry.

34 Depositions to be taken

- (1) The deposition of every witness at an inquest or inquiry shall be recorded by means of writing, shorthand, stenotype machine, sound-recording apparatus or any other means prescribed for the time being by regulations made under section 154 (1A) (b) of the *Justices Act 1902*.
- (2) Where, for the purposes of subsection (1), the deposition of a witness is recorded by means of writing, it shall be read over either to or by the witness, as the coroner holding the inquest or inquiry may direct, and be signed by the witness and by the coroner.
- (3) (Repealed)
- (4) Any person who:
 - (a) shows cause sufficient in the opinion of the appropriate official why that person should be supplied with a copy of the coroner's file (or a part of that file) in respect of any matter, and
 - (b) pays a fee calculated at the rate prescribed by the regulations for the time being in force under section 154 of the *Justices Act 1902* for copies of depositions,is to be supplied with a copy of the coroner's file (or a part of that file) by the clerk of the Local Court where, or nearest to the place where, the inquest or inquiry was held or would have been held had it not been dispensed with.

(5) In this section:

appropriate official means, in relation to a particular matter, the coroner who held, or dispensed with the holding of, the inquest or inquiry to which the matter relates or (in the absence of that coroner) the clerk of the Local Court where, or nearest to the place where, that inquest or inquiry was held or would have been held had it not been dispensed with.

coroner's file means the documents (including the depositions of witnesses) that form part of the file kept by a coroner in respect of a death, suspected death, fire or explosion.

- (6) The coroner who holds or dispenses with the holding of an inquest or inquiry, or who decides not to commence or terminates an inquest or inquiry under section 19, may, by notation on the coroner's file on the matter, direct that a copy of the whole or a particular part of the file is not to be supplied under this section. A copy of a coroner's file or of any part of the file is not to be supplied in contravention of such a direction.
- (7) A direction by a coroner under subsection (6) must include a statement of the coroner's reasons for the direction. A copy of that statement is to be made available to any person who applies to be supplied with a copy of the coroner's file or any part of it.
- (8) (Repealed)

34A Documentary evidence

Divisions 4 and 5 of Part 4 of the [Criminal Procedure Act 1986](#) apply to and in respect of an inquest or inquiry in the same way as they apply to and in respect of proceedings before a court, and any function exercisable by a justice under those Divisions may, for the purposes of an inquest or inquiry, be exercised by a coroner.

35 Summons for appearance or warrant for apprehension of witness

(1) If it is made to appear to a coroner:

- (a) 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, and
- (b) that that person will not appear voluntarily to be examined as a witness, or to produce the document or writing at the time and place appointed for the holding of the inquest or inquiry,

the coroner:

- (c) may issue his or her summons for the appearance of that person to be examined

as a witness or to produce the document or writing, as the case may be, or

(d) if the coroner is satisfied by evidence upon oath that it is probable that that person will not appear to be examined or to produce the document or writing unless compelled to do so, may issue his or her warrant in the first instance for the apprehension of that person.

- (1A) A coroner may exercise a function under subsection (1) in respect of an inquest or inquiry not being conducted or not to be conducted by him or her, but only with the consent of the coroner who is conducting or is to conduct the inquest or inquiry.
- (2) A person is not bound to produce any document or writing not specified or otherwise sufficiently described in a summons or warrant issued under subsection (1) in respect of the person or which the person would not be bound to produce upon a subpoena for production in the Supreme Court.
- (3) An assistant coroner may, at the direction of a coroner given in a particular case, exercise the power of the coroner to issue a summons or warrant under this section.

36 Form of summons

A summons issued under section 35 (1) shall:

- (a) be under the hand and seal of the coroner or assistant coroner issuing it,
- (b) be directed to the person whose appearance is required, and
- (c) require that person to appear at a certain time and place before the coroner holding the inquest or inquiry concerned to testify what the person knows concerning the subject-matter of the inquest or inquiry or to produce any document or writing specified or described in the summons.

37 Manner of service of summons

(1) A summons issued under section 35 (1) shall be served upon the person to whom it is directed by delivering it to him or her personally or, if the person cannot conveniently be found, then by leaving it with some person for him or her at the person's last or most usual place of abode.

(1A) A summons issued under section 35 (1) shall be served by:

- (a) a member of the police force, or
- (b) where the coroner or assistant coroner issuing the summons so directs—the sheriff or a person employed in the office of the sheriff.

(2) Service of a summons in the manner specified in subsection (1) may be proved by the oath of the person who served it attending at the inquest or inquiry, by his or her affidavit or otherwise.

38 Certain defects immaterial

No objection shall be taken or allowed to any summons or warrant in respect of any alleged defect therein in substance or in form.

39 Warrants for non-appearance to summons

Where a person for whose appearance a summons has been issued does not appear at the time and place appointed thereby, the coroner before whom the person was required to appear may, upon proof of the due service of the summons upon that person and if no just excuse is offered for his or her non-appearance, issue his or her warrant for the apprehension of that person.

40 Apprehension of witness under warrant

- (1) The coroner before whom a person is brought after having been apprehended under a warrant referred to in section 35 or 39:
 - (a) subject to the [Bail Act 1978](#), must order that a warrant be issued for the committal of the person to a correctional centre or other place of security, and
 - (b) must order the person to be brought before the coroner at such time and place as is specified in the order.
- (2) The [Bail Act 1978](#) applies to the person (not being an accused person within the meaning of that Act) in the same way as it applies to an accused person within the meaning of that Act and, for that purpose, bail may be granted to such a person under that Act with respect to the period between:
 - (a) the person's being brought before the coroner under a warrant for the purpose of being examined as a witness or producing a document or thing, and
 - (b) the person's being examined as a witness or producing the document or thing.

41 Form of warrant

- (1) A warrant, issued by a coroner under section 35 or 39 or by an assistant coroner under section 35, for the apprehension of any person shall:
 - (a) be under the hand and seal of the coroner or assistant coroner,
 - (b) be directed to a member of the police force by name or generally to the senior officer of police of the district or place where it is to be executed, or to that officer of police and to all other members of the police force in this State, or generally to all members of the police force in this State,
 - (c) name or otherwise describe the person whose appearance is required, and
 - (d) order any member of the police force to whom it is directed to apprehend the

person whose appearance is required, and cause the person to be brought before the coroner to testify what the person knows concerning the subject-matter of the inquest or inquiry or to produce the document or writing specified or described in the warrant.

- (2) Such a warrant shall be returnable at a time and place to be stated therein.
- (3) Such a warrant may be executed by apprehending the person against whom it is directed at any place in this State.
- (4) A person apprehended under a warrant may be taken before a justice or justices, in which case the provisions of section 66 (2) of the *Justices Act 1902* apply to the person as if the warrant were a warrant issued under section 61 of that Act.

42 Refusal of witness to be examined

- (1) A person who appears, whether or not upon summons or warrant, to give evidence or to produce any document or writing at an inquest or inquiry and who, without lawful excuse:
 - (a) refuses to take the oath,
 - (b) refuses to be examined upon oath,
 - (c) having taken the oath, refuses to answer any question relevant to the subject-matter of the inquest or inquiry, or
 - (d) refuses or neglects to produce the document or writing,is guilty of an offence against this Act.
- (2) The reference in subsection (1) to an oath is, in relation to a person who objects to taking an oath, a reference to an affirmation referred to in section 12 of the *Oaths Act 1900*.

43 Contempt

- (1) A person who at any inquest or inquiry is guilty of contempt is liable, upon summary conviction by the coroner holding the inquest or inquiry, to a penalty not exceeding 10 penalty units or to imprisonment for a period not exceeding 14 days.
- (2) A coroner who is not a justice and any justice shall in respect of any such conviction have all the powers of a justice in respect of a conviction by a justice and the provisions of the *Justices Act 1902* with respect to the enforcement of convictions apply to any such conviction or order made thereupon.

44 Power of coroner to clear court and prohibit publication of matter relating to inquest

or inquiry

- (1) A coroner holding an inquest or inquiry may order:
 - (a) any witness or all of the witnesses to go and remain outside the room or building in which the inquest or inquiry is being held until required to give evidence, or
 - (b) that any evidence given at the inquest or inquiry being held by the coroner be not published.
- (2) Where, after a coroner receives a report or is informed of a death or suspected death under section 12A or during the course of an inquest, it appears to the coroner that the death or suspected death may have been self inflicted, the coroner may order that no report, or no further report, of the proceedings (or any specified part of the proceedings) be published until after the coroner has made his or her findings or, in the case of an inquest held before a jury, the jury has brought in its verdict.
- (2A) An order under subsection (2) may also prohibit the publication of any matter (including the publication of any photograph or other pictorial representation) that identifies any particular person:
 - (a) as being a person whose death or suspected death may have been self inflicted, or
 - (b) as being a relative of a person whose death or suspected death may have been self inflicted.
- (2B) For the purposes of subsection (2A) (b), the following persons are relatives of a person whose death or suspected death may have been self inflicted:
 - (a) the spouse of that person, a parent of that person, a person who stands in loco parentis to that person, a guardian of that person or a child of that person,
 - (b) a person who, at the time of the death or suspected death, was living with that person as her husband or his wife,
 - (c) a brother or sister of that person.
- (2C) To the extent to which an order under subsection (2) prohibits the publication of any matter referred to in subsection (2A), the order continues to have effect after the coroner has made his or her findings, or after the jury has brought in its verdict, but only if the order expressly so provides.
- (3) Subject to subsection (4), where, in an inquest, there is a finding or verdict that, or to the effect that, the death of a person was self-inflicted, no report of the proceedings shall be published after the finding or verdict.
- (4) Where, in an inquest, there is a finding or verdict that, or to the effect that, the death

of a person was self inflicted and the coroner holding the inquest is of opinion that it is desirable in the public interest to permit a report of the proceedings of the inquest to be published, the coroner may, by order, permit the whole of the proceedings, or such part of the proceedings as are specified in the order, to be published.

- (5) A coroner holding an inquest or inquiry may, if of the opinion that it would be in the public interest to do so, order:
 - (a) all or any persons to go and remain outside the room or building in which the inquest or inquiry is being held, or
 - (b) that any evidence given at the inquest or inquiry being held by the coroner not be published.
- (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 administration of justice, national security or personal security.

45 Offences

- (1) A person who fails to comply with an order made under section 44 (1), (2) or (5) is guilty of an offence against this Act.
- (2) Where, in an inquest, there is a finding or verdict that, or to the effect that, the death of a person was self inflicted, any person who publishes or causes to be published any report of the proceedings of the inquest after the finding or verdict is guilty of an offence unless an order has been made under section 44 (4) and the report complies with the order.
- (3) Where:
 - (a) a coroner holding an inquest or inquiry forbids or disallows any question or warns any witness that he or she is not compelled to answer any question, or
 - (b) a witness in an inquest or inquiry objects to giving evidence on the ground that the evidence may tend to prove that the witness has committed an offence,any person who publishes the question, warning, objection or evidence without the express permission of the coroner is guilty of an offence against this Act.
- (4) A person who is guilty of an offence against this Act arising under this section is liable:
 - (a) if a body corporate, to a penalty not exceeding 50 penalty units, or
 - (b) if any other person, to a penalty not exceeding 10 penalty units or to imprisonment for a period not exceeding 6 months.
- (5) If a corporation contravenes an order under section 44 (1), (2) or (5), each person who is a director of the corporation or a person concerned in the management of the

corporation is taken to have contravened the order if the person knowingly authorised or permitted the contravention.

- (6) A person may be proceeded against and convicted under a provision pursuant to subsection (5) whether or not the corporation has been proceeded against or convicted.

46 Meaning of “published” in sections 44 and 45

For the purposes of sections 44 and 45, matter is published only if it is:

- (a) inserted in any newspaper or any other periodical publication,
- (b) publicly exhibited, or
- (c) broadcast by wireless transmission or by television.

Part 5 Supreme Court’s powers relating to inquests and inquiries

47 Powers of Supreme Court to order inquest or inquiry

- (1) Where the Supreme Court, upon an application made by, or under the authority of, the Minister or by any other person, is satisfied that it is necessary or desirable in the interests of justice that an inquest concerning a death or suspected death or inquiry concerning a fire or explosion should be held (whether or not an inquest concerning the death or suspected death or an inquiry concerning the fire or explosion has been partly held and terminated), the Supreme Court may order that the inquest or inquiry be held.
- (2) Where an inquest or inquiry has been, or purports to have been, held and the Supreme Court, upon an application made by, or under the authority of, the Minister or by any other person is satisfied that, by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, discovery of new facts or evidence, or otherwise, it is necessary or desirable in the interests of justice that the inquest or inquiry be quashed and a fresh inquest or inquiry be held, the Supreme Court may order that the first inquest or inquiry be quashed and that instead thereof a fresh inquest or inquiry be held.
- (2A) Except where an application for an order under subsection (1) or (2) is made by order under the authority of the Minister, notice of an application under subsection (1) or (2) shall be served on the Minister in accordance with the rules of the Supreme Court.
- (2B) The Minister is entitled to be heard on the hearing of any application under subsection (1) or (2).
- (2C) Where the Supreme Court makes an order under subsection (1) or (2), the order shall, within 21 days after it is made, be served on the Minister in accordance with the

rules of that Court or any directions given by that Court in making the order.

- (3) Upon service on the Minister of an order made by the Supreme Court under subsection (1) or (2), the Minister shall endorse on a copy thereof the name of some coroner and send it to that coroner.
- (4) Where a coroner whose name is endorsed on the copy of the order refuses, under section 16 (1) (a) or (b), to hold the inquest, the Minister shall endorse on a copy of the order the name of some other coroner and send it to that other coroner.
- (5) Upon receipt of the copy endorsed under subsection (3) or (4) the coroner whose name is endorsed on the copy of the order shall have jurisdiction, and it shall be his or her duty, to hold the inquest or inquiry ordered to be held in accordance with the provisions of this Act, notwithstanding that the coroner does not have jurisdiction to hold the inquest or inquiry under any other provision of this Act.
- (6) Section 14 does not apply to or in respect of the holding of an inquest or inquiry by a coroner who has jurisdiction to hold the inquest or inquiry under this section.

Part 6 Post mortem examinations, exhumations and special tests

47A Coronial Medical Officers

- (1) The regulations may make provision for or with respect to the appointment of medical practitioners as Coronial Medical Officers for the purposes of this Act.
- (2) The State Coroner may notify a coroner in writing that a particular post mortem examination to be carried out at the direction of the coroner must be carried out by a Coronial Medical Officer, and the coroner must ensure that such a notification is complied with.

48 Post mortem or other examination may be ordered by coroner

- (1) A coroner may, either before commencing or after commencing and before completing an inquest concerning the death of a person, by order in writing, direct:
 - (a) any medical practitioner to perform a post mortem examination of the remains of that person, and
 - (b) the same or any other medical practitioner or any other person who the coroner considers has sufficient qualifications to do so, to make a special examination or test, specified in the order, of the remains of that person or of the contents of the person's body or any part thereof, or of such other matters or things as the coroner considers ought to be examined for the purpose of the inquest,

and to furnish, as soon as practicable, a report of the examination or test to the coroner.

- (2) Where it appears to a coroner that the death of a person was probably caused, partly or entirely, by improper or negligent treatment by a medical practitioner or other person, the coroner shall not issue an order under subsection (1) relating to that person to that medical practitioner or other person, but shall, where the coroner issues such an order, cause that medical practitioner or other person to be informed either verbally or in writing that an order under subsection (1) relating to that person has been issued and of the name and address of the medical practitioner or other person to whom the order has been issued.
- (3) A medical practitioner or other person so informed shall not carry out or assist in carrying out an order under subsection (1) relating to the deceased person but shall if he or she attends at the time and place that the order is being carried out be entitled to be present while the order is being carried out.
- (4) An assistant coroner may, in accordance with the directions of a coroner given either generally or in a particular case, exercise any function of the coroner under this section.

48A Objection to post mortem examination by senior next of kin

- (1) A deceased person's senior next of kin may, by notice in writing, request a coroner or an assistant coroner not to direct a post mortem examination of the remains of the deceased person.
- (2) If such a request is made, an assistant coroner must not make any further decision concerning the performance of the post mortem examination but must refer the matter to a coroner.
- (3) If the coroner decides that the post mortem examination is necessary or is desirable in the public interest, the coroner must immediately cause written notice of that decision to be given to the senior next of kin who made the request.
- (4) The notice must:
 - (a) indicate the earliest time at which the post mortem examination may be performed, and
 - (b) state that the senior next of kin may apply to the Supreme Court for an order that no post mortem examination of the remains of the deceased person be performed.
- (5) Unless the coroner believes the post mortem examination must be performed immediately, the post mortem examination must not be performed until 48 hours after the senior next of kin has been given notice of the decision.
- (6) Within 48 hours after the notice has been given to the senior next of kin, the senior next of kin may apply to the Supreme Court, in accordance with rules of court, for an order that no post mortem examination of the remains of the deceased person be

performed.

- (7) The making of the application to the Supreme Court operates to stay the operation of the coroner's order for the performance of the post mortem examination.
- (8) The Supreme Court may make an order that:
 - (a) no post mortem examination, or
 - (b) a partial post mortem examination,be performed if it is satisfied that it is desirable in the circumstances.

48B Objection to post mortem examination by other persons

- (1) Nothing in section 48A prevents a person, other than the deceased person's senior next of kin, from objecting to the performance of a post mortem examination of the remains of a deceased person.
- (2) If such an objection is made to an assistant coroner, the assistant coroner must not make any further decision concerning the performance of the post mortem examination but must refer the matter to a coroner.
- (3) The provisions of section 48A do not apply in relation to any such objection.

49 Additional medical evidence in certain cases

Where it appears to the coroner or to a majority of the jury at any inquest concerning the death of a person that the cause of death has not been satisfactorily explained by the evidence given in the first instance by the medical practitioner or medical practitioners by whom a post mortem examination of the remains of the deceased person was made, or by the medical practitioner or medical practitioners or other person by whom a special examination or test was made pursuant to section 48 (1) (b), the coroner shall by order in writing direct any other medical practitioner or medical practitioners or other person referred to in that paragraph to perform a post mortem examination or a special examination or test referred to in that paragraph and to furnish, as soon as practicable, a report of the examination or test to the coroner.

50 Medical witness neglecting to obey order

Where an order issued under section 48 (1), 49 or 53B (4) is served upon the medical practitioner, or other person, to whom it is directed or is left at his or her last or most usual place of abode or place of practice, in sufficient time for the medical practitioner or other person to obey it and he or she does not obey it, he or she is, unless he or she shows a good and sufficient cause, guilty of an offence against this Act.

51 Copies of medical reports

A coroner to whom a report in writing referred to in section 48 (1) or 49 is furnished shall,

on the request in writing of a relative of the deceased person or of any person who has, in the opinion of the coroner, a sufficient interest of any kind in the cause of death of the deceased person, furnish a copy of the report to the relative or other person making the request.

52 Remuneration of medical practitioners

- (1) A medical practitioner or other person who in accordance with an order or request of a coroner:
 - (a) makes any post mortem examination or any special examination or test, or
 - (b) attends and gives evidence at an inquest with respect to a post mortem examination or special examination or test made by the medical practitioner or other person,shall be entitled to be paid fees calculated at the prescribed rate.
- (2) Notwithstanding subsection (1), a medical officer appointed at a salary or other remuneration to attend a public hospital, gaol or other public institution, shall not be entitled under subsection (1) to fees in respect of any post mortem examination, special examination or test with respect to a person who died in that hospital, gaol or institution or which was carried out in the course of the exercise of his or her functions as such a medical officer.
- (3) Subsection (2) does not apply in respect of a medical officer appointed to attend a public hospital except where he or she is an employee of that public hospital.

52A Protection for persons acting under coroner's direction

Nothing done by a medical practitioner or other person in good faith for the purposes of making a post mortem examination, or a special examination or test, pursuant to a direction under this Act subjects the person personally to any action, liability, claim or demand.

53 Warrant for exhumation of body

- (1) Where the remains of a person have been buried and an inquest concerning the death of the person:
 - (a) has not been held,
 - (b) has been commenced and:
 - (i) has been terminated under section 19 or 21, or
 - (ii) has otherwise not been completed, or
 - (c) has been completed and the Supreme Court has quashed the inquest and has

ordered a fresh inquest to be held or the State Coroner has decided to hold a fresh inquest under section 23A,

a coroner may, if he or she considers it desirable to do so for the purpose of ordering a post mortem examination, or a further or more complete post mortem examination, of the remains, or a special examination or test, or a further or more complete special examination or test, of the remains or any part thereof, issue his or her warrant for the exhumation of the remains and any member of the police force to whom the warrant is directed shall cause it to be executed, and, upon it being executed, shall report the fact to the coroner.

- (2) Where an inquest concerning the death or suspected death of a person has been terminated under section 19 or 21, a coroner shall not exercise his or her powers under subsection (1) with respect to the remains of that person unless an inquest or a fresh inquest concerning the death of that person may be held as referred to in section 20, 23 or 23A or pursuant to section 47.

Part 6A Disposal of human remains

53A Unauthorised disposal of human remains

- (1) A person must not bury or cremate human remains, or place human remains in a mausoleum or other permanent resting place, or cause the remains to be so buried, cremated or placed, unless the person has been given or has in his or her possession a document that authorises the disposal of the remains or the disposal of the remains is otherwise authorised by the regulations.

Maximum penalty: 50 penalty units.

- (2) A person must not deliver or hand over human remains for anatomical or medical research, or remove human remains (other than cremated remains) from the State, or cause such remains to be so delivered, handed over or removed, unless a document authorising the disposal of the remains has been signed, issued or made or the disposal of the remains is otherwise authorised by the regulations.

Maximum penalty: 50 penalty units.

- (3) Only the following documents authorise the disposal of the remains of a deceased person (other than the remains of a stillborn child):
- (a) a notice given by a medical practitioner for the purpose of section 39 of the *Births, Deaths and Marriages Registration Act 1995* relating to the deceased person,
 - (b) an order made by a coroner under section 53B authorising the disposal of the remains,
 - (c) a certificate issued under section 51 of the *Births, Deaths and Marriages Registration Act 1995* that relates to the deceased person.

- (4) Only the following documents authorise the disposal of the remains of a stillborn child:
 - (a) a certificate or notice given by a medical practitioner for the purpose of section 12 (3) of the *Births, Deaths and Marriages Registration Act 1995* relating to the stillborn child,
 - (b) an order made by a coroner under section 53B authorising the disposal of the remains.
- (5) In this section, **stillborn child** has the same meaning as in the *Births, Deaths and Marriages Registration Act 1995*.

53B Order authorising the disposal of human remains

- (1) A coroner may, by order in writing, authorise the disposal of human remains.
- (2) The order may be made by a coroner who:
 - (a) is holding, has held or is intending to hold an inquest in respect of the death under this Act, or
 - (b) has dispensed with the holding of an inquest in respect of the death under this Act.
- (3) If the remains are that of a stillborn child and a medical practitioner has not certified the cause of death of the child, the order may be made by a coroner who has been informed by a member of the police force of the stillbirth and who is, after consideration of any information in the possession of the coroner, satisfied as to the occurrence of the stillbirth.
- (4) A coroner may, by order in writing, direct any medical practitioner to perform an examination of human remains for the purpose of determining whether the remains are that of a stillborn child.
- (5) If an order is made under subsection (2) authorising the disposal of human remains and it is established at an inquest that the remains were those of a stillborn child, the order is valid and is taken to have been made under subsection (3).
- (6) In this section, **stillborn child** and **stillbirth** have the same meanings as in the *Births, Deaths and Marriages Registration Act 1995*.

Part 7 Miscellaneous

54 Penalty

- (1) A person convicted of an offence against this Act is, for every such offence for which no other penalty is provided by or under this Act, liable to a penalty not exceeding 10 penalty units.

- (2) A penalty imposed by this Act or the regulations may be recovered in a summary manner before a Magistrate or any 2 justices constituting a Local Court.

54A Assistance to coroners in other jurisdictions

The State Coroner may use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or of a Territory to investigate a death, suspected death, fire or explosion.

55 Deaths or suspected deaths in mines

- (1) Schedule 1 has effect with respect to inquests concerning deaths or suspected deaths which, it appears to a coroner, may have been caused by explosions or accidents in certain mines, as referred to in that Schedule.
- (2) A provision of Schedule 1 that is inconsistent with any other provision of this Act prevails over that other provision to the extent of the inconsistency.

56 Abolition of magisterial inquiries

Except as provided in Schedule 3, a magisterial inquiry as defined in section 4 (1) of the [Coroners Act 1960](#) touching the death of any person shall not be held after the commencement of this section.

57 Repeals and savings and transitional provisions

- (1) Each Act specified in Column 1 of Schedule 2 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.
- (2) Schedule 3 has effect.

58 Regulations

- (1) The Governor may make regulations not inconsistent with this Act for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
 - (a) the conduct of and procedure at inquests and inquiries,
 - (a1) the functions of the State Coroner and of the Deputy State Coroner,
 - (b) the summoning of jurors for a jury referred to in section 18 (3),
 - (c) prescribing any forms to be used under this Act, and
 - (d) the allowance to be paid to witnesses attending inquests and inquiries.
- (2) The regulations may impose a penalty not exceeding 5 penalty units for any breach thereof.

Schedule 1 Special provisions—inquests concerning deaths or suspected deaths in mines

(Section 55)

1 In this Schedule, except so far as the context or subject-matter otherwise indicates or requires:

investigator means an investigator within the meaning of the *Coal Mines Regulation Act 1982* or an investigator within the meaning of the *Mines Inspection Act 1901*.

Manager means the Manager, Investigations Unit in the Department of Mineral Resources.

mine means mine, as defined by the *Mines Inspection Act 1901*, of any metal or mineral, as so defined, or any mine to which the *Coal Mines Regulation Act 1982* applies.

2 With respect to an inquest concerning a death or suspected death which, it appears to the coroner, may have been caused by an explosion or accident in or about a mine situated in, or access to which is obtained from a place in, this State, the following provisions shall have effect:

- (a) If the inquest relates to an explosion or accident that is the subject to an investigation under the *Coal Mines Regulation Act 1982* or the *Mines Inspection Act 1901*, the coroner is to adjourn the inquest unless an investigator is present to watch the proceedings.
- (b) The coroner, at least 4 days before resuming the adjourned inquest, shall send to the Manager notice in writing of the time and place of resuming the adjourned inquest.
- (c) The coroner, before the adjournment, may take evidence to identify the remains, and may order the disposal of the remains.
- (d) If not more than one person died or is suspected of having died as a result of the explosion or accident and the coroner has sent to the Manager notice of the time and place of holding the inquest so as to reach an investigator not less than 24 hours before the time of holding the inquest, it shall not be imperative for the coroner to adjourn the inquest in pursuance of paragraph (a) unless the majority of the jury, if there is a jury, think it necessary so to adjourn.
- (e) An investigator may examine any witness at the inquest, subject nevertheless to the order of the coroner.
- (f) Where evidence is given at the inquest of any neglect 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 and an investigator is not present, the coroner shall send to the Manager notice in writing of the 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, if summoned to serve on the jury at the inquest, notify the sheriff of that fact and shall not be qualified or liable to serve on that jury.
- (h) Any relative of any person concerning whose death or suspected death 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 mine, shall, notwithstanding any other provision of this Act, be at liberty to attend and examine

any witness, either in person or by his or her counsel, solicitor or agent.

- 3 A person who fails to comply with clause 2 (g) is guilty of an offence and liable to a penalty not exceeding 5 penalty units.
- 4 No prosecution shall be instituted against a coroner for any offence under this Schedule except with the consent in writing of the Minister for Mines.

Schedule 2 Repeals

(Section 57 (1))

Column 1	Column 2	
Year and number of Act	Short title of Act	Extent of repeal
1960 No 2	Coroners Act 1960	The whole.
1963 No 15	Coroners (Amendment) Act 1963	The unrepealed portion.
1967 No 52	Coroners (Amendment) Act 1967	The whole.
1970 No 63	Coroners (Amendment) Act 1970	The whole.
1973 No 87	Registration of Births, Deaths and Marriages Act 1973	So much of Schedule 1 as relates to Acts No 2, 1960, and No 15, 1963.
1977 No 18	Jury Act 1977	The matter in section 3 relating to Schedule 6. Section 78 (2) and Schedule 6.
1978 No 47	Coroners (Amendment) Act 1978	The whole.

Schedule 3 Savings and transitional provisions

(Section 57 (2))

1A Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

[Community Services Legislation Amendment Act 2002](#) (but only to the extent that it amends this Act)

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its

publication, or

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

1 Appointment as coroner or deputy coroner

A person who immediately before the commencement of this clause held office as a coroner or deputy coroner shall:

- (a) if he was appointed to be a coroner or deputy coroner at a particular place, be deemed to have been appointed by the Governor under the provisions of this Act to be the coroner or deputy coroner, as the case may be, at that place, or
- (b) if he was appointed to be a coroner or deputy coroner in and for this State but was not appointed to be a coroner or deputy coroner at any particular place, be deemed to have been appointed under the provisions of this Act to be a coroner or deputy coroner, as the case may be, in and for this State.

2 Pending proceedings

- (1) All proceedings, other than proceedings on a magisterial inquiry referred to in subclause (2) of this clause, which were commenced and were pending or part heard at the commencement of this clause under any of the enactments repealed by this Act shall, subject to this Act, be continued and completed as if those proceedings had been taken or commenced under this Act.
- (2) Proceedings on a magisterial inquiry, as defined in section 4 (1) of the [Coroners Act 1960](#), touching the death of any person, being proceedings that were commenced and were pending or part heard at the commencement of this clause, may be continued and completed as if this Act had not been enacted but shall be terminated if an inquest concerning the death of that person is held under this Act.

3 Warrants of commitment or recognizances

A warrant of commitment for an offence or a recognizance for the appearance of any person charged to take his trial for an offence, issued or taken by a coroner and in force immediately before the commencement of this clause, shall, notwithstanding any repeal effected by this Act, continue in force and have effect according to its tenor after that commencement.

4 (Repealed)

5 Depositions

- (1) Section 34 (3) applies in respect of depositions which were taken at an inquest, inquiry or magisterial inquiry held before the commencement of this clause and were

not filed in the office of a clerk of petty sessions in the same way as it applies in respect of depositions taken at an inquest or inquiry held after that commencement.

- (2) Section 34 (4) applies in respect of depositions which were taken at an inquest, inquiry or magisterial inquiry held before the commencement of this clause in the same way as it applies in respect of depositions taken at an inquest or inquiry held after that commencement.
- (3) In relation to any such depositions transmitted to the Under Secretary, Department of the Attorney-General and of Justice, before the commencement of the *Coroners (Amendment) Act 1963* and received by him, section 34 (4), as applied by subclause (2) of this clause, shall be construed as if a reference therein to the clerk of a Local Court in whose office the depositions are filed were a reference to the Under Secretary.

6 Inquests commenced before *Coroners (Amendment) Act 1988* etc

- (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
 - (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.

7 *Coroners (Amendment) Act 1993*

- (1) In this clause, **the 1993 Act** means the *Coroners (Amendment) Act 1993*.
- (2) A person holding office as deputy coroner under section 5 immediately before the commencement of Schedule 1 (9) to the 1993 Act ceases to hold that office on that commencement but is eligible, if otherwise qualified, for appointment as a coroner or assistant coroner. This is subject to subclause (3).
- (3) All inquests and inquiries that were commenced but not completed before the commencement of Schedule 1 (9) to the 1993 Act, are to be continued and completed as if this Act had not been amended by the 1993 Act and as if subclause (2) had not

been enacted.

- (4) The amendments made by the 1993 Act with respect to explosions do not apply to explosions that occurred before the commencement of those amendments.
- (5) The amendments made by the 1993 Act to section 12A do not apply in respect of a death or suspected death reported as required by that section before the commencement of those amendments.
- (6) The amendments made 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 amendments.
- (7) Section 23A does not operate to require the holding of a fresh inquest or inquiry in respect of an inquest or inquiry that was completed before the commencement of that section.
- (8) Section 31A does not apply to an inquest or inquiry commenced to be held before the commencement of that section.

8 Inquests and inquiries commenced before [Crimes Legislation Further Amendment Act 1998](#)

Section 19, as amended by the [Crimes Legislation Further Amendment Act 1998](#), does not apply in respect of an inquest or inquiry commenced before the amendment of that section by that Act.

9 Remuneration of part-time coroners

Until a relevant determination is made and takes effect under the [Statutory and Other Offices Remuneration Act 1975](#), a coroner holding office on a part-time basis is entitled to be paid in accordance with the determination in force for the time being for coroners, but on a pro rata basis (according to time spent in service), as calculated by the Attorney General.

10 Courts Legislation Amendment Act 2000

- (1) The amendment of section 33 by Schedule 2 [3] to the [Courts Legislation Amendment Act 2000](#) extends to an inquest or inquiry that has been commenced, but not completed, before the commencement of that amendment.
- (2) Section 33AA, as inserted by Schedule 2 [4] to the [Courts Legislation Amendment Act 2000](#), extends to an inquest or inquiry that has been commenced, but not completed, before the commencement of that section.

11 Child or disability deaths

The amendments to this Act by the [Community Services Legislation Amendment Act 2002](#)

do not apply to or in respect of a death that occurred before the commencement of the amendments concerned.

12 Transitional reference

A reference in section 13AB to a child in care includes a reference to a child who is subject to an arrangement for the care of a child referred to in section 19 (4) (a), (c), (d), (e) or (f) of the *Children (Care and Protection) Act 1987*.