



ANNO PRIMO

ELIZABETHAE II REGINAE

A.D. 1952

No. 53 of 1952.

An Act to amend the Coroners Act, 1935, and to repeal subsection (6) of section 14 of the Criminal Law Consolidation Act, 1935-1940.

[Assented to 4th December, 1952.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Coroners Act Amendment Act, 1952". Short titles.

(2) The Coroners Act, 1935, as amended by this Act, may be cited as the "Coroners Act, 1935-1952".

(3) The Coroners Act, 1935, is hereinafter referred to as "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.

Amendments of Coroners Act, 1935-1952.

3. Section 10 of the principal Act is amended by striking out subsection (1) thereof and inserting in lieu thereof the following subsections :— Amendment of s. 10 of principal Act—
Jurisdiction of Coroner.

(1) Where a coroner has reasonable cause to suspect that—

(a) any person has died within the State a violent or unnatural death or a sudden death of which the cause is unknown ; or

- (b) any person ordinarily resident within the State has died outside the State a violent or unnatural death or a sudden death of which the cause is unknown ;
- (c) any person whose dead body is within the State has died outside the State a violent or unnatural death or a sudden death of which the cause is unknown ; or
- (d) any person has died within the State in any prison or while detained in any hospital for the insane or in any such place or under any such circumstances as to require an inquest under any Act,

the coroner shall have jurisdiction to enquire whether the death has occurred and into the manner and cause of the death.

(1a) The jurisdiction to hold an inquest in any case where a person has died within the State, or where a person ordinarily resident within the State has died outside the State, shall exist whether the dead body of that person is within or outside the State, and notwithstanding that the body has been destroyed or is in a place from which it cannot be recovered.

Enactment of
s.15a of
principal Act—

4. The following section is enacted and inserted in the principal Act after section 15 thereof :—

Order for
removal of
bodies out of
the State.

15a. Where the dead body of a person who has died outside the State is lying within the State, and the coroner is credibly informed that an inquest on the body is intended to be held in another State or a Territory of the Commonwealth, he may make an order directing or authorizing any person named or indicated in the order, to remove the body to the said State or Territory.

Amendment of
s. 19 of
principal Act—
Inquests on
death.

5. Section 19 of the principal Act is amended by striking out in paragraph (b) thereof the word "and" at the end of subparagraph (ii.), and the whole of subparagraph (iii.).

Amendment of
s. 20 of
principal Act—
Inquests on
fires.

6. Section 20 of the principal Act is amended by striking out all the words in subsection (2) thereof occurring after the words "of the fire" in the fourth line.

Enactment of
ss. 20a-20c of
principal Act—

7. The following sections are enacted and inserted in the principal Act after section 20 thereof :—

Inquest not
to proceed
where criminal
proceedings
instituted.

20a. (1) If after the commencement of an inquest on a fire or death, the coroner is informed that any person

has been charged with an offence in which the question whether the accused caused that fire or death is in issue, the coroner—

- (a) in the absence of reason to the contrary, shall adjourn the inquest until a day to be fixed;
- (b) if after the conclusion of the proceedings in respect of the offence he considers that there is sufficient cause to resume the inquest, shall by notice to such persons as he deems proper fix a day for such resumption and continue the inquest and give a decision or finding;
- (c) if after the conclusion of the proceedings in respect of the offence he considers that there is not sufficient cause to resume the inquest, shall not resume the inquest and shall report to the Attorney-General that the inquest has been discontinued.

(2) If before the commencement of an inquest on a fire or death the coroner is informed that any person has been charged with an offence in which the question whether such person caused that fire or death is in issue the coroner shall not in the absence of reason to the contrary commence to hold an inquest on that death or fire until the proceedings in respect of the said offence have been concluded.

(3) An inquisition shall not contain any finding inconsistent with the determination of any matter by the result of criminal proceedings.

(4) For the purposes of this section the expression "proceedings in respect of the offence" means proceedings before examining justices and before any court to which the accused person is committed for trial, or before which an appeal from the conviction of that person is heard; and such proceedings shall be deemed to be concluded when no appeal, or as the case may be, no further appeal can be made, without an extension of time being granted.

20b. A coroner shall not make any finding upon an inquest that any person is guilty of any offence in connection with the fire or death which is the subject of the inquest.

No finding of offence or guilt.

20c. A coroner shall not upon an inquest commit any person for trial.

Coroner not to commit for trial.

Amendment of
s. 21 of
principal Act—
Depositions.

8. (1) Section 21 of the principal Act is amended—

- (a) by inserting at the commencement of subsection (1) thereof the words "Except as provided in subsection (3) of this section :"
- (b) by striking out subsection (3) and inserting in lieu thereof the following subsection :—

(3) Where the coroner considers that depositions are not likely to be required for any purpose, he may direct that the evidence be taken down in shorthand only. Any evidence so taken down in shorthand shall be retained with the records of the inquest.

Enactment of
ss. 21a and 21b
of principal
Act—

Justice
empowered
to take
evidence.

9. The following sections are enacted and inserted in the principal Act after section 21 thereof :—

21a. (1) At the request of a coroner conducting or about to conduct an inquest, any justice may take the statement upon oath or affirmation of any person able to give information relevant to the matters in issue in such inquest.

(2) Any statement so taken shall be signed by the justice and may be received in evidence at the inquest.

(3) For the purpose of taking any such statement, sections 23 to 28 (inclusive) and section 46 of the Justices Act, 1921-1943, shall apply as if the taking of the statement were the hearing of a complaint.

Evidence by
affidavit.

21b. (1) In any inquest evidence may be given by affidavit but the coroner if he thinks just cause exists for doing so may order the person making any such affidavit to attend before him for further examination or cross-examination.

(2) Any such affidavit may be subscribed before any member of the police force, or any person authorized by law to take affidavits.

Amendment of
s. 22 of
principal Act—
General powers
of coroner.

10. Section 22 of the principal Act is amended by striking out the figure "(1)" in the first line thereof and by striking out the whole of subsection (2) thereof.

Enactment of
ss. 25a and 25b
of principal
Act—

Power to enter
and search
premises.

11. The following sections are enacted and inserted in the principal Act after section 25 :—

25a. (1) Where a coroner has directed that a post-mortem examination of the body of a deceased person shall be made, the coroner may issue a warrant to any

members of the police force named or indicated in the warrant authorizing them to enter premises and take and remove the body to any place for the said post-mortem examination.

(2) Any member of the police force named or indicated in any such warrant may, at any time in the day or night, with such assistants as he deems necessary enter into and search and may break open any house, building, premises or place, where he has reasonable cause to suspect the body of the deceased person may be found, and take and remove the body to the place where the post-mortem examination is to be held.

25b. (1) Summonses to witnesses required to appear at an inquest or before a justice taking evidence under section 21a of this Act may be served by post.

Summonses by post.

(2) A coroner or justice shall not punish any person for failing to attend an inquest in accordance with a summons served by post unless it is proved that that person actually received that summons.

12. The following section is enacted and inserted in the principal Act after section 30 thereof:-

Enactment of s. 30a of principal Act—

30a. (1) A coroner may after inquiry make an order in the form headed "Burial Order" in the second schedule to this Act authorizing the burial of a dead body within the State.

Burial orders.

(2) An order made under this section shall be deemed to be an order for burial within the meaning of sections 32 and 33 of the Births and Deaths Registration Act, 1936-1947.

13. The second schedule to the principal Act is amended by striking out the form therein headed "Warrant to bury" and inserting in its place the following form:—

Amendment of second schedule to principal Act.

Burial Order.

South Australia, } To all constables of the State of South
to wit } Australia and to all others whom it
may concern.

I, the undersigned.....
being one of Her Majesty's Justices of the Peace and a coroner for the State of South Australia having made

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inquiry respecting the death of.....
[Name and Occupation.]
of.....who died at.....
.....on the.....day
of.....at the age of.....hereby
authorize the burial of the body of the said deceased.

Given under my hand this.....day
of.....19

[NOTE.—The age, occupation and last known place of
abode of the deceased is to be inserted in this warrant
when possible.]

Amendment of Criminal Law Consolidation Act, 1935-1940.

Repeal of
subsec. (6) of
s. 14 of
Criminal Law
Consolidation
Act.

14. Subsection (6) of section 14 of the Criminal Law Consoli-
dation Act, 1935-1940, is repealed.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

J. M. NAPIER, Lieutenant-Governor.