



TASMANIA

CORONERS ACT 1995

No. 73 of 1995

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CORONERS ACT 1995

No. 73 of 1995

AN ACT to establish a coronial division of the Magistrates Court, to require the reporting of certain deaths, to set out the procedures for investigations and inquests by coroners into deaths, fires and explosions and to provide for related matters

[Royal Assent 14 November 1995]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART 1

PRELIMINARY

Short title

1—This Act may be cited as the *Coroners Act 1995*.

Commencement

2—This Act commences on a day to be proclaimed.

Interpretation

3—In this Act, unless the contrary intention appears—

“**Aboriginal remains**” means the remains of an Aboriginal person buried in accordance with Aboriginal custom;

“**approved pathologist**” means a pathologist or medical practitioner approved under section 35;

“**body**” includes a portion of a human body;

“**coroner**” means a person appointed as a coroner under this Act and, except in sections 10, 11 and 12, includes a magistrate;

“**coroner’s clerk**” includes the Chief Clerk (Coronial Division);

“**death**” includes suspected death;

“**inquest**” includes a formal hearing;

“**institution**” has the same meaning as in the *Child Welfare Act 1960*;

“**investigation**” includes an inquest;

“**medical practitioner**” means a registered medical practitioner within the meaning of the *Medical Act 1959*;

“**pathologist**” means a medical practitioner who has obtained a qualification in pathology recognised by the National Specialist Qualification Advisory Committee of Australia;

“**person held in care**” means—

(a) a child, within the meaning of the *Child Welfare Act 1960*, under the control or care of a person under that Act; or

(b) a person detained or liable to be detained under the *Mental Health Act 1963* in a hospital within the meaning of that Act;

“**person held in custody**” means—

(a) a person in the custody or control of—

(i) a police officer; or

(ii) a prison officer; or

(b) a person detained in—

(i) a prison, within the meaning of the *Prison Act 1977*, or a watch-house, within the meaning of Part XIV of the *Police Regulations 1974*; or

(ii) an institution;

“**police officer**” has the same meaning as in the *Police Regulation Act 1898*;

“**prison officer**” has the same meaning as in the *Prison Act 1977*;

“**reportable death**” means—

(a) a death where—

(i) the body of a deceased person is in Tasmania; or

(ii) the death occurred in Tasmania; or

(iii) the cause of the death occurred in Tasmania—

being a death—

(iv) that appears to have been unexpected, unnatural or violent or to have resulted directly or indirectly from an accident or injury; or

(v) that occurs during anaesthesia or sedation; or

(vi) that occurs as a result of anaesthesia or sedation and is not due to natural causes; or

(vii) the cause of which is unknown; or

(viii) of a child under the age of one year which was sudden and unexpected; or

(ix) of a person who immediately before death was a person held in care or a person held in custody; or

(x) of a person whose identity is unknown; or

(b) the death of a person who ordinarily resided in Tasmania at the time of death that occurred at a place outside Tasmania where the cause of death is not certified by a person who, under a law in force in the place, is a medical practitioner; or

- (c) the death of a person that occurred whilst that person was escaping or attempting to escape from prison or police custody or from an institution; or
- (d) the death of a person that occurred whilst a police officer or prison officer was attempting to detain that person;

“senior next of kin”, in relation to a deceased person, means—

- (a) if a person was, immediately before the death of the deceased person, the spouse of that deceased person, the spouse; or
- (b) if there is no spouse of the deceased person or if the spouse is not available, the deceased person’s son or daughter of or over 18 years; or
- (c) if the spouse or son or daughter of or over 18 years is not available, the deceased person’s parent; or
- (d) if the spouse, son or daughter of or over 18 years or parent is not available, the deceased person’s brother or sister of or over 18 years; or
- (e) if the spouse, son or daughter of or over 18 years, parent or brother or sister of or over 18 years is not available, an executor named in the will of the deceased person or a person who, immediately before the death, was a personal representative of the deceased person; or
- (f) if the person is an Aborigine, a person who, according to the customs and tradition of the community or group to which the person belongs, is an appropriate person;

“spouse” includes a person’s de facto partner;

“State Forensic Pathologist” means the person appointed and holding office as State Forensic Pathologist under section 17.

Common law rules cease to have effect

4—A rule of the common law that, immediately before the commencement of this section, conferred a power or imposed a duty on a coroner or a coroner's court ceases to have effect.

PART 2

CORONERS

Establishment of coronial division

5—(1) There is established a division of the Magistrates Court to be known as the Magistrates Court (Coronial Division).

(2) The jurisdiction conferred on a coroner under this Act is to be exercised solely within the Magistrates Court (Coronial Division).

Court to comprise a single magistrate or coroner

6—For the purposes of exercising the jurisdiction conferred on a coroner under this Act, the Magistrates Court is to be constituted by a single magistrate or a single coroner.

Functions of Chief Magistrate

7—The functions of the Chief Magistrate under this Act are as follows:—

- (a) to ensure that a State coronial system is administered and operated efficiently;
- (b) to oversee and co-ordinate coronial services;
- (c) to ensure that all reportable deaths reported to a coroner are investigated;

- (d) to ensure that an inquest is held whenever the Chief Magistrate considers it is desirable to do so and whenever an inquest is required by this Act to be held;
- (e) to ensure that an autopsy is performed whenever the Chief Magistrate considers it is desirable to do so;
- (f) to ensure that all fires and explosions that occur in this State are investigated whenever the Chief Magistrate considers that it is desirable to do so and whenever it is required by this Act;
- (g) to issue guidelines to coroners to assist them to carry out their duties;
- (h) to co-ordinate and allocate work between coroners;
- (i) such other functions as are imposed on the Chief Magistrate under this Act.

General directions by Chief Magistrate

8—(1) The Chief Magistrate may issue general directions to coroners requiring them to give to the Chief Magistrate or to a coroner, to whom the Chief Magistrate has delegated any of the Chief Magistrate's functions or powers, information coroners receive concerning reportable deaths, fires or explosions.

(2) A coroner who receives information to which the directions apply must comply with the directions as soon as possible after receiving the information.

Delegation by Chief Magistrate

9—The Chief Magistrate may delegate to a coroner any of the Chief Magistrate's functions or powers under this Act, other than this power of delegation.

Appointment, &c., of coroners

10—(1) The Governor may appoint persons as coroners for the purposes of this Act.

(2) A coroner appointed under subsection (1) holds office during the Governor's pleasure.

(3) A coroner is to be paid such fees, allowances and expenditure as may be prescribed.

Oaths to be taken

11—(1) A coroner must, before exercising any of the functions or powers of office, subscribe before a justice the oath of allegiance and the judicial oath prescribed by the *Promissory Oaths Act 1869*.

(2) A justice before whom an oath is subscribed must, as soon as possible after it is subscribed, forward it to the Registrar of the Supreme Court to be recorded in the Supreme Court.

Coroners not to engage in coronial duties on attaining 70 years of age

12—Unless the Attorney-General otherwise directs, a coroner who has attained the age of 70 years must not perform the functions or duties, or exercise the powers, of a coroner under this Act.

Delegation by coroner

13—(1) Subject to any direction given by the Chief Magistrate, a coroner may delegate to a coroner's clerk any function or power of a coroner other than a prescribed power or this power of delegation.

(2) A direction of the Chief Magistrate may be a general or specific direction.

Chief Clerk (Coronial Division)

14—(1) The Secretary of the Department may appoint a person employed in the Department to be the Chief Clerk (Coronial Division) and that person holds that office in conjunction with a position or an office under the *Tasmanian State Service Act 1984*.

(2) Subject to any directions given by the Chief Magistrate, the Chief Clerk (Coronial Division) is responsible for the administration of the State coronial system.

(3) The Chief Clerk (Coronial Division) is to perform such other functions as may be determined by the Chief Magistrate.

Coroner's clerks

15—(1) The Secretary of the Department may appoint persons employed in the Department to be coroner's clerks and those persons hold office in conjunction with their positions or offices under the *Tasmanian State Service Act 1984*.

(2) The Secretary of the Department may, with the approval of the Secretary of the responsible Department in relation to the *Police Regulation Act 1898*, appoint police officers to be coroner's clerks.

(3) A clerk of petty sessions and a deputy clerk of petty sessions may perform the functions and exercise the powers of a coroner's clerk.

(4) A coroner's clerk may—

- (a) on behalf of a coroner, receive information about a death, a fire or an explosion; and
- (b) administer an oath or take an affidavit; and
- (c) issue a summons requiring a witness to attend an inquest to give oral evidence or to produce documents or other materials.

Coroner's officers

16—(1) A coroner's officer must—

- (a) assist a coroner in carrying out the coroner's duties under this Act; and
- (b) comply with any guidelines issued by the Chief Magistrate; and
- (c) carry out all reasonable directions of a coroner.

(2) A police officer is, by virtue of his or her office, a coroner's officer and has the same functions and powers as are conferred or imposed on a coroner's officer by this Act.

PART 3**STATE FORENSIC PATHOLOGIST****State Forensic Pathologist**

17—The Minister is to appoint a person appointed or employed under the *Tasmanian State Service Act 1984* to be State Forensic Pathologist and that person holds that office in conjunction with a position or an office under that Act.

Functions and powers of State Forensic Pathologist

18—(1) The functions of the State Forensic Pathologist under this Act are as follows:—

- (a) to oversee and co-ordinate forensic pathology services in the State;
- (b) to undertake coronial autopsies if requested by a coroner or arrange for the undertaking of coronial autopsies by approved pathologists;
- (c) to issue guidelines to approved pathologists for undertaking coronial autopsies;
- (d) to attend, when requested by a coroner, a coroner's clerk or a coroner's officer, at scenes of homicides and other suspicious deaths throughout the State;
- (e) to provide expert evidence to magistrates, coroners and the courts;
- (f) to ensure that the provision of forensic pathology services is administered and operated efficiently;
- (g) such other functions as are imposed on the State Forensic Pathologist under this Act or as are prescribed.

(2) The State Forensic Pathologist may do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of the State Forensic Pathologist's functions under this Act.

PART 4

REPORTING OF DEATHS

Obligation to report death

19—(1) A person who has reasonable grounds to believe that a reportable death, other than a reportable death referred to in subsection (4), has not been reported must report it as soon as possible to a coroner or a police officer.

Penalty: Fine not exceeding 10 penalty units.

(2) The coroner or the police officer must inform the Chief Magistrate or, if the Chief Magistrate has delegated relevant functions or powers to another coroner, that coroner, of the reported death as soon as possible.

(3) If more than one medical practitioner is present at or after a death and one of them reports it to a coroner or police officer, the other medical practitioners need not report the death but must give to the coroner investigating the death any information which may help the investigation.

(4) The death of a person—

(a) who was held in custody or held in care immediately before death; or

(b) who was escaping or attempting to escape from prison or police custody or from an institution; or

(c) which occurred in the process of a police officer or prison officer attempting to detain that person—

must be reported as soon as possible to a coroner by the person in whose custody or care the person was held or by the police officer or prison officer attempting to detain that person.

Penalty: Fine not exceeding 10 penalty units.

Information to coroner

20—(1) A person who reports a death must give to the coroner investigating the death any information which may help the investigation.

Penalty: Fine not exceeding 10 penalty units.

(2) A police officer who has information relevant to an investigation must report it to the coroner investigating the death.

PART 5

INVESTIGATION OF DEATHS

Jurisdiction of coroners to investigate a death

21—(1) A coroner has jurisdiction to investigate a death if it appears to the coroner that the death is or may be a reportable death.

(2) Unless the Attorney-General directs otherwise, a coroner need not investigate a death if an investigation or inquest is held in another State or in a Territory.

Directions by Chief Magistrate

22—The Chief Magistrate may give to a coroner directions about an investigation into a death (other than an inquest) and the manner of conducting it.

Aboriginal remains

23—(1) The Attorney-General may approve an Aboriginal organisation for the purposes of this section.

(2) If, at any stage after a death is reported under section 19 (1), a coroner suspects that any human remains relating to that death may be Aboriginal remains, the coroner must refer the matter to an Aboriginal organisation approved by the Attorney-General.

(3) If a coroner refers a matter to an Aboriginal organisation approved by the Attorney-General—

- (a) the coroner must not carry out any investigations or perform any duties or functions under this Act in respect of the remains; and
- (b) the Aboriginal organisation must, as soon as practicable after the matter is referred to it, investigate the remains and prepare a report for the coroner.

(4) If the Aboriginal organisation in its report to the coroner advises that the remains are Aboriginal remains, the jurisdiction of the coroner under this Act in respect of the remains ceases and this Act does not apply to the remains.

(5) If the Aboriginal organisation in its report to the coroner advises that the remains are not Aboriginal remains, the coroner may resume the investigation in respect of the remains.

Jurisdiction of coroner to hold inquest into a death

24—(1) Subject to section 25, a coroner who has jurisdiction to investigate a death must hold an inquest if the body is in Tasmania or it appears to the coroner that the death, or the cause of death, occurred in Tasmania or that the deceased ordinarily resided in Tasmania at the time of death and—

- (a) the coroner suspects homicide; or
- (b) the deceased was immediately before death a person held in care or a person held in custody; or
- (c) the identity of the deceased is not known; or
- (d) the deceased died whilst escaping or attempting to escape from prison or police custody or from an institution; or
- (e) the death occurred in the process of police officers or prison officers attempting to detain a person; or
- (f) the death occurred in such a place or in such circumstances that require an inquest under any other Act; or
- (g) the Attorney-General directs; or
- (h) the Chief Magistrate directs.

(2) The Chief Magistrate may hold an inquest into a death which a coroner has jurisdiction to investigate if the Chief Magistrate considers it desirable to do so.

Procedure at inquest where person charged with an offence

25—(1) If on an inquest relating to a death, a fire or an explosion the coroner is informed, before making a finding, that a person has been charged before justices with any of the offences specified in subsection (2), the coroner—

- (a) must, in the absence of reason to the contrary, adjourn the inquest until after the conclusion of the proceedings with respect to any of those offences; and
- (b) must inform the Attorney-General in writing of the inquest and its adjournment.

(2) The offences referred to in subsection (1) are—

- (a) murder of the deceased; or
- (b) manslaughter of the deceased; or
- (c) infanticide of the deceased; or
- (d) causing grievous bodily harm of the deceased; or
- (e) causing the death of the deceased by dangerous driving; or
- (f) an offence under section 32 (1) of the *Traffic Act 1925* arising out of an accident that resulted in the death of the deceased; or
- (g) arson in relation to the fire; or
- (h) unlawfully causing the fire; or
- (i) unlawfully causing the explosion.

(3) After the conclusion of the criminal proceedings the coroner may, subject to subsection (4), resume the adjourned inquest if the coroner is of the opinion that there is sufficient cause to do so.

(4) If in the course of the criminal proceedings a person has been charged on indictment, the inquest, on its resumption, must not contain any finding which is inconsistent with the determination of the matter by the result of those proceedings.

(5) Where a coroner resumes an inquest which has been adjourned in accordance with this section, the coroner must proceed in all respects as if the inquest had not previously begun and the provisions of this Act apply accordingly as if the resumed inquest were a fresh inquest.

(6) The clerk to the justices before whom a person is charged with any of the offences specified in subsection (2) must inform a coroner, who is holding an inquest relating to the death, fire or explosion, of the making of the charge and of the committal for trial or discharge of the person charged.

(7) For the purposes of this section, criminal proceedings are not taken to be concluded until a further appeal cannot be made in the course of those proceedings without an extension of time.

(8) Where a coroner decides not to resume an inquest adjourned in accordance with this section, the coroner must so inform the Attorney-General in writing.

(9) In this section, “**criminal proceedings**” means proceedings in respect of any of the offences specified in subsection (2).

Decision by coroner not to hold an inquest into a death

26—(1) If a coroner who has jurisdiction to hold an inquest into a death makes a decision not to hold an inquest or the Chief Magistrate makes a decision not to direct that an inquest be held, the coroner or the Chief Magistrate must—

- (a) record the decision in writing; and
- (b) specify the reasons for the decision; and
- (c) as soon as practicable after making the decision, notify the senior next of kin of the deceased person, in writing, of the decision, including the reasons for the decision.

(2) Within 14 days after receiving notice of a decision under subsection (1), the senior next of kin of the deceased person may apply to the Supreme Court for an order that an inquest be held.

(3) The Supreme Court may make an order that an inquest be held if it is satisfied that it is necessary or desirable in the interests of justice.

Applications for inquests into a death

27—(1) A person who a coroner considers has a sufficient interest in a death may request the coroner to hold an inquest into the death.

(2) If a coroner who has jurisdiction to hold an inquest into a death makes a decision not to hold an inquest after being requested to do so by a person, the coroner must—

- (a) record the decision in writing; and
- (b) specify the reason for the decision; and
- (c) as soon as practicable after making the decision, notify that person, in writing, of the decision, including the reasons for the decision.

(3) Within 14 days after receiving notice of the decision not to hold an inquest, the person who requested the inquest may apply to the Supreme Court for an order that an inquest be held.

(4) The Supreme Court may make an order that an inquest be held if it is satisfied that it is necessary or desirable in the interests of justice.

Findings, &c., of coroner investigating a death

28—(1) A coroner investigating a death must find, if possible—

- (a) the identity of the deceased; and
- (b) how death occurred; and
- (c) the cause of death; and
- (d) when and where death occurred; and
- (e) the particulars needed to register the death under the *Registration of Births and Deaths Act 1895*; and
- (f) the identity of any person who contributed to the cause of death.

(2) A coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and on any other matter that the coroner considers appropriate.

(3) A coroner may comment on any matter connected with the death including public health or safety or the administration of justice.

(4) A coroner must not include in a finding or comment any statement that a person is or may be guilty of an offence.

(5) If a coroner holds an inquest into the death of a person who died whilst that person was a person held in custody or a person held in care or whilst that person was escaping or attempting to escape from prison or police custody or from an institution, the coroner must report on the care, supervision or treatment of that person while that person was a person held in custody or a person held in care.

Record of investigation

29—(1) A coroner or the coroner's clerk must keep a record of each investigation into a death in the prescribed form.

(2) A record is not evidence in any court of any fact asserted in it.

Reports on deaths

30—(1) A coroner may report to the Attorney-General on a death which the coroner investigated.

(2) A coroner may make recommendations to the Attorney-General on any matter connected with a death which the coroner investigated, including public health or safety or the administration of justice.

(3) A coroner must report to the Attorney-General if the coroner believes that an indictable offence has been committed in connection with a death which the coroner investigated.

Control of body

31—If a reportable death occurs and the body is in Tasmania, the body is under the control of the coroner investigating the death, subject to any directions the Chief Magistrate may give, until the coroner has issued a certificate under section 32.

Certificate of burial

32—(1) A coroner investigating a death must, as soon as reasonably possible, issue a certificate in the prescribed form permitting burial, cremation, disposal at sea or other lawful disposal.

(2) A certificate under subsection (1) must not be issued until an application made under section 27 or 37 is disposed of or the time for making such an application has expired.

(3) If the Supreme Court makes an order under section 27 or 37, a coroner must not issue a certificate under subsection (1).

(4) Notwithstanding subsection (2), a coroner investigating a death may issue a certificate of burial before the time for making an application under section 27 has expired if the person who made a request to hold an inquest into the death advises the coroner that he or she does not intend to apply to the Supreme Court for an order that an inquest be held.

Aid to coroners in other places

33—A coroner may use any of the powers of a coroner under this Act to help a coroner of another State or of a Territory to investigate a death.

Power to restrict entry to place where death occurred

34—(1) A coroner investigating a death may take reasonable steps to restrict access to the place where the death occurred.

(2) The coroner may cause a prescribed notice to be put up at that place.

(3) A person must not, without good reason, enter or interfere with any area to which access is restricted under this section.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 3 months.

(4) A coroner must not restrict access to the place for any longer period than is necessary.

(5) Any person aggrieved by a decision of the coroner to restrict access to any place may apply to the Chief Magistrate for a review of that decision.

(6) The Chief Magistrate may make such order in relation to the decision of the coroner as the Chief Magistrate thinks necessary.

(7) An application to the Chief Magistrate under this section is to be made, heard and determined as may be prescribed in regulations made under this Act or, if no such regulations are made, as the Chief Magistrate determines.

Approval of pathologists or medical practitioners to undertake autopsies

35—(1) The State Forensic Pathologist may approve pathologists or medical practitioners to undertake coronial autopsies.

(2) The approval of the State Forensic Pathologist under subsection (1) is to be in writing.

Autopsies

36—(1) If a coroner reasonably believes that it is necessary for the investigation of a death, the coroner may direct the State Forensic Pathologist or an approved pathologist, or a medical practitioner under the direct supervision of the State Forensic Pathologist or an approved pathologist, to perform an autopsy on the body.

(2) A coroner must direct the State Forensic Pathologist or an approved pathologist, or a medical practitioner under the direct supervision of the State Forensic Pathologist or an approved pathologist, to perform an autopsy on the body if directed by the Chief Magistrate to do so.

(3) A coroner may direct the State Forensic Pathologist or a pathologist or medical practitioner performing an autopsy to cause to be preserved for such period as the coroner directs any material which appears to the State Forensic Pathologist or the pathologist or medical practitioner to relate to the cause of death or the circumstances surrounding the death.

(4) The State Forensic Pathologist or a pathologist or a medical practitioner performing an autopsy may remove and retain such parts of the body as he or she considers necessary in order to determine the cause of death or the circumstances surrounding the death.

Application for autopsy

37—(1) If a coroner has jurisdiction to investigate a death, any person who the coroner considers has a sufficient interest in the death may request the coroner to direct that an autopsy be performed on the body.

(2) If the coroner refuses a person's request, the coroner must as soon as practicable after the refusal give to the person reasons in writing for the refusal.

(3) Within 48 hours after receiving notice of a refusal, the person may apply to the Supreme Court for an order that an autopsy be performed.

(4) If the Supreme Court is satisfied that it is desirable in all the circumstances, it may make an order—

(a) directing the coroner to require the State Forensic Pathologist or an approved pathologist, or a medical practitioner under the direct supervision of the State Forensic Pathologist or an approved pathologist, to perform an autopsy; and

(b) prohibiting burial, cremation, disposal at sea or other disposal until the coroner has the results of the autopsy and has ordered burial, cremation, disposal at sea or other lawful disposal.

Objections to autopsy

38—(1) Where the senior next of kin of the deceased person requests a coroner not to direct that an autopsy be performed but the coroner decides that an autopsy is necessary, the coroner must immediately give notice in writing of the decision to the senior next of kin.

(2) Where a request has been made under subsection (1), an autopsy must not be performed until 48 hours after the senior next of kin of the deceased person has been given notice of the coroner's decision under that subsection unless the coroner believes that an autopsy needs to be performed immediately.

(3) Within 48 hours after receiving notice of the coroner's decision under subsection (1), the senior next of kin of the deceased person may apply to the Supreme Court for an order that an autopsy not be performed and the Supreme Court, in its discretion, may make an order that an autopsy not be performed.

Exhumation

39—(1) The Chief Magistrate may order that the body of a deceased person be exhumed if the Chief Magistrate reasonably believes that it is necessary for an investigation of a death.

(2) The Chief Magistrate must ensure that at least 48 hours' notice in writing is given to the senior next of kin of the deceased person and to the trustees or owners of the cemetery, burial ground or place of burial where the body of the deceased person is buried before the body is exhumed unless the Chief Magistrate is satisfied it is not possible to give the notice.

(3) If the senior next of kin of the deceased person asks the Chief Magistrate not to exhume the body of the deceased person, the body must not be exhumed until 48 hours after the request has been made.

(4) Within 48 hours after receiving notice of the order under subsection (2), the senior next of kin of the deceased person may apply to the Supreme Court for an order that the body of the deceased person not be exhumed and the Supreme Court, in its discretion, may make an order that the body not be exhumed.

PART 6**INVESTIGATION OF FIRES AND EXPLOSIONS****Jurisdiction of coroner to investigate a fire or an explosion**

40—(1) A coroner has jurisdiction to investigate a fire or an explosion if the fire or explosion occurs in the State and the coroner believes it is desirable to conduct an investigation.

(2) A coroner must investigate a fire or an explosion if the Attorney-General or the Chief Magistrate directs that an investigation be held.

Directions by Chief Magistrate

41—The Chief Magistrate may give to a coroner directions about an investigation into a fire or an explosion (other than an inquest) and the manner of conducting it.

Application for investigation into a fire or an explosion

42—(1) A person who the coroner considers has a sufficient interest in a fire or an explosion may request a coroner to investigate the fire or explosion.

(2) If a coroner refuses a person's request to investigate a fire or an explosion, the coroner must give reasons in writing for the refusal to the person, the Attorney-General and the Chief Magistrate.

(3) A person who asks a coroner to investigate a fire or an explosion must give to the coroner any information which may help the investigation.

Penalty: Fine not exceeding 10 penalty units.

Jurisdiction of coroner to hold inquest into a fire or an explosion

43—(1) A coroner must hold an inquest into a fire or an explosion if the Attorney-General or the Chief Magistrate directs that an inquest be held.

(2) A coroner who has jurisdiction to investigate a fire or an explosion may hold an inquest if the coroner believes it is desirable.

Decision by coroner not to hold an inquest into a fire or an explosion

44—(1) If a coroner who has jurisdiction to hold an inquest into a fire or an explosion makes a decision not to hold an inquest after being requested to do so by a person, the coroner must—

- (a) record the decision in writing; and
- (b) specify the reasons for the decision; and
- (c) as soon as practicable after making the decision, notify the person who made the request of the decision, in writing, including the reasons for the decision.

(2) Within 14 days after a person receives notice of the decision not to hold an inquest, the person may apply to the Supreme Court for an order that an inquest be held.

(3) The Supreme Court may make an order that an inquest be held if it is satisfied that it is necessary or desirable in the interests of justice.

Findings, &c., of coroner investigating a fire or an explosion

45—(1) A coroner investigating a fire or an explosion must find if possible—

- (a) the cause and origin of the fire or explosion; and
- (b) the circumstances in which the fire or explosion occurred; and
- (c) the identity of any person who contributed to the cause of the fire or explosion.

(2) A coroner may comment on any matter connected with the fire or explosion including public health or safety or the administration of justice.

(3) A coroner must not include in a finding or comment any statement that a person is or may be guilty of an offence.

Record of findings and comments

46—(1) A coroner or a coroner's clerk must keep a record of each investigation into a fire or an explosion in the prescribed form.

(2) A record is not evidence in any court of any fact asserted in it.

Reports on fires or explosions

47—(1) A coroner may report to the Attorney-General on a fire or an explosion which the coroner investigated.

(2) A coroner must report to the Attorney-General on a fire or an explosion which the coroner investigated at the direction of the Attorney-General.

(3) A coroner may make recommendations to the Attorney-General on any matter connected with a fire or an explosion which the coroner investigated, including public health or safety or the administration of justice.

(4) A coroner must report to the Attorney-General if the coroner believes that an indictable offence has been committed in connection with a fire or an explosion which the coroner investigated.

Police to report further information to coroner

48—A police officer who has information relevant to an investigation must report it to the coroner investigating the fire or explosion.

Restriction of access to fire or explosion area

49—(1) A coroner investigating a fire or an explosion may take reasonable steps to restrict access to the place where the fire or explosion occurred.

(2) The coroner may cause a prescribed notice to be put up at that place.

(3) A person must not, without good reason, enter or interfere with any area to which access is restricted under this section.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 3 months.

(4) A coroner must not restrict access to the place for any longer period than is necessary.

(5) Any person aggrieved by a decision of the coroner to restrict access to any place may apply to the Chief Magistrate for a review of that decision.

(6) The Chief Magistrate may make such order in relation to the decision of the coroner as the Chief Magistrate thinks necessary.

(7) An application to the Chief Magistrate under this section is to be made, heard and determined as may be prescribed in regulations made under this Act or, if no such regulations are made, as the Chief Magistrate determines.

PART 7

CONDUCT OF INQUESTS

Two or more deaths or fires and explosions

50—The Chief Magistrate may direct that the following be investigated at the one inquest:—

- (a) more than one death;
- (b) more than one fire;
- (c) more than one explosion;
- (d) both a fire and explosion or both more than one fire and more than one explosion;
- (e) both a death and a fire or explosion or both more than one death and more than one fire or more than one explosion;
- (f) both a death and a fire and an explosion or both more than one death and more than one fire and more than one explosion.

Rules of evidence not applicable

51—A coroner holding an inquest is not bound by the rules of evidence and may be informed and conduct an inquest in any manner the coroner reasonably thinks fit.

Rights of interested persons

52—(1) A coroner may make available any statements or affidavits that the coroner intends to consider to any person who the coroner considers has a sufficient interest.

(2) The Attorney-General or a person who the coroner considers has a sufficient interest may make submissions to a coroner at any stage of an investigation.

(3) The Attorney-General may appear or be represented, call and examine or cross-examine witnesses, and make submissions, at an inquest.

(4) A person who the coroner considers has a sufficient interest may appear or be represented by a barrister, or a legal practitioner, within the meaning of the *Legal Profession Act 1993* or, with permission of the coroner, by any other person at an inquest, call and examine or cross-examine witnesses, and make submissions, at an inquest.

Powers of coroners at an inquest

53—(1) If a coroner reasonably believes it is necessary for the purposes of an inquest, the coroner may—

- (a) summon a person to attend as a witness or to produce any document or other materials; and
- (b) inspect, copy and keep for a reasonable period any thing produced at the inquest; and
- (c) order a witness to answer questions; and
- (d) order a witness to take an oath or affirmation to answer questions; and
- (e) give any other directions and do anything else the coroner believes necessary.

(2) A coroner may be assisted by counsel or by such other persons as the coroner determines.

(3) The coroner may request the Director of Public Prosecutions to provide counsel to assist the coroner and the Director of Public Prosecutions may provide counsel to assist the coroner.

(4) A person must not, without reasonable excuse, disobey a summons, order or direction under subsection (1).

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 3 months.

(5) If a person to whom a summons is issued does not appear, the coroner may issue a warrant to apprehend the person.

(6) If a person is apprehended under a warrant issued under subsection (5), the coroner may—

- (a) commit the person to prison until the inquest or the further hearing of the inquest; or
- (b) admit the person to bail; or
- (c) orally order the person to appear before the coroner at the time and place to which the inquest in which that person is required as a witness has been adjourned.

Statements or disclosures made by witnesses at inquest

54—A statement or disclosure made by any witness in the course of giving evidence before a coroner at an inquest is not admissible in evidence against that witness in any civil or criminal proceeding in any court other than a prosecution for perjury in the giving of that evidence.

Coroner to head inquest without a jury

55—A coroner must hold an inquest without a jury.

Exclusion of persons from inquest

56—(1) Subject to this section, a coroner is to conduct an inquest in open court.

(2) A coroner may order the exclusion from an inquest of any person or all persons if the coroner considers that it is in the interests of the administration of justice, national security or personal security.

(3) A coroner may order—

- (a) the removal from an inquest of a person who disobeys an exclusion order; and
- (b) the imprisonment of the person for not more than 24 hours if the coroner reasonably believes that the person will continue to disobey the order.

Restriction on publication of reports

57—(1) A coroner may order that a report of an inquest or a report of any part of the proceedings of, or any evidence given at, an inquest not be published if the coroner reasonably believes that—

- (a) it would be likely to prejudice the fair trial of a person; or
- (b) it would be contrary to the administration of justice, national security or personal security; or
- (c) it would involve the disclosure of details of sensitive personal matters including, if the senior next of kin of the deceased has so requested, the name of the deceased.

(2) A person must not publish a report contrary to an order under subsection (1).

Penalty: Fine not exceeding 50 penalty units.

(3) A coroner may, in an order under subsection (1), specify the time for which the order is to be in force.

New inquests and re-opening of inquests

58—(1) Any person may apply to the Supreme Court for an order that some or all of the findings of an inquest are void.

(2) The Supreme Court may declare that some or all of the findings of the inquest are void and may order the Chief Magistrate—

- (a) to hold a new inquest, or direct any coroner, other than the coroner who held the first inquest, to hold a new inquest; or
- (b) to re-open (or direct another coroner to re-open) the inquest and to re-examine any finding.

(3) The Supreme Court may only make an order if it is satisfied that—

- (a) it is necessary or desirable because of fraud, consideration of evidence, failure to consider evidence, irregularity of proceedings or insufficiency of inquiry; or
- (b) there is a mistake in the record of the findings; or
- (c) it is desirable because of new facts or evidence; or
- (d) the findings are against the evidence and the weight of the evidence.

PART 8

MISCELLANEOUS

Powers of entry, inspection and possession

59—(1) A coroner who has jurisdiction to investigate a death, a fire or an explosion may, with any assistance the coroner considers necessary—

- (a) enter, with such force as is reasonable, and inspect any place and anything in it; and
- (b) take a copy of any document relevant to the investigation; and
- (c) take possession of any article, substance or thing which the coroner reasonably believes is relevant to the investigation and keep it until the investigation is finished.

(2) A coroner may only exercise the powers under subsection (1) if the coroner reasonably believes it is necessary for the investigation.

(3) If a coroner reasonably believes it is necessary for the investigation, the coroner may, in writing, authorise a police officer or a person authorised by the coroner for the purposes of this section to exercise any one or more of the following powers:—

- (a) enter, with such force as is reasonable, a specified place;
- (b) inspect a specified place and any article, substance or thing in it;
- (c) take a copy of specified documents or classes of documents;
- (d) take possession of specified articles, substances or things or classes of articles, substances or things.

(4) The powers specified in subsection (3) may be exercised at or between times specified in the authority during a period so specified (being a period not exceeding one month after the authority is given).

(5) Subject to subsection (6), a police officer or a person authorised by a coroner for the purposes of this section may not exercise any of the powers specified in subsection (3) unless the police officer or person, before exercising any of those powers, gives a copy of the police officer's or person's authority to exercise those powers to the owner or occupier of the place to be entered or inspected, or the person in possession of the document or thing, to be inspected, copied or taken.

(6) A police officer or a person authorised by a coroner for the purposes of this section may exercise any of the powers specified in subsection (3) without giving a copy of the police officer's or person's authority to exercise those powers to the owner or occupier of the place to be entered or inspected, or the person in possession of the document or thing, to be inspected, copied or taken, if it is not practicable in the circumstances to do so.

(7) Any article, substance or thing that is taken possession of under this section is in the legal custody, care and control of the coroner conducting the investigation except as may otherwise be provided by an order in force under section 60 (2).

Orders for care and control of articles, &c.

60—(1) This section applies to a person claiming ownership of, a lien over, or some other present or future right to possession of, an article, substance or thing that is in the legal custody of a coroner for the purposes of an investigation.

(2) At any time after an article, substance or thing is taken possession of under section 59 or during an investigation, the coroner may, on application by the Crown or a person to whom this section applies, make such orders as the coroner thinks fit as to the care and control of the article, substance or thing pending the conclusion of the investigation.

(3) The Crown and a person to whom this section applies are each entitled to be heard on any such application.

(4) An article, substance or thing remains in the legal custody of the coroner notwithstanding any order made under subsection (2).

Orders as to custody, &c., of articles, &c.

61—(1) On the conclusion of an investigation or on the adjournment or conclusion of an inquest, a coroner must make such orders as the coroner thinks fit for the custody, care and control, or the disposition, of each article, substance or thing that was tendered in evidence at the inquest or taken possession of under section 59 unless the coroner is satisfied that the article, substance or thing will be, or is likely to be, required for the purpose of other legal proceedings.

(2) The Crown and a person to whom section 60 applies are each entitled to be heard with respect to any order under subsection (1).

Variation or revocation of orders as to custody, &c., of articles, &c.

62—(1) Where there is a substantial change in the circumstances to which an order under section 60 or 61 applies, the coroner who made the order may, on the application of the Crown or a person to whom section 60 applies, vary or revoke that order by a subsequent order under the appropriate section.

(2) If it is not practicable for the coroner who made the original order to hear an application under subsection (1), the application may be heard and determined by any other coroner.

Appeal to Supreme Court from orders as to custody, &c., of articles, &c.

63—The Crown or a person to whom section 60 applies may apply to the Supreme Court for a review of an order made by a coroner under section 60, 61 or 62.

Coroner not required to give evidence in certain cases

64—(1) A coroner is not to be called to give evidence in a court or judicial proceedings about anything coming to the coroner's knowledge in carrying out a coroner's powers, functions or duties under this Act.

(2) Subsection (1) does not apply in relation to proceedings against a coroner for an offence.

Obstruction

65—A person must not hinder or obstruct a coroner or a person acting under a coroner's authority in exercising powers under this Act.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 6 months.

Contempt

66—A person must not—

- (a) insult a coroner in relation to the exercise of the coroner's functions or powers; or
- (b) interrupt an inquest; or

- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place at which an inquest is being held.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months.

Protection from legal proceedings

67—Neither the coroner nor a person acting under an authority given under this Act is liable to any legal proceedings in relation to anything done under this Act, unless it was done in bad faith.

Manner of making applications

68—An application under sections 26 (2), 37 (3), 38 (3), 39 (4), 44 (2), 58 (1) and 63 is to be made in accordance with Rules of Court in force under the *Supreme Court Civil Procedure Act 1932*.

Annual report

69—(1) The Chief Magistrate must, on or before 30 November in each year, prepare and submit to the Attorney-General a report in relation to the operation of this Act during the financial year ending on the preceding 30 June.

(2) The report—

(a) must include details of deaths of persons held in custody and findings and recommendations made by coroners; and

(b) may include any other matter that the Chief Magistrate considers appropriate.

(3) The Attorney-General must cause a copy of the report to be laid on the table of each House of Parliament within 10 sitting days after receiving the report.

Regulations

70—(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting subsection (1), regulations under this section may provide for or be made for or with respect to—

- (a) the practice and procedure at, or preliminary or incidental to, inquests and the recording of proceedings at inquests; and
- (b) a form of oath to be taken by persons appointed to record or transcribe proceedings at inquests; and
- (c) the summoning and attendance of witnesses at inquests; and
- (d) conditions relating to the conduct of an autopsy; and
- (e) the issue of burial certificates; and
- (f) the manner of dealing with exhibits; and
- (g) the fees payable under this Act.

(3) Regulations under this section may—

- (a) authorise any act, matter or thing in relation to which the regulations may be made to be from time to time determined, applied or regulated by the Chief Magistrate; and
- (b) be made subject to such conditions or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified; and
- (c) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
- (d) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding one penalty unit for each day during which the offence continues.

(4) Regulations under this section may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(5) A provision referred to in subsection (4) may, if the regulations so provide, take effect from the commencement of this Act or a later date.

Repeal

71—The *Coroners Act 1957* is repealed.

Savings and transitional provisions

72—(1) On and after the commencement day—

- (a) a reference in any Act to any section, Division, Part or Schedule of the *Coroners Act 1957* is taken to be a reference to the equivalent provision, if any, in the *Coroners Act 1995*; and
- (b) a reference in any law, instrument or document to the *Coroners Act 1957* is taken to be a reference to the *Coroners Act 1995*.

(2) A person holding office as a coroner under the *Coroners Act 1957* immediately before the commencement of this Act is taken to have been appointed as a coroner under this Act.

(3) The *Coroners Act 1957*, as in force immediately before the commencement of this section, continues to apply in relation to—

- (a) any death in respect of which a coroner has been informed before the commencement of this Act; and
- (b) any direction given to a coroner before the commencement of this section by the Attorney-General to inquire into a fire; and
- (c) any request—
 - (i) made to a coroner by the owner of property or an insurer of property destroyed or damaged by fire to inquire into the fire; and
 - (ii) approved by the Attorney-General—
before the commencement of this section; and
- (d) any request given to a coroner before the commencement of this section by the State Fire Commission to inquire into a fire.

Administration of Act

73—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the Department responsible to the Minister for Justice in relation to the administration of this Act is the Department of Justice.

[Second reading presentation speech made in:—
House of Assembly on 5 October 1995
Legislative Council on 17 October 1995]

