

**Authorised Version No. 024**

**Coroners Act 2008**

**No. 77 of 2008**

Authorised Version incorporating amendments as at  
1 September 2015

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**Preamble**

The coronial system of Victoria plays an important role in Victorian society. That role involves the independent investigation of deaths and fires for the purpose of finding the causes of those deaths and fires and to contribute to the reduction of the number of preventable deaths and fires and the promotion of public health and safety and the administration of justice.

This role will be enhanced by creating a Coroners Court and setting out the role of the Coroners Court and the coronial system and the procedures for coronial investigations.

**The Parliament of Victoria therefore enacts:**

**Part 1—Preliminary**

**1 Purposes**

The purposes of this Act are—

- (a) to require the reporting of certain deaths; and
- (b) to provide for coroners to investigate deaths and fires in specified circumstances; and
- (c) to contribute to the reduction of the number of preventable deaths and fires through the findings of the investigation of deaths and fires, and the making of recommendations, by coroners; and
- (d) to establish the Coroners Court of Victoria as a specialist inquisitorial court; and

- (e) to establish the Coronial Council of Victoria;  
and
- (f) to amend the **Coroners Act 1985**—
  - (i) to repeal the provisions relating to coroners; and
  - (ii) to rename that Act as the **Victorian Institute of Forensic Medicine Act 1985**; and
- (g) to make consequential amendments to other Acts.

## 2 Commencement

This Act comes into operation on 1 November 2009.

## 3 Definitions

(1) In this Act—

\* \* \* \* \*

S. 3(1) def. of *Australian lawyer* repealed by No. 17/2014 s. 160(Sch. 2 item 21.1).

*autopsy* means—

- (a) the dissection of a body (including the removal of tissue); or
- (b) any other prescribed procedure in relation to a body—

but does not include—

- (c) a preliminary examination; or
- (d) an identification procedure;



**body** means—

- (a) the corpse of a human being; or
- (b) a part or parts of the corpse or remains of a human being—

but does not include tissue removed from the corpse of a human being;

**child** means a person under the age of 18 years;

**coroner** means—

- (a) the State Coroner, including a person acting under section 12H of the **County Court Act 1958**;
- (b) the Deputy State Coroner;
- (c) a magistrate or reserve magistrate engaged under section 9C of the **Magistrates' Court Act 1989** assigned to be a coroner of the Coroners Court under section 93;
- (d) a person appointed as a coroner of the Coroners Court under section 94;
- (e) a reserve coroner who is engaged under section 102N to perform the duties of a coroner during any period of engagement or acting under section 102S;

**Coroners Court** means the Coroners Court of Victoria;

**Council** means the Coronial Council of Victoria established under Part 9;

**Country Fire Authority** means the Country Fire Authority established under the **Country Fire Authority Act 1958**;

S. 3(1) def. of  
*coroner*  
amended by  
Nos 5/2013  
s. 57(1),  
63/2013  
ss 49(a)(b), 82.

*death* includes suspected death;

**Notes**

- 1 A still-birth, within the meaning of the **Births, Deaths and Marriages Registration Act 1996**, is not a death.
- 2 See section 41 of the **Human Tissue Act 1982** for a definition of death for the purposes of the law of Victoria.

*Deputy State Coroner* means the Deputy State Coroner of the Coroners Court appointed under section 92;

*domestic partner* of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—
  - (i) for fee or reward; or
  - (ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

*identification direction* means a direction given by a coroner under section 24;

***identification procedure*** means any procedure performed in accordance with an identification direction;

***immediate family*** in relation to a deceased person, means spouse, domestic partner, son, daughter, parent, sibling, executor, personal representative or a person determined to be the senior next of kin under subsection (3);

***inquest*** means a public inquiry that is held by the Coroners Court in respect of a death or a fire;

***Institute*** means the Victorian Institute of Forensic Medicine established under the **Victorian Institute of Forensic Medicine Act 1985**;

***interstate coroner*** means a coroner of another State or Territory;

***interested party*** in relation to an inquest, means a person granted leave under section 56 to appear at the inquest;

***judicial registrar*** means a judicial registrar of the Coroners Court appointed under Division 1A of Part 8;

S. 3(1) def. of  
*judicial  
registrar*  
inserted by  
No. 34/2010  
s. 41.

***medical examination*** means a preliminary examination, an identification procedure or an autopsy;

***medical investigator*** means—

- (a) the Institute; or
- (b) a pathologist; or
- (c) a registered medical practitioner under the general supervision of a pathologist;

***medical procedure*** means a procedure performed on a person by or under the general supervision of a registered medical

practitioner and includes imaging, internal examination and surgical procedure;

***Metropolitan Fire and Emergency Services Board*** means the Metropolitan Fire and Emergency Services Board established under the **Metropolitan Fire Brigades Act 1958**;

***parent***, in relation to a child, includes—

- (a) a step-parent;
- (b) an adoptive parent;
- (c) a foster parent;
- (d) a guardian;
- (e) a person who has custody or daily care and control;
- (f) a person who has all the duties, powers, responsibilities and authority (whether conferred by a court or otherwise) which, by law, parents have in relation to children;

***pathologist*** means a prescribed registered medical practitioner;

***person placed in custody or care*** means—

- (a) a person who is in the custody or under the guardianship of the Secretary to the Department of Human Services under the **Children, Youth and Families Act 2005**; or
- (b) a child placed in emergency care under the **Children, Youth and Families Act 2005**; or
- (c) a person who is deemed to be in the legal custody of the Secretary to the Department of Human Services under

S. 3(1) def. of *person placed in custody or care* amended by Nos 29/2010 s. 51(a), 43/2010 s. 44, 29/2011 s. 3(Sch. 1 item 18.1), 52/2013 s. 80, 26/2014 s. 455(Sch. item 5.1), 37/2014 s. 10(Sch. item 30.1(b)).

section 483 of the **Children, Youth and Families Act 2005**; or

- (d) a person under the control, care or custody of the Secretary to the Department of Human Services or the Secretary to the Department of Health; or
- (e) a person in the legal custody of the Secretary to the Department of Justice or the Chief Commissioner of Police; or
- (f) a person in the custody of a police officer; or
- (g) a person in the custody of a protective services officer; or
- (h) a person detained in a treatment centre under a detention and treatment order made under section 20 of the **Severe Substance Dependence Treatment Act 2010**;
- (i) a patient detained in a designated mental health service within the meaning of the **Mental Health Act 2014**; or
- (j) a person who a police officer or prison officer is attempting to take into custody or who is dying from injuries sustained when a police officer or prison officer attempted to take the person into custody; or
- (k) a person in Victoria who is dying from an injury incurred while in the custody of the State; or
- (l) a prescribed person or a person belonging to a prescribed class of person;

***police officer*** has the same meaning as in the  
**Victoria Police Act 2013**;

S. 3(1) def. of  
*police officer*  
inserted by  
No. 37/2014  
s. 10(Sch.  
item 30.1(a)).

***preliminary examination*** in relation to a body  
means any of the following procedures—

- (a) a visual examination of the body  
(including a dental examination);
- (b) the collection and review of  
information, including personal and  
health information relating to the  
deceased person or the death of the  
person;
- (c) the taking of samples of bodily fluid  
including blood, urine, saliva and  
mucus samples from the body (which  
may require an incision to be made)  
and the testing of those samples;
- (d) the imaging of the body including the  
use of computed tomography  
(CT scan), magnetic resonance imaging  
(MRI scan), x-rays, ultrasound and  
photography;
- (e) the taking of samples from the surface  
of the body including swabs from  
wounds and inner cheek, hair samples  
and samples from under fingernails and  
from the skin and the testing of those  
samples;
- (f) the fingerprinting of the body;
- (g) any other procedure that is not a  
dissection, the removal of tissue or  
prescribed to be an autopsy;

*prescribed* means prescribed by the regulations unless otherwise provided;

*principal registrar* means the principal registrar appointed under section 97;

S. 3(1) def. of *protective services officer* inserted by No. 37/2014 s. 10(Sch. item 30.1(a)).

*protective services officer* has the same meaning as in the **Victoria Police Act 2013**;

S. 3(1) def. of *registered medical practitioner* substituted by No. 13/2010 s. 51(Sch. item 15).

*registered medical practitioner* means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

*registrar* means the principal registrar, a deputy registrar or a registrar referred to in section 97;

*reportable death* has the meaning given by section 4;

S. 3(1) def. of *reserve coroner* inserted by No. 63/2013 s. 49(c).

*reserve coroner* means a person appointed under section 102L;

S. 3(1) def. of *reserve judge* inserted by No. 5/2013 s. 57(2).

*reserve judge* has the same meaning as it has in the **County Court Act 1958**;

S. 3(1) def. of *reserve magistrate* inserted by No. 5/2013 s. 57(2).

*reserve magistrate* has the same meaning as it has in the **Magistrates' Court Act 1989**;

*reviewable death* has the meaning given by section 5;

*Secretary to the Department of Health* means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Health;

S. 3(1) def. of *Secretary to the Department of Health* inserted by No. 29/2010 s. 51(b).

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

S. 3(1) def. of *senior next of kin* amended by No. 29/2011 s. 3(Sch. 1 item 18.2).

- (a) if the person, immediately before death had a spouse or domestic partner—the spouse or domestic partner; or
- (b) if the person immediately before death did not have a spouse or domestic partner or if the spouse or domestic partner is not available—a son or daughter of or over the age of 18 years; or
- (c) if a spouse, domestic partner, son or daughter is not available—a parent; or
- (d) if a spouse, domestic partner, son, daughter or parent is not available—a sibling who is of or over the age of 18 years; or
- (e) if a spouse, domestic partner, son, daughter, parent or sibling is not available—a person named in the will as an executor; or
- (f) if a spouse, domestic partner, son, daughter, parent, sibling or executor is not available—a person who, immediately before the death, was a personal representative of the deceased;



- (g) if a spouse, domestic partner, son, daughter, parent, sibling, executor or personal representative is not available—a person determined to be the senior next of kin under subsection (3);

*sibling* in relation to a person includes a half-brother, half-sister, adoptive brother, adoptive sister, step-brother or step-sister of the person;

*spouse* of a person means a person to whom that person is married;

*State Coroner* means the State Coroner of the Coroners Court appointed under section 91;

*the rules* means rules of the Coroners Court;

*tissue* has the same meaning as in the **Human Tissue Act 1982**.

- (2) For the purposes of the definition of *domestic partner* in subsection (1)—
- (a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and
- (b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and
- (c) a person is not a domestic partner of another person only because they are co-tenants.

- (3) For the purposes of paragraph (g) of the definition of *senior next of kin*, a person is the senior next of kin if the coroner determines that the person should be taken to be the senior next of kin because of the closeness of the person's relationship with the deceased person immediately before his or her death.
- (4) In this Act—
- (a) a reference to a function includes a reference to a power and a 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.

#### **4 Reportable death**

- (1) In this Act, a death of a person is a *reportable death* if—
- (a) the body is in Victoria; or
  - (b) the death occurred in Victoria; or
  - (c) the cause of the death occurred in Victoria; or
  - (d) the person ordinarily resided in Victoria at the time of death—
- and the death was a death specified in subsection (2).
- (2) For the purposes of subsection (1), the deaths are—
- (a) a death that appears to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from an accident or injury; or

- (b) a death that occurs—
- (i) during a medical procedure; or
  - (ii) following a medical procedure where the death is or may be causally related to the medical procedure—  
and a registered medical practitioner would not, immediately before the procedure was undertaken, have reasonably expected the death; or
- (c) the death of a person who immediately before death was a person placed in custody or care; or
- (d) the death of a person who immediately before death was a patient within the meaning of the **Mental Health Act 2014**; or
- (e) the death of a person under the control, care or custody of the Secretary to the Department of Justice or a police officer; or
- (f) the death of a person who is subject to a non-custodial supervision order under section 26 or 38ZH of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; or
- (g) the death of a person whose identity is unknown; or
- (h) a death that occurs in Victoria if a notice under section 37(1) of the **Births, Deaths and Marriages Registration Act 1996** has not been signed and is not likely to be signed; or

S. 4(2)(d)  
amended by  
No. 26/2014  
s. 455(Sch.  
item 5.2).

S. 4(2)(e)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.2).

S. 4(2)(f)  
amended by  
No. 55/2014  
s. 143.

- (i) a death that occurs at a place outside Victoria if the cause of death is not certified by a person who, under the law in force in that place, is authorised to certify that death and the cause of death is not likely to be certified by a person who is authorised to certify in that place; or
- (j) a death—
  - (i) of a prescribed class of person;
  - (ii) that occurs in prescribed circumstances.

## **5 Reviewable death**

- (1) In this Act, the death of a child (the *deceased child*) is a *reviewable death* if the deceased child is the second or subsequent child of the deceased child's parent to have died and one of the following applies—
  - (a) the body is in Victoria; or
  - (b) the death occurred in Victoria; or
  - (c) the cause of the death occurred in Victoria; or
  - (d) the child ordinarily resided in Victoria at the time of death.
- (2) Despite subsection (1), a death of a deceased child is not a reviewable death if—
  - (a) the death occurs in a hospital; and
  - (b) the child was born at a hospital and had always been an in-patient of a hospital; and
  - (c) the death is not a reportable death.

(3) In this section—

*hospital* means a public hospital, a public health service, a denominational hospital or a private hospital within the meaning of the **Health Services Act 1988**;

*in-patient* of a hospital includes a child whose only period spent outside a hospital was during a transfer from one hospital to another, by whatever means.

## **Part 2—Objectives**

### **6 Role of objectives**

The objectives in this Part are intended to give guidance in the administration and interpretation of this Act.

### **7 Avoiding unnecessary duplication**

It is the intention of Parliament that a coroner should liaise with other investigative authorities, official bodies or statutory officers—

- (a) to avoid unnecessary duplication of inquiries and investigations; and
- (b) to expedite the investigation of deaths and fires.

### **8 Factors to consider for the purposes of this Act**

When exercising a function under this Act, a person should have regard, as far as possible in the circumstances, to the following—

- (a) that the death of a family member, friend or community member is distressing and distressed persons may require referral for professional support or other support;
- (b) that unnecessarily lengthy or protracted coronial investigations may exacerbate the distress of family, friends and others affected by the death;
- (c) that different cultures have different beliefs and practices surrounding death that should, where appropriate, be respected;
- (d) that family members affected by a death being investigated should, where appropriate, be kept informed of the particulars and progress of the investigation;

**S. 8**  
amended by  
**No. 34/2010**  
s. 6(a).

- (e) that there is a need to balance the public interest in protecting a living or deceased person's personal or health information with the public interest in the legitimate use of that information;
- (f) the desirability of promoting public health and safety and the administration of justice.

**9 Fairness and efficiency of coronial system**

The coronial system should operate in a fair and efficient manner.

## Part 3—Reporting of deaths

### 10 Obligation of registered medical practitioner to report death

- (1) Subject to subsection (2), a registered medical practitioner who is present at or after the death of a person must report the death without delay to a coroner or the Institute if the death is a reportable death.

S. 10(1)  
amended by  
No. 31/2013  
s. 12(1).

Penalty: 20 penalty units.

- (2) If more than one registered medical practitioner is present at or after a death and one of them reports it to a coroner or the Institute, the other practitioners need not report the death.

S. 10(2)  
amended by  
No. 31/2013  
s. 12(1).

- (3) The Institute must refer to a coroner a report of a reportable death received from a registered medical practitioner under subsection (1) or (2) as soon as practicable after receipt of that report.

S. 10(3)  
inserted by  
No. 31/2013  
s. 12(2).

### 11 Obligation to report death of a person placed in custody or care

- (1) The responsible person must report the death of a person placed in custody or care without delay to a coroner or the Institute.

S. 11(1)  
amended by  
No. 31/2013  
s. 13(1).

Penalty: 20 penalty units.

- (1A) The Institute must refer to a coroner a report of the death of a person placed in custody or care received from a responsible person under subsection (1) as soon as practicable after receipt of that report.

S. 11(1A)  
inserted by  
No. 31/2013  
s. 13(2).

- (2) In this section, *responsible person* means—
- (a) in relation to a person referred to in paragraphs (a) to (i) of the definition of *person placed in custody or care* in section 3(1), the person who has care, control or custody of the person;



S. 11(2)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.3).

- (b) in relation to a person referred to in paragraph (j) of the definition of *person placed in custody or care* in section 3(1), the police officer or the prison officer who attempted to take the person into custody;
- (c) in relation to a person referred to in paragraph (k) or (l) of the definition of *person placed in custody or care* in section 3(1), a person prescribed as the responsible person.

## 12 General obligation to report death

S. 12(1)  
amended by  
Nos 31/2013  
s. 14(1),  
37/2014  
s. 10(Sch.  
item 30.4).

- (1) A person who has reasonable grounds to believe that a reportable death has not been reported must report it without delay to a coroner, the Institute or the police officer in charge of a police station.

Penalty: 20 penalty units.

S. 12(2)  
amended by  
Nos 31/2013  
s. 14(2),  
26/2014  
s. 455(Sch.  
item 5.3).

- (2) A member of the immediate family of a deceased person may report the death to the coroner or the Institute if the person was a person discharged from a designated mental health service within the meaning of the **Mental Health Act 2014** within 3 months immediately before the person's death.

S. 12(3)  
inserted by  
No. 31/2013  
s. 14(3).

- (3) The Institute must refer to a coroner a report of a death received under subsection (1) or (2) as soon as practicable after receipt of that report.

## 13 Obligation to report reviewable death

S. 13(1)  
amended by  
No. 31/2013  
s. 15(1).

- (1) Subject to subsection (2), a registered medical practitioner who is present at or after the death of a child must report the death without delay to the State Coroner or the Institute if the death is a reviewable death.

Penalty: 20 penalty units.

Coroners Act 2008  
No. 77 of 2008  
Part 3—Reporting of deaths

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- (2) If more than one registered medical practitioner is present at or after a reviewable death and one of them reports it to the State Coroner or the Institute, the other practitioners need not report the death. **S. 13(2) amended by No. 31/2013 s. 15(1).**
- (3) A person who has reasonable grounds to believe that a reviewable death has not been reported to the State Coroner or the Institute as a reviewable death must report the death without delay to the State Coroner or the Institute. **S. 13(3) amended by No. 31/2013 s. 15(1).**
- Penalty: 20 penalty units.
- (4) The Institute must refer to the State Coroner a report of a reviewable death received from a registered medical practitioner or other person under this section as soon as practicable after receipt of that report. **S. 13(4) inserted by No. 31/2013 s. 15(2).**

## **Part 4—Investigation of deaths and fires**

### **Division 1—Investigation of deaths**

#### **14 Deaths a coroner may investigate**

- (1) A coroner may investigate a death that is or may be a reportable death if the death appears to have occurred within 100 years before the death was reported to a coroner.
- (2) A coroner may investigate a death reported to the coroner under section 12(2).
- (3) A power under subsection (1) includes a power to investigate whether the death is a reportable death.

#### **15 Deaths a coroner must investigate**

A coroner must investigate the death of a person if—

- (a) it appears to the coroner that the death, or the cause of death, occurred in Victoria; and
- (b) it appears to the coroner that the death is a reportable death; and
- (c) it appears to the coroner that the death occurred within 50 years before the death was reported to a coroner; and
- (d) an interstate coroner has not investigated, is not investigating, and does not intend to investigate, the death.

#### **16 Determination by coroner that reported death not a reportable death**

- (1) A coroner may determine that a death that was reported to the coroner as a reportable death is not a reportable death.

- (2) If a coroner determines that a death is not a reportable death, the coroner must give written notice of the coroner's determination to the person who reported the death.
- (3) If a coroner determines that a death is not a reportable death, the coroner must discontinue the investigation into the death.
- (4) Subsection (3) does not affect the investigation by the State Coroner of the death if it is a reviewable death.
- (5) Whether or not a death is a reportable death, the coroner must discontinue the investigation into the death if the coroner determines that the death probably occurred more than 100 years before it was reported to a coroner.

**17 Certain reportable deaths do not require investigation**

- (1) Subject to subsection (3), a coroner is not required to continue an investigation into a reportable death if—
  - (a) the coroner determines that the death was not a death referred to in section 4(2)(b); and
  - (b) a medical investigator conducts a medical examination on the deceased person and provides a report to the coroner that includes an opinion that the death was due to natural causes; and
  - (c) the coroner determines that, other than the fact that the death of the person was unexpected, the death is not a reportable death; and
  - (d) the coroner determines that the death is not a reviewable death.

S. 17(1)  
amended by  
No. 62/2014  
s. 61(1).

S. 17(3)  
inserted by  
No. 62/2014  
s. 61(2).

- (2) If a coroner determines under this section not to continue an investigation, the principal registrar must notify the Registrar of Births, Deaths and Marriages, without delay, of the prescribed particulars.
- (3) This section does not apply to a reportable death of a person who, immediately before death, was a person placed in custody or care.

**Note**

See section 52 which provides for the investigatory requirements in respect of a death due to natural causes where the deceased was, immediately before death, a person placed in custody or care.

**18 Reviewable deaths may be referred to the Institute**

- (1) The State Coroner may refer a reviewable death to the Institute, whether or not the death is a reportable death, to enable the Institute to perform its functions under the **Victorian Institute of Forensic Medicine Act 1985**.
- (2) If—
  - (a) the State Coroner refers a reviewable death to the Institute; and
  - (b) the State Coroner considers that information held by the Coroners Court in relation to the death is necessary to enable the Institute to perform its functions under the **Victorian Institute of Forensic Medicine Act 1985**—

the principal registrar must ensure that the information is given to the Institute.

**19 State Coroner may investigate a reviewable death**

- (1) The State Coroner may investigate a death that is or may be a reviewable death without referring the death to the Institute if he or she considers that it is necessary and appropriate to do so.

- (2) The State Coroner must advise the Institute if he or she decides not to refer a reviewable death to the Institute.
- (3) A power under subsection (1) includes a power to investigate whether the death is a reviewable death.

**20 Determination by State Coroner that death not a reviewable death**

- (1) The State Coroner may determine that a death that was reported to the State Coroner as a reviewable death is not a reviewable death.
- (2) If the State Coroner determines that a death is not a reviewable death, the State Coroner must give written notice of the State Coroner's determination to the person who reported the death.
- (3) If the State Coroner determines that a death is not a reviewable death or a reportable death, the State Coroner must discontinue the investigation into the death.

**21 Providing relevant persons with coronial process information**

As soon as practicable after a coroner has commenced an investigation into a death, the principal registrar must ensure that the prescribed information in respect of the coronial process is provided to—

- (a) the senior next of kin of the deceased person;  
and
- (b) any other person—
  - (i) who has advised the principal registrar that they have an interest in the investigation of the death; and

- (ii) who the principal registrar considers to have a sufficient interest in the investigation of the death.

## **22 Control of the body**

- (1) This section applies if a body is in Victoria and the death is—
  - (a) a reportable death or a reviewable death; or
  - (b) is being investigated by a coroner.
- (2) If the death is being investigated by a coroner, the body is under the control of the coroner until the coroner releases the body under section 47.
- (3) If the death is not being investigated by a coroner, the body is taken to be under the control of the State Coroner until—
  - (a) another coroner commences an investigation of the death; or
  - (b) a coroner releases the body under section 47.

## **23 Preliminary examinations**

- (1) The purpose of a preliminary examination is to assist the coroner in the performance of his or her functions in respect of a death.
- (2) A coroner may provide a body to a medical investigator to enable a preliminary examination to be performed on the body.
- (3) The provision of the body authorises the conduct of the preliminary examination.

## **24 Identification directions**

A coroner may direct a medical investigator to perform any procedure on a body (including the removal of tissue but not including a preliminary examination) for the purposes of identifying the deceased person.

## 25 Autopsies

- (1) The purpose of an autopsy is to assist a coroner to perform his or her functions in respect of a death.
- (2) A coroner must direct a medical investigator to perform an autopsy on a body under the control of the coroner if the coroner believes that—
  - (a) the autopsy is necessary for the investigation of the death; and
  - (b) it is appropriate to give the direction.

### Note

See section 26 for when a direction made by a coroner under subsection (2) takes effect.

- (3) After consulting with, and seeking advice from, the Institute or a pathologist, a coroner may—
    - (a) impose conditions on the manner in which an autopsy on a body is to be performed; and
- Example**
- Conditions under subsection (3) could include the number of cavities to be explored or the organs to be removed.
- (b) direct the medical investigator to perform certain tests on a body or on tissue or other material removed from the body.
- (4) Nothing in this Act prevents a preliminary examination or an identification procedure from being performed concurrently with an autopsy.

## 26 Objections to autopsy

- (1) A coroner must take reasonable steps to notify the senior next of kin of the deceased of a direction given by the coroner under section 25(2).
- (2) Within 48 hours after receiving notice under subsection (1), the senior next of kin may—

S. 26(2)  
substituted by  
No. 62/2014  
s. 62(1).



S. 26(3)  
amended by  
No. 62/2014  
s. 62(2).

- (a) ask the coroner to reconsider the direction that an autopsy be performed; or
  - (b) if the senior next of kin does not object to the autopsy and would like the autopsy to be performed without delay, consent, in accordance with the rules, to the waiver of the period remaining for the senior next of kin to make a request under paragraph (a).
- (3) If, after considering a request under subsection (2)(a), the coroner determines that—
- (a) the autopsy is necessary for the investigation of the death; and
  - (b) it was appropriate to make the direction under section 25(2)—

the coroner must, without delay, give written notice of the determination to the senior next of kin.

- (4) A direction under section 25(2) does not take effect until—
- (a) subject to paragraphs (b) and (c) 48 hours after the required notice has been given under subsection (1); or
  - (b) subject to paragraph (c), if—
    - (i) a request has been made under subsection (2)(a), 48 hours after the notice is given under subsection (3); or
    - (ii) the remainder of the period specified in subsection (2) has been waived by the senior next of kin under subsection (2)(b), on the giving of the waiver; or
  - (c) a direction is given under subsection (5).

S. 26(4)(b)  
substituted by  
No. 62/2014  
s. 62(3).

- (5) A coroner may—
- (a) direct that an autopsy be performed immediately, without giving notice under this section, if—
    - (i) the coroner believes it is appropriate in the circumstances; or
    - (ii) there is no senior next of kin or the next of kin cannot be located; or
  - (b) direct that an autopsy be performed less than 48 hours after the senior next of kin has been given notice under subsection (3) if the senior next of kin advises the coroner that he or she will not appeal to the Supreme Court against the direction that an autopsy be performed.

**Note**

An appeal can be made to the Supreme Court under Part 7 against the direction made by a coroner under section 25(2) in certain circumstances.

**27 Request for autopsy**

- (1) If a coroner has control of a body, any person may ask the coroner to direct that an autopsy be performed on the body.
- (2) If the coroner refuses a person's request, the coroner must give the person, without delay, written reasons for the refusal to give a direction.

**Note**

An appeal can be made to the Supreme Court under Part 7 against a refusal by a coroner to make a direction.

**28 The removal of tissue and preserving material**

- (1) For the purposes of this Act, the following persons may remove or assist in the removal of tissue under the general supervision of a medical investigator—

- (a) a mortuary technician;
- (b) a forensic technician;
- (c) a scientist;
- (d) a prescribed person.

(2) A coroner may direct a medical investigator undertaking a medical examination to cause to be preserved, for any period that the coroner directs, any tissue or material that appears to the medical investigator to bear on the cause or circumstances of the death or the identity of the deceased person.

## **29 Provision of relevant information by principal registrar**

- (1) The principal registrar must ensure that the medical investigator who is responsible for performing a medical examination is given information of a kind specified in subsection (2).
- (2) The kind of information to be given under subsection (1) is information collected or held by the Coroners Court that the coroner investigating the death considers would be necessary or helpful for the medical investigator performing the medical examination to know.

S. 29A  
inserted by  
No. 83/2012  
s. 39.

## **29A Principal registrar to provide certain information to VIFM**

Unless a coroner directs otherwise, for the performance of its functions under section 66(4)(b) of the **Victorian Institute of Forensic Medicine Act 1985**, the principal registrar must provide to the Institute without delay the following information in relation to a death that is reported to a coroner—

- (a) a copy of the initial police report of the death, if any, that is received by a coroner;  
and

- (b) if not included in the initial police report of the death, the name and contact details of the next of kin (within the meaning of the **Human Tissue Act 1982**) of the deceased that are provided to the Coroners Court within 24 hours after the death is reported to a coroner.

**Note**

Section 66(4)(b) of the **Victorian Institute of Forensic Medicine Act 1985** provides that one of the functions of the Institute is to remove tissue, or receive tissue taken, in accordance with the **Human Tissue Act 1982** from deceased persons in Victoria (whether or not a coroner has jurisdiction to investigate the deaths) and to process, store and supply the tissue for transplantation to living persons in Victoria or elsewhere or for use, in Victoria or elsewhere, for other therapeutic purposes or for medical or scientific purposes.

Part IV of the **Human Tissue Act 1982** provides for tissue donation after death. Section 27 of that Act provides specifically for deaths for which a coroner has or may have jurisdiction under this Act.

## **Division 2—Investigation of fires**

### **30 Fire authority request for fire investigation**

- (1) The Country Fire Authority or Metropolitan Fire and Emergency Services Board may request a coroner to investigate a fire.
- (1A) The Institute may, on behalf of a coroner, receive a request made by the Country Fire Authority or Metropolitan Fire and Emergency Services Board under subsection (1).
- (1B) If the Institute receives a request under subsection (1A), the Institute must refer that request to a coroner as soon as practicable after receiving that request.

**S. 30(1A)**  
inserted by  
**No. 31/2013**  
s. 16.

**S. 30(1B)**  
inserted by  
**No. 31/2013**  
s. 16.

- (2) A coroner must investigate a fire after receiving a request under subsection (1) unless the coroner determines that the investigation is not in the public interest.
- (3) The coroner must give written reasons to the Authority or Board for a decision not to conduct an investigation it requested.

### **31 Application for investigation into a fire**

S. 31(1A)  
inserted by  
No. 31/2013  
s. 17.

- (1) A person may request a coroner to investigate a fire.
- (1A) The Institute may, on behalf of a coroner, receive a request made by a person under subsection (1).

S. 31(1B)  
inserted by  
No. 31/2013  
s. 17.

- (1B) If the Institute receives a request under subsection (1A), the Institute must refer that request to a coroner as soon as practicable after receiving that request.
- (2) If a coroner refuses a request to investigate a fire, the coroner must give written reasons for the refusal to the person who made the request.

## **Division 3—Assistance to coroner in investigation**

### **32 Person who made report of death to assist**

A person who reported a reportable death or a reviewable death must give the coroner any information or other assistance that the coroner requests for the purposes of the coroner's investigation.

Penalty: 20 penalty units.

### **33 Registered medical practitioner to assist**

- (1) This section applies to a death that is being investigated by a coroner.

- (2) A registered medical practitioner—
- (a) who was responsible for a person's medical care immediately before that person's death;  
or
  - (b) who was present at or after the person's death—

must give the coroner any information or assistance that the coroner requests for the purposes of the investigation.

Penalty: 20 penalty units.

**34 Person who asks for investigation of fire to assist**

A person who requests a coroner to investigate a fire must give the coroner any information that the coroner requests to assist the coroner in his or her investigation.

Penalty: 20 penalty units.

**35 Fire authority to assist**

The Country Fire Authority or Metropolitan Fire and Emergency Services Board must give the coroner any information that may assist the coroner in his or her investigation of a fire.

**36 Assistance from police**

A police officer who has information that may be relevant to an investigation by a coroner into a death or a fire must give that information to the coroner to assist the coroner in his or her investigation of the death or the fire.

S. 36  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

## **Division 4—Powers relating to investigation**

### **37 Restriction of access to place where death occurred or caused or may occur**

- (1) In this section, *death* means a death that a coroner or the Chief Commissioner of Police reasonably believes to be a reportable death or reviewable death.
- (2) A coroner or the Chief Commissioner of Police may take reasonable steps to restrict access to—
  - (a) the place where a death occurred; or
  - (b) a place reasonably connected to the place where the death occurred.
- (3) The Chief Commissioner of Police may take reasonable steps to restrict access to—
  - (a) the place where an incident occurred; or
  - (b) a place reasonably connected to the place where an incident occurred—if the Chief Commissioner of Police reasonably expects a person to die as a result of the incident.
- (4) The coroner or the Chief Commissioner of Police may cause a notice in the prescribed form stating that access is restricted to a place to be put up at that place or as near as possible to that place.
- (5) A person must not, without lawful excuse, enter or interfere with any place to which access is restricted under this section.

Penalty: 60 penalty units or imprisonment for 6 months.

### **38 Restriction of access to fire area**

- (1) A coroner or the Chief Commissioner of Police may take reasonable steps to restrict access to—
  - (a) the place where a fire occurred; or
  - (b) a place reasonably connected to the place where a fire occurred.
- (2) The coroner or the Chief Commissioner of Police may cause a notice in the prescribed form stating that access is restricted to a place to be put up at that place or as near as possible to that place.
- (3) A person must not, without lawful excuse, enter or interfere with any place to which access is restricted under this section.

Penalty: 60 penalty units or imprisonment for 6 months.

### **39 Powers of entry, search, inspection and possession**

- (1) A coroner who is investigating a death or a fire may, in writing, authorise a police officer to investigate the death or fire by—
  - (a) breaking, entering and searching premises, using reasonable force if required;
  - (b) taking copies of any documents relevant to the investigation;
  - (c) seizing things (including documents) and taking samples, which may be relevant to the investigation.
- (2) A coroner may exercise any of the powers specified in subsection (1) other than the power to use reasonable force.
- (3) A police officer or coroner who is authorised to exercise powers under this section may do so with any assistance that is required.

S. 39(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

S. 39(3)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).



S. 39(4)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

- (4) An authorisation under subsection (1) must—
- (a) specify hours of the day in which the powers may be exercised by a police officer;
  - (b) specify a period (not exceeding 30 days) in which the powers may be exercised.

S. 39(5)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

- (5) A police officer authorised to enter premises under subsection (1) must, if practicable, give a copy of the authorisation to a person who appears to be the occupier of the premises and to be over the age of 16 years.

#### **40 Power to direct person to produce documents, operate equipment on entry**

S. 40(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

- (1) A coroner exercising a power, or a police officer who is authorised, to enter premises under section 39, may direct a person at the premises—
- (a) to produce a document located at the premises that is in the person's possession or control; or
  - (b) to operate equipment or access information from the equipment.

S. 40(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

- (2) A person must not, without lawful excuse, fail to comply with a direction made by a coroner or police officer under subsection (1).

Penalty: 60 penalty units.

S. 41  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

#### **41 Other powers on entry to premises**

A coroner exercising a power, or a police officer who is authorised, to enter premises under section 39, may—

- (a) take photographs, or make audio or audiovisual recordings, at the premises;
- (b) bring any equipment or materials to the premises that may be required;
- (c) seal a thing or lock the premises;

- (d) analyse, measure or test any thing at the premises with equipment brought to the premises or that is already at the premises;
- (e) do any other thing that is reasonably necessary for the coroner or police officer to investigate the death or fire.

S. 41(e)  
amended by  
No. 37/2014  
s 10(Sch.  
item 30.5).

**42 Documents and prepared statements required by coroner**

S. 42  
(Heading)  
amended by  
No. 62/2014  
s. 63(1).

- (1) If a coroner is of the opinion that a document or a prepared statement is required for the purposes of the investigation, the coroner may require a person—
  - (a) to give the document to the coroner; or
  - (b) to prepare a statement addressing matters specified by the coroner and give the statement to the coroner.
- (2) A requirement under subsection (1) must—
  - (a) be in the prescribed form; and
  - (b) specify a reasonable period of time for compliance with the requirement; and
  - (c) be served on the person in accordance with the rules.
- (3) A person who is required to give a document or prepared statement to the coroner under subsection (1) must not, without a lawful excuse, fail to comply with the requirement within the period specified by the coroner.

S. 42(2)  
amended by  
No. 62/2014  
s. 63(2)(a).

S. 42(2)(b)  
amended by  
No. 62/2014  
s. 63(2)(b).

S. 42(3)  
amended by  
No. 62/2014  
s. 63(3).

Penalty: 20 penalty units.

S. 42A  
inserted by  
No. 52/2012  
s. 11.

#### **42A Privileges in relation to investigations**

Part 3.10 of the **Evidence Act 2008** (except sections 128, 128A and 131A) applies to investigations of deaths and fires.

### **Division 5—Exhumation**

#### **43 Application for exhumation**

- (1) A person may apply to the State Coroner for an authorisation of an exhumation of a body.
- (2) An application made under subsection (1) must be in the form prescribed by the rules.
- (3) If the State Coroner refuses an application to authorise an exhumation of a body, the State Coroner must ensure that the applicant is advised of the refusal without delay.

#### **44 Power to authorise exhumation**

The State Coroner may, in accordance with this Division, authorise the exhumation of a body on his or her own motion or on the application of a person under section 43.

#### **45 Notice of intention to authorise exhumation**

- (1) If the State Coroner intends to authorise the exhumation of a body, the State Coroner must ensure that notice of his or her intention is given to the senior next of kin of the deceased and that the senior next of kin is advised that—
  - (a) he or she may provide suggestions as to how and whether the proposed exhumation should be conducted; and
  - (b) if the State Coroner authorises the exhumation, he or she may appeal to the Supreme Court under Part 7 against the authorisation.

- (2) If the body is in a public cemetery, the State Coroner must also give notice of his or her intention to authorise an exhumation to the cemetery trust responsible for the public cemetery.
- (3) If the body is in a place of interment (within the meaning of the **Cemeteries and Crematoria Act 2003**) that is not a public cemetery, the State Coroner must also give notice of his or her intention to authorise an exhumation to the owner of the land where the place of interment is located.
- (4) The State Coroner must have regard to suggestions made by the senior next of kin under subsection (1)(a) or any other person who provides written suggestions to the State Coroner in respect of the proposed exhumation.
- (5) The State Coroner is not required to give notice under this section if the State Coroner has reasonable grounds to believe that—
  - (a) notice would result in—
    - (i) the escape of an offender or an accomplice; or
    - (ii) the fabrication or destruction of evidence; or
  - (b) the exhumation is urgent and the exhumation should not be delayed; or
  - (c) giving notice is impossible.

#### **46 Authorisation of exhumation**

- (1) The State Coroner may authorise the exhumation of a body if he or she believes that—
  - (a) the exhumation is necessary for the investigation of the death; and
  - (b) it is appropriate to give the authorisation.

- (2) An authorisation given by the State Coroner under subsection (1) may be subject to conditions.
- (3) If the State Coroner authorises an exhumation under subsection (1), the State Coroner must ensure that notice of the authorisation is given to the persons who were notified of the State Coroner's intention to exhume the body under section 45.
- (4) Failure by the State Coroner to give a notice required under this section or section 45 does not invalidate the State Coroner's authorisation under this section.
- (5) An authorisation under this section does not take effect until 48 hours after the senior next of kin is notified of the authorisation under subsection (3) or any further period specified by the State Coroner unless—
  - (a) the State Coroner directs that the exhumation be conducted immediately; or
  - (b) within that period, the senior next of kin advises the State Coroner that he or she will not appeal to the Supreme Court against the authorisation.

**Note**

An appeal can be made to the Supreme Court under Part 7 against the authorisation in certain circumstances.

## **Division 6—General**

### **47 Release of body**

- (1) The coroner may order that a body under the control of the coroner be released if—
  - (a) the coroner is satisfied that it is no longer necessary for the coroner to have control of the body in order to exercise his or her functions under this Act; or

- (b) the coroner has determined that the death was not a reportable death or a reviewable death.
- (2) An order made by the coroner under subsection (1)—
  - (a) must specify a person to whom the body is to be released; and
  - (b) may contain any terms or conditions that the coroner considers necessary.

#### **48 Application to coroner for release of body**

- (1) A person (*the applicant*) may apply to a coroner for a body to be released to the applicant.
- (2) If 2 or more applicants apply for release of the body, the coroner must determine the person to whom the body is to be released on the basis of who has the better claim.
- (3) In determining who has the better claim, the coroner must have regard to the following principles—
  - (a) if the person named in the will as an executor is an applicant, the body of the deceased should be released to the executor;
  - (b) if a person specified under paragraph (a) is not an applicant, the body should be released to the senior next of kin;
  - (c) if there appear to be 2 or more applicants who are the senior next of kin of the deceased, the coroner should determine to whom the body is to be released having regard to any principles of common law relating to the release and disposal of a body of a deceased person;

- (d) if no person referred to in paragraph (a) or (b) is an applicant, the coroner should determine to whom the body is to be released having regard to the principles of common law relating to the release and disposal of a body of a deceased person.

**49 Notices and provision of information by principal registrar**

- (1) The principal registrar must notify the Director of Public Prosecutions if the coroner investigating the death or fire believes an indictable offence may have been committed in connection with the death or fire.
- (2) The principal registrar must notify the Registrar of Births, Deaths and Marriages, without delay, of the prescribed particulars found by the coroner following an investigation of a death.
- (3) The principal registrar must notify the Consultative Council on Obstetric and Paediatric Mortality and Morbidity under the **Public Health and Wellbeing Act 2008** of the particulars of—
  - (a) any maternal death within the meaning of section 46(3) of that Act reported to the coroner; or
  - (b) the death of a child reported to the coroner.
- (4) The principal registrar must provide prescribed information to prescribed bodies.

**50 Protection against self-incrimination**

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under section 32, 33, 34 or 42, if the giving of the information or the doing of that other thing would tend to incriminate the person.

- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under section 32, 33, 34 or 42, if the production of the document would tend to incriminate the person.

**51 Aid to coroners in other places**

The State Coroner may use any of the powers of a coroner under this Act to assist a coroner, or a person who performs a role that substantially corresponds to that of a coroner, of another country or of another State or Territory to investigate a death as if that death were a reportable death.



## Part 5—Inquests into deaths and fires

### Division 1—Types of inquests

#### 52 Inquest into a death

S. 52(2)  
amended by  
No. 62/2014  
s. 64(1).

- (1) A coroner may hold an inquest into any death that the coroner is investigating.
- (2) Subject to subsections (3) and (3A), a coroner must hold an inquest into a death if the death or cause of death occurred in Victoria and—
  - (a) the coroner suspects the death was the result of homicide; or
  - (b) the deceased was, immediately before death, a person placed in custody or care; or
  - (c) the identity of the deceased is unknown; or
  - (d) the death occurred in prescribed circumstances.
- (3) The coroner is not required to hold an inquest in the circumstances set out in subsection (2) if—
  - (a) the coroner believes the death probably occurred more than 50 years before the death was reported to the coroner; or
  - (b) a person has been charged with an indictable offence in respect of the death being investigated by the coroner; or
  - (c) an interstate coroner has investigated, is investigating, or intends to investigate, the death; or
  - (d) the death occurred outside Australia.

S. 52(3A)  
inserted by  
No. 62/2014  
s. 64(2).

- (3A) The coroner is not required to hold an inquest in the circumstances set out in subsection (2)(b) if the coroner considers that the death was due to natural causes.

(3B) For the purposes of subsection (3A), a death may be considered to be due to natural causes if the coroner has received a report from a medical investigator, in accordance with the rules, that includes an opinion that the death was due to natural causes.

S. 52(3B)  
inserted by  
No. 62/2014  
s. 64(2).

(4) The circumstances set out in subsections (3) and (3A) do not limit the powers of a coroner to hold, adjourn or recommence an inquest.

S. 52(4)  
amended by  
No. 62/2014  
s. 64(3).

(5) A person may request a coroner to hold an inquest into any death that the coroner is investigating.

(6) Within 3 months of receiving a request under subsection (5), the coroner must, in writing, advise the person who made the request that the coroner has—

- (a) decided to hold an inquest; or
- (b) decided that an inquest will not be held; or
- (c) not made a decision as to whether or not an inquest will be held and that the coroner will advise the person of the decision when the decision has been made.

### **53 Inquest into a fire**

(1) A coroner may hold an inquest into any fire that the coroner is investigating.

(2) A person may request a coroner to hold an inquest into any fire that the coroner is investigating.

(3) Within 3 months of receiving a request under subsection (2), the coroner must, in writing, advise the person who made the request that the coroner has—

- (a) decided to hold an inquest; or
- (b) decided that an inquest will not be held; or

- (c) not made a decision as to whether or not an inquest will be held and that the coroner will advise the person of the decision when the decision has been made.

#### **54 Inquest into multiple deaths and fires**

A coroner may hold an inquest that investigates—

- (a) 2 or more deaths; or
- (b) 2 or more fires; or
- (c) a death or 2 or more deaths and a fire or 2 or more fires.

### **Division 2—Powers of coroners at inquests**

#### **55 Coroners' powers at inquests**

- (1) A coroner may exercise the powers specified in this section if the coroner—
  - (a) believes it is necessary for the purposes of an inquest; or
  - (b) considers it may help to determine whether or not to hold an inquest.
- (2) A coroner may—
  - (a) summon a person to attend as a witness or to produce any document or other materials;
  - (b) inspect, copy and, subject to this Act and the rules, hold for a reasonable period any thing produced at the inquest;
  - (c) order a witness to answer questions;

S. 55(2)(d)  
repealed by  
No. 58/2013  
s. 38(1).

\* \* \* \* \*

- (e) give any other directions and do anything else the coroner believes necessary.

**Note**

See Part 5 of the **Open Courts Act 2013**.

**Note to  
s. 55(2)  
inserted by  
No. 58/2013  
s. 38(2).**

- (3) A summons under subsection (2) must be in the prescribed form.

**56 Interested party**

A coroner may give a person leave to appear as an interested party at an inquest if the coroner is satisfied that—

- (a) the person has a sufficient interest in the inquest; and
- (b) it is appropriate for the person to be an interested party.

**57 Privilege in respect of self-incrimination in other proceedings**

- (1) This section applies if a witness objects to giving evidence, or evidence on a particular matter, at an inquest on the ground that the evidence may tend to prove that the witness—
  - (a) has committed an offence against or arising under an Australian law or a law of a foreign country; or
  - (b) is liable to a civil penalty under an Australian law or a law of a foreign country.
- (2) The coroner must determine whether or not there are reasonable grounds for the objection.
- (3) If the coroner determines that there are reasonable grounds for the objection, the coroner is to inform the witness—

- (a) that the witness need not give the evidence unless required by the coroner to do so under subsection (4); and
  - (b) that the coroner will give a certificate under this section if—
    - (i) the witness willingly gives the evidence without being required to do so under subsection (4); or
    - (ii) the witness gives the evidence after being required to do so under subsection (4); and
  - (c) of the effect of such a certificate.
- (4) The coroner may require the witness to give evidence if the coroner is satisfied that—
- (a) the evidence does not tend to prove that the witness has committed an offence against or arising under, or is liable to a civil penalty under, a law of a foreign country; and
  - (b) the interests of justice require that the witness give the evidence.
- (5) If the witness either willingly gives the evidence without being required to do so under subsection (4), or gives it after being required to do so under that subsection, the coroner must cause the witness to be given a certificate under this section in respect of the evidence.
- (6) The coroner is also to cause a witness to be given a certificate under this section if—
- (a) the objection has been overruled; and
  - (b) after the evidence has been given, the coroner finds that there were reasonable grounds for the objection.

(7) In any proceeding in a court or before any person or body authorised by a law of this State, or by consent of parties, to hear, receive and examine evidence—

(a) evidence given by a person in respect of which a certificate under this section has been given; and

(b) any information, document or thing obtained as a direct or indirect consequence of the person having given evidence—

cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence.

(8) Subsection (7) has effect despite any challenge, review, quashing or calling into question on any ground of the decision to give, or the validity of, the certificate concerned.

### **58 Privileges in relation to inquests**

Part 3.10 of the **Evidence Act 2008** (except sections 128, 128A and 131A) applies to inquests.

**S. 58**  
substituted by  
**No. 52/2012**  
s. 12.

### **59 Issue of warrant to arrest**

(1) A coroner may issue a warrant to arrest a person if—

(a) the person was summoned by the coroner under section 55 and failed—

(i) to attend before the coroner; or

(ii) to produce the documents or other materials specified in the summons to the coroner; or

(b) the coroner is satisfied—

(i) that the person is avoiding service of the summons; or

- (ii) that the person has been duly served with the summons but is unlikely to comply with it.
- (2) In issuing a warrant under this section, the coroner may endorse the warrant with a direction that the person must, on arrest, be released on bail as specified in the endorsement.
- (3) An endorsement under subsection (2) must fix the amounts in which the principal and the sureties (if any) are bound and the amount of any money or the value of any security to be deposited.
- (4) The person to whom a warrant to arrest is directed must cause the person named or described in the warrant when arrested—
  - (a) to be released on bail in accordance with any endorsement on the warrant; or
  - (b) if there is no endorsement on the warrant, to be brought before the Coroners Court; or
  - (c) to be discharged from custody on bail in accordance with the **Bail Act 1977**.
- (5) Matters may be proved under this section orally or by affidavit.
- (6) Sections 63 and 64 of the **Magistrates' Court Act 1989** apply (with any necessary modifications) to a warrant to arrest issued under this section as if any reference to the Magistrates' Court were a reference to a coroner or the Coroners Court.

## 60 Coroner may be assisted

A coroner may be assisted at an inquest by—

- (a) a police officer; or
- (b) an Australian lawyer; or

S. 60(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

- (c) if the Director of Public Prosecutions wishes to assist the coroner, the Director of Public Prosecutions; or
- (d) another person appointed by the coroner.

### **Division 3—Process at inquest**

#### **61 Advertisement of an inquest**

A coroner must publish the date, time, place and subject of an inquest in accordance with the rules.

#### **62 Coroner not bound by rules of evidence**

- (1) A coroner holding an inquest is not bound by the rules of evidence and may be informed and conduct an inquest in any manner that the coroner reasonably thinks fit.
- (2) Parts II, IIA and III of the **Evidence (Miscellaneous Provisions) Act 1958** do not apply to the Coroners Court.
- (3) Except as otherwise provided in this Act, the **Evidence Act 2008** does not apply to the Coroners Court.

S. 62(2)  
substituted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 11.1).

S. 62(3)  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 11.2).

#### **63 Record of evidence**

- (1) Oral evidence provided at an inquest must be recorded in accordance with section 131 of the **Evidence (Miscellaneous Provisions) Act 1958**.
- (2) Except as provided in sections 65(3), 65(4) and 65(6) of the **Evidence Act 2008**, a record of evidence provided to the Coroners Court is not evidence in any court of any fact asserted in it.

S. 63(1)  
amended by  
No. 69/2009  
s. 54(Sch. Pt 2  
item 13).

S. 63(2)  
amended by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 11.3).



**64 Witnesses to be called and relevant issues**

The coroner holding the inquest determines—

- (a) the witnesses to be called; and
- (b) the relevant issues for the purposes of the inquest.

**65 Inquest to be conducted with little formality**

A coroner must conduct an inquest—

- (a) with as little formality and technicality as the interests of justice permit; and
- (b) in a way that, as far as is practicable, makes the inquest comprehensible to interested parties and family members who are present.

**66 Rights of interested parties**

- (1) An interested party may make a submission to the coroner specifying who the party considers to be a relevant witness and the coroner may consider that submission and determine whether that witness should be called.
- (2) The Attorney-General may appear or be represented at an inquest, examine or cross-examine witnesses and make submissions.
- (3) An interested party may appear or be represented by an Australian lawyer or, with the permission of the coroner, by any other person, and may examine or cross-examine witnesses and make submissions.

## **Part 6—Findings, recommendations and referrals**

### **67 Findings of coroner investigating a death**

- (1) A coroner investigating a death must find, if possible—
  - (a) the identity of the deceased; and
  - (b) the cause of death; and
  - (c) unless subsection (2) applies, the circumstances in which the death occurred; and
  - (d) any other prescribed particulars.
- (2) Whether it is possible or not, a coroner need not make a finding with respect to the circumstances in which a death occurred if—
  - (a) an inquest into the death was not held; and
  - (b) the coroner finds that—
    - (i) the deceased was not, immediately before the person died, a person placed in custody or care; and
    - (ii) there is no public interest to be served in making a finding regarding those circumstances.
- (3) A coroner may comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice.

### **68 Findings of coroner investigating a fire**

A coroner investigating a fire must find, if possible—

- (a) the cause and origin of the fire; and
- (b) the circumstances in which the fire occurred.

**69 Findings not to contain statement regarding guilt**

- (1) A coroner must not include in a finding or comment any statement that a person is, or may be, guilty of an offence.
- (2) Subsection (1) does not apply to prevent the inclusion in a comment of a statement relating to a notification to the Director of Public Prosecutions under section 49.

**70 Apology or reduction or waiver of fees**

- (1) In this section, *apology* means an expression of sorrow, regret or sympathy but does not include a clear acknowledgement of fault.
- (2) In an investigation of a death or fire—
  - (a) an apology; or
  - (b) a reduction or waiver of fees payable for a service provided to the person who died—does not constitute an admission as to any matter, for the purposes of findings that are made under section 67 or 68.
- (3) Subsection (2) applies whether the apology or the reduction or waiver of fees is made—
  - (a) orally or in writing; or
  - (b) before or after the investigation commenced.
- (4) Nothing in this section affects the admissibility of a statement with respect to a fact in issue or tending to establish a fact in issue.

**71 Findings not required if inquest not held or discontinued**

A coroner is not required to make any of the findings specified in section 67 in respect of a death being investigated by the coroner if—

- (a) the coroner has decided not to hold an inquest, or to discontinue an inquest, because a person has been charged with an indictable offence in respect of the death; and
- (b) based on the decision specified in paragraph (a), the coroner considers that the making of the findings would be inappropriate in the circumstances.

**72 Reports and recommendations**

- (1) A coroner may report to the Attorney-General on a death or fire which the coroner has investigated.
- (2) A coroner may make recommendations to any Minister, public statutory authority or entity on any matter connected with a death or fire which the coroner has investigated, including recommendations relating to public health and safety or the administration of justice.
- (3) If a public statutory authority or entity receives recommendations made by the coroner under subsection (2), the public statutory authority or entity must provide a written response, not later than 3 months after the date of receipt of the recommendations, in accordance with subsection (4).
- (4) A written response to the coroner by a public statutory authority or entity must specify a statement of action (if any) that has, is or will be taken in relation to the recommendations made by the coroner.

- (5) The coroner must—
- (a) publish the response of a public authority or entity on the Internet; and
  - (b) provide a copy of the response to any person—
    - (i) who has advised the principal registrar that they have an interest in the subject of the recommendations; and
    - (ii) who the principal registrar considers to have a sufficient interest in the subject of the recommendations.

### 73 Publication of findings and reports

- (1) Unless otherwise ordered by a coroner, the findings, comments and recommendations made following an inquest must be published on the Internet in accordance with the rules.

Note to  
s. 73(1)  
inserted by  
No. 58/2013  
s. 39(1).

#### Note

See Part 3 of the **Open Courts Act 2013**.

S. 73(1A)  
inserted by  
No. 62/2014  
s. 65.

- (1A) Subject to subsection (1B), the findings, comments and recommendations made following an investigation may be published on the Internet in accordance with the rules.

S. 73(1B)  
inserted by  
No. 62/2014  
s. 65.

- (1B) A finding made following an investigation of a death of a deceased who was, immediately before the death, a person placed in custody or care that the death was due to natural causes must be published on the Internet in accordance with the rules.

S. 73(2)(3)  
repealed by  
No. 58/2013  
s. 39(2).

\* \* \* \* \*

#### **74 Power of coroner to award costs**

- (1) Subject to subsection (2), every person appearing before the Coroners Court who is represented by an Australian lawyer is to bear their own costs in relation to the inquest.
- (2) If, in a particular case, a coroner is of the opinion that a person (the *first person*) has acted unreasonably during an investigation or inquest, the coroner may order the first person to pay all, or a specified part, of the expenses (other than economic loss) reasonably incurred by another person (the *second person*)—
  - (a) as a result of the unreasonable actions of the first person; and
  - (b) that relate to the participation of the second person in the investigation or inquest.
- (3) If a person is awarded costs under subsection (2), the costs may be recovered by the person as a debt due to the person in a court of competent jurisdiction.

#### **74A Power of coroner to pay witness allowances and expenses**

If the coroner determines that a witness or an interpreter is entitled to payment of an allowance or reimbursement of expenses in relation to an inquest, the coroner may, in accordance with the rules, determine an amount to be paid to the witness or interpreter.

S. 74A  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 11.4).

#### **75 Legal protection of Australian lawyers, witnesses and interested parties**

- (1) An Australian lawyer assisting the coroner at an inquest or representing a person at an inquest has the same protection and immunity as an Australian lawyer has in appearing for a party in proceedings in the Supreme Court.

- (2) A person summoned to attend an inquest or appearing before a coroner as a witness at an inquest has the same protection as a witness in proceedings in the Supreme Court.
- (3) An interested party taking part in an inquest has the same protection as a party to proceedings in the Supreme Court.

#### **76 Correction of errors**

The Coroners Court may correct any finding, recommendation or comment of a coroner that contains—

- (a) a clerical mistake; or
- (b) an error arising from an accidental slip or omission; or
- (c) a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the findings, recommendations or comments; or
- (d) a defect of form.

#### **77 Re-opening an investigation**

- (1) A person may apply to the Coroners Court for an order that some or all of the findings of a coroner after an investigation (whether or not an inquest has been held) should be set aside.
- (2) Subject to subsection (3), the Coroners Court may order that—
  - (a) some or all of the findings be set aside; and
  - (b) if the Court considers it appropriate, that the investigation be re-opened.

- (3) The Coroners Court may only make an order under subsection (2) if it is satisfied that—
- (a) there are new facts and circumstances; and
  - (b) it is appropriate to re-open the investigation.
- (4) For the purposes of an application made under this section, the Coroners Court must be constituted by the coroner who conducted the original investigation unless—
- (a) the coroner who conducted the original investigation no longer holds the office of coroner; or
  - (b) there are special circumstances.



## **Part 7—Appeals to Supreme Court**

### **78 Appeal in relation to determination that death not a reportable death**

- (1) If a coroner determines that a death is not a reportable death, the person who reported the death may appeal against the coroner's determination to the Trial Division of the Supreme Court constituted by a single judge.
- (2) Subject to section 86, an appeal under this section must be made within 28 days after the day on which the determination of the coroner is made.

S. 78(2)  
amended by  
No. 62/2014  
s. 66.

### **79 Appeals in relation to autopsy**

- (1) If a coroner gives a direction, with or without conditions, that an autopsy be performed, the senior next of kin may appeal against that direction and any conditions that may have been imposed, to the Trial Division of the Supreme Court constituted by a single judge.
- (2) An appeal under subsection (1) must be made before the direction takes effect.
- (3) If a coroner refuses a request under section 27 for a direction that an autopsy be performed—
  - (a) the senior next of kin; or
  - (b) the person who requested the autopsy, where that person is not the senior next of kin—may appeal against that refusal to the Trial Division of the Supreme Court constituted by a single judge.
- (4) An appeal under subsection (3) must be made within 48 hours after the person receives notice of the refusal to perform an autopsy under section 27(2).

**80 Appeal in relation to determination of coroner not to investigate a fire**

- (1) If a coroner determines not to investigate a fire, the person who requested the coroner to investigate the fire may appeal against the coroner's determination to the Trial Division of the Supreme Court constituted by a single judge.
- (2) Subject to section 86, an appeal under this section must be made within 28 days after the day on which the determination of the coroner is made.

S. 80(2)  
amended by  
No. 62/2014  
s. 67.

**81 Appeal in relation to exhumation**

- (1) If the State Coroner notifies a person under section 46(3) of the authorisation of an exhumation, the senior next of kin and any other person who received notice under section 46(3) may appeal against the State Coroner's authorisation of the exhumation to the Trial Division of the Supreme Court constituted by a single judge.
- (2) An appeal under subsection (1) must be made within—
  - (a) 48 hours; or
  - (b) any further period specified by the State Coroner under section 46(5)—  
after the person receives notice of the State Coroner's authorisation of the exhumation under section 46(3).
- (3) If the State Coroner refuses to authorise the exhumation of a body under section 46, a person who applied to the State Coroner for the authorisation may appeal against that refusal to the Trial Division of the Supreme Court constituted by a single judge.

- (4) Subject to section 86, an appeal under subsection (3) must be made within 3 months after the refusal by the State Coroner.

**82 Appeal in relation to determination not to hold an inquest**

- (1) If a coroner determines not to hold an inquest into a death or fire, the person who requested the coroner to hold an inquest into the death or fire may appeal against the coroner's determination to the Trial Division of the Supreme Court constituted by a single judge.
- (2) Subject to section 86, an appeal under this section must be made within 3 months after the day on which the determination of the coroner is made.

Note to s. 82  
inserted by  
No. 62/2014  
s. 68.

**Note**

See also section 87A.

**83 Appeal against findings of coroner**

- (1) A person with a sufficient interest in an investigation may appeal against the findings of a coroner in respect of a death or fire after an investigation to the Trial Division of the Supreme Court constituted by a single judge.
- (2) An interested party may appeal against the findings of a coroner in respect of a death or fire after an inquest to the Trial Division of the Supreme Court constituted by a single judge.
- (3) Subject to section 86, an appeal under this section must be made within 6 months after the day on which the determination of the coroner is made.

#### **84 Appeal against refusal by coroner to re-open investigation**

- (1) If the Coroners Court refuses to re-open an investigation under section 77, a person who requested the Coroners Court to set aside some or all of the findings of the coroner may appeal against the Court's determination to the Trial Division of the Supreme Court constituted by a single judge.
- (2) Subject to section 86, an appeal under this section must be made within 28 days after the refusal by the Coroners Court.

##### **Note**

See also section 87A.

**S. 84(2)**  
amended by  
**No. 62/2014**  
s. 69(1).

**Note to s. 84**  
inserted by  
**No. 62/2014**  
s. 69(2).

#### **85 Appeal against order to release body**

- (1) A person who applied to have a body released to him or her under section 48 may appeal against an order to release the body or the terms of that release to the Trial Division of the Supreme Court constituted by a single judge.
- (2) An appeal under this section must be made within 48 hours after the determination of the coroner is made.

#### **86 Supreme Court may grant an extension of time**

The Supreme Court may grant leave to appeal out of time under section 78, 80, 81(3), 82, 83 or 84 if the Supreme Court—

- (a) is of the opinion that the failure to institute the appeal within the specified period was due to exceptional circumstances; and
- (b) is satisfied that granting the leave is desirable in the interests of justice.

S. 87  
(Heading)  
amended by  
No. 62/2014  
s. 70(1).

## **87 Appeal to Supreme Court**

S. 87(1)  
amended by  
No. 62/2014  
s. 70(2).

- (1) Subject to section 87A, an appeal to the Supreme Court under this Part is an appeal on a question of law.
- (2) Subject to this Part, an appeal under this Part must be brought in accordance with the rules of the Supreme Court.
- (3) The Supreme Court may make an order staying the operation of a determination that is the subject of an appeal under this Part.
- (4) Subject to section 88, after hearing and determining the appeal, the Supreme Court may make any order that it thinks appropriate, including an order remitting the matter for re-hearing to the Coroners Court with or without any direction in law.
- (5) An order made by the Supreme Court on an appeal under this Part, other than an order remitting the matter for re-hearing to the Coroners Court, may be enforced as an order of the Supreme Court.

S. 87A  
inserted by  
No. 62/2014  
s. 71.

### **87A Appeal to Supreme Court in the interests of justice**

- (1) An appeal to the Supreme Court other than on a question of law may be made under section 82(1) in respect of a decision by a coroner to not hold an inquest into a death, or section 84(1) in respect of a refusal by the Coroners Court to re-open an investigation into a death, if the appeal is made by—
  - (a) the senior next of kin of the deceased; or
  - (b) a person with sufficient interest.

- (2) The Supreme Court may allow an appeal under subsection (1) if it is satisfied that it is necessary or desirable in the interests of justice to do so.

### **88 Determinations of Supreme Court**

- (1) If an appeal under section 79(1), 79(3), 81(1), 81(3) or 85(1) is successful, the Supreme Court must not remit the matter to the Coroners Court and must, as appropriate—
- (a) determine whether an autopsy should be performed, and if an autopsy is required—
    - (i) specify the conditions (if any) applying to that autopsy; and
    - (ii) direct a medical investigator to perform the autopsy; or
  - (b) determine whether a body should be exhumed and if the exhumation is required, the conditions (if any) of that exhumation; or
  - (c) determine to whom a body should be released and the terms or conditions (if any) of that release.
- (2) The Supreme Court may make any other orders that the Court sees fit in respect of the matters specified in subsection (1).

## **Part 8—The Coroners Court**

### **Division 1—Establishment of Coroners Court of Victoria**

#### **89 The Coroners Court**

S. 89(2)  
amended by  
No. 34/2010  
s. 42(1).

- (1) The Coroners Court of Victoria is established.
- (2) The Coroners Court consists of the coroners, judicial registrars and registrars of the Coroners Court.
- (3) A coroner or registrar constitutes the Coroners Court when exercising functions under this Act other than functions under section 105.

S. 89(3A)  
inserted by  
No. 34/2010  
s. 42(2).

- (3A) Without limiting subsection (3), the Coroners Court may be constituted by a judicial registrar in the case of any matter for which provision is made by rules of the Coroners Court for—
  - (a) the Coroners Court to be so constituted; and
  - (b) the delegation to judicial registrars of powers of the Coroners Court to hear and determine such matters.
- (4) The Coroners Court is an inquisitorial court.

#### **90 Where and when Coroners Court to be held**

- (1) The Coroners Court is to sit at the places the Governor in Council, by Order published in the Government Gazette, directs.
- (2) In addition to subsection (1), the Coroners Court may sit and act at any time and place.

#### **91 State Coroner**

- (1) There is to be an office of State Coroner of the Coroners Court.

- (2) The State Coroner must be a judge of the County Court (other than a reserve judge) who is appointed by the Governor in Council on the recommendation of the Attorney-General made after consultation with the Chief Judge.
- (3) The State Coroner holds office for the term (not exceeding 5 years) that is specified in his or her instrument of appointment and is eligible for re-appointment.
- (4) The appointment of a judge of the County Court as State Coroner does not affect his or her tenure of office or status as a judge nor the payment of his or her salary or allowances as a judge nor any other rights or privileges that he or she has as a judge.
- (5) Service in the office of State Coroner must be taken for all purposes to be service in the office of judge of the County Court.
- (6) Nothing in this Act prevents a judge of the County Court appointed as State Coroner from constituting the County Court for the purposes of the exercise by the County Court of any of its functions.
- (7) The office of State Coroner becomes vacant if the State Coroner ceases to hold the office of judge of the County Court.
- (8) At the end of a term of office of a State Coroner, the person who was State Coroner may continue to exercise the functions of a coroner for 6 months immediately after the completion of that term of office, if the person continues to be a judge within the meaning of the **County Court Act 1958**.

S. 91(2)  
amended by  
No. 5/2013  
s. 58.

S. 91(8)  
amended by  
No. 63/2013  
s. 50.



## 92 Deputy State Coroner

S. 92(2)  
amended by  
No. 5/2013  
s. 59.

- (1) There is to be an office of Deputy State Coroner of the Coroners Court.
- (2) The Deputy State Coroner must be a magistrate (other than a reserve magistrate) who is appointed by the Governor in Council on the recommendation of the Attorney-General.
- (3) The Deputy State Coroner must act as State Coroner during any period when—
  - (a) there is a vacancy in the office of State Coroner; or
  - (b) the State Coroner is absent on leave or for any reason is temporarily unable to perform the duties of the office of State Coroner.
- (4) The Deputy State Coroner holds office for the term (not exceeding 5 years) that is specified in his or her instrument of appointment and is eligible for re-appointment.
- (5) The Deputy State Coroner is entitled to be paid the salary at the rate for the time being applicable under the **Judicial Salaries Act 2004**, together with allowances at the rate or amount or of a kind as are for the time being applicable under that Act.
- (6) A Deputy State Coroner who acts as State Coroner under subsection (3) has, during the period of acting as State Coroner, the same functions as the State Coroner.
- (7) The appointment of a magistrate as Deputy State Coroner does not affect the tenure of office of the magistrate.
- (8) The office of Deputy State Coroner becomes vacant if the Deputy State Coroner ceases to hold the office of magistrate of the Magistrates' Court.

- (9) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—
- (a) the amounts (including the amount of any non-salary benefits) payable to or for any Deputy State Coroner; and
  - (b) premiums and other amounts payable under the **Workplace Injury Rehabilitation and Compensation Act 2013** in respect of any Deputy State Coroner; and
  - (c) payroll tax payable under the **Payroll Tax Act 2007** in respect of wages paid or payable to any Deputy State Coroner; and
  - (d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to any Deputy State Coroner; and
  - (e) superannuation contributions within the meaning of the **Payroll Tax Act 2007** payable in respect of any Deputy State Coroner.

S. 92(9)  
inserted by  
No. 29/2015  
s. 49.

- (10) In this section, *non-salary benefits* has the same meaning as it has in clause 3(5) and (6) of Schedule 1A to the **Public Administration Act 2004**.

S. 92(10)  
inserted by  
No. 29/2015  
s. 49.

### **93 Assignment of magistrates and reserve magistrates to be coroners**

S. 93  
(Heading)  
amended by  
No. 5/2013  
s. 60(1).

- (1) The State Coroner and Chief Magistrate may jointly assign any person who is appointed as a magistrate under section 7 of the **Magistrates' Court Act 1989** or as a reserve magistrate to be a coroner for the Coroners Court, whether exclusively or in addition to any other duties.

S. 93(1)  
amended by  
No. 5/2013  
s. 60(2).

S. 93(2)  
amended by  
No. 5/2013  
s. 60(3).

(2) In assigning a magistrate or reserve magistrate to be a coroner for the Coroners Court, the State Coroner and Chief Magistrate must have regard to the experience and knowledge of the magistrate or reserve magistrate in relation to coronial investigations, investigations into deaths and fires and the identification of preventative measures following such investigations.

S. 93(3)  
amended by  
Nos 34/2010  
s. 4, 5/2013  
s. 60(4).

(3) The State Coroner and Chief Magistrate may at any time jointly revoke the assignment of a magistrate or reserve magistrate as a coroner.

S. 93(4)  
amended by  
No. 5/2013  
s. 60(5).

(4) Unless his or her assignment is revoked under subsection (3), a magistrate or reserve magistrate who is assigned to be a coroner continues to be a coroner for so long as he or she holds the office of magistrate or reserve magistrate under the **Magistrates' Court Act 1989**.

S. 93(5)  
inserted by  
No. 5/2013  
s. 60(6).

(5) A reserve magistrate assigned under this section to be a coroner may only exercise powers of a coroner when the reserve magistrate is engaged under section 9C of the **Magistrates' Court Act 1989** to undertake the duties of a magistrate.

S. 94  
(Heading)  
amended by  
No. 63/2013  
s. 83(1).

## 94 Appointment of coroners

S. 94(1)  
amended by  
No. 63/2013  
s. 83(2)(a).

(1) The Governor in Council, on the advice of the Attorney-General, may appoint as many coroners under this section as are necessary for transacting the business of the Coroners Court.

S. 94(2)  
amended by  
No. 63/2013  
s. 83(2)(b).

(2) A person is not eligible for appointment as a coroner under this section unless he or she—  
(a) has not attained the age of 75 years and is or has been a judge or magistrate of—

- (i) the High Court of Australia or of a court created by the Parliament of the Commonwealth; or
  - (ii) a court of Victoria or of another State or of a Territory; or
  - (b) has not attained the age of 70 years and is an Australian lawyer of at least 5 years' standing; or
  - (c) has not attained the age of 75 years and is appointed to act as a coroner in another State or a Territory.
- (3) A coroner under this section—
- (a) is eligible for reappointment as a coroner;
  - (b) ceases to hold office—
    - (i) at the end of 5 years from the date of his or her appointment; or
    - (ii) on attaining the age of 70 years or, in the case of a coroner referred to in subsection (2)(a) or (2)(c), 75 years—whichever is sooner;
  - (c) may only be removed from office in the same way and on the same grounds as a magistrate is liable to be removed from office.
- (4) A coroner under this section may resign from the office of coroner by delivering a letter of resignation, signed by the coroner, to the Governor.

S. 94(2)(b)  
amended by  
No. 17/2014  
s. 160(Sch. 2  
item 21.2).

S. 94(3)  
amended by  
No. 63/2013  
s. 83(2)(c)(i).

S. 94(3)(a)  
amended by  
No. 63/2013  
s. 83(2)(c)(ii).

S. 94(3)(b)(ii)  
amended by  
No. 20/2015  
s. 43.<sup>1</sup>

S. 94(4)  
amended by  
No. 63/2013  
s. 83(2)(d).

S. 94(5)  
amended by  
Nos 34/2010  
s. 5, 63/2013  
s. 83(2)(e),  
29/2015  
s. 50(2).

(5) A coroner under this section is entitled to be paid the same salary and is entitled to the same allowances and other conditions of service as a magistrate.

S. 94(6)  
inserted by  
No. 29/2015  
s. 50(3).

- (6) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—
- (a) the amounts (including the amount of any non-salary benefits) payable to or for any coroner under this section; and
  - (b) premiums and other amounts payable under the **Workplace Injury Rehabilitation and Compensation Act 2013** in respect of any coroner under this section; and
  - (c) payroll tax payable under the **Payroll Tax Act 2007** in respect of wages paid or payable to any coroner under this section; and
  - (d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to any coroner under this section; and
  - (e) superannuation contributions within the meaning of the **Payroll Tax Act 2007** payable in respect of any coroner under this section.

S. 94(7)  
inserted by  
No. 29/2015  
s. 50(3).

(7) In this section, *non-salary benefits* has the same meaning as it has in clause 3(5) and (6) of Schedule 1A to the **Public Administration Act 2004**.

## 95 Oath of office

A person appointed or assigned to be a coroner under this Act must, before acting as a coroner, take an oath of office in the prescribed form and manner.

**96 Assignment of duties**

- (1) The State Coroner may assign duties to a coroner.
- (2) A coroner must carry out the duties that are from time to time assigned to him or her by the State Coroner.

**97 Registrars of the Coroners Court and the chief executive officer**

- (1) For the purposes of this Act and to assist in the administration of the Coroners Court there are to be employed under Part 3 of the **Public Administration Act 2004**—

\* \* \* \* \*

S. 97(1)(a)  
repealed by  
No. 1/2014  
s. 74(1).

- (b) a principal registrar; and
- (c) as many registrars and deputy registrars as are necessary.
- (2) Any person who for the time being holds the office of registrar or deputy registrar of the Magistrates' Court also holds the office of registrar or deputy registrar (as the case requires) of the Coroners Court.

\* \* \* \* \*

S. 97(3)  
repealed by  
No. 1/2014  
s. 74(2).

**98 Functions of registrars**

A registrar has the following functions in addition to those conferred on him or her by or under this or any other Act—

- (a) on behalf of a coroner, to receive information about a death or fire that a coroner is investigating;

- (b) to administer an oath to a person in relation to a death or fire that a coroner is investigating;
- (c) to swear an affidavit relating to an investigation by a coroner;
- (d) any functions prescribed by the rules or regulations.

**99 Delegation from the State Coroner to a registrar**

- (1) The State Coroner may, by instrument, delegate functions prescribed in the rules or regulations as delegable functions of the State Coroner or a coroner to a specified registrar or class of registrar.
- (2) The following functions of the State Coroner or a coroner are not functions that can be prescribed as delegable functions—
  - (a) the power of delegation under subsection (1);
  - (b) the power of delegation under section 100;
  - (c) directing that there be an identification procedure or an autopsy;
  - (d) ordering an exhumation;
  - (e) ordering that a body be released;
  - (f) ordering an inquest;
  - (g) conducting an inquest;
  - (h) making findings or reviewing findings;
  - (i) ordering a person to pay costs under section 74;
  - (j) assigning duties to a coroner under section 96;

S. 99(2)(e)  
substituted by  
No. 63/2013  
s. 84.

- (k) assigning a magistrate or acting magistrate to be coroner or revoking the assignment;
- (l) making rules or issuing practice directions, statements or notes;
- (m) exercising a power under section 103;
- (n) giving a direction under section 108;
- (o) being a member of the Council.

#### **100 Delegation from State Coroner to a coroner**

- (1) The State Coroner may, by instrument, delegate to a coroner any of his or her functions other than—
  - (a) this power of delegation;
  - (b) the power of delegation under section 99;
  - (c) assigning duties to a coroner under section 96;
  - (d) assigning a magistrate or acting magistrate to be a coroner or revoking the assignment;
  - (e) making rules or issuing practice directions, statements or notes;
  - (f) giving a direction under section 108.
- (2) The State Coroner may, by instrument, delegate to the Deputy State Coroner any of his or her functions other than the powers of delegation under section 99 and this section.

#### **101 Protection of coroners and registrars**

- (1) A coroner has, in the performance of his or her duties as a coroner, the same protection and immunity as a Judge of the Supreme Court has in the performance of his or her duties as a Judge.
- (2) A registrar has, in the performance of his or her duties as a registrar in good faith, the same protection and immunity as a Judge of the

**S. 101(2)**  
amended by  
**No. 64/2010**  
s. 61.



Supreme Court has in the performance of his or her duties as a Judge.

S. 101A  
inserted by  
No. 63/2013  
s. 85.

**101A Constitution of Coroners Court if coroner unable to continue and constitution of Coroners Court in certain circumstances**

- (1) Despite anything in any Act or the rules, any power, duty or act which might have been exercised or performed by the Coroners Court constituted by a coroner may be exercised or performed by the Coroners Court constituted by any other coroner if the Coroners Court cannot for any reason be constituted by that first mentioned coroner.
- (2) For the avoidance of doubt, for the purpose of completion of any matter whether under section 102S or otherwise, the Coroners Court may be constituted or continue to be constituted by a reserve coroner who is a coroner without reconstitution of the Court despite any interruption in continuity of his or her tenure, appointment or engagement.

**102 Annual report**

- (1) As soon as practicable in each year but not later than 31 October, the State Coroner must submit to the Attorney-General a report containing—
  - (a) a review of the operation of the Coroners Court during the 12 months ending on the preceding 30 June; and
  - (b) any other matters that are prescribed by the regulations.
- (2) The Attorney-General must cause each annual report submitted to him or her under this section to be laid before each House of Parliament within 7 sitting days after receiving it.

## **Division 1A—Judicial registrars**

Pt 8 Div. 1A  
(Heading and  
ss 102A–  
102K)  
inserted by  
No. 34/2010  
s. 43.

### **102A Assignment of duties**

S. 102A  
inserted by  
No. 34/2010  
s. 43.

- (1) The State Coroner or Deputy State Coroner may assign duties to a judicial registrar.
- (2) A judicial registrar must—
  - (a) carry out the duties that are from time to time assigned to him or her by the State Coroner or the Deputy State Coroner, as the case requires; and
  - (b) subject to section 89(3A), perform the duties and exercise the powers and authorities imposed or conferred on him or her by or under this Act or any other Act or by the rules.

### **102B Guidelines relating to the appointment of judicial registrars**

S. 102B  
inserted by  
No. 34/2010  
s. 43.

- (1) The State Coroner, in consultation with the Attorney-General may—
  - (a) prepare guidelines relating to the appointment (including re-appointment) of judicial registrars of the Coroners Court; and
  - (b) from time to time amend or revoke any guidelines prepared under paragraph (a).
- (2) As soon as practicable after preparing, amending or revoking any guidelines under subsection (1), the State Coroner must cause a copy of the guidelines or the amendment or notice of the revocation (as the case requires) to be given to the Attorney-General.

S. 102B(1)(a)  
amended by  
No. 62/2014  
s. 101.

S. 102C  
inserted by  
No. 34/2010  
s. 43.

### **102C Recommendations for appointment of judicial registrars**

- (1) The State Coroner may, at any time, recommend to the Attorney-General that a judicial registrar, or more than one judicial registrar, of the Coroners Court be appointed by the Governor in Council.
- (2) In making a recommendation under subsection (1), the State Coroner must have regard to any guidelines in force under section 102B(1).
- (3) On receiving a recommendation under subsection (1), the Attorney-General may recommend to the Governor in Council that a judicial registrar, or more than one judicial registrar, of the Coroners Court be appointed under section 102D.

S. 102D  
inserted by  
No. 34/2010  
s. 43.

### **102D Appointment by Governor in Council**

- (1) On the recommendation of the Attorney-General under section 102C, the Governor in Council may appoint a person as a judicial registrar of the Coroners Court for the period, not exceeding 5 years, specified in his or her instrument of appointment.
- (2) A person is not eligible for appointment as a judicial registrar unless he or she is, and has been for not less than 5 years——

S. 102D(2)  
amended by  
No. 17/2014  
s. 160(Sch. 2  
item 21.3(a)).

(a) an Australian lawyer; or

S. 102D(2)(a)  
substituted by  
No. 17/2014  
s. 160(Sch. 2  
item 21.3(b)).

(b) enrolled as a legal practitioner of the High Court of Australia.

S. 102D(2)(b)  
substituted by  
No. 17/2014  
s. 160(Sch. 2  
item 21.3(b)).

- (3) A judicial registrar may be appointed on a full-time or part-time basis.
- (4) A judicial registrar, although not appointed on a part-time basis, may, by agreement in writing entered into with the State Coroner, undertake the duties of a judicial registrar on a part-time basis.
- (5) A judicial registrar is eligible for re-appointment in accordance with section 102C and this section if the State Coroner recommends to the Attorney-General that the person be re-appointed.
- (6) The **Public Administration Act 2004** does not apply to a judicial registrar in respect of the office of judicial registrar.

S. 102D(5)  
amended by  
No. 62/2014  
s. 102.

**102E Remuneration and terms and conditions of appointment**

S. 102E  
inserted by  
No. 34/2010  
s. 43.

- (1) A judicial registrar is entitled to the terms and conditions including remuneration and allowances that are fixed in respect of him or her from time to time by the Governor in Council.

S. 102E(1)  
amended by  
No. 29/2015  
s. 51(1).

\* \* \* \* \*

S. 102E(2)  
repealed by  
No. 29/2015  
s. 51(2).

- (3) Except with the approval of the Attorney-General, a judicial registrar must not—
- (a) engage in legal practice; or
  - (b) undertake paid employment; or
  - (c) conduct a business, trade or profession of any kind.
- (4) A judicial registrar must disclose to the State Coroner in writing any direct or indirect pecuniary interest that he or she has or acquires that could conflict with the proper performance of the duties of the office of judicial registrar.

S. 102E(6)  
inserted by  
No. 29/2015  
s. 51(3).

- (5) Despite any provision to the contrary made by or under any other Act, a person who has held the office of judicial registrar is entitled to have his or her service in that office taken into account in computing the period of service which entitles public officials (within the meaning of the **Public Administration Act 2004**) to be granted long service leave or other leave entitlements, whether his or her service in the office of judicial registrar is before or after any period of service as such a public official.
- (6) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—
- (a) the amounts (including the amount of any non-salary benefits) payable to or for any judicial registrar; and
  - (b) premiums and other amounts payable under the **Workplace Injury Rehabilitation and Compensation Act 2013** in respect of any judicial registrar; and
  - (c) payroll tax payable under the **Payroll Tax Act 2007** in respect of wages paid or payable to any judicial registrar; and
  - (d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to any judicial registrar; and
  - (e) superannuation contributions within the meaning of the **Payroll Tax Act 2007** payable in respect of any judicial registrar.
- (7) In this section, *non-salary benefits* has the same meaning as it has in clause 3(5) and (6) of Schedule 1A to the **Public Administration Act 2004**.

S. 102E(7)  
inserted by  
No. 29/2015  
s. 51(3).

- (8) Nothing in this section authorises the salary or the aggregate value of the allowances payable to a judicial registrar to be reduced.

S. 102E(8)  
inserted by  
No. 62/2014  
s. 103.

**102EA Oath or affirmation of office**

S. 102EA  
inserted by  
No. 62/2014  
s. 104.

- (1) A judicial registrar must take an oath or affirmation of office in the prescribed form and manner.
- (2) Subsection (1) only applies to a person who is appointed or re-appointed as a judicial registrar on or after the commencement of section 104 of the **Courts Legislation Miscellaneous Amendments Act 2014**.
- (3) A failure by a person to take an oath or affirmation of office in accordance with this section does not invalidate anything done by that person as a judicial registrar.

**102F Resignation from office**

S. 102F  
inserted by  
No. 34/2010  
s. 43.

A judicial registrar may resign from office by delivering to the Governor a signed letter of resignation.

**102G Suspension from office**

S. 102G  
inserted by  
No. 34/2010  
s. 43.

- (1) The State Coroner, with the approval of the Attorney-General, may suspend a judicial registrar from office, if the State Coroner believes that there may be grounds for removal of the judicial registrar from office.
- (2) A judicial registrar who is suspended under this section remains entitled to his or her remuneration and allowances as judicial registrar during the period of suspension.

S. 102H  
inserted by  
No. 34/2010  
s. 43.

### **102H Investigation of judicial registrar and report**

- (1) As soon as practicable after the State Coroner suspends a judicial registrar from office under section 102G, the Attorney-General must appoint a person nominated by the State Coroner to undertake an investigation into the judicial registrar's conduct.
- (2) A person appointed under subsection (1) must—
  - (a) investigate the judicial registrar's conduct; and
  - (b) report to the Attorney-General on the investigation; and
  - (c) give a copy of the report to the judicial registrar and the State Coroner.
- (3) A report under subsection (2)(b) may include a recommendation that the judicial registrar be removed from office.
- (4) After receiving a report under subsection (2)(b) recommending removal, the Attorney-General, after consulting the State Coroner, may recommend to the Governor in Council that the judicial registrar be removed from office.
- (5) The person who conducted the investigation and the Attorney-General may only recommend that a judicial registrar be removed on the ground of proved misbehaviour or incapacity.
- (6) The Attorney-General must not make a recommendation under subsection (4) unless the judicial registrar has been given a reasonable opportunity to make written and oral submissions to the person who conducted the investigation and the State Coroner.

- (7) In making a recommendation under subsection (4), the Attorney-General is entitled to rely on any findings contained in the report under subsection (2).
- (8) If the Attorney-General decides not to make a recommendation under subsection (4)—
  - (a) the Attorney-General must inform the State Coroner as soon as practicable after receiving the report under subsection (2)(b); and
  - (b) the State Coroner must lift the suspension.

**102I Removal of judicial registrar from office**

The Governor in Council may remove a judicial registrar from office on the recommendation of the Attorney-General under section 102H but not otherwise.

S. 102I  
inserted by  
No. 34/2010  
s. 43.

**102J Performance of duties by judicial registrar**

- (1) A judicial registrar—
  - (a) must not determine, or continue to determine, a matter that the judicial registrar considers for any reason inappropriate for determination by the Coroners Court constituted by a judicial registrar; and
  - (b) must make appropriate arrangements for the matter to be determined by the Coroners Court constituted by a coroner.
- (2) Subject to this Act and the rules of the Coroners Court, a judicial registrar, in the performance of his or her duties as a judicial registrar, is not subject to the direction or control of any person or body.

S. 102J  
inserted by  
No. 34/2010  
s. 43.



- (3) In the performance of his or her duties as a judicial registrar, a judicial registrar has the same protection and immunity as a Judge of the Supreme Court has in the performance of his or her duties as a Judge.

S. 102K  
inserted by  
No. 34/2010  
s. 43,  
substituted by  
No. 62/2014  
s. 105.

**102K Appeal from or review of decisions of judicial registrar**

- (1) The rules may provide for appeals from or reviews of a decision of the Coroners Court constituted by a judicial registrar—
- (a) whether in respect of specified kinds of matters or generally; and
  - (b) by specifying whether decisions are by way of appeal or review; and
  - (c) by specifying the way in which the Coroners Court may be constituted for those appeals or reviews.
- (2) The powers in subsection (1) are in addition to and do not limit any power to make rules under section 105.
- (3) Unless the rules otherwise provide, a decision of the Coroners Court constituted by a judicial registrar may be appealed from or reviewed on the Coroner's Court's own motion.
- (4) If the rules do not provide for an appeal from or a review of a decision of the Coroners Court constituted by a judicial registrar, the decision is to be subject to a review or an appeal conducted—
- (a) by way of hearing de novo by the Coroners Court constituted by a coroner; and
  - (b) otherwise in accordance with the rules, if any.

## **Division 1B—Reserve coroners**

Pt 8 Div. 1B  
(Heading and  
ss 102L–  
102S)  
inserted by  
No. 63/2013  
s. 51.

### **102L Appointment of reserve coroners**

S. 102L  
inserted by  
No. 63/2013  
s. 51.

- (1) The Governor in Council may appoint as many reserve coroners as are necessary for transacting the business of the Coroners Court.
- (2) A person is not eligible for appointment as a reserve coroner unless he or she—
  - (a) has not attained the age of 78 years; and
  - (b) is, or has been, a coroner appointed under section 94 or deemed to be a coroner under clause 16 of Schedule 1.
- (3) The instrument of appointment of a person as a reserve coroner must specify the terms and conditions of appointment.
- (4) A reserve coroner is eligible for re-appointment as a reserve coroner.

### **102M Cessation of office**

S. 102M  
inserted by  
No. 63/2013  
s. 51.

- (1) A reserve coroner ceases to hold office on the earlier of—
  - (a) the end of 5 years from the date of his or her appointment as a reserve coroner; or
  - (b) attaining the age of 78 years.
- (2) A reserve coroner may resign by sending his or her resignation in writing to the Governor.
- (3) A reserve coroner may only be removed from office in the same way and on the same grounds as a coroner is liable to be removed from office.

S. 102N  
inserted by  
No. 63/2013  
s. 51.

**102N State Coroner may engage reserve coroner to undertake duties of coroner**

- (1) The State Coroner may, from time to time, by notice in writing, engage a reserve coroner to undertake the duties of a coroner—
  - (a) on a full time basis; or
  - (b) on a sessional basis.
- (2) Without limiting subsection (1), an engagement under that subsection—
  - (a) may specify the duties that a reserve coroner is to undertake; and
  - (b) must specify the period of the engagement.
- (3) The State Coroner does not have the power to revoke or amend a notice of engagement under subsection (1).
- (4) An engagement under subsection (1) must not exceed 6 months.
- (5) For the purpose of deciding whether, when, or on what basis to engage a reserve coroner to undertake duties, the State Coroner may request the reserve coroner to provide any information that the State Coroner considers may be relevant to enable a decision to engage to be made.

S. 102O  
inserted by  
No. 63/2013  
s. 51.

**102O Powers, jurisdiction, immunities and protection of reserve coroner**

Subject to this Act, a reserve coroner has the same powers, jurisdiction, immunities and protection as a coroner when undertaking the duties of a coroner in accordance with an engagement under section 102N.

**102P Engaging in legal practice or other paid employment**

S. 102P  
inserted by  
No. 63/2013  
s. 51.

- (1) Except with the approval of the State Coroner, a reserve coroner must not engage in legal practice, undertake paid employment or conduct a business, trade or profession of any kind while engaged to undertake the duties of a coroner under section 102N or acting under section 102S.
- (2) Except with the approval of the State Coroner, a reserve coroner must not hold an office in any company, trustee company, incorporated association or other entity, whether public or private, in respect of which the reserve coroner receives remuneration while engaged to undertake the duties of a coroner under section 102N or acting under section 102S.

**102Q Remuneration and allowances of reserve coroners**

S. 102Q  
inserted by  
No. 63/2013  
s. 51.

- (1) Subject to subsection (2), each reserve coroner engaged to undertake the duties of a coroner on a full time basis under section 102N must be paid a salary in accordance with the rate for the time being applicable under the **Judicial Salaries Act 2004** to the holder of the office of magistrate (other than the Chief Magistrate or a Deputy Chief Magistrate) on other than a reserve basis.
- (2) If a reserve coroner who is engaged to undertake the duties of a coroner on a full time basis under section 102N is entitled to—
  - (a) a non-contributory pension under a relevant Act within the meaning of section 16A of the **State Superannuation Act 1988**; or

(b) because he or she has held a public office in another jurisdiction, a non-contributory pension under any other law—

the amount of pension to which the reserve coroner is entitled must be deducted from the salary payable to that reserve coroner under subsection (1).

(3) Subject to subsection (4), each reserve coroner engaged to undertake the duties of a coroner on a sessional basis under section 102N must be paid the sessional rate for the time being applicable under the **Judicial Salaries Act 2004** to the holder of the office of reserve magistrate.

(4) A reserve coroner engaged to undertake the duties of a coroner on a sessional basis under section 102N who is entitled to—

(a) a non-contributory pension under a relevant Act within the meaning of section 16A of the **State Superannuation Act 1988**; or

(b) because he or she has held a public office in another jurisdiction, a non-contributory pension under any other law—

must be paid a salary calculated in accordance with the following formula—

$$S - \left( \frac{P}{235} \right)$$

where—

**S** means the sessional rate for the time being applicable under the **Judicial Salaries Act 2004** to the reserve coroner;

**P** means the annual pension to which the reserve coroner is entitled that is referred to in paragraph (a) or (b).

- (5) Each reserve coroner shall be paid allowances at the rate or amount or of the kind as are for the time being applicable under the **Judicial Salaries Act 2004**.
- (6) A reserve coroner, by notice in writing to the Attorney-General, may enter into an arrangement under which the reserve coroner agrees to receive the whole or part of his or her total amount of future salary (whether or not payable at a sessional rate) as non-salary benefits of an equivalent value.
- (7) The notice under subsection (6) must specify a date from which the arrangement is to take effect, which must be—
  - (a) the date on which the notice is given; or
  - (b) a later date.
- (8) A reserve coroner may vary or revoke a notice he or she has given under subsection (6) by notice in writing to the Attorney-General.
- (9) The notice of variation or revocation must specify a date from which the variation or revocation is to take effect which must be—
  - (a) the date on which the notice is given; or
  - (b) a later date.
- (10) Despite subsections (1) and (3), a reserve coroner who is also a serving coroner of another State is not entitled to be paid a salary under this section if that person receives a salary in relation to his or her office in that other State.
- (11) In subsection (6) and section 102S, *non-salary benefits* has the same meaning as it has in clause 3(5) of Schedule 1A to the **Public Administration Act 2004**.

S. 102R  
inserted by  
No. 63/2013  
s. 51,  
amended by  
No. 29/2015  
s. 52 (LA  
s. 39B(1)).

**102R Appropriation of certain amounts in relation to reserve coroners**

- (1) The following are to be paid out of the Consolidated Fund, which is appropriated to the necessary extent—
  - (a) the amounts (including the amount of any non-salary benefits) payable to or for reserve coroners; and
  - (b) premiums and other amounts payable under the **Accident Compensation (WorkCover Insurance) Act 1993** in respect of any reserve coroner; and
  - (c) payroll tax payable under the **Payroll Tax Act 2007** in respect of wages paid or payable to any reserve coroner; and
  - (d) tax payable under the Fringe Benefits Tax Act 1986 of the Commonwealth in respect of fringe benefits provided to any reserve coroner; and
  - (e) superannuation contributions within the meaning of the **Payroll Tax Act 2007** payable in respect of any reserve coroner.
- (2) In this section, *non-salary benefits* has the same meaning as it has in clause 3(5) and (6) of Schedule 1A to the **Public Administration Act 2004**.

S. 102R(2)  
inserted by  
No. 29/2015  
s. 52.

S. 102S  
inserted by  
No. 63/2013  
s. 51.

**102S Power to complete matters—coroners and reserve coroners**

- (1) This section applies to—
  - (a) a coroner whose assignment under section 93 ceases;
  - (b) a reserve coroner engaged under section 102N whose engagement expires;

- (c) a reserve coroner engaged under section 102N—
  - (i) whose engagement expires; and
  - (ii) whose appointment as a reserve coroner ceases, other than by way of resignation;
- (d) a coroner appointed under section 94 who ceases to hold office—

but only if at the time of that cessation or expiry the coroner or reserve coroner had a matter—

  - (e) that was part-heard before him or her; or
  - (f) in respect of which his or her determination, recommendation or referral is pending.
- (2) Subject to subsection (4), a former coroner, reserve coroner or former reserve coroner to whom this section applies may make any finding, recommendation or referral or complete or otherwise continue to deal with any matters relating to any investigation or inquiry that the former coroner, reserve coroner or former reserve coroner (as the case may be)—
  - (a) has heard, or partly heard before the cessation of his or her assignment or expiry of his or her engagement; or
  - (b) in respect of which a finding, recommendation or referral by the former coroner, reserve coroner or former reserve coroner is pending.
- (3) For the purposes of subsection (2)—
  - (a) a reserve coroner to whom this section applies whose engagement has expired is taken to be engaged under section 102N; and
  - (b) a former coroner or former reserve coroner to whom this section applies—



- (i) holds office as a reserve coroner by virtue of this section as if he or she had been appointed under section 102L; and
    - (ii) is taken to be a reserve coroner engaged under section 102N; and
  - (c) section 102Q does not apply and that person is not entitled to remuneration and entitlements under that section for the period during which he or she is acting in accordance with subsection (2) after the cessation of his or her appointment or the expiry of his or her engagement, as the case requires; and
  - (d) the person may continue to serve as a reserve coroner for the purposes of subsection (2) despite having attained the age of 78 years.
- (4) Subject to subsection (5), any appointment of a person under this section ceases on the earlier of—
- (a) the completion of the matters referred to in subsection (2); or
  - (b) 6 months from the date of that appointment or engagement; or
  - (c) the person being appointed under section 94 as a coroner; or
  - (d) the person being appointed under section 102L as a reserve coroner.
- (5) A person to whom this section applies may resign his or her office as reserve coroner under this section by notice in writing to the Governor.
- (6) Nothing in this section prevents a person being appointed as a reserve coroner under section 102L at any time, if he or she is eligible to be so appointed.

- (7) Nothing in this section affects the operation of section 101A.

## **Division 2—Contempt of Court**

### **103 Contempt**

- (1) A person is guilty of contempt of the Coroners Court if the person—
- (a) wilfully fails to comply with a summons or order of a coroner or a judicial registrar; or
  - (b) insults an officer of the Coroners Court while that officer is performing functions as an officer of the Coroners Court; or
  - (c) insults, obstructs or hinders a person attending an inquest; or
  - (d) misbehaves at or interrupts an inquest; or
  - (e) obstructs or hinders a person from complying with an order of a coroner or a judicial registrar or a summons to attend the Coroners Court; or
  - (f) does any other act that would, if the Coroners Court were the Supreme Court, constitute contempt of that Court.
- (2) If it is alleged or appears to a coroner that a person is guilty of contempt of the Coroners Court, the coroner may—
- (a) if the person is in the Coroners Court or in the precinct of the Coroners Court, by oral order direct that the person be arrested and brought before the Coroners Court; or
  - (b) issue a warrant for his or her arrest in the prescribed form.

**S. 103(1)(a)**  
amended by  
**No. 34/2010**  
s. 44.

**S. 103(1)(e)**  
amended by  
**No. 34/2010**  
s. 44.

- (3) Sections 63 and 64 of the **Magistrates' Court Act 1989** apply (with any necessary modifications) to a warrant to arrest issued under this section as if any reference to the Magistrates' Court were a reference to a coroner or the Coroners Court.
- (4) On the person being brought before the Coroners Court, the coroner must cause the person to be informed of the contempt with which he or she is charged and may adopt any procedure that the coroner thinks fit.
- (5) The **Bail Act 1977** applies, with any necessary modifications, to and in respect of a person brought before the Coroners Court under this section as if the person were accused of an offence and were being held in custody in relation to that offence.
- (6) On the hearing of a charge for contempt, a coroner must be satisfied of the person's guilt on proof beyond reasonable doubt.
- (7) If the coroner finds that the person is guilty of contempt of the Coroners Court, the coroner may—
  - (a) in the case of a natural person, commit the person to a prison for a term of not more than 12 months or impose a fine of not more than 120 penalty units;
  - (b) in the case of a corporation, impose a fine of not more than 600 penalty units.
- (8) If a person is committed to prison for a term, the coroner may order his or her discharge before the end of the term.
- (9) A coroner may accept an apology for a contempt and may remit any punishment for it either wholly or in part.

S. 103(7)(b)  
amended by  
No. 34/2010  
s. 6(b).

- (10) Despite section 62, a coroner is bound by the rules of evidence in exercising a power under this section.

#### **104 Appeal from finding of contempt**

- (1) A person who is committed to prison or fined under section 103 may, with the leave of the Court of Appeal, appeal to the Court of Appeal in accordance with Part 6.3 of Chapter 6 of the **Criminal Procedure Act 2009** against the punishment as if—

S. 104(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 30.1(a)).

- (a) the person were a person convicted on indictment in the Trial Division of the Supreme Court; and

- (b) the punishment imposed were the sentence imposed on their conviction.

S. 104(1)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 30.1(b)).

- (2) Under section 310 of the **Criminal Procedure Act 2009**, the Court of Appeal may, if it thinks fit, on the application of a person who has been committed to prison under section 103 and who has appealed under subsection (1), admit the person to bail pending the determination of his or her appeal.

S. 104(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 30.2).

- (3) The time within which an appeal may be made under this section may be extended by the Court of Appeal under section 313 of the **Criminal Procedure Act 2009**.

S. 104(3)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 30.3).

### **Division 3—Rules of Court and practice notes**

#### **105 Rules of the Coroners Court**

- (1) The State Coroner, together with 2 or more coroners, may jointly make rules of the Coroners Court for or with respect to—
- (a) forms;

- (b) any matter relating to the practice and procedure of the Coroners Court, including the manner of making applications to a coroner and the recording of determinations;
- S. 105(1)(ba) inserted by No. 69/2009 s. 54(Sch. Pt 1 item 11.5).
- (ba) any matter relating to payment of allowances or reimbursement of expenses of witnesses and interpreters;
- S. 105(1)(bb) inserted by No. 62/2014 s. 72.
- (bb) the manner of making a waiver under section 26(2)(b) and the recording of such of a waiver;
- (c) any matter relating to a body that is in the control of a coroner, including the viewing and handling of a body;
- (d) the investigation of a death or fire;
- (e) the publication of when an inquest is to occur, including how those details are to be published and what the publication must include;
- (f) the collection, use, disclosure and transfer of information;
- S. 105(1)(fa) inserted by No. 58/2013 s. 40(1).
- (fa) any other matter or thing required or permitted by or under the **Open Courts Act 2013** to be dealt with by rules of the Coroners Court or otherwise necessary or required for the purposes of that Act;
- S. 105(1)(g) amended by No. 37/2014 s. 10(Sch. item 30.5).
- (g) the custody, care, control, return or disposition of a thing (including a document) or sample seized, taken or received by a police officer or the Coroners Court under this Act;
- (h) the service of documents;
- (i) the publishing of coronial findings, comments and recommendations;

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| (j) the performance of functions by the State Coroner, coroners, judicial registrars and registrars;                                                                                                                                                                                                                                                                                                                                                                          | S. 105(1)(j)<br>amended by<br>No. 34/2010<br>s. 45(1).                                             |
| (ja) the prescription of the matters or class of matters which may be dealt with by the Coroners Court constituted by a judicial registrar;                                                                                                                                                                                                                                                                                                                                   | S. 105(1)(ja)<br>inserted by<br>No. 34/2010<br>s. 45(2).                                           |
| (jb) delegating to the judicial registrars all or any of the powers of the Coroners Court specified by the Rules in relation to matters prescribed under paragraph (ja), including, but not limited to, the exercise by judicial registrars of the jurisdiction of the Coroners Court other than powers under sections 16, 17, 18, 19, 20, 24, 25, 27, 28, 30, 31, 37, 38, 39, 40, 41, 43, 44, 45, 46, 48, 52, 53, 59, 67, 68, 72, 73(1), 74, 77, 103, 105, 107, 114 and 115; | S. 105(1)(jb)<br>inserted by<br>No. 34/2010<br>s. 45(2),<br>amended by<br>No. 58/2013<br>s. 40(2). |
| (jc) reviews of, and appeals from, the Coroners Court constituted by a judicial registrar;                                                                                                                                                                                                                                                                                                                                                                                    | S. 105(1)(jc)<br>inserted by<br>No. 34/2010<br>s. 45(2).                                           |
| (k) any other matter relating to the practice or procedure of the Coroners Court that is required or permitted to be prescribed by the rules or that is necessary to be prescribed by the rules for the purposes of this Act.                                                                                                                                                                                                                                                 |                                                                                                    |
| (2) Rules of the Coroners Court may—                                                                                                                                                                                                                                                                                                                                                                                                                                          | S. 105(2)(a)<br>amended by<br>No. 34/2010<br>s. 45(3)(a).                                          |
| (a) require a matter affected by the rules to be approved by or to the satisfaction of a coroner, judicial registrar or registrar or class of coroner, judicial registrar or registrar;                                                                                                                                                                                                                                                                                       |                                                                                                    |
| (b) confer a discretionary authority or impose a duty on a coroner, a judicial registrar or a registrar or class of coroner, judicial registrar or registrar;                                                                                                                                                                                                                                                                                                                 | S. 105(2)(b)<br>amended by<br>No. 34/2010<br>s. 45(3)(b).                                          |

- (c) provide in a specified case or class of case for the exemption of an investigation or inquest or a class of investigation or inquest from any of the provisions of the rules, whether unconditionally or on specified conditions and either wholly or to any extent that is specified.
- (3) A power conferred by this Act to make rules of the Coroners Court may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
  - (b) so as to make, in respect of the cases in relation to which it is exercised—
    - (i) the same provision for all cases in relation to which the power is exercised, or a different provision for different cases or classes of case, or a different provision for the same case or class of case for different purposes; or
    - (ii) any provision either conditionally or subject to any specified condition.
- (4) In this section, "coroner" does not include a reserve magistrate.

S. 105(4)  
inserted by  
No. 5/2013  
s. 61.

## 106 Disallowance

The rules are subject to disallowance by a House of the Parliament.

### 107 Practice notes

- (1) The State Coroner may from time to time issue practice directions, statements or notes for the Coroners Court in relation to investigations and hearings of the Court.
- (2) Practice directions, statements or notes issued under subsection (1) must not be inconsistent with any provision made by or under this or any other Act.

## Division 4—Miscellaneous

### 108 Professional development and training

- (1) The State Coroner is responsible for directing the professional development and continuing education and training of coroners and registrars.
- (2) In discharging his or her responsibility under subsection (1) the State Coroner may direct—
  - (a) all coroners, registrars or judicial registrars;  
or
  - (b) a specified class of coroner, registrar or judicial registrar; or
  - (c) a specified coroner, registrar or judicial registrar—

S. 108(2)(a)  
amended by  
No. 34/2010  
s. 46(a).

S. 108(2)(b)  
amended by  
No. 34/2010  
s. 46(b).

S. 108(2)(c)  
amended by  
No. 34/2010  
s. 46(b).

to participate in a specified professional development activity or education and training activity.

- (3) A direction under subsection (2) may be given orally or in writing.



- (4) A direction made by the State Coroner under subsection (2), in respect of a coroner who is a magistrate or acting magistrate, must be given jointly with the Chief Magistrate.

**S. 108A**  
inserted by  
**No. 31/2013**  
s. 18.

**108A State Coroner may enter into service agreements**

The State Coroner, on behalf of the Coroners Court, may enter into an agreement with a person or body for the provision by the person or body of services to the Court to support the operations of the Court.

## **Part 9—Coronial Council of Victoria**

### **109 Coronial Council of Victoria**

The Coronial Council of Victoria is established.

### **110 Function of the Council**

- (1) The function of the Council is to provide advice, and make recommendations, to the Attorney-General either—
  - (a) of its own motion; or
  - (b) at the request of the Attorney-General.
- (2) Advice and recommendations prepared under subsection (1) must be in respect of—
  - (a) issues of importance to the coronial system in Victoria;
  - (b) matters relating to the preventative role played by the Coroners Court;
  - (c) the way in which the coronial system engages with families and respects the cultural diversity of families;
  - (d) any other matters relating to the coronial system that are referred to the Council by the Attorney-General.

### **111 Members of the Council**

- (1) The Council consists of—
  - (a) the State Coroner; and
  - (b) the Director of the Institute; and
  - (c) the Chief Commissioner of Police; and
  - (d) 5 to 7 other members appointed by the Governor in Council on the recommendation of the Attorney-General.

- (2) A member of the Council appointed under subsection (1)(d)—
  - (a) holds office for the term, not exceeding 3 years, that is specified in his or her instrument of appointment; and
  - (b) is eligible for re-appointment; and
  - (c) may resign from office by delivering a letter of resignation to the Attorney-General; and
  - (d) is entitled to the remuneration and allowances specified in the instrument of appointment and to be reimbursed for expenses.
- (3) The Governor in Council, on the recommendation of the Attorney-General, must appoint a member appointed under subsection (1)(d) to be the Chairperson of the Council.

## **112 Procedure at meetings**

- (1) The Chairperson or, in his or her absence, a member of the Council elected by the members present at a meeting, must preside at a meeting of the Council.
- (2) The person presiding at the meeting must ensure that decisions made at the meeting, including any recommendations, are recorded in writing.
- (3) 5 members constitute a quorum of the Council.
- (4) Subject to this section, the Council may otherwise regulate its own procedure.

## **113 Annual report**

- (1) As soon as practicable each year but not later than 31 October, the Council must submit to the Attorney-General a report—

- (a) of its operations for the year ending on 30 June that year; and
  - (b) that includes any prescribed matter.
- (2) The Attorney-General must cause each annual report submitted to him or her under this section to be presented to each House of Parliament within 7 sitting days of that House after receiving it.

## Part 10—General

### 114 Return and possession of things

S. 114(2)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).

- (1) This section does not apply to tissue samples or other material that may be removed from a body.
- (2) Subject to the rules, a coroner must make orders for the custody, care, control, return or disposition of each thing (including a document) or sample seized, taken or received by a police officer or the Coroners Court under this Act.
- (3) Without limiting subsection (2), an order made by a coroner under that subsection may provide—
  - (a) that the thing or sample must stay in the possession of the Coroners Court; or
  - (b) if the thing or sample is required for the purposes of a criminal investigation or prosecution and the Chief Commissioner of Police applies to a coroner for the thing or sample, that the thing or sample is to be given to the Chief Commissioner of Police for the duration of the investigation and any prosecution; or
  - (c) that the thing or sample be destroyed or otherwise disposed of.

### 115 Access to documents

S. 115(1)  
substituted by  
No. 62/2014  
s. 73(1).

- (1) Unless otherwise ordered by the coroner, the principal registrar must—
  - (a) provide the senior next of kin of a deceased person written notice, in accordance with the rules, specifying—
    - (i) that reports have been given to a coroner as a result of a medical examination performed on the deceased; and

- (ii) that the senior next of kin may request copies of those reports; and
  - (iii) the manner in which the senior next of kin may request copies of those reports; and
- (b) if an inquest is to be held, provide an interested party with a copy of the coronial brief.
- (2) A coroner may also release a document to—
- (a) an interested party if the coroner is satisfied that the party has a sufficient interest in the document;
  - (b) a statutory body if the coroner is satisfied that the release of the document is required to allow the statutory body to exercise a statutory function;
  - (c) a police officer for law enforcement purposes;
  - (d) a person who is conducting research if the coroner is satisfied that the research has been approved by an appropriate human research ethics committee;
  - (e) any person if the coroner is satisfied that the release is in the public interest;
  - (f) a person specified in the rules as being a person to whom documents may be released.
- (3) A coroner may impose conditions on the release of any document under subsection (1) or (2).
- (4) A person to whom a document has been released under this section must comply with any condition placed on that release.

**S. 115(2)(c)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.5).**

Penalty: 60 penalty units.

- (5) A person must not knowingly or recklessly fail to comply with any condition placed on the release of a document under this section.

Penalty: 60 penalty units.

- (6) A document relating to the investigation of a death or a fire that is held by a coroner must not be released by a coroner except as permitted under this Act or any other law.

S. 115(7)  
amended by  
No. 62/2014  
s. 73(2)(a).

- (7) In this section, *coronial brief* means a brief of evidence that is prepared for an inquest and contains the following (if available)—

- (a) a statement of identification by an appropriate person;
- (b) any reports given to a coroner as a result of a medical examination;
- (c) reports and statements that the coroner investigating the death or fire believes are relevant to a coronial investigation;
- (d) other evidentiary material that the coroner investigating the death or fire believes is relevant to the coronial investigation;
- (e) any material prescribed by the rules or the regulations.

S. 115(7)(c)  
amended by  
No. 62/2014  
s. 73(2)(b).

S. 115(7)(d)  
amended by  
No. 62/2014  
s. 73(2)(c).

S. 115(8)  
amended by  
No. 62/2014  
s. 73(3).

- (8) For the purposes of subsection (7), a coronial brief does not include any part of a medical file that the coroner considers to be irrelevant to the coronial investigation.

## 116 Registers to be kept by principal registrar

- (1) The principal registrar must keep the following registers—

S. 116(1)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.6).

- (a) a register of authorisations issued by coroners to police officers to investigate deaths under section 39;

(b) a register of authorisations issued by coroners to police officers to investigate fires under section 39;

S. 116(1)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 30.6).

(c) a register of exhumations authorised by the State Coroner under section 46;

(d) a register of certificates given to witnesses under section 57;

\* \* \* \* \*

S. 116(1)(e)  
amended by  
No. 34/2010  
s. 6(c),  
repealed by  
No. 58/2013  
s. 41.

(f) any other register prescribed by the regulations.

(2) A register kept under this section must be in the prescribed form.

## 117 Regulations

(1) The Governor in Council may make regulations for or with respect to—

- (a) prescribing circumstances in relation to a death for the purposes of the definition of *reportable death*; and
- (b) prescribing registered medical practitioners or classes of registered medical practitioners as pathologists; and
- (c) prescribing a person or class of persons for the purposes of the definition of *person placed in custody or care*; and
- (d) prescribing persons that must report a reportable death; and



- (e) prescribing information in respect of the coronial process that must be provided to the senior next of kin of a deceased person or other person; and
  - (f) prescribing forms (including the form of a warrant to arrest or summons); and
  - (g) prescribing circumstances in which information on registers kept by the principal registrar may or may not be disclosed; and
  - (h) prescribing types of registers to be kept by the principal registrar; and
  - (i) prescribing the circumstances of a death that would require an inquest to be held; and
  - (j) prescribing the functions of registrars; and
  - (k) prescribing the functions of the State Coroner or a coroner that may be delegated to a registrar or class of registrar; and
  - (l) prescribing matters to be included in the State Coroner's annual report; and
  - (m) prescribing matters to be included in the Council's annual report; and
  - (n) the fees payable in respect of the provision of copies of documents by the Coroners Court to a person; and
  - (o) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act may be made so as to confer a discretionary function on a specified court officer or a specified class of court officer or the Institute.

- (3) A power conferred by subsection (1) to make regulations providing for the imposition of fees may be exercised by providing for all or any of the following matters—
- (a) specific fees;
  - (b) maximum fees;
  - (c) minimum fees;
  - (d) fees that vary according to value or time;
  - (e) the manner of payment of fees;
  - (f) the time or times at which fees are to be paid.
- (4) A power conferred by this Act to make regulations may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
  - (b) so as to make, in respect of the cases in relation to which it is exercised—
    - (i) the same provision for all cases in relation to which the power is exercised, or a different provision for different cases or classes of case, or a different provision for the same case or class of case for different purposes; or
    - (ii) any provision either conditionally or subject to any specified condition.

### 118 Fees

The principal registrar, and any other registrar nominated by the principal registrar, may waive, reduce or refund prescribed fees, in whole or in part, payable or paid by a person under this Act if the principal registrar or the nominated registrar believe it is appropriate in the circumstances.

### 119 Transitional and saving provisions

Schedule 1 has effect.

### 120 Transitional provision—Courts Legislation Miscellaneous Amendments Act 2014

(1) In this section—

*amending Act* means the **Courts Legislation Miscellaneous Amendments Act 2014**;

*commencement day* means the day on which section 64 of the amending Act comes into operation.

(2) Section 52, as in force on the commencement day, applies to a death of a deceased who was, immediately before the death, a person placed in custody or care if, immediately before the commencement day, an investigation into that death has not been completed by the coroner.

S. 120  
inserted by  
No. 62/2014  
s. 74.

Coroners Act 2008  
No. 77 of 2008

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*	*	*	*	*	<b>Pt 11 (Heading) repealed by No. 29/2011 s. 3(Sch. 1 item 18.3).</b>
*	*	*	*	*	<b>Pt 11 Div. 1 (Heading and ss 120–128) repealed by No. 77/2008 s. 128.</b>
*	*	*	*	*	<b>Pt 11 Div. 2 (Heading and ss 129, 130) repealed by No. 77/2008 s. 130.</b>

## Schedules

### Schedule 1—Saving and transitional provisions

Section 119

#### 1 Definitions

In this Schedule—

*commencement day* means 1 November 2009;

*new Act* means the **Coroners Act 2008**;

*old Act* means the **Coroners Act 1985** as in force on 31 October 2009.

#### 2 General transitional provisions

- (1) This Schedule does not affect or take away from the **Interpretation of Legislation Act 1984**.
- (2) Without limiting subclause (1), in declaring that certain provisions of the new Act are to be treated as re-enacting with modifications certain provisions of the old Act, this Schedule must not be taken to limit the operation of any provision of the **Interpretation of Legislation Act 1984** relating to the re-enactment.
- (3) This Schedule applies despite anything to the contrary in any other provision of the new Act.

#### 3 Superseded reference

- (1) On and from the commencement day, a reference to the old Act in any Act or in any instrument made under any Act or in any other document of any kind, must be read as a reference to the new Act unless—
  - (a) the reference is to Part 9 of the old Act; or
  - (b) the context otherwise requires.

- (2) On and from the commencement day, a reference to Part 9 of the old Act in any Act, or in any instrument made under any Act or in any other document of any kind, must be read as a reference to the **Victorian Institute of Forensic Medicine Act 1985**.
- (3) In this clause, a reference to "any Act" does not include a reference to this Act or a provision of the **Coroners Act 1985** continued by this Act.

#### 4 Re-enacted provisions

A provision or provisions of the old Act specified in Column 1 of the Table are deemed to be re-enacted (with modifications) by the provision or provisions of the new Act appearing opposite in Column 2 of the Table.

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<i>Old provision</i>	<i>New provision</i>
Section 13	Sections 10 to 12
Section 13A	Section 13
Section 14(1)	Section 32
Sections 14(2) and 39	Section 36
Section 18(1)	Section 52(5) and 52(6)
Section 24	Section 22
Section 25(1)	Section 51
Sections 26(1) to (4)	Section 39
Section 27(1)	Section 25
Sections 27(1A) and 27(2)	Section 28
Sections 28(1) and 28(2)	Section 27
Section 32	Section 31
Section 35	Section 53
Section 40	Section 38
Section 41(1) to (4)	Section 39

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## **5 Preliminary examinations**

A medical investigator may perform a preliminary examination under the new Act on a body that was provided to the medical investigator under the old Act before the commencement day to enable an examination of the body to be performed.

## **6 Directions made under old Act**

On and from the commencement day, directions made by—

- (a) the Attorney-General under sections 17(1), 25(2), 31(2) and 34 of the old Act; or
- (b) the State Coroner under the sections 15A, 16, 17(1), 24, 33 or 34(2) of the old Act—

Sch. 1 cl. 6(b)  
amended by  
No. 34/2010  
s. 6(d).

cease to have effect unless clause 7 applies.

## **7 Inquest commenced under old Act**

- (1) Subject to clause 10, if the hearing of an inquest has begun under the old Act and the inquest is not completed before the commencement day, the old Act continues to apply on and from the commencement day to the inquest.
- (2) Despite subclause (1), the findings of an inquest completed under that subclause are deemed to be findings made under section 67 or 68 (as appropriate) of the new Act.
- (3) If, on and from the commencement day, an inquest is to proceed under this clause as if the new Act has not commenced, the old Act is to be read as follows—
  - (a) a reference to a coroners clerk is to be read as a reference to a registrar within the meaning of the new Act;

- (b) a reference to a coroner is to be read as a reference to a coroner within the meaning of the new Act;
- (c) a reference to the State Coroner is to be read as a reference to the State Coroner within the meaning of the new Act;
- (d) a reference to the Deputy State Coroner is to be read as a reference to the Deputy State Coroner within the meaning of the new Act.

## **8 Applications commenced under old Act**

- (1) Subject to clause 10, if a hearing of an application to the Supreme Court has begun under section 18, 28, 29, 30, 35, 59 or 59B of the old Act and the application is not completed before the commencement day, the old Act continues to apply on and from the commencement day to the application.
- (2) Despite subclause (1), the determination of the application by the Supreme Court under that subclause is deemed to be a determination of the Supreme Court under section 87 of the new Act.

## **9 Documents**

- (1) Documents held by the State Coroner's Office immediately before the commencement day are, on and from the commencement day, deemed to be documents held by the Coroners Court.
- (2) Documents on a coroner's file or record (within the meaning of section 51 of the old Act) immediately before the commencement day are, on and from the commencement day, deemed to be held by the Coroners Court.
- (3) Any other documents held by a coroner immediately before the commencement day are, on and from the commencement day, deemed to be documents held by the Coroners Court.



- (4) This clause does not apply to documents relating to—
- (a) an inquest being heard under clause 7; or
  - (b) an application being heard under clause 8—  
until the inquest is completed or the application is determined.

**10 Release of documents on coroner's existing file to be subject to new Act**

Despite clauses 7 and 8, on and from the commencement day, documents on a coroner's file or record within the meaning of section 51 of the old Act may only be released in accordance with—

- (a) the new Act; or
- (b) a law other than section 51 of the old Act.

**11 Release of body**

A certificate issued by a coroner under section 23 of the old Act is, on and from the commencement day, taken to be an order made by a coroner under section 47 of the new Act.

**12 Objections to autopsy**

On and from the commencement day—

- (a) a request under section 29(1) of the old Act is taken to be a request under section 26(2) of the new Act;
- (b) a notice under section 29(1) of the old Act is taken to be a notice under section 26(3) of the new Act.

### **13 Exhumations**

Subject to clause 8, on and from the commencement day, an order made under section 30 of the old Act is taken to be an authorisation under section 46 of the new Act.

### **14 Return and possession of things**

On and from the commencement day, section 114 of the new Act applies to any thing taken into possession under section 26 of the old Act and still in the possession of a coroner immediately before the commencement day.

### **15 State Coroner and Deputy State Coroner**

- (1) A judge of the County Court who held the office of State Coroner immediately before the commencement day—
  - (a) holds, on and from the commencement day, the office of State Coroner under the new Act on the same terms and conditions as those specified in his or her instrument of appointment referred to in section 9 of the old Act; and
  - (b) is, on and from the commencement day, deemed to have taken an oath of office under section 95 of the new Act.
- (2) A magistrate who held the office of Deputy State Coroner immediately before the commencement day—
  - (a) holds, on and from the commencement day, the office of Deputy State Coroner under the new Act on the same terms and conditions as those specified in his or her instrument of appointment referred to in section 9 of the old Act; and

- (b) is, on and from the commencement day, deemed to have taken an oath of office under section 95 of the new Act.

## 16 Coroners

- (1) Any person who was a magistrate or acting magistrate and who held the office of coroner immediately before the commencement day is, on and from the commencement day, deemed—
  - (a) to be a coroner jointly assigned by the State Coroner and Chief Magistrate under section 93 of the new Act; and
  - (b) to have taken an oath of office under section 95 of the new Act.
- (2) Any person who was not a magistrate or acting magistrate and held the office of coroner immediately before commencement day is, on and from the commencement day, deemed—
  - (a) to be a coroner within the meaning of this Act; and
  - (b) to hold the office of coroner on the same terms and conditions as those specified in his or her instrument of appointment referred to in section 9 of the old Act as if the new Act had not commenced; and
  - (c) to have taken an oath of office under section 95 of the new Act.

## 17 Depositions

For the purposes of section 55AB of the **Evidence Act 1958**, any deposition taken by a coroner under section 15 of the **Coroners Act 1958** or section 57 of the old Act is, on and from the commencement day, taken to be a deposition taken by a coroner under section 63 of the new Act.

**18 Consultative Council on Obstetric and Paediatric Mortality and Morbidity**

If section 44 of the **Public Health and Wellbeing Act 2008** is not in operation on the commencement day, section 49 of this Act applies until the commencement of that section 44 as if—

- (a) a reference to the **Public Health and Wellbeing Act 2008** were a reference to the **Health Act 1958**; and
- (b) a reference to section 46(3) of the **Public Health and Wellbeing Act 2008** were a reference to section 162F(1)(a) of the **Health Act 1958**.

**19 Regulations dealing with transitional matters**

The Governor in Council may make regulations in relation to any matters of a savings or transitional nature that may arise out of the enactment of this Act or amendments made by this Act.

**20 Transitional provisions—Statute Law Amendment (Evidence Consequential Provisions) Act 2009**

- (1) If an investigation or inquest has commenced but is not completed immediately before the commencement of the **Statute Law Amendment (Evidence Consequential Provisions) Act 2009**—

- (a) this Act as in force immediately before that commencement continues to apply to the investigation or inquest on and after that commencement and a reference to a provision of the **Evidence Act 1958** is a reference to that provision as in force immediately before that commencement; and

Sch. 1 cl. 20  
inserted by  
No. 69/2009  
s. 54(Sch. Pt 1  
item 11.6).

- (b) the Evidence (Crown Witnesses Allowances and Expenses) Regulations 2004, as in force before the repeal of section 152(1)(c) of the **Evidence Act 1958**, continue to apply to the investigation or inquest.
- (2) If the hearing of an inquest referred to in clause 7(1) or the hearing of an application referred to in clause 8(1) is not completed immediately before the commencement of the **Statute Law Amendment (Evidence Consequential Provisions) Act 2009**—
- (a) the old Act as in force immediately before that commencement continues to apply to the hearing of the inquest or application on and after that commencement and a reference to a provision of the **Evidence Act 1958** is a reference to that provision as in force immediately before that commencement; and
  - (b) the Evidence (Crown Witnesses Allowances and Expenses) Regulations 2004, as in force before the repeal of section 152(1)(c) of the **Evidence Act 1958**, continue to apply to the inquest or application.

Sch. 1 cl. 21  
inserted by  
No. 52/2012  
s. 13.

## **21 Transitional provisions—Evidence Amendment (Journalist Privilege) Act 2012**

- (1) If an investigation has commenced but is not completed immediately before the commencement of section 11 of the 2012 Act, the amendment made to this Act by that section applies to the investigation on and from that commencement.
- (2) If the hearing of an inquest has commenced but is not completed immediately before the commencement of section 12 of the 2012 Act, this Act applies to the hearing of the inquest on and from that commencement as if the amendment made by that section were not in force.

- (3) If an investigation is re-opened under section 77(2) after the commencement of sections 11 and 12 of the 2012 Act, and there has previously been an inquest in relation to the investigation to which section 58 as substituted by section 12 of the 2012 Act did not apply, this Act applies to the re-opened investigation as if sections 11 and 12 of the 2012 Act were not in force.
- (4) In this clause, *2012 Act* means the **Evidence Amendment (Journalist Privilege) Act 2012**.

**22 Savings—Open Courts Act 2013**

- (1) Despite the repeal of section 55(2)(d) by the **Open Courts Act 2013**, an order made under section 55(2)(d) (as in force immediately before its repeal) and in force at the date of that repeal continues to apply on and after that repeal.
- (2) Despite the repeal of section 73(2) and (3) by the **Open Courts Act 2013**, section 73(2) and (3) (as in force immediately before their repeal) continue to apply on and after that repeal in relation to a proceeding commenced to be heard (but not determined) by the Coroners Court before that repeal.

Sch. 1 cl. 22  
inserted by  
No. 58/2013  
s. 42.

\* \* \* \* \*

Sch. 2  
repealed by  
No. 77/2008  
s. 130.

## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 9 October 2008*

*Legislative Council: 13 November 2008*

The long title for the Bill for this Act was "A Bill for an Act to require the reporting of certain deaths, to provide for the investigation of deaths and fires by coroners in certain circumstances with the intention of finding the causes of deaths and fires and contributing to the reduction of the number of preventable deaths and fires, to establish the Coroners Court of Victoria and the Coronial Council of Victoria, to amend the **Coroners Act 1985** to repeal the provisions relating to coroners and to rename that Act to continue to provide for the Victorian Institute of Forensic Medicine, to make consequential amendments to other Acts and for other purposes."

The **Coroners Act 2008** was assented to on 11 December 2008 and came into operation on 1 November 2009: section 2.

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in

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a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).



## 2 Table of Amendments

This publication incorporates amendments made to the **Coroners Act 2008** by Acts and subordinate instruments.

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### **Coroners Act 2008, No. 77/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* S. 128 on 1.11.10: s. 128; s. 130 on 1.11.10: s. 130  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

### **Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 30) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

### **Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 1 item 11), (Sch. Pt 2 item 13) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

### **Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010**

*Assent Date:* 30.3.10  
*Commencement Date:* S. 51(Sch. item 15) on 1.7.10: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

### **Health and Human Services Legislation Amendment Act 2010, No. 29/2010**

*Assent Date:* 8.6.10  
*Commencement Date:* S. 51 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

### **Courts Legislation Miscellaneous Amendments Act 2010, No. 34/2010**

*Assent Date:* 15.6.10  
*Commencement Date:* Ss 4–6 on 1.11.09: s. 2(2); ss 41–46 on 1.1.11: s. 2(5)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

### **Severe Substance Dependence Treatment Act 2010, No. 43/2010**

*Assent Date:* 10.8.10  
*Commencement Date:* S. 44 on 1.3.11: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

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**Justice Legislation Further Amendment Act 2010, No. 64/2010**

*Assent Date:* 28.9.10  
*Commencement Date:* S. 61 on 1.11.10: Government Gazette 21.10.10  
p. 2530  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Statute Law Revision Act 2011, No. 29/2011**

*Assent Date:* 21.6.11  
*Commencement Date:* S. 3(Sch. 1 item 18) on 22.6.11: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Evidence Amendment (Journalist Privilege) Act 2012, No. 52/2012**

*Assent Date:* 18.9.12  
*Commencement Date:* Ss 11–13 on 1.1.13: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Justice Legislation Amendment (Family Violence and Other Matters) Act 2012,  
No. 83/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* S. 39 on 20.12.12: Special Gazette (No. 444) 19.12.12  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Courts Legislation Amendment (Reserve Judicial Officers) Act 2013, No. 5/2013**

*Assent Date:* 26.2.13  
*Commencement Date:* Ss 57–61 on 27.2.13: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Justice Legislation Amendment Act 2013, No. 31/2013**

*Assent Date:* 4.6.13  
*Commencement Date:* Ss 12–18 on 1.8.13: Special Gazette (No. 272) 23.7.13  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Children, Youth and Families Amendment Act 2013, No. 52/2013**

*Assent Date:* 24.9.13  
*Commencement Date:* S. 80 on 1.12.13: Special Gazette (No. 419) 26.11.13  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

**Open Courts Act 2013, No. 58/2013**

*Assent Date:* 22.10.13  
*Commencement Date:* Ss 38–42 on 1.12.13: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Coroners Act 2008**

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**Courts Legislation Amendment (Judicial Officers) Act 2013, No. 63/2013**

*Assent Date:* 6.11.13  
*Commencement Date:* Ss 49–51, 82–85 on 1.2.14: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Court Services Victoria Act 2014, No. 1/2014**

*Assent Date:* 11.2.14  
*Commencement Date:* S. 74 on 1.7.14: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Legal Profession Uniform Law Application Act 2014, No. 17/2014**

*Assent Date:* 25.3.14  
*Commencement Date:* S. 160(Sch. 2 item 21) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Mental Health Act 2014, No. 26/2014**

*Assent Date:* 8.4.14  
*Commencement Date:* S. 455(Sch. item 5) on 1.7.14: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 30) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Criminal Organisations Control and Other Acts Amendment Act 2014, No. 55/2014**

*Assent Date:* 26.8.14  
*Commencement Date:* S. 143 on 31.10.14: Special Gazette (No. 330) 23.9.14 p. 1  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Courts Legislation Miscellaneous Amendments Act 2014, No. 62/2014**

*Assent Date:* 9.9.14  
*Commencement Date:* Ss 61–67, 69(1), 72, 74, 101–105 on 10.11.14: Special Gazette (No. 364) 14.10.14 p. 1; ss 68, 69(2), 70, 71 on 1.1.15: Special Gazette (No. 376) 21.10.14 p. 1; s. 73 on 1.9.15: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

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**Justice Legislation Amendment Act 2015, No. 20/2015**

*Assent Date:* 16.6.15  
*Commencement Date:* S. 43 on 17.6.15: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

**Justice Entitlements Act 2015, No. 29/2015**

*Assent Date:* 11.8.15  
*Commencement Date:* Ss 49–52 on 12.8.15: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

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### 3 Amendments Not in Operation

This publication does not include amendments made to the **Coroners Act 2008** by the following Act/s.

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#### **Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014, No. 61/2014**

*Assent Date:* 9.9.14  
*Commencement Date:* S. 165 not yet proclaimed  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

#### **Judicial Entitlements Act 2015, No. 29/2015**

*Assent Date:* 11.8.15  
*Commencement Date:* Ss 87, 88 not yet proclaimed  
*Current State:* This information relates only to the provision/s amending the **Coroners Act 2008**

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At the date of this publication, the following provisions amending the **Coroners Act 2008** were Not in Operation:

#### **Amending Act/s:**

#### **Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014, No. 61/2014**

##### **165 Definitions**

In section 3(1) of the **Coroners Act 2008**, in the definition of *person placed in custody or care*, for paragraph (a) **substitute**—

"(a) a person for whom the Secretary to the Department of Human Services has parental responsibility under the **Children, Youth and Families Act 2005**; or".

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## **Judicial Entitlements Act 2015, No. 29/2015**

### **87 Deputy State Coroner**

For section 92(5) of the **Coroners Act 2008** substitute—

- "(5) The Deputy State Coroner is entitled to be paid the salary at the rate for the time being applicable under the **Judicial Entitlements Act 2015** for that office.
- (5A) The Deputy State Coroner is entitled to the allowances and the other conditions of service for the office of magistrate (other than the Chief Magistrate or a Deputy Chief Magistrate) that are for the time being applicable under the **Judicial Entitlements Act 2015** unless an entitlement certificate issued under that Act in relation to the office of Deputy State Coroner otherwise provides."

### **88 Remuneration and allowances of reserve coroners**

- (1) In the heading to section 102Q of the **Coroners Act 2008** for "**Remuneration and allowances**" substitute "**Salary, allowances and other conditions of service**".
- (2) For section 102Q(1) and (2) of the **Coroners Act 2008** substitute—
- "(1) Each reserve coroner engaged to undertake the duties of a coroner under section 102N is entitled to be paid a salary in accordance with the rate for the time being applicable for the office of reserve magistrate under the **Judicial Entitlements Act 2015**.

- (2) Each reserve coroner engaged to undertake the duties of a coroner under section 102N is entitled to the allowances and other conditions of service for the office of reserve magistrate that are for the time being applicable under the **Judicial Entitlements Act 2015**".
- (3) Section 102Q(3), (4), (5), (6), (7), (8), (9) and (11) of the **Coroners Act 2008** are **repealed**.
- (4) In section 102Q(10) of the **Coroners Act 2008** for "subsections (1) and (3)" **substitute** "subsection (1)".

#### 4 Explanatory details

<sup>1</sup> S. 94(3)(b)(ii): The amendment proposed by section 50(1) of the **Judicial Entitlements Act 2015**, No. 29/2015 is not included in this publication as the words "an acting" do not appear in section 94(3)(b)(ii).  
Section 50(1) reads as follows:

##### **50 Appointment of coroners**

- (1) In section 94(3)(b)(ii) of the **Coroners Act 2008** for "an acting" substitute "a".