



Western Australia

Coroners Act 1996

Coroners Regulations 1997

As at 21 Dec 2011

Version 02-c0-02

Extract from www.slp.wa.gov.au, see that website for further information

Coroners Regulations 1997

CONTENTS

| | | |
|-----|---|---|
| 1. | Citation | 1 |
| 2. | Commencement | 1 |
| 3A. | Terms used | 1 |
| 3. | Pathologist | 1 |
| 4. | State Coroner — Form of oath of office | 1 |
| 5. | Restriction on delegation | 2 |
| 6. | Form of record of investigation into a death | 2 |
| 7. | Form of certificate of disposal of body | 2 |
| 8. | Request that post mortem be performed | 2 |
| 9. | Direction to perform post mortem | 2 |
| 10. | Form of order for exhumation | 2 |
| 11. | Request not to exhume | 3 |
| 12. | Form of notice of restriction of access to area | 3 |
| 13. | Form of agreement of coroner to restricted access to area | 3 |
| 14. | Form of authorisation, form of undertaking and requests for release of things | 3 |
| 15. | Request for an inquest into a death | 3 |
| 16. | Form of summons and warrant, and service of summons | 3 |
| 17. | Interested persons for the purposes of section 44(3) | 4 |
| 18. | Form of order of exclusion from an inquest | 5 |
| 19. | Access to records | 5 |
| 20. | Form of oath or affirmation for witness | 5 |
| 21. | Fees for post mortem services | 5 |
| 22. | Other fees | 5 |
| 23. | Coroner's registrar may remit fees | 6 |

Contents

| | | |
|-----|---|----|
| 24. | Resolution of disputes as to fees | 6 |
| 25. | Recovery of unpaid fees | 6 |
| | Schedule 1 — Forms | |
| | Schedule 2 — Fees for post mortem services | |
| | Schedule 3 — Other fees | |
| | Notes | |
| | Compilation table | 23 |
| | Defined Terms | |

Western Australia

Coroners Act 1996

Coroners Regulations 1997

1. Citation

These regulations may be cited as the *Coroners Regulations 1997*¹.

2. Commencement

These regulations come into operation on the day on which the *Coroners Act 1996* comes into operation¹.

3A. Terms used

In these regulations —

approved form means a form approved by the State Coroner;
fee, except in regulation 21, means a fee set out in Schedule 3.

[Regulation 3A inserted in Gazette 4 Sep 2009 p. 3491.]

3. Pathologist

For the purposes of the Act a pathologist is a doctor with a qualification in pathology recognized by the Royal College of Pathologists of Australasia.

4. State Coroner — Form of oath of office

The oath or affirmation of office for the State Coroner referred to in section 9 of the Act is to be in the form of Form 1 or 2.

5. Restriction on delegation

The State Coroner is not to delegate the power to conduct an inquest to a coroner's registrar.

[Regulation 5 amended in Gazette 11 Mar 2008 p. 816.]

6. Form of record of investigation into a death

A record of investigation into a death to be kept under section 26(1) of the Act is to be in the form of Form 3.

7. Form of certificate of disposal of body

A certificate permitting burial, cremation or other disposal to be issued under section 29(1) of the Act is to be in the form of Form 4.

8. Request that post mortem be performed

A request to a coroner under section 36(1) of the Act to direct that a post mortem be performed on a body is to be made in writing and is to specify the reason why the post mortem is sought.

9. Direction to perform post mortem

Before giving a direction to a pathologist or doctor to perform a post mortem on a body under section 34(1) of the Act, the coroner is to take into account all of the medical information then available concerning the last illness of the deceased person, if it appears that the illness may be relevant to the death.

10. Form of order for exhumation

An order by the State Coroner under section 38(1) of the Act that a body be exhumed, is to be in the form of Form 5.

11. Request not to exhume

A request under section 38(3) of the Act to the State Coroner asking that a body not be exhumed is to be made in writing and is to specify reasons why the body should not be exhumed.

12. Form of notice of restriction of access to area

A notice under section 32(4) of the Act is to be in the form of Form 6.

13. Form of agreement of coroner to restricted access to area

Agreement by a coroner under section 32(2) of the Act to a restriction imposed by a coroner's investigator is to be in the form of Form 7.

14. Form of authorisation, form of undertaking and requests for release of things

- (1) An authorisation to a coroner's investigator under section 33(3) of the Act is to be in the form of Form 8.
- (2) A request to a coroner to release any thing under section 33(5) of the Act is to be in writing and is to specify reasons why the release of the thing is sought.
- (3) An undertaking given under section 33(5) of the Act is to be in the form of Form 9.

15. Request for an inquest into a death

A request under section 24 of the Act to a coroner to hold an inquest into a death is to be made in writing and is to specify the reason why the inquest is sought.

16. Form of summons and warrant, and service of summons

- (1) A summons issued under section 46(1) of the Act requiring a person to attend as a witness or to produce any document or other material is to be in the form of Form 10.

r. 17

- (2) A summons under section 46(1) of the Act is to be —
 - (a) served personally; or
 - (b) left at the person's usual or last known place of abode with a person who is, or appears to be, over the age of 16 years.
- (3) A warrant of apprehension issued under section 46(4) of the Act is to be in the form of Form 11.

17. Interested persons for the purposes of section 44(3)

The following persons are interested persons for the purposes of section 44(3) of the Act —

- (a) a spouse, de facto partner, child, parent or other personal representative of the deceased person;
- (b) any of the deceased person's next of kin under section 37(5) of the Act;
- (c) a beneficiary under a policy of insurance issued on the life of the deceased person;
- (d) an insurer who issued such a policy of insurance;
- (e) a person whose act or omission, or the act or omission of an agent or servant of that person, may in the opinion of the coroner have caused, or contributed to, the death of the deceased person;
- (f) a person appointed by an organization of employees to which the deceased person belonged at the time of death, if the death of the deceased person may have been caused by an injury received in the course of employment or by an industrial disease;
- (g) the Commissioner of Police appointed under the *Police Act 1892*.

[Regulation 17 amended in Gazette 30 Jun 2003 p. 2600.]

18. Form of order of exclusion from an inquest

- (1) An order made under section 45(1) of the Act excluding persons from an inquest is to be in the form of Form 12.
- (2) Where a coroner makes an order under section 45(1) of the Act he or she is to notify the State Coroner that the order has been made.

19. Access to records

- (1) Before the completion of an investigation into a death, a coroner may direct that part or all of the record of the investigation of the death be made available to such persons or class of persons as the coroner directs.
- (2) After the completion of an inquest into a death the coroner's record of the investigation of the death is to be open to public access unless the coroner orders otherwise.

20. Form of oath or affirmation for witness

The oath or affirmation to be administered to witnesses at an inquest is to be in the form of Form 13 or 14.

21. Fees for post mortem services

- (1) The fee to be paid to a doctor who carries out a service referred to in an item of Schedule 2 is as set out opposite the relevant item in that schedule.
- (2) A doctor is not entitled to a fee set out in Schedule 2 if the doctor is in receipt of a salary from the State or is entitled to any other payment in respect of the service set out opposite the fee, unless the State Coroner agrees otherwise.

[Regulation 21 amended in Gazette 4 Sep 2009 p. 3491.]

22. Other fees

The fees set out in Schedule 3 are to be charged in respect of the matters referred to in that Schedule.

[Regulation 22 inserted in Gazette 4 Sep 2009 p. 3492.]

23. Coroner's registrar may remit fees

- (1) A coroner's registrar may on an application in an approved form, in a particular case, on the ground of financial hardship or if it is in the interests of justice to do so, direct —
 - (a) that payment of a fee be waived; or
 - (b) that a fee be reduced or that the whole or a part of a fee be refunded; or
 - (c) that the payment of the whole or a part of a fee be postponed until such time, and upon such conditions, if any, as the registrar thinks fit.
- (2) Before determining an application under subregulation (1), a coroner's registrar may require the applicant to provide the registrar with such further information as the registrar requires either in writing or orally.

[Regulation 23 inserted in Gazette 4 Sep 2009 p. 3492.]

24. Resolution of disputes as to fees

- (1) If a question arises as to the fee payable or applicable in a particular case, the question is to be determined by the State Coroner.
- (2) An application for a determination under subregulation (1) is to be in an approved form.

[Regulation 24 inserted in Gazette 4 Sep 2009 p. 3492.]

25. Recovery of unpaid fees

Any unpaid fee is a debt due to the State and may be recovered by action in a court of competent jurisdiction.

[Regulation 25 inserted in Gazette 4 Sep 2009 p. 3492.]

Schedule 1 — Forms

Form 1

[Reg. 4]

Coroners Act 1996

(Section 9)

OATH FOR STATE CORONER

I (person's name) do solemnly, sincerely and truly swear that I will well and truly serve the State, according to law, in the office of State Coroner, and I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or ill will.

So help me God!

[Form 1 amended in Gazette 19 Apr 2005 p. 1295.]

Form 2

[Reg. 4]

Coroners Act 1996

(Section 9)

AFFIRMATION FOR STATE CORONER

I (person's name)
do solemnly, sincerely and truly declare and affirm that I will well and truly
serve the State, according to law, in the office of State Coroner, and I will do
right to all manner of people after the laws and usages of this State, without fear
or favour, affection or ill will.

[Form 2 amended in Gazette 19 Apr 2005 p. 1295.]

Form 3

[Reg. 6]

Coroners Act 1996

(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

Ref. No.

I,, Coroner, having investigated:

1. The death of
2. *Without holding an inquest.
*With an inquest held at
on 20.....
3. *Find that —
*The identity of the deceased person was and that death
occurred on / / at
from (*state cause of death*) in the following circumstances:
.....
.....
.....
.....
.....

Comments:

Coroner.

* Delete those not required.

Form 4

[Reg. 7]

Coroners Act 1996

(Section 29(1))

**CERTIFICATE PERMITTING BURIAL, CREMATION OR OTHER
DISPOSAL**

I,, Coroner, PERMIT

*Burial.

*Cremation.

*Other disposal, namely
of the body of

Dated at the day of 20.....

Coroner.

* Delete those not required.

Form 5

[Reg. 10]

Coroners Act 1996

(Section 38(1))

ORDER FOR EXHUMATION OF BODY

Ref. No.

To:

Postcode:

Information about the deceased person

| | |
|------------|--|
| Name of | |
|------------|--|

Information about the death

| | | | | |
|---------------|------|-----|-------|------|
| When Where | Time | Day | Month | Year |
|---------------|------|-----|-------|------|

Information about the burial of the body

| | | | | |
|---------------|-----|-------|------|----------|
| When Where | Day | Month | Year | Postcode |
|---------------|-----|-------|------|----------|

Information about the making of this order

The body must be exhumed and taken to and held until I order that it may be buried again.

Information about the order

| | | | | |
|------------------------------|-----|-------|------|---------------|
| Made by When Signature | Day | Month | Year | State Coroner |
|------------------------------|-----|-------|------|---------------|

Form 6

[Reg. 12]

Coroners Act 1996

(Section 32(4))

NOTICE RESTRICTING ACCESS TO AREA

RESTRICTED AREA

NO ENTRY WITHOUT CORONER'S AUTHORITY

PENALTY: \$2 000 FINE

Form 7

[Reg. 13]

Coroners Act 1996

(Section 32(2))

RESTRICTION OF ACCESS

Investigation into the death of

Description of area to which access has been restricted by Coroner's
investigator —

.....
.....

Reasons for seeking restriction of access —

.....
.....
.....
.....

Is access being restricted at the present time: Yes π No π

If Yes, specify the time and date when the restriction first imposed

Period for which restriction is sought

Restriction agreed with π

Restriction not agreed with π

.....
Signature of Coroner
Date: / / .

Form 8

[Reg. 14(1)]

Coroners Act 1996

(Section 33(3))

AUTHORISATION OF CORONER'S INVESTIGATOR

I,, Coroner, reasonably believing
it necessary for investigating —

the death of

AUTHORISE, a coroner's
investigator —

- * to enter (*specify place*)
- * to inspect (*specify place*)
and anything in it.
- * to take a copy of (*specify documents or classes of documents*)
- * to take possession of (*specify things or classes of things*) at or between
the hours of and during the period
commencing the day of 20..... and concluding on
the day of 20..... (*such period not to exceed one
month after the date of this authority*).

Dated at the day of 20.....

Coroner.

* Delete those not applicable.

Form 9

[Reg. 14(3)]

Coroners Act 1996

(Section 33(5))

UNDERTAKING TO COMPLY WITH CONDITIONS OF RELEASE

I,, Coroner, having taken possession of the certain things, or classes of things, pursuant to section 33 of the *Coroners Act 1996* for the purpose of an investigation into the death of

Authorise the release of: (*description of thing/s*)

To (*name of person to whom thing/s are to be released*)

Of (*address of that person*)

On condition that (*any conditions*)

I, (*name of person to whom thing/s are to be released*) enter this undertaking and acknowledge receipt of a copy thereof setting out my obligations concerning the conditions of release of the thing/s specified in this undertaking and I acknowledge that if I fail to comply with these conditions that I am liable to a penalty.

Signature of person entering undertaking.

I am satisfied that, before releasing the thing/s specified in this undertaking, (*name of person to whom thing/s are to be released*) understood the nature and extent of his/her obligations under the conditions of this undertaking and the consequences of his/her failure to comply with them.

Undertaking entered on / / at
in the State of Western Australia before me

Coroner.

Form 10

[Reg. 16(1)]

Coroners Act 1996

(Section 46(1))

SUMMONS TO GIVE EVIDENCE OR BRING DOCUMENTS

To:

Postcode:

An inquest is to be held into—

| | | | |
|-----------------------------------|-----|-------|------|
| The death of Which happened on | Day | Month | Year |
|-----------------------------------|-----|-------|------|

What you must do

| | |
|--|---|
| | You must go to the inquest and π Give evidence π Bring the following documents and materials |
|--|---|

Information about the inquest

| | | | | |
|------------------------------------|--|-----|-------|------|
| Where you must go To be held at | The Coroner's Court of Western Australia | | | |
| When | Time | Day | Month | Year |

Information about this summons

| | |
|-----------|--------------------------------|
| Issued at | Date / / |
| By | State Coroner |
| Signature | Coroner Coroner's Registrar |

If further information is required, telephone:

[Form 10 amended in Gazette 11 Mar 2008 p. 816.]

Form 11

[Reg. 16(3)]

Coroners Act 1996

(Section 46(4))

**WARRANT OF APPREHENSION WHERE WITNESS
FAILS TO APPEAR**

In the Coroner's Court of Western Australia

at

INQUEST INTO THE DEATH OF:

To all members of the Police Force of the State of Western Australia.

The witness who has failed to appear is

of

THE WITNESS has neglected to appear at the time and place appointed in and by a Summons to attend as witness or to produce documents or other materials and it is proved to me, the undersigned Coroner, upon oath, that the said Summons was served on the witness.

I AUTHORISE you to enter and search at any time with all force as may be necessary any dwelling-house, building, premises, ship, aircraft or any place where the witness is suspected to be present AND I ORDER that you apprehend the witness and bring the witness before the said Coroner's Court to answer the said Summons and to be further dealt with according to law.

Dated at the day of 20.....

Coroner.

I DIRECT that the witness when apprehended may be released on his/her signing and undertaking conditioned for his/her appearance before the Coroner's Court at on the day of 20.....

Coroner.

Form 12

[Reg. 18(1)]

Coroners Act 1996

(Section 45(1))

ORDER EXCLUDING PEOPLE FROM AN INQUEST

This inquest is being held into—

| | | | |
|-----------------------------------|-----|-------|------|
| The death of Which happened on | Day | Month | Year |
|-----------------------------------|-----|-------|------|

Information about this order

| | |
|-------------------------------|---|
| Who does it apply to? | The Coroner has ordered that the following people: must not enter the room where the inquest is being held. |
| How long does it apply? | This order applies— π From Time Day Month Year π To Time Day Month Year π For the whole of the inquest. |
| What if I have been summoned? | You must wait outside the room until you are called in to give evidence or deliver documents or other materials. |

Information about the making of this order

| | |
|-------------------|------------------------------|
| Made by | π State Coroner |
| Where | π Coroner |
| When Signature | Time Day Month Year |

Form 13

[Reg. 20]

Coroners Act 1996

OATH FOR WITNESS

Do you solemnly, sincerely and truly swear that the evidence that you give at this inquest touching the death (or suspected death) of shall be the truth, the whole truth, and nothing but the truth?

So help you God!

Form 14

[Reg. 20]

Coroners Act 1996

AFFIRMATION FOR WITNESS

Do you solemnly, sincerely and truly declare and affirm that the evidence that you give at this inquest touching the death (or suspected death) of shall be the truth, the whole truth and nothing but the truth?

Schedule 2 — Fees for post mortem services

[r. 21]

[Heading inserted in Gazette 4 Sep 2009 p. 3492-3.]

| Item | Service | Fee |
|-------------|--|------------|
| 1. | Post mortem by a pathologist | \$390 |
| 2. | Post mortem by a doctor who is not a pathologist | \$265 |
| 3. | Attendance by doctor, between the hours of 8.30 am and 6 pm, to state whether life is extinct | \$56 |
| 4. | Attendance by doctor, outside the hours referred to in item 3, to state whether life is extinct | \$72 |

Schedule 3 — Other fees

[r. 22]

[Heading inserted in Gazette 4 Sep 2009 p. 3493.]

| Item | Matter | \$ |
|-------------|--|-----------|
| 1. | Copy of document or exhibit, for each page or part of a page | 1.50 |
| 2. | Copy of record of investigation into a death — | |
| | (a) for one copy on the request of a person who is an interested person under regulation 17(a) or (b) | Nil |
| | (b) for each additional copy on the request of a person who is an interested person under regulation 17(a) or (b), for each page or part of a page | 1.20 |
| | (c) for each copy on the request of any other person, for each page or part of a page | 1.20 |
| 3. | Certifying under seal that a document is a true copy | 13.15 |
| 4. | Copy of transcript or notes of evidence, for each page or part of a page (minimum fee — \$18.85) | 5.30 |
| 5. | Copy of transcript or notes of evidence in electronic format if a fee has been paid under item 4 by the applicant for a copy of the transcript or notes of evidence, for each day of transcript or notes of evidence | 13.15 |
| 6. | Copy of transcript or notes of evidence not in electronic format if a fee has been paid under item 4 by the applicant for a copy of the transcript or notes of evidence, for each page or part of a page | 1.50 |

[Schedule 3 inserted in Gazette 4 Sep 2009 p. 3493; amended in Gazette 8 Mar 2011 p. 800; 20 Dec 2011 p. 5393.]

Notes

- ¹ This is a compilation of the *Coroners Regulations 1997* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| Citation | Gazettal | Commencement |
|--|----------------------------|--|
| <i>Coroners Regulations 1997</i> | 18 Mar 1997 p. 1551-74 | 7 Apr 1997 (see r. 2 and <i>Gazette</i> 18 Mar 1997 p. 1529) |
| <i>Equality of Status Subsidiary Legislation Amendment Regulations 2003 Pt. 10</i> | 30 Jun 2003 p. 2581-638 | 1 Jul 2003 (see r. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579) |
| Reprint 1: The Coroners Regulations 1997 as at 16 Jan 2004 (includes amendments listed above) | | |
| <i>Courts and Legal Practice (Consequential Amendments) Regulations 2005 r. 3</i> | 19 Apr 2005 p. 1294-302 | 19 Apr 2005 |
| <i>Coroners Amendment Regulations 2008</i> | 11 Mar 2008 p. 816 | r. 1 and 2: 11 Mar 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 12 Mar 2008 (see r. 2(b)) |
| <i>Coroners Amendment Regulations 2009</i> | 4 Sep 2009 p. 3491-3 | r. 1 and 2: 4 Sep 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Sep 2009 (see r. 2(b)) |
| Reprint 2: The Coroners Regulations 1997 as at 6 Nov 2009 (includes amendments listed above) | | |
| <i>Coroners Amendment Regulations 2011</i> | 8 Mar 2011 p. 799-800 | r. 1 and 2: 8 Mar 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Mar 2011 (see r. 2(b)) |
| <i>Coroners Amendment Regulations (No. 2) 2011</i> | 20 Dec 2011 p. 5392-3 | r. 1 and 2: 20 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Dec 2011 (see r. 2(b)) |

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

| Defined Term | Provision(s) |
|---------------------|---------------------|
| approved form..... | 3A |
| fee | 3A |