

Western Australia

## **Coroners Amendment Act 2003**

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As at 17 Apr 2003

No. 15 of 2003

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## Coroners Amendment Act 2003

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Western Australia

## **Coroners Amendment Act 2003**

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**No. 15 of 2003**

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**An Act to amend the *Coroners Act 1996* and the *Evidence Act 1906*.**

*[Assented to 17 April 2003]*

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Coroners Amendment Act 2003*.

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**2. Commencement**

This Act comes into operation on a day fixed by proclamation.

**3. The Act amended**

The amendments in this Act, other than section 15, are to the *Coroners Act 1996*\*.

[\* *Act No. 2 of 1996.*

*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 92-3.]*

**4. Section 3 amended**

Section 3 is amended as follows:

- (a) in the definition of “coroner” by inserting after “Coroner” —  
“ and the Deputy State Coroner ”;
- (b) in the definition of “person held in care” by deleting paragraph (c) and “or” after it and inserting instead —  
“
  - (c) a person who is an involuntary patient within the meaning of the *Mental Health Act 1996*, or who is apprehended or detained under Part 3 of that Act; or”.

**5. Section 11 amended**

- (1) Section 11 is amended by inserting before “Every” the subsection designation “(1)”.
- (2) At the end of section 11 the following subsections are inserted —  
“
  - (2) The Attorney General, on the recommendation of the State Coroner, may appoint a person to be a coroner for”.

such period and on such terms as is specified in the instrument of appointment.

- (3) A person is not eligible for appointment as a coroner unless that person is eligible to be appointed as a magistrate.
- (4) In the exercise of that office, a coroner has the same protection and immunity as a Judge has in respect of proceedings in the Supreme Court.

”.

**6. Section 14 amended**

After section 14(4) the following subsections are inserted —

“

- (5) The State Coroner is to cause to be issued to a coroner’s investigator, who is not a member of the Police Force of the State, an identity card.
- (6) Where a person in possession of an identity card ceases to be a coroner’s investigator, that person is to return the card as soon as is practicable to the State Coroner.  
Penalty: \$1 000.

”.

**7. Section 24 amended**

- (1) Section 24(1)(b) is amended by deleting “7 days” and inserting instead —

“ a reasonable period ”.

- (2) After section 24(1) the following subsection is inserted —

“

- (1a) A request under subsection (1) is to —
  - (a) be made in writing; and
  - (b) contain reasons for the request.

”.

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- (3) Section 24(2) is amended by inserting after “refusal,” —

“

or if a reply to a request for an inquest to be held has not been given within 3 months after the request was made,

”.

**8. Section 26 amended**

Section 26(3) is repealed.

**9. Section 26A inserted**

After section 26 the following section is inserted —

“

**26A. Access to evidence**

If the senior next of kin of a deceased person asks a coroner for access to evidence obtained for the purpose of investigating the death, the coroner is to give that person access to that evidence, unless the coroner believes it is not desirable or practicable to do so.

”.

**10. Section 27 amended**

- (1) Section 27(5) is amended by deleting “must” and inserting instead —

“ may ”.

- (2) Section 27(5)(b) is amended by deleting “to”.

**11. Section 33 amended**

- (1) After section 33(2) the following subsections are inserted —

“

- (2a) If a death has occurred that, in the opinion of a coroner’s investigator, is or may be a reportable death,



the coroner's investigator may, with any help thought fit and without the consent of any occupier of a place, or any authority other than this subsection —

- (a) enter the place where the body is or where, in the opinion of the coroner's investigator, the death, or the event which caused or contributed to the death, occurred;
  - (b) inspect the place where the body is or where, in the opinion of the coroner's investigator, the death, or the event which caused or contributed to the death, occurred; and
  - (c) take possession of anything which the coroner's investigator reasonably believes is directly relevant to an investigation of the death.
- (2b) Anything taken by a coroner's investigator under subsection (2a) is to be kept and dealt with in accordance with the regulations, until the investigation of the death is finished, or it is decided that there is no jurisdiction under this Act to investigate the death.
- (2c) A coroner's investigator (other than a member of the Police Force of the State who is in uniform) exercising, or about to exercise, a power under subsection (2a) must, at the reasonable request of a person apparently in charge of the place or any other person at the place, produce for inspection by that person —
- (a) in the case of a member of the Police Force, written evidence of the fact that he or she is a member of the Police Force; or
  - (b) in any other case, his or her identity card.

”.

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- (2) At the end of section 33 the following subsections are inserted —

“

- (7) A person must not delay, obstruct or otherwise hinder a coroner or a coroner’s investigator exercising a power under this section.

Penalty: \$2 000.

- (8) A coroner or a coroner’s investigator exercising a power under this section is to conform as far as is practicable to such reasonable requirements of the owner or occupier of the place where the power is being exercised as are necessary to prevent the lawful use of the place being obstructed.

”.

**12. Section 37 amended**

Section 37(5) and (6) are repealed and the following subsection is inserted instead —

“

- (5) In this section, unless otherwise prescribed, “**senior next of kin**” in relation to the deceased person means the first person who is available from the following persons in the order of priority listed —

- (a) a person who, immediately before death, was living with the person and was either —
  - (i) legally married to the person; or
  - (ii) of or over the age of 18 years and in a marriage-like relationship (whether the persons are different sexes or the same sex) with the person;
- (b) a person who, immediately before death, was legally married to the person;
- (c) a son or daughter, who is of or over the age of 18 years, of the person;

- (d) a parent of the person;
- (e) a brother or sister, who is of or over the age of 18 years, of the person;
- (f) an executor named in the will of the person or a person who, immediately before the death, was a personal representative of the person; or
- (g) any person nominated by the person to be contacted in an emergency.

”.

**13. Section 38 amended**

Section 38(9) is amended by deleting “Section 38” and inserting instead —

“ This section ”.

**14. Section 62 replaced**

- (1) Section 62 is repealed and the following section is inserted instead —

“

**62. Application of Act to deaths which occurred before Act came into operation**

This Act applies to and in respect of deaths which occurred before this Act came into operation.

”.

- (2) Despite the amendment effected by subsection (1), the *Coroners Act 1920* continues to apply to any inquest part heard under that Act immediately before the commencement of this provision.

- (3) In subsection (2) —

“**inquest part heard under that Act**” means an inquest which, immediately before the commencement of this provision —

- (a) had commenced but had not concluded; and

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- (b) was in respect of a death to which the *Coroners Act 1920*, as in force immediately before the commencement of the *Coroners Act 1996*, applied.

**15. *Evidence Act 1906* amended**

Section 3 of the *Evidence Act 1906*\* is amended in the definition of “judge” by inserting after “stipendiary magistrate,” —

“ a coroner within the meaning of the *Coroners Act 1996*, ”.

[\* *Reprinted as at 4 January 2001.*]

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