

CORONERS.

No. 98 of 1979.

AN ACT to amend the Coroners Act, 1920-1974.

[Assented to 17th December, 1979.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Coroners Act Amendment Act, 1979*. Short title and citation.
 - (2) In this Act the Coroners Act, 1920-1974 is referred to as the principal Act. Reprinted as approved for reprint 18th May, 1971 and further amended by Act No. 58 of 1974.
 - (3) The principal Act as amended by this Act may be cited as the Coroners Act, 1920-1979.
2. This Act shall come into operation on such day or days as is, or are respectively, fixed by proclamation. Commencement.

Section 3
amended.

3. Section 3 of the principal Act is amended—
- (a) by inserting immediately before the interpretation “coroner” an interpretation as follows—
- “clerk” in relation to a coroner, means a person nominated as a coroner’s clerk pursuant to subsection (2) of section four of this Act; ; and
- (b) by deleting the interpretation “resident magistrate”.

Heading
amended.

4. The heading immediately above section four of the principal Act is amended by inserting immediately after the word “Coroners” the words “*and nomination of Coroners’ Clerks*”.

Section 4
amended.

5. Section 4 of the principal Act is amended—
- (a) by inserting immediately after the section number “4.” the subsection designation “(1)”; and
- (b) by inserting a subsection as follows—
- (2) On the recommendation of the Public Service Board of the State, the Attorney General may, by notice published in the *Government Gazette*, nominate as a coroner’s clerk any officer of the Public Service of the State specified in the notice by office or other description. .

Section 6
amended.

6. Section 6 of the principal Act is amended—
- (a) by omitting from subsection (1) the words “When a coroner is informed that the dead body of a person is lying” and substituting therefor the passage “Subject to this Act, where a coroner or his clerk is informed that a person has died”; and

(b) by inserting after subsection (1) the following subsections—

(1a) Subject to this Act, where—

- (a) a coroner or his clerk is informed that a person has died outside the State;
- (b) the coroner has reasonable cause to believe that—
 - (i) the person ordinarily resided within the State;
 - (ii) the death or the cause thereof occurred within the State; or
 - (iii) the body of that person is within the State; and
- (c) there is reasonable cause to suspect that the person has died in such a manner as is referred to in paragraph (a) of subsection (1) of this section, the person has died in such place or in such circumstances as to require an inquiry under any Act or the Attorney General has directed an inquiry into the death of the person,

the coroner has jurisdiction to inquire into and may, and where the Attorney General has so directed shall, inquire into the manner and cause of death of that person.

(1b) Subject to this Act where—

- (a) a person is missing and the Attorney General has reasonable cause to suspect that the person has died;
- (b) the Attorney General has—
 - (i) reasonable cause to believe the person ordinarily resided within the State; or

- (ii) reasonable cause to suspect that the death or the cause thereof occurred within the State;
- (c) the Attorney General has reasonable cause to suspect that the person has died in such a manner as is referred to in paragraph (a) of subsection (1) of this section; and
- (d) the Attorney General directs an inquiry into the suspected death of the person,

the coroner has jurisdiction to inquire into and shall inquire into the circumstances of the suspected death of that person, and if the coroner finds that death of that person has been established beyond all reasonable doubt, into the manner and cause of his death.

(1c) Except where the jurisdiction of the coroner depends on the coroner having reasonable cause to believe that the body of a person is within the State, the jurisdiction of a coroner under this section is not affected by reason that the body of the person is, or the coroner has reasonable cause to believe that it is—

- (a) not within the State;
- (b) missing;
- (c) destroyed; or
- (d) in a place from which it cannot be recovered.

Section 9
amended.

7. Section 9 of the principal Act is amended—
- (a) as to paragraph (a) of subsection (1)—
 - (i) by deleting the first two lines and inserting in lieu thereof the passage “the inquest is concerning the death

or suspected death of a person whose death or suspected death has been caused or is suspected to have been caused by an explosion or”; and

- (ii) by deleting the references to the Mines Regulation Act, 1906, the Coal Mines Regulation Act, 1902, and the Factories Act, 1904 and inserting in lieu thereof references to the Mines Regulation Act, 1946, the Coal Mines Regulation Act, 1946, and the Factories and Shops Act, 1963, respectively; and

(b) as to subsection (2)—

- (i) by deleting the first line and inserting in lieu thereof the passage “Where an inquest is concerning the death or suspected death of any”;
- (ii) by inserting after the word “person” in paragraph (a) the passage “, or the person whose death is suspected”; and
- (iii) by deleting the words “of the deceased”, in line two of paragraph (b), and inserting in lieu thereof the words “or suspected death of that”.

8. Section 10 of the principal Act is amended by deleting the word “Unless”, in line one, and inserting in lieu thereof the passage “On an inquest concerning the death of a person, unless”.

Section 10
amended.

9. Section 11 of the principal Act is amended—

- (a) as to subsection (2), by inserting after the word “death”, in line three, the words “or suspected death”;

Section 11
amended.

- (b) as to subsection (2b), by deleting the words “by law to take affidavits”, in lines three and four, and inserting in lieu thereof the passage “in that behalf by the law of the place, in this State or elsewhere, at which the affidavit is taken”;
- (c) as to subsection (3), by deleting the word “After”, in line one, and inserting in lieu thereof the passage “On an inquest concerning the death of a person, after”;
- (d) by inserting after subsection (3) a new subsection, as follows—
 - (3a) On an inquest concerning the suspected death of a person—
 - (a) where the death of the person is established beyond reasonable doubt, the coroner shall give his decision or finding, or the jury their verdict (as the case may be) and certify it in like manner to that required by subsection (3) of this section on an inquest concerning the death of a person; and
 - (b) where the death of the person is not established beyond reasonable doubt, the coroner shall give his decision or finding, or the jury their verdict (as the case may be) accordingly and certify it by an inquisition in writing. ;
- (e) as to subsection (4), by inserting after the word “death”, in the last line, the passage “that has occurred or that has been established beyond reasonable doubt, as the case may be” ; and
- (f) as to subsection (5)—
 - (i) by inserting after the word “death”, in line two, the words “or suspected death”;

- (ii) by inserting after the word "death", in line four, the words "or the circumstances of the suspected death"; and
- (iii) by deleting the words "during life", in line six, and inserting in lieu thereof the words "before death or before the time when death is suspected to have occurred".

10. Subsection (1) of section 12A of the principal Act is amended— Section 12A amended.

- (a) by adding after the word "death", in line two, the words "or suspected death"; and
- (b) by adding after the word "death", in line four, the passage "that has occurred or that has been established beyond reasonable doubt, as the case may be".

11. Section 12B of the principal Act is amended by adding after the word "death", in line two, the words "or suspected death". Section 12B amended.

12. Section 13A of the principal Act is amended— Section 13A amended.

- (a) as to subsection (1), by inserting after the word "death", in line two, the words "or suspected death";
- (b) as to subsection (2)—
 - (i) by inserting after the word "death", in line two, the words "or suspected death"; and
 - (ii) by inserting after the word "death" in line seven, the words "or suspected death";

(c) as to subsection (5)—

- (i) by inserting after the word “death”, in line three, the words “or suspected death of a person”; and
- (ii) by inserting after the word “shall”, in line three, the passage “in the case of a death that has occurred or that has been established beyond reasonable doubt”.

Section 23
amended.

13. Section 23 of the principal Act is amended by inserting after the word “death”, in line one, the words “or suspected death”.

Section 24
repealed
and
re-enacted.

14. Section 24 of the principal Act is repealed and re-enacted as follows:—

24. (1) At any inquest, any person who, in the opinion of the coroner, has a sufficient interest in the subject or result of the inquest—

- (a) may attend personally or by counsel; and
- (b) may examine and cross-examine witnesses;

provided that such examination and cross-examination—

- (c) is relevant to the subject of the inquest; and
- (d) is conducted according to the law and practice of coroners’ inquests,

and the Coroner shall disallow any question which, in his opinion, is not relevant or is otherwise not a proper question.

(2) Where the death of the deceased, or in the case of the suspected death of a person it is suspected that his death, may have been

caused by an injury received in the course of his employment or by an industrial disease, any person appointed by a trade union to which the deceased at the time of his death, or the person whose death is suspected at the time of his suspected death, belonged shall be deemed to be a person who, in the opinion of the coroner, has a sufficient interest in the subject or result of the inquest for the purposes of this section, if the coroner is satisfied there is consent thereto—

- (a) by the spouse of the deceased or the person whose death is suspected; or
- (b) where there is no such spouse but there is a child, or there are children, of the deceased or the person whose death is suspected—
 - (i) by that child or the eldest of those children, as the case requires; or
 - (ii) where that child or the eldest of those children, as the case requires, is a minor, by the guardian thereof,

but, where the Coroner is satisfied that there is no person of a kind referred to in paragraph (a) or (b) of this subsection available and able to give that consent, the Coroner may dispense with it, on an application being made in that regard to the Coroner by the person appointed by the trade union. .

15. Section 25 of the principal Act is amended— Section 25 amended.

- (a) by deleting lines one and two and inserting in lieu thereof the passage “With respect to every inquest concerning the death or suspected death of any person, where the death of the deceased, or in the case of the suspected death of a person it is suspected that his death, may have been caused by an”;

- (b) as to paragraph (1), by inserting after the word “killed”, in line one the words “or the person it is suspected was killed”;
- (c) as to paragraph (2)—
 - (i) by inserting after the word “death”, in line four, the passage “or to the circumstances of the suspected death and, if death is established beyond reasonable doubt, the cause thereof”; and
 - (ii) by deleting the reference to the Mines Regulation Act, 1906 and inserting in lieu thereof a reference to the Mines Regulation Act, 1946; and
- (d) as to paragraph (4), by deleting the reference to Mines Regulation Act, 1906 and inserting in lieu thereof a reference to the Mines Regulation Act, 1946.

Section 26
amended.

16. Section 26 of the principal Act is amended—

- (a) by deleting lines one and two and inserting in lieu thereof the passage “With respect to every inquest concerning the death or suspected death of any person, where the death of the deceased, or in the case of the suspected death of a person it is suspected that his death, may have been caused by an”;
- (b) by deleting the reference to the Coal Mines Regulation Act, 1902 and inserting in lieu thereof a reference to the Coal Mines Regulation Act, 1946;
- (c) as to paragraph (1), by deleting line one and inserting in lieu thereof the passage “When the death of the deceased, or in the case of the suspected death of a person it is suspected that his death, has apparently been caused”;

- (d) as to paragraph (3), by deleting line two and inserting in lieu thereof the passage “, in the case of death, take evidence to identify the body, if any, and may order”;
- (e) as to paragraph (4), by inserting after the word “death”, in line four, the passage “or to the circumstances of the suspected death and, if death has been established beyond reasonable doubt, the cause thereof”;
- (f) as to paragraph (5), by inserting after the word “death”, in line one, the passage “, or in the case of the suspected death of a person it is suspected his death,”; and
- (g) as to paragraph (7), by deleting the reference to the Coal Mines Regulation Act, 1902 and inserting in lieu thereof a reference to the Coal Mines Regulation Act, 1946.

17. Section 27 of the principal Act is amended— Section 27
amended.

- (a) by deleting lines one to six inclusive and inserting in lieu thereof the passage “With respect to every inquest concerning the death or suspected death of any person, where the death, or in the case of the suspected death of a person it is suspected that his death, may have been caused by, an accident in or about a “place” within the meaning of that term in the Machinery Safety Act, 1974, the following provisions shall apply:—”;
- (b) by deleting paragraph (2) and inserting in lieu thereof a paragraph as follows—
 - (2) The coroner, before the adjournment, may, in the case of death, take evidence to identify the body, if any, and may order the interment thereof. ;

(c) as to paragraph (3)—

- (i) by inserting after the word “deceased”, in line three, the passage “, or the person it is suspected was killed,”;
- (ii) by inserting after the word “death”, in line five the passage “, or to the circumstances of the suspected death and, if death has been established beyond reasonable doubt”; and
- (iii) by deleting the references to the Factories Act, 1904 and the Inspection of Machinery Act, 1904 and inserting in lieu thereof references to the Factories and Shops Act, 1963 and the Machinery Safety Act, 1974, respectively;

(d) as to paragraph (4)—

(i) by deleting the word “building”—

(I) in line six; and

(II) in line thirteen,

and inserting in lieu thereof the word “place” in each case; and

(ii) by deleting the references to the Factories Act, 1904 and the Inspection of Machinery Act, 1904 and inserting in lieu thereof references to the Factories and Shops Act, 1963 and the Machinery Safety Act, 1974, respectively; and

(e) as to paragraph (5), by deleting the word “building”, in the last line, and inserting in lieu thereof the word “place”.

Section 32
amended.

18. Section 32 of the principal Act is amended—

(a) by deleting the first two lines and inserting in lieu thereof the passage “With respect to every inquest concerning the death or suspected death of any person, where the

death of the deceased, or in the case of the suspected death of a person it is suspected that his death, may have been caused by an"; and

- (b) by deleting the references to the Mines Regulation Act, 1906 and the Coal Mines Regulation Act, 1902 and inserting in lieu thereof references to the Mines Regulation Act, 1946 and the Coal Mines Regulation Act, 1946, respectively.

19. Section 38 of the principal Act is amended— Section 38
amended.

- (a) as to subsection (1)—

- (i) by deleting lines two, three, and four and inserting in lieu thereof the passage "deceased person, or the person it is suspected has died, was, at or immediately before his death, or at or immediately before the time when death is suspected to have occurred, attended by a medical practitioner, the coroner may summon such practitioner as a "; and
- (ii) by deleting the words "the deceased", in line six, and inserting in lieu thereof the word "that";

- (b) as to subsection (2), by deleting lines two and three, and inserting in lieu thereof the passage "deceased person, or the person it is suspected has died, was not at or immediately before his death, or at or immediately before the time when death is suspected to have occurred, attended by a medical practitioner, the";

- (c) as to subsection (3)—

- (i) by inserting after the word "Where", in line one, the passage ", if death has occurred"; and
- (ii) by deleting the word "shall" in line three and inserting in lieu thereof the word "may"; and

- (d) as to subsection (4), by deleting the word "Any" in line one and inserting in lieu thereof the passage "If death has occurred, any".

Section 39
amended.

20. Section 39 of the principal Act is amended by deleting the word "Whenever", in line one, and inserting in lieu thereof the passage "If death has occurred, whenever".

Section 40
amended.

21. Section 40 of the principal Act is amended—

- (a) as to subsection (1), by deleting the passage beginning with the word "The", in line one, and ending with the word "intestines", in line seven, and substituting the passage "In respect of any inquest into the death of a person, the coroner or his clerk may, either in such summons as aforesaid or at any time, direct any medical practitioner to make a *post mortem* examination of the body of the deceased, with or without an analysis of any part of the body or contents thereof"; and
- (b) as to subsection (2)—
- (i) by deleting the words "by order in writing", in line nine; and
- (ii) by inserting after the word "body" in line eleven, the passage ", with or without an analysis of any part of that body or contents thereof,".

Section 41
amended.

22. Subsection (2) of section 41 of the principal Act is hereby repealed.

Section 42
amended.

23. Section 42 of the principal Act is amended by inserting two subsections as follows—

(3) Subject to subsection (4) of this section, on the appearance of a person before the coroner either voluntarily or in obedience to a summons, or upon being brought before them by virtue of a warrant, such person refuses to be examined upon oath concerning the matter,

or refuses to take an oath, or having taken an oath refuses to answer such questions concerning the matter as are then put to him, without offering any just excuse for such refusal, the coroner may by warrant commit the person so refusing to gaol, there to remain and be imprisoned for any time not exceeding seven days, unless in the meantime he consents to be examined and to answer concerning the matter.

(4) Without derogating from section eleven of the Evidence Act, 1906 at or in relation to an inquest, a person shall not be obliged to answer a question put to him if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him. .

24. Section 43 of the principal Act is amended— Section 43
amended.

- (a) by inserting after the section number "43." the subsection designation "(1)";
- (b) by redesignating paragraphs (1) to (9) inclusive as paragraphs (a) to (j) inclusive;
- (c) as to the paragraph redesignated as paragraph (c), by inserting after the word "death", in line two, the words "or suspected death"; and
- (d) by inserting a subsection as follows—

(2) Where a coroner who has commenced an inquest dies or retires before completing it or is unable by reason of absence on leave, illness, or other cause to complete the inquest or to complete it within a reasonable time, as the case may be, the Attorney General may direct any other coroner who is a stipendiary magistrate to continue and complete the inquest as if he were the person who commenced it and to take into account evidence given previously at or in relation to the inquest, and if the Attorney General so directs that other coroner shall comply with the direction. .

Second
Schedule
amended.

25. The Second Schedule to the principal Act is amended—

(a) by inserting after the word “death”, where occurring—

- (i) in Form 1;
- (ii) in Form 2;
- (iii) in Form 3;
- (iv) in Form 5;
- (v) in Form 6;
- (vi) in Form 7;
- (vii) in Form 8;
- (viii) in Form 9;
- (ix) in Form 10; and
- (x) in Form 15,

the words “or suspected death”, in each case;

(b) by inserting after the word “deceased” where twice occurring in Form 3 the words “*or person whose death is suspected*”, in each case;

(c) by deleting the passage “, who now lies dead in the said State”, where occurring in Form 6;

(d) as to Form 7—

(i) by deleting the words “*on the Body of*”, where occurring, and inserting in lieu thereof the words “*on the death or suspected death of*”; and

(ii) by deleting the words “the contents of the stomach or intestines” and inserting in lieu thereof the words “any part of the body or contents thereof”;

(e) by deleting the passage “on the body”, where occurring in Form 10, and inserting in lieu thereof the words “on the death or suspected death”;

(f) by deleting Form 11;

(g) as to Form 16—

(i) by inserting immediately beneath the line reading “came by death.” the passage—

(or in the case of suspected death)

Into the circumstances of suspected death of and, if death has been established beyond reasonable doubt, when, where and after what manner (or a person to me unknown) came by death. ;
and

(ii) by inserting after the word “death”, in sidenote (a), the words “or suspected death”;

(h) as to Form 17—

(i) by inserting after the word “death”, in the heading above (1), the words “*or is as to a suspected death and death has been established beyond reasonable doubt*”; and

(ii) by inserting after the word “death”, in (a), the words “or suspected death”; and

(i) as to Form 18—

(i) by inserting after the word “death”, where occurring, the words “or the circumstances of the suspected death”; and

(ii) by inserting after the word “deceased”, where occurring, the passage “(or in the case of suspected death—who, it is suspected, has died)”.