

Western Australia

LEGISLATIVE COUNCIL

Coroners Amendment Bill 1999

A Bill for

An Act to amend the *Coroners Act 1996*, and for related purposes.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Coroners Amendment Act 1999*.

2. The Act amended

The amendments in this Act are to the *Coroners Act 1996**.

[* *Act No. 2 of 1996.*

5 *For subsequent amendments see 1998 Index to Legislation of
Western Australia, Table 1, p. 52, and Act No. 40 of 1998.]*

3. Section 3 amended

Section 3 is amended by inserting, in the appropriate
alphabetical position, the following definition —

“

10 **“Deputy State Coroner”** means the person appointed
under section 7;

”.

4. Section 7 replaced

15 Section 7 is repealed and the following sections are inserted
instead —

“

7. Deputy State Coroner

- 20 (1) The Attorney General, on the recommendation of the
State Coroner, is to appoint a coroner to be Deputy
State Coroner for such period as is specified in the
instrument of appointment.
- (2) A person appointed under subsection (1) is to perform
such functions of the State Coroner as are assigned by
the State Coroner.
- 25 (3) Where the State Coroner is absent from duty or the
office of State Coroner is vacant, the Deputy State
Coroner may act in the office of State Coroner and

when so acting has all the functions of the State Coroner.

- 5 (4) The Deputy State Coroner may not practise as a practitioner as defined by the *Legal Practitioners Act 1893* or be directly or indirectly concerned in such practice.
- (5) In the exercise of that office the Deputy State Coroner has the same protection and immunity as a Judge has in respect of proceedings in the Supreme Court.
- 10 (6) The Deputy State Coroner may at any time, by written notice addressed to the Attorney General, resign as Deputy State Coroner.

7A. Acting Deputy State Coroner

- 15 (1) The Attorney General, on the recommendation of the State Coroner, may appoint a coroner to act in the office of Deputy State Coroner for such period as is specified in the instrument of appointment.
- 20 (2) A person appointed under subsection (1) is to act in the office of Deputy State Coroner when the Deputy State Coroner is absent from duty or the office of Deputy State Coroner is vacant and when so acting has all the functions of the Deputy State Coroner.
- 25 (3) The person appointed as acting Deputy State Coroner may at any time, by written notice addressed to the Attorney General, resign from that office.

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5. Section 29 amended

Section 29 is amended as follows:

- 5 (a) in subsection (2) by deleting “an application made under section 24 is disposed of or the time for making such an application has expired.” and inserting instead —
- “
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- 10 (a) an application made under section 36(3) is disposed of;
- (b) the time specified in section 36(3) for making an application has expired; or
- 15 (c) if the coroner investigating the death has notice that an application has been made under section 36(3a) for an extension of time, the application is disposed of or any extension of time granted under section 36(3a) has expired.
- ”;
- (b) in subsection (3) by deleting “24” and inserting instead —
- 20 “ 36(4) ”.

6. Section 36 amended

Section 36 is amended as follows:

- 25 (a) in subsection (3) after “Within 2” by inserting —
- “ clear working ”;
- (b) in subsection (3) after “refusal,” by inserting —
- “
- or before the end of any extension of time granted by the Supreme Court,
- ”;

- (c) after subsection (3) by inserting the following subsection —

“

- 5 (3a) The Supreme Court may grant an extension of time within which a person may apply to the Court for an order that a post mortem examination be performed if it is satisfied that exceptional circumstances exist so that it is necessary or desirable in the interests of justice to grant the extension.

10

”;

- (d) in subsection (4)(b) after “disposal” by inserting —

“

- 15 of the body until the post mortem examination has been conducted, or, if the body has been buried, directing that the body be exhumed

”.

7. Section 37 amended

Section 37 is amended as follows:

- 20 (a) in subsection (2) after “until 2” by inserting —
“ clear working ”;

- (b) in subsection (2) after “decision” by inserting —

“

- 25 or until after the end of any extension of time granted by the Supreme Court under subsection (3a)

”;

- (c) after subsection (2) the following subsection is inserted —

“

- 30 (2a) The coroner may direct that a post mortem examination be performed if a senior next of kin who has asked the

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coroner not to direct a post mortem examination
withdraws the request.

”;

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(d) in subsection (3) after “Within 2” by inserting —
“ clear working ”;

(e) in subsection (3) after “decision,” by inserting —

“

or before the end of any extension of time granted by
the Supreme Court,

10

”;

(f) after subsection (3) by inserting the following
subsection —

“

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(3a) On the application of the senior next of kin, the
Supreme Court may grant an extension of time within
which the senior next of kin may apply to the Court for
an order that no post mortem be performed if the post
mortem examination has not been performed and it is
satisfied that exceptional circumstances exist so that it
is necessary or desirable in the interests of justice to
grant the extension.

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”.

8. Section 38 amended

Section 38 is amended as follows:

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(a) in subsection (2) after “at least 2” by inserting —
“ clear working ”;

(b) in subsection (3) after “until 2” by inserting —
“ clear working ”;

- 5 (c) in subsection (4) after “within 2” by inserting —
“ clear working ”;
- (d) in subsection (6) by deleting “be postponed until 2 days
after that notice is received by the senior next of kin.”
and inserting instead —
- “
- not take place —
- (a) until 2 clear working days after that notice is
received by the senior next of kin; or
- 10 (b) if an application for an extension of time has
been made, until the application is refused or
the application for an order that the body not be
exhumed is dealt with.
- ”;
- 15 (e) in subsection (7) after “Within 2” by inserting —
“ clear working ”;
- (f) in subsection (7) after “subsection (5),” by inserting —
- “
- or before the end of any extension of time granted by
the Supreme Court,
- 20 ”;
- (g) after subsection (7) by inserting the following
subsection —
- “
- 25 (7a) The Supreme Court may grant an extension of time
within which a person may apply to the Court for an
order that the body not be exhumed if the exhumation
has not taken place and it is satisfied that exceptional
circumstances exist so that it is necessary or desirable
- 30 in the interests of justice to grant the extension.
- ”;

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(h) after subsection (8) by inserting the following subsection —

“

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(9) Section 38 does not apply if the Supreme Court by order under section 36(4)(b) directs that a body be exhumed.

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