



## NORTHERN TERRITORY OF AUSTRALIA

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No. 36 of 1986

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### AN ACT

to amend the *Coroners Act*

[Assented to 19 September 1986]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Coroners Amendment Act 1986*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Coroners Act* is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 4 of the Principal Act is amended -

(a) by inserting before the definition of "Chief Medical Officer" the following:

"'burial' includes cremation;";

(b) by omitting the definition of "Coroner" and substituting the following:

"'Coroner', in relation to a matter, means a Coroner for the Territory, and includes a Deputy Coroner or clerk of the Coroner's Court who is exercising the powers, authority and jurisdiction of a Coroner in relation to that matter;";

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- (c) by omitting the definition of "offence"; and
- (d) by inserting after the definition of "remains" the following:

"'spouse', in relation to a deceased person, includes a person who -

- (a) although not legally married to the deceased person, was, immediately before the death of the deceased person, living with the deceased person as wife or husband, as the case may be, on a bona fide domestic basis; or
- (b) being an Aboriginal, had entered into a relationship with the deceased person who was an Aboriginal and that relationship was, at the time of the death of the deceased person, recognized as a traditional marriage by the community or group to which the Aboriginal belongs or the deceased person belonged."

5. ESTABLISHMENT OF CORONER'S COURT

Section 5 of the Principal Act is amended by adding at the end the following:

"(4) The Coroner's Court constituted by a Coroner may sit and exercise the jurisdiction of the Coroner's Court notwithstanding that the Coroner's Court constituted by another Coroner is at the same time sitting and exercising the jurisdiction of the Coroner's Court."

6. DEPUTY CORONERS

Section 7 of the Principal Act is amended by omitting from subsection (5) "Form 1" and substituting "Form 1 in the Schedule".

7. NEW SECTION

The Principal Act is amended by inserting after section 7 the following:

"7A. DELEGATION BY CORONER

"(1) A Coroner may, by instrument in writing, delegate to the clerk of the Coroner's Court at which the Coroner acts as Coroner his powers -

- (a) under section 30; or
- (b) under this Act -
  - (i) to issue orders for the disposal of remains; or

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(ii) in relation to a prescribed matter.

"(2) A power delegated under this section, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Coroner.

"(3) A delegation under this section does not prevent the exercise of a power by the Coroner."

### 8. REPEAL AND SUBSTITUTION

Sections 8 and 9 of the Principal Act are repealed and the following substituted:

#### "8. CLERK OF CORONER'S COURT

"(1) The Minister may, by instrument in writing, appoint a person to be a clerk of the Coroner's Court.

"(2) Where the Minister does not, under subsection (1), appoint a person to be a clerk of the Coroner's Court, the clerk of the Local Court at Darwin or Alice Springs, whichever is nearest the place where a Coroner exercises his powers, authority or jurisdiction, shall be the clerk of the Coroner's Court for the purposes of this Act.

#### "9. CUSTODY OF RECORD OF INQUEST OR INQUIRY

"(1) The clerk of a Coroner's Court shall have the custody of the records of all inquests and inquiries held by the Coroner's Court.

"(2) Where a Coroner holds an inquest or inquiry at a place other than the court house in which is situated the office of the clerk of the Coroner's Court and the clerk is not in attendance at the inquest or inquiry, the Coroner shall, as soon as practicable after the inquest or inquiry has been completed, cause to be transmitted to the clerk the records of the inquest or inquiry."

### 9. NEW DIVISION

The Principal Act is amended by inserting in Part III, before Division 1, the following:

#### *"Division 1A - Common Law*

#### "9A. COMMON LAW POWERS PRESERVED

"(1) In addition to the powers, authority and jurisdiction conferred on a Coroner by this Act or another law of the Territory, a Coroner has the powers, authority and jurisdiction of a Coroner at common law.

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"(2) A Coroner may, by notice in writing, advise a person, professional association or a public or statutory authority, instrumentality or agency of the Territory or the Commonwealth of his findings and may include in the notice such recommendations, if any, as he thinks fit."

10. JURISDICTION TO HOLD INQUESTS

Section 10 of the Principal Act is amended -

(a) by omitting subsection (1)(a) and substituting the following:

"(a) dies a violent or unnatural death;"

(b) by omitting subsection (1)(e) and substituting the following:

"(e) dies while under, as a result of or not later than 24 hours after the administration of an anaesthetic administered in the course of a medical, surgical or dental operation or procedure or an operation or procedure of a like nature;"

(c) by omitting from subsection (1)(h) "within a year and a day from the date of" and substituting "at any time after";

(d) by omitting subsection (1)(i) and substituting the following:

"(i) dies in -

(i) a children's home or child care centre licensed under Part X of the *Community Welfare Act*;

(ii) a prison or police prison declared under section 10 of the *Prisons (Correctional Services) Act*;

(iii) a juvenile detention centre approved under section 62 of the *Juvenile Justice Act*; or

(iv) the custody of a member of the Police Force; or"; and

(e) by adding at the end the following:

"(4) Without limiting the generality of this section, at an inquest the Coroner shall as far as practicable endeavour to ascertain the particulars required by the *Registration of Births, Deaths and Marriages Act* to be registered concerning the person into whose manner and cause of death the inquest is held."

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11. CIRCUMSTANCES IN WHICH CORONER MAY DISPENSE WITH INQUEST

Section 12 of the Principal Act is amended -

(a) by omitting from subsection (1) "section 13" and substituting "section 15A"; and

(b) by omitting subsection (4).

12. REPEAL

Section 13 of the Principal Act is repealed.

13. REPEAL AND SUBSTITUTION

Section 15 of the Principal Act is repealed and the following substituted:

"15. INQUIRIES INTO FIRES

"(1) Where a Coroner is informed by a member of the Police Force of a fire which has destroyed or damaged property within the Territory, he shall, subject to this section, hold an inquiry into the fire.

"(2) Where after considering all the information in his possession relating to a fire a Coroner is of the opinion that the circumstances of the fire are sufficiently disclosed or that an inquiry into the fire is unnecessary, he may, subject to subsection (3), dispense with the holding of an inquiry into the fire.

"(3) A Coroner shall not dispense with the holding of an inquiry into a fire within a fire control region within the meaning of the *Bushfires Act* if he has been requested by the fire control officer, within the meaning of that Act, to hold the inquiry.

*"Division 3 - Information about a Death or Fire*

"15A. CORONER MAY DIRECT PERSON TO SUPPLY INFORMATION

"(1) So that he may decide whether to dispense with the holding of an inquest or an inquiry, a Coroner may, by notice in writing, direct a person who he reasonably believes has information about the death of a person or a fire, to give that information to the Coroner or a Coroner's clerk at the time and in the manner specified in the notice.

"(2) A notice under subsection (1) may be served on the person to whom it is directed by delivering a copy to him or by posting a copy to him at his last-known or usual place of abode or of business by prepaid registered mail.

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"(3) Where a notice under subsection (1) requires information to be given on oath, the Coroner or Coroner's clerk to whom the information is to be given may administer an oath for that purpose.

"(4) A person who, without reasonable excuse, fails to comply with a direction contained in a notice under subsection (1) is guilty of an offence.

Penalty: \$500 or imprisonment for 3 months."

14. POST-MORTEM EXAMINATION

Section 16 of the Principal Act is amended -

(a) by omitting from subsection (1) "A Coroner may" and substituting "Subject to this section, a Coroner may"; and

(b) by omitting subsection (2) and substituting the following:

"(2) Where under subsection (1) it is not practicable for a Coroner to direct a medical practitioner in writing to make a post-mortem examination, he may, by telephone, two-way radio or telex, direct the medical practitioner to make the post-mortem examination.

"(3) Where a Coroner has under subsection (2) directed a medical practitioner by telephone, two-way radio or telex to make a post-mortem examination, he shall, not later than 24 hours after giving the direction, confirm the direction in writing.

"(4) If, after a post-mortem examination has been made in pursuance of a direction under subsection (1), a Coroner is of the opinion that it is desirable that a further post-mortem examination of the remains be made, he may, in writing, direct the same or another medical practitioner to make the further post-mortem examination.

"(5) Where it appears to a Coroner that the death of a person was caused wholly or partly by the improper or negligent treatment of the deceased person by a medical practitioner, the Coroner shall advise the medical practitioner accordingly.

"(6) A medical practitioner to whom advice has been given under subsection (5) shall not make or assist at a post-mortem examination of the deceased person in relation to whose death the advice is given, but he may be present at the post-mortem examination."

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15. REPEAL AND SUBSTITUTION

Section 22 of the Principal Act is repealed and the following substituted:

"22. REPORT BY MEDICAL PRACTITIONER

"Where a medical practitioner makes, in pursuance of a direction in writing under section 16(1) or a direction under section 16(2), a post-mortem examination of the remains of a deceased person, he shall, not later than 2 months after the receipt of the direction in writing or, in the case of a direction under section 16(2), the confirmation under section 16(3), furnish a written report on the examination to the Coroner who gave the direction.

Penalty: \$500."

16. REPEAL AND SUBSTITUTION

Section 25 of the Principal Act is repealed and the following substituted:

"25. CORONER MAY AUTHORIZE BURIAL OF REMAINS

"(1) Where -

- (a) an inquest has been held into the death of, or a post-mortem examination has been made of the remains of, a person; or
- (b) a Coroner has considered that an inquest or post-mortem examination is not necessary,

and the Coroner is satisfied that the remains of the person should be buried, he shall, in writing, authorize the burial of those remains.

"(2) Subject to section 24, a person shall not bury the remains of a person -

- (a) into whose death an inquest has been held or of which a post-mortem examination has been made; or
- (b) in relation to whom a Coroner has considered that an inquest or post-mortem examination is not necessary,

except with the authority of a Coroner given in accordance with subsection (1)."

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17. REPEAL AND SUBSTITUTION

Section 29 of the Principal Act is repealed and the following substituted:

"29. EVIDENCE ON OATH OR BY AFFIDAVIT

"(1) At an inquest or inquiry, a Coroner may make full inquiry into the manner and cause of the death of a person or the cause and origin of a fire and may examine on oath all persons who -

(a) tender evidence; or

(b) in the opinion of the Coroner, are able to give evidence,

in relation to the inquest or inquiry.

"(2) Notwithstanding subsection (1), at an inquest or inquiry evidence may be given by affidavit, but a Coroner, if he thinks fit, may summon the person making an affidavit to attend before him as a witness for further examination or cross-examination.

"(3) Notwithstanding any other provision of this Act, a Coroner is not obliged to summon as a witness a person whose evidence is given by affidavit in pursuance of this section."

18. NEW SECTION

The Principal Act is amended by inserting after section 33 the following:

"33A. INCRIMINATING QUESTIONS

"Nothing in this Act shall render a witness compellable to answer a question the answer to which may tend to incriminate him."

19. REFUSAL OF WITNESS TO BE EXAMINED, &c.

Section 34(c) of the Principal Act is amended by omitting "having taken the oath" and substituting "subject to section 33A, having taken the oath".

20. REPEAL AND SUBSTITUTION

Section 35 of the Principal Act is repealed and the following substituted:

"35. CORONER MAY CLEAR COURT AND PROHIBIT PUBLICATION OF EVIDENCE OF PROCEEDINGS

"(1) A Coroner holding an inquest or inquiry may order -



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- (a) a witness or all of the witnesses to go and remain outside the room or building in which the inquest or inquiry is being held until required to give evidence; or
- (b) that any evidence given at the inquest or inquiry being held by him be not published.

"(2) Where at the commencement or in the course of an inquest it appears to a Coroner that the death or suspected death with which the inquest is concerned may have been self-inflicted, the Coroner may order that no report, or no further report, of the proceedings be published until after he has made his findings.

"(3) Subject to subsection (4), where in an inquest there is a finding that, or to the effect that, the death of a person was self-inflicted, no report of the proceedings shall be published after the finding.

"(4) Where in an inquest there is a finding that, or to the effect that, the death of a person was self-inflicted and the Coroner holding the inquest is of the opinion that it is desirable in the public interest to permit a report of the proceedings of the inquest to be published, he may, by order, permit the whole of the proceedings, or such part of the proceedings as are specified in the order, to be published.

"35A. OFFENCES

"(1) A person who fails to comply with an order made under section 35(1) or (2) is guilty of an offence.

"(2) Where in an inquest there is a finding that, or to the effect that, the death of a person was self-inflicted, a person who publishes or causes to be published a report of the proceedings of the inquest after the finding is guilty of an offence unless an order has been made under section 35(4) and the report complies with the order.

"(3) Where -

- (a) a Coroner holding an inquest or inquiry forbids or disallows a question or warns a witness that he is not compelled to answer a question; or
- (b) a witness in an inquest or inquiry refuses to answer a question on the ground that the answer to the question may tend to incriminate him,

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a person who publishes the question, warning, refusal or claim of privilege without the express permission of the Coroner is guilty of an offence.

Penalty: for an offence against this section -  
in the case of a body corporate -  
\$5,000; or

in the case of a natural person -  
\$1,000 or imprisonment for 6 months.

"35B. MEANING OF 'PUBLISHED' IN SECTIONS 35 AND 35A

"For the purposes of sections 35 and 35A, a matter is published only if it is -

- (a) inserted in a newspaper or periodical publication;
- (b) publicly exhibited; or
- (c) broadcast by wireless transmission or by television."

21. CORONER'S FINDINGS AND SUBSEQUENT PROCEDURE

Section 37 of the Principal Act is amended -

- (a) by omitting subsection (1)(c) and substituting the following:

"(c) the manner and cause of the death of the deceased person,

and the particulars required by section 10(4) to be ascertained."; and

- (b) by inserting after subsection (1) the following:

"(1A) Within 14 days after the conclusion of an inquest, the Coroner shall cause to be forwarded to the Registrar within the meaning of the *Registration of Births, Deaths and Marriages Act* a copy of his findings and particulars required by subsection (1) to be recorded."

22. REPEAL

Sections 41 and 52 of the Principal Act are repealed.

23. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

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SCHEDULE

Section 23

Provision	Amendment	
	omit	substitute
Section 34	"\$200"	"\$500"
Section 36	"\$100"	"\$500"
Section 46(1)	"\$40"	"\$100"
Section 48(1)	"\$200" and "6"	"\$500" and "3" respectively
Sections 49 and 50(1)	"\$200"	"\$500"