

TASMANIA

CORONERS AMENDMENT BILL 2014

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CORONERS AMENDMENT BILL 2014

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to amend the *Coroners Act 1995*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Coroners Amendment Act 2014*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Coroners Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

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- (a) by omitting “sections 10, 11 and 12” from the definition of *coroner* and substituting “sections 10 and 11”;
- (b) by inserting the following definition after the definition of *death*:

Director of Public Prosecutions
means the person for the time being holding, or acting in, the office of Director of Public Prosecutions established by section 3(1) of the *Director of Public Prosecutions Act 1973*;

- (c) by omitting the definitions of *inquest* and *investigation* and substituting the following :

inquest means a public inquiry that is held by a coroner in respect of a death, fire or explosion;

- (d) by inserting the following definition after the definition of *Magistrates Rule Committee*:

medical procedure means a procedure performed on a person by, or under the general supervision of, a medical practitioner and includes –

- (a) imaging; and
- (b) an examination whether internal or external; and

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- (c) a surgical procedure;
 - (e) by omitting subparagraphs (v) and (vi) from paragraph (a) of the definition of *reportable death* and substituting the following subparagraph:
 - (v) that occurs during a medical procedure, or after a medical procedure where the death may be causally related to that procedure, and a medical practitioner would not, immediately before the procedure was undertaken, have reasonably expected the death; or
 - (f) by omitting the definition of *senior next of kin* and substituting the following definition:

senior next of kin – see section 3A;

5. Section 3A inserted

After section 3 of the Principal Act, the following section is inserted in Part 1:

3A. Meaning of *senior next of kin*

For the purposes of this Act, the senior next of kin of a deceased person is –

- (a) if a person was, immediately before the death of the deceased person, the only spouse of that deceased person, that spouse; or

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- (b) if the deceased person, at the time of his or her death, is survived by more than one person who would qualify as the deceased person's spouse, the last person to so qualify; or
- (c) if the deceased person, at the time of his or her death, is survived by more than one person who would qualify as the deceased person's spouse and the spouse referred to in paragraph (b) is not available, another spouse of the deceased person if that spouse has the approval of the spouse referred to in paragraph (b); or
- (d) if the person referred to in paragraph (a), (b) or (c) is not available, a son or daughter of the deceased person if the son or daughter has attained the age of 18 years; or
- (e) if the person referred to in paragraph (a), (b), (c) or (d) is not available, the person with whom the deceased person had a caring relationship, at the time of his or her death, which was the subject of a deed of relationship registered under Part 2 of the *Relationships Act 2003*; or

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- (f) if the person referred to in paragraph (a), (b), (c), (d) or (e) is not available, a parent of the deceased person; or
- (g) if the person referred to in paragraph (a), (b), (c), (d), (e) or (f) is not available, a brother or sister of the deceased person if the brother or sister has attained the age of 18 years; or
- (h) if the person referred to in paragraph (a), (b), (c), (d), (e), (f) or (g) is not available, an executor named in the will of the deceased person or a person who, immediately before the death, was a personal representative of the deceased person; or
- (i) if the deceased person is an Aboriginal person, a person who, according to the customs and tradition of the community or group to which the person belongs, is an appropriate person.

6. Section 22 amended (Directions by Chief Magistrate)

Section 22 of the Principal Act is amended by omitting “(other than an inquest)”.

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7. Section 24 amended (Jurisdiction of coroner to hold inquest into a death)

Section 24 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) A coroner may hold an inquest into a death which the coroner has jurisdiction to investigate if the coroner considers it desirable to do so.

8. Section 24A inserted

After section 24 of the Principal Act, the following section is inserted in Part 5:

24A. Jurisdiction of Chief Magistrate to hold inquest into a death

The Chief Magistrate may hold an inquest into a death which a coroner has jurisdiction to investigate if the Chief Magistrate considers it desirable to do so.

9. Section 28 amended (Findings, &c., of coroner investigating a death)

Section 28(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (e) “*Births, Deaths and Marriages Registration Act 1999*; and” and substituting “*Births, Deaths and Marriages Registration Act 1999*.”;

(b) by omitting paragraph (f).

10. Section 41 amended (Directions by Chief Magistrate)

Section 41 of the Principal Act is amended by omitting “(other than an inquest)”.

11. Section 58 amended (Chief Magistrate may reopen investigation)

Section 58(7) of the Principal Act is amended by omitting “other than an inquest”.

12. Section 60 amended (Orders for care and control of articles, &c.)

Section 60 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “the Crown” and substituting “the Director of Public Prosecutions”;
- (b) by omitting from subsection (3) “The Crown” and substituting “The Director of Public Prosecutions”.

13. Section 61 amended (Orders as to custody, &c., of articles, &c.)

Section 61(2) of the Principal Act is amended by omitting “The Crown” and substituting “The Director of Public Prosecutions”.

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14. Section 62 amended (Variation or revocation of orders as to custody, &c., of articles, &c.)

Section 62(1) of the Principal Act is amended by omitting “the Crown” and substituting “the Director of Public Prosecutions”.

15. Section 63 amended (Appeal to Supreme Court from orders as to custody, &c., of articles, &c.)

Section 63 of the Principal Act is amended by omitting “The Crown” and substituting “The Director of Public Prosecutions”.

16. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.