

**No. 13****CORONERS AND INQUESTS**

1. Coroners and Deputy Coroners are appointed by the Governor by instrument in writing to be Coroner at such place specified in the instrument, or in and for the State of New South Wales. Where a Coroner or Deputy Coroner is appointed for a specific place he may exercise his jurisdiction throughout the State of New South Wales except within the Metropolitan Police District, and the Police Districts of Liverpool, Newcastle, Parramatta, and Ryde or any other Police District which may be gazetted. Generally Coroners and Deputy Coroners will only deal with matters arising in their own districts.

2. Stipendiary Magistrates have the jurisdiction, powers, and duties of Coroners throughout the State of New South Wales. A Coroner or Deputy Coroner who is not a Justice of the Peace has all the powers of a Justice of the Peace when acting in his capacity as a Coroner, but must take the oath of a Justice of the Peace before he can hold a Magisterial Inquiry. Any Justice of the Peace may hold a Magisterial Inquiry by virtue of his office as a Magistrate.

3. The Coroner's Act, No. 2 of 1960, as amended by Act No. 15 of 1963, provides that a Coroner shall hold an inquest or inquiry without a jury, except:

- (a) in the case of an inquest on the request of a relative of the deceased, or the Secretary of any society or organisation of which the deceased was a member at the time of his death; or
- (b) in the case of an inquest or inquiry, by direction of the Minister of Justice.

(In such circumstances the inquest shall be held by a Coroner and a jury of six persons.)

("Relative" means spouse, parent, or child who has attained the age of twenty-one years, or where there is no spouse, parent, or child who has attained that age, a brother or sister who has attained that age.)

4. Police are required to inform the Coroner for the District, by the submission of P. 79A forms (a copy of which is to be immediately filed at the Station of origin) of the death of any person whose body is lying within that District and who:

- (a) has died a violent or unnatural death;
- (b) has died a sudden death the cause of which is unknown;
- (c) has died under suspicious or unusual circumstances;
- (d) has died, and in respect of whom a medical practitioner has not given a certificate as to the cause of the death;
- (e) has died, not having been attended by a medical practitioner within the period of three months immediately before his death;

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(Amended 19.9.66)*

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- (f) has died while under, or as a result of, or within a period of twenty-four 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;
- (g) has died within a year and a day after the date of any accident where the cause of the death is attributable to the accident; or
- (h) has died in an admission centre, or mental hospital, within the meaning of the Mental Health Act, 1958, an institution within the meaning of the Child Welfare Act, 1939, as amended by subsequent Acts, or a prison within the meaning of the Prisons Act, 1952, as amended by subsequent Acts, or in any lockup or otherwise whilst in the lawful custody of any member of the Police Force.

(Where a person does not die a violent or unnatural death, no suspicious circumstances exist in connection with the death and the next of kin desire the body of the person be cremated but the medical referee appointed under Part X of the Regulations under the Public Health Act, 1902, refuses to permit this action due to the certificates by the two medical practitioners not complying with Regulation 79 and representations are made to Police to have the body conveyed to a morgue, Police should not, where it is clear that there are no suspicious circumstances or other considerations such as unexplained death, intervene in the matter, but leave the representatives of the deceased person to make appropriate arrangements for disposing of the body either by cremation or burial. The attention of the persons making the representations should be drawn to the provisions of Regulation 79.)

5. (a) Where a Coroner is so informed by a member of the Police Force of the death of a person in certain circumstances, it is his duty to hold an inquest unless he dispenses with the holding of an inquest in accordance with the provisions of the Act.

(Once a Coroner has been so informed he cannot divest himself of jurisdiction in favour of another Coroner except as provided in Section 13 of the Act.)

(b) Cases arise where a person receiving injuries in a country centre is transported to Sydney or a larger country town for treatment and subsequently dies at that place as a result of the injuries received.

In order that the inquest might conveniently be held where witnesses and relatives reside and not where the death took place, Police will initially report the death to the Coroner for the District where the cause of death arose in order that that Coroner might be vested with jurisdiction under sections 11 and 13 of the Coroner's Act.

Police will request:

- (i) Permission for a Government Medical Officer where the body lies to conduct a post mortem examination;
- (ii) Permission for the Coroner for the District where the body lies to sign a burial order;

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- (iii) Permission for the Coroner for the District where the body lies to sign cremation papers where necessary;
- (iv) That the Coroner confirm the above matters in writing to the Coroner for the District where the body lies as soon as practicable.

(The Coroner should be informed that on receipt of the confirmation in writing the Coroner for the District where death occurred will forward the P. 79A forms, statements of identification to Police, statements of identification by Police to the Government Medical Officer and the Report of examination of the body by the Government Medical Officer.)

6. Whenever possible an experienced member of the Police Force should investigate any death which comes under notice or is reported in accordance with Paragraph 4 or 5.

7. When the body of a deceased person is found by or reported to the Police, and it appears necessary to hold an Inquest, particularly when foul play is suspected or suspicious circumstances are revealed, Police will:

- (a) Carefully note in writing the position and appearance of the body and probable length of time dead.

(The greatest care should be exercised before removing dead bodies found in public parks, dwelling-houses, etc. If there is any doubt or suspicion, the Officer in Charge should be consulted.)

- (b) In cases of suspected foul play immediately report (by quickest method) to Superintendent or Sub-District Officer. In such circumstances each body should, before removal, be viewed by a medical practitioner.)

- (c) Make a minute search of the body and the place where found for any article likely to have caused death; if a medical practitioner is not present, note particularly the size, description, and position of any wounds, and do not allow the body, or any articles which could in any way be connected with the death, to be removed or altered until full investigation is completed;

(If a post-mortem is held, any weapons, bottles, packets or other things supposed to be connected with the cause of death, together with any clothing worn by the deceased showing holes caused by bullet or knife, should be produced for the assistance of the operating surgeon.)

- (d) Remove the body to a public or hospital morgue.
- (e) Unless the body is taken to a morgue, see that a Constable remains in charge of it until the Coroner has given instructions as to the disposal of the body.
- (f) Promptly report in writing the circumstances to the Coroner for the District or if absent to the nearest Coroner.

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(By "nearest Coroner" is meant the Coroner whose residence is closest by a route which can be conveniently used.) (Minute of the Under Secretary of Justice, dated 16-4-41.)

The report should be furnished on the form provided (Form P. 79A). The manner of death should be fully set out, and where possible, should include a full history of the nature of any illness suffered by the deceased, and if treated by a doctor, when and by whom. A note should be obtained from any doctor who saw the deceased about the time of death or after death. This note should be attached to the report. A full description of any unidentified body should be inserted in the appropriate spaces on the form. It is essential that the names of the deceased person are fully and correctly stated. Attention should be paid to the correctness of the spelling of names, and persons identifying bodies or supplying particulars of the names should be closely questioned as to the correctness of the names given.

(If a body is unidentified when the order for burial is given Police in charge of the matter should, whenever practicable arrange for photographs to be taken of the body prior to burial. One copy of the photograph should be attached to the P. 79A form filed at the Station and one supplied to the Coroner for filing.) (See Police Instruction 48, paragraph 9.)

(Police will familiarise themselves with the contents of the P. 79A form in order that they can obtain the required information to complete such form during their initial inquiries.)

- (g) In remote parts, when practicable, report in writing to Coroner or Magistrate before burial, to decide whether an inquest should be held.

(Where there is no telegraphic communication to Coroner, and the distance is great, and a Justice of the Peace deems it necessary to give an order for burial of the body, he should forthwith report circumstances to the Coroner.)

8. (a) It is the responsibility of Police to search and take possession of all money, jewellery, papers and other property found on a deceased person, prior to the body being stripped by the Morgue Attendant and enter same in the Record Book at the District Morgue and in the Miscellaneous Property Book at the Station in the district in which the death took place.

Where there is a ring on any finger of a body, and it is not possible to remove such ring in the normal manner, the ring should be left on the body and reference made to its whereabouts in any record made of the deceased's property.

(b) On the body being conveyed to the District Morgue, either by ambulance or contractor for the removal of bodies, the Police accompanying the body should not leave the body unattended until the necessary search of the clothing has been carried out.

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(c) The search should be undertaken in the presence of either the Morgue Attendant, Ambulance Officer, or the removalist's employee.

(d) Particulars of the property should also be included in the report furnished to the Coroner on the printed form provided for such purpose.

(e) The following procedure will be followed by Police in respect of the handling of property and clothing found on the body of a deceased person conveyed to the City Morgue:

- (i) All property after removal from the body will be taken possession of by the member of the Service conveying and/or arranging the admission of the body to the City Morgue. It will be checked in the presence of the Senior Attendant, or, in his absence, the attendant on duty, by the member of the Service concerned who will then enter in the Morgue Register brief particulars of the case, together with a full description of the property found on the body, sign the entry in the official manner with his name, rank and station, and in the case of a Constable, his registered number. He will then copy a full description of the property, the City Morgue Register number, and the page number into his note book and have the entry signed by the Senior Attendant, or, in his absence, the attendant on duty.
- (ii) The property will then be conveyed to the Police Station in the district in which the death took place, by the member of the Service concerned, who will ensure that full particulars of the property are entered in the Miscellaneous Property Book. The Miscellaneous Property Receipt will then be forwarded to the City Morgue for filing against the relevant entry in the Morgue Register. In every instance, the Miscellaneous Property Receipt should be endorsed to identify it with the Morgue Register entry to which it applies, e.g., "Property of the late James Brown, City Morgue Register No. 2, page 24".
- (iii) Clothing worn by a deceased person must remain on the body until a direction is received from the Government Medical Officer or one of his medical assistants for its removal. Upon receipt of such a direction, the clothing will be removed from the body by the attendant on duty in the presence of the member of the Service in charge of the case and the clothing should be dealt with in accordance with the procedure outlined in Clauses (i) and (ii) of this Instruction.
- (iv) When clothing of an obnoxious nature is removed from the body of a deceased person, the attendant on duty will treat the clothing with deodorant and the member of the Service concerned will parcel it into a plastic bag and place it inside a chaff bag; all of which items are on hand at the City Morgue for this purpose. The parcelled clothing will then be placed by the member of the Service concerned into one of two standard size garbage tins at the City Morgue, which can be identified by the lids of the tins which are

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painted red and have the letters N.S.W.P. printed thereon. The tin will then be removed from the City Morgue by a Government contractor for the disposal of its contents. Prior to clothing being disposed of in this manner, the consent for such action being taken is to be obtained in writing from either the executor or a relative of the deceased person, next-of-kin if practicable, and this authority will be filed on the duplicate copy of the relevant Miscellaneous Property Receipt. The original of the receipt, endorsed in compliance with the directions contained in Clause (ii) of this Instruction, will be forwarded to the City Morgue, but it will not be necessary for an entry to be made in the Miscellaneous Property Book in respect of such clothing. If either an executor or a relative cannot be readily contacted, the authority of the City Coroner, or where the deceased has died intestate, that of the Public Trustee will be sought for the destruction of the clothing. In either case, verbal approval will be sufficient and the copy of the Miscellaneous Property Receipt should be endorsed "Clothing destroyed by authority of the City Coroner/Public Trustee", as the case may be.

- (v) When the condition of the clothing is not obnoxious and a relative of the deceased person has advised that it is no longer required, it will be disposed of in the same manner as obnoxious clothing and the procedure set out in the preceding Clause followed.
- (vi) When the property of the deceased person is handed to a relative or the Public Trustee, as the case may be, a suitable acquittance should be obtained for the Miscellaneous Property Book at the Station concerned.

Exhibits  
Relevant to  
Inquest.

8A. In all cases where an exhibit, whether motor vehicle, part thereof or other type of article, is in possession of Police and which materially relates to the cause of the death of a person or the cause of a fire, such exhibit should be retained in Police custody pending a discussion of the circumstances with the District Coroner, or in his absence the acting or deputy coroner, and a direction given by him as to its disposal. These instructions are not intended to apply to instances where an indictable charge has been preferred against some person relating to the cause of the death or fire being investigated. In such cases by virtue of section 28 of the Coroners' Act 1960, the Coroner merely takes evidence of the identity of the deceased person and the place and date of his death or of where the fire occurred, as the case may be and often adjourns the inquest without fixing a date or place for the resumption thereof. The indictable charge or charges mentioned are then the subject of proceedings in a Court of Petty Sessions and the exhibits involved should be dealt with in accordance with the provisions of Police Instruction No. 24.

9. In cases of death where the bodies are *not* recovered, careful investigation should be made and a report of full particulars furnished to the Coroner.

10. A view of the body of a deceased person, or of the scene of a fire, shall not, upon any inquest or inquiry be taken by the Coroner, or where there is a jury, by the jury, unless the Coroner deems it advisable to do so.

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11. In the Metropolitan District the non-commissioned officer or experienced member of the Service who makes the initial inquiry will attend the inquest and be responsible for the collection of the evidence, including the general preparation of the case. In Country Districts the officer in charge of the Station will be similarly responsible and later to attend at Coroner's Court. In Country Districts the statements of witnesses are to be lodged at the Coroner's Office as soon as possible, but not later than noon of the day preceding the inquest, and in those areas coming within the City Coroner's and the Parramatta Coroner's jurisdiction the statements must be lodged with the Coroner at least seven days before the date of the inquest. In all cases Police will avoid calling unnecessary witnesses in corroboration.

(Statements for the City Coroner and the Parramatta Coroner will be lodged with the Coroner in duplicate, the copy being for the use of the Police Prosecutor assisting the Coroner.)

(In cases where a person has been charged with causing the death of the deceased person concerned statements will be lodged with the Coroner only as to identity of the deceased person and the place and date of his death.)

(In important cases of death by violence, or where foul play is suspected, the Divisional or Sub-District Officer will take a leading and active interest from the time the matter first comes under notice until finally dealt with.)

(Statements obtained by Police from witnesses or reports of results of inquiries are not to be made available to any person without the consent of the Coroner, except that a copy of a witness' own statement may be handed to him at the time it is made. Similarly, the contents of correspondence found with deceased persons should not be made available to the press without permission from the Coroner.) (See also "Stations and Lockups".)

12. The services of the Government Medical Officer who resides nearest to the place where inquest or inquiry is to be held should be utilized. If, however, another legally qualified medical practitioner of good repute lives much nearer to such place, then, in the interests of economy, the services of such practitioner should be availed of. Efficiency should not be sacrificed for economy.

(After a medical officer has certified that life is extinct, Police will act under the Coroner's instructions as far as practicable.)

13. Where a person dies a violent or unnatural death, and a person has been charged with an indictable offence, e.g., murder or manslaughter, in which the question of whether the person charged caused such death is in issue, or in the case of a fire a person has been charged with an indictable offence, e.g., arson, in which the question as to whether the person charged caused such fire, Police will inform the Coroner of the fact that such person has been so charged as soon as practicable. In these circumstances the Coroner will only take evidence as to the identity of the deceased person concerned and the place and date of his death, or in the case of a fire where the fire referred to occurred, and will then adjourn the hearing without fixing a date or place for the resumption of the hearing.

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It is the usual practice not to resume an inquest so adjourned. Notwithstanding this, where a person has been charged with an indictable offence and finally dealt with Police in charge of a case will submit a report for the information of the Coroner, setting out the result of the proceedings taken. The Coroner will then advise if the inquest is to be resumed. A copy of the Police report in such circumstances should be filed with the P. 79A form at the Police Station concerned.

In the City Coroner's District all charges for indictable offences of the nature referred to above will be dealt with by the City Coroner sitting as a Stipendiary Magistrate at the Coroner's Court, 102 George Street North, Sydney, as this Court has now been proclaimed a Court of Petty Sessions within the Central Court of Petty Sessions District. Persons charged with these offences within the City Coroner's District should be remanded to that Court of Petty Sessions. In the Parramatta Coroner's District such charges will be dealt with by that Coroner sitting as a Stipendiary Magistrate and persons charged with indictable offences of the nature referred to will be remanded to the appropriate Court in that District on the date set down for the hearing of the inquest. In Country Districts, persons charged with these offences should be remanded to appear before the Stipendiary Magistrate for the district on ordinary rostered Court days.

14. If no person has been charged with an indictable offence the Coroner may take all the available evidence and if such evidence establishes a prima facie case for an indictable offence against a known person the Coroner will adjourn the inquest or inquiry without fixing a date or place for the resumption thereof, and forward to the Attorney-General the depositions with a statement signed by the Coroner setting out that a prima facie case for a particular indictable offence has been established against a known person. The Coroner cannot resume the inquest or inquiry until such person has been finally dealt with or is discharged or no bill filed. If the inquest or inquiry is resumed the Coroner will not go into all the evidence upon which the Crown relied to prove that a person caused the death or fire.

(The Coroner's sole duty will be to establish the identity of the deceased person, when and where such person died, the manner and cause of death. Such finding shall not indicate or in any way suggest that any person is guilty of an indictable offence.)

Duties  
at inquest.

15. If a Coroner decides upon holding an inquest Police will:

- (a) arrange for the attendance of a jury if required;
- (b) see that none of the jury are kin of the deceased, nor interested in any person suspected of having caused his death, nor likely to be required as witnesses;
- (c) arrange for the attendance as witnesses of:
  - (i) persons who found the body;
  - (ii) persons knowing any circumstances connected with the death;
  - (iii) the person who identified the body to the Police and/or Coroner;
  - (iv) the medical practitioner who first saw the body;



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- (v) any other medical practitioner who can give evidence as to the cause of death;

(Where it appears that a person will not appear voluntarily as a witness Police should obtain a summons from the Coroner for service upon such person.)

- (d) Advise the next-of-kin of the time and the date of the hearing of the inquest and of any subsequent adjournment thereof. Such information should be passed to the next-of-kin personally and in ample time before the holding of the inquest;
- (e) attend inquest, take charge of jury, if there is one, accompany them to view the body if the Coroner deems it advisable to do so and prevent interference with them whilst considering their verdict;
- (f) produce at the inquest any papers or other property found on the body of the deceased, and any weapon or instrument that might be supposed to have been the means of death, or any bottle or papers containing or thought to have contained poison; Production of articles.
- (g) at the conclusion of the inquest or magisterial inquiry the result should be endorsed on the back of the P. 79A forms being held. In country areas, one copy should be retained at the Station and the other forwarded to the Superintendent for transmission to the Commissioner of Police after suitable notations have been made on the correspondence cards in the Superintendent's Office as to the name of the deceased, dates of death and inquest, Coroner's finding, such as "Accidental", "Open Verdict", etc. In the Metropolitan Area one copy should be filed at the Divisional Inspector's Office and the other forwarded to the Commissioner of Police through the office of the Metropolitan Superintendent. Inquest reports.

## 16. Police will, when furnishing Inquest Reports:

- (a) give short, succinct account from a Police point of view;
- (b) not quote the evidence taken, but, if necessary refer to any portion after complying with (a);
- (c) add anything that may have transpired subsequent to the inquest;
- (d) at the end of report in cases of "Open Verdicts", if in a position to do so express any opinion or view they may have as to the cause of death or fire;
- (e) only complete one Inquest Report form when the inquest covers more than one body. The name of each deceased person should be shown on the form and each name should be indexed in the Police records;

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- (f) state if possible the age and birth place of deceased persons, and where property or premises are destroyed or damaged by fire give the names of the occupiers and owners thereof.

Deaths of  
foreign  
national.

17. Whenever the death of a Foreign National comes to the notice of Police, brief report should be submitted in duplicate direct to the Commissioner of Police, as soon as possible and without waiting for an inquest, if one is to be held. Such report should include the full name, last place of residence, age and nationality (if known), place and date of death, cause of death if known, and any particulars available regarding next-of-kin. In those cases where the foreign national is a seaman on a British ship, and in the case of a British seaman, the Superintendent, Marine Branch, Mercantile Marine Office, York Street North, Sydney (Telephone 27 3236), should be advised by telephone, to be subsequently confirmed by the submission of a report.

Inquests,  
Fires.

18. Police will:

- (a) as early as possible, report to the City or District Coroner on the form provided details of all fires coming to their notice where property of value is destroyed or damaged by fire. This instruction relates not only to real property, i.e., houses and buildings, but to *all* property of value, including motor vehicles and their loadings, contents of buildings, crops, stock, fencing equipment, etc. (See also Police Instruction No. 26 Bush Fires.)
- (b) In the absence of any written notification from the Board of Fire Commissioners of New South Wales accept that the Board does not require the holding of an inquiry in the case of a fire occurring within a fire district within the meaning of the Fire Brigades Act, 1909, and should advise the Coroner accordingly;
- (c) ascertain from the Bush Fire Committee whether an inquiry is desired, in the case of a bush fire within the meaning of the Bush Fires Act, 1949, as amended. (See Section 12, Bush Fires Act.)
- (d) when making out fire reports observe the following procedure; in Country Districts, two extra copies be made; one to be filed at the Station and the other forwarded to the Superintendent for transmission to the Commissioner of Police after appropriate notations have been made on the correspondence cards in the Superintendent's office. In the Metropolitan Area, two extra copies be made, one copy to be filed at the Divisional Inspector's Office and the other forwarded to the Commissioner of Police through the Office of the Metropolitan Superintendent;
- (e) upon request of Fire Brigade authorities afford any information obtainable as to amount and particulars of insurance upon any premises where a fire has occurred;
- (f) see that members of Fire Brigade Staffs are called to Court only in cases where it is absolutely necessary. (See "Fires".)

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19. In connection with fatal accidents in coal mines, Police will promptly inform the District Inspector of Collieries, and in other mines the District Inspector appointed under the Mines Inspection Act, 1901, and notify them of the date and time of the holding of the inquest. Fatalities  
in coal-  
mines.

If a jury is to be empanelled for such inquest, Police will see that no person is called as a juror who might exhibit animus against the mine owner. Nevertheless, whenever it is practicable, one half of the jurymen shall be miners.

(Mines will be taken to include quarries, brick pits, dredges and other places referred to in the Mines Inspection Act.)

20. When a fatal accident occurs in a factory or associated with use of machinery, e.g., cranes and trench diggers, the Department of Labour and Industry, or its local representative should be promptly informed, and then notified of the date fixed for the inquest.

21. In connection with a fatality to any employee of the Council of the City of Sydney, inform the Town Clerk; and generally apply this instruction to all public or private institutions. City Council  
employee.

If deceased be a member of the Defence Forces (Naval, Military, etc.) the appropriate authorities should be communicated with without delay and informed of the occurrence.

22. Police will, when an Inquest or Magisterial Inquiry has been held in the case of a deceased who has died intestate, leaving property, report promptly to Public Trustee's Agent, and when property is handed over, obtain receipt, which should be filed at the Police Station concerned. The name of the Agent should be shown on the Inquest Report. (See "Public Trustee".) Property, if  
died intestate.

23. For action in regard to burial of destitute persons, see "Destitute Persons—Burial of". (Reference Book.) Burial of  
destitute  
persons.

24. For analysis of any substance in connection with an inquest or inquiry, see "Exhibits". Analysis.

25. Immediately after the conclusion of an inquest into the death of a person from drowning, Police in charge of the case should furnish report, in duplicate, direct to the Commissioner of Police, for transmission to the Royal Life Saving Society—Australia, setting out the locality, brief facts of the incident, the cause of drowning (if known), and the Coroner's finding. Such reports are not required in the case of suicide drownings. Where Police had occasion to attempt resuscitation, information should be included in the report in respect of the type of resuscitation used, length of time carried out, and whether the patient at any time showed any signs of recovery. Death from  
drowning.