

Coroners (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 12 April 1995

(Brought in by Mrs Wade and Mr Gude)

A BILL

to amend the **Coroners Act 1985** to provide for the Victorian Institute of Forensic Medicine and to make further provision for inquests into deaths and for other purposes.

Coroners (Amendment) Act 1995

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The main purpose of this Act is to amend the **Coroners Act 1985**—

- (a) to provide for the Victorian Institute of Forensic Medicine; and
- (b) to make further provision for inquests into deaths.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

2. *Commencement*

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Section 13 (b) is deemed to have come into operation on 10 December 1985.
- (3) Subject to sub-section (4), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (4) If a provision referred to in sub-section (3) does not come into operation within a period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

PART 2—VICTORIAN INSTITUTE OF FORENSIC MEDICINE

3. *New section 74 inserted*

After section 73 of the Coroners Act 1985 insert—

“74. *Change in Institute’s name*

- (1) On and from the commencement of this section—
 - (a) the name of the Victorian Institute of Forensic Pathology is to be the Victorian Institute of Forensic Medicine;
 - (b) in an Act, a subordinate instrument within the meaning of the Interpretation of Legislation Act 1984 or any document whatever a reference to the Institute by its old name is, in relation to any period occurring on or after that date of commencement, and unless inconsistent with the context or subject matter, to be deemed to be a

No. 10257.
Printed to
No. 92/1990,
subsequently
amended by
Nos 23/1994
and 31/1994.

reference to the Institute by its new name.

- 5 (2) The Institute continues to be the same body after as before its change of name and no act, matter or thing is affected by that change.”.

4. *Objects of the Institute*

In section 64 (2) of the **Coroners Act 1985**—

10 (a) in paragraph (e), after “forensic science” insert “, clinical forensic medicine”;

(b) after paragraph (e) insert—

15 “(f) to provide, promote and assist in the provision of clinical forensic medicine and related services to the police force of Victoria and government bodies;

(g) to promote, provide and assist in under-graduate and post-graduate instruction in the field of clinical forensic medicine in Victoria;

20 (h) to promote, provide and assist in the teaching of and training in clinical forensic medicine within medical, legal, general health and other education programs.”.

5. *Functions of the Institute*

25 After section 66 (1) of the **Coroners Act 1985** insert—

30 “(2) The Institute also has a function to ensure the provision of clinical forensic medical services to the police force of Victoria and government bodies in accordance with agreements for services between those bodies and the Institute.”.

6. *New section 66A inserted*

After section 66 of the **Coroners Act 1985** insert—

“66A. Powers of the Institute

- (1) The Institute may do all things necessary or convenient to be done for, or in connection with, or as incidental to, the performance of its objects and functions. 5
- (2) Without limiting sub-section (1), the Institute has power to—
- (a) enter into agreements for services provided by the Institute;
- (b) impose fees and charges for the provision of services.”. 10

7. Council of the Institute

- (1) In section 67 of the **Coroners Act 1985**—
- (a) in sub-section (1), for “Pathology” substitute “Medicine”; 15
- (b) in sub-section (2), after paragraph (h) insert—
“; and
- (i) a nominee of the Chief Commissioner of Police; and
- (j) a nominee of the Minister for the time being administering Part II of the **Community Services Act 1970**; and 20
- (k) a nominee of the Minister for the time being responsible for women's affairs in Victoria.”. 25
- (2) Despite the reconstitution and change of name of the Council, the Council is deemed to be the same body after as before the commencement of this section and no act, matter or thing is affected by those changes.

8. Consequential amendments 30

In the **Coroners Act 1985**—

- (a) in section 1 in paragraph (d) for “Pathology” substitute “Medicine”;

(b) in section 3 after the definition of “doctor”
insert—

“**government body**” means—

5 (a) a department specified in column 1 of
Schedule 1 to the **Public Sector
Management Act 1992** or an office
specified in section 17 (1) of that Act;
or

10 (b) a public statutory authority; or

(c) a State owned enterprise within the
meaning of the **State Owned
Enterprises Act 1992**; or

15 (d) a corporation which is substantially
owned or effectively controlled by the
State; or

(e) any other body whether incorporated
or not incorporated which is supported
directly or indirectly by government
funds;’;

20 (c) in section 3 in the definition of “**Institute**” for
“Pathology” **substitute** “Medicine”;

(d) in the heading to Part 9 for “**PATHOLOGY**”
substitute “**MEDICINE**”;

25 (e) in section 64 (1) for “Pathology” **substitute**
“Medicine”.

PART 3—MISCELLANEOUS AMENDMENTS

9. *Coroner’s discretion to hold an inquest, consequential amendment and transitional*

30 (1) After section 17 (2) of the **Coroners Act 1985**
insert—

“(3) Despite sub-section (1) if, in relation to the
investigation of a death, a coroner is satisfied
that—

35 (a) one or more persons have been charged
before a court with—

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- (i) the murder, manslaughter, infanticide or child destruction of the deceased; or
- (ii) an offence under section 6B (2) of the **Crimes Act 1958** in relation to the commission of suicide by the deceased; or 5
- (iii) causing the death of the deceased by the culpable driving of a motor vehicle; or 10
- (b) a presentment has been made before a court of one or more persons for an offence referred to in paragraph (a)—
- and one or more of those persons has been found guilty of the offence or acquitted or found not guilty of the offence the coroner may— 15
- (c) determine not to hold an inquest; or
- (d) adjourn the holding of an inquest which has already commenced; or
- (e) if an inquest has been adjourned, determine not to recommence the holding of the inquest— 20
- and may, if a jury has been summoned, discharge the jury.
- (4) Nothing in sub-section (3) limits the powers of a coroner to adjourn any inquest, to recommence an inquest which has been adjourned or to discharge a jury.”. 25
- (2) In section 10 of the **Coroners Act 1985** after “other than” insert “a power under section 17,”. 30
- (3) Section 17 of the **Coroners Act 1985** as amended by this section applies to all deaths, whether occurring before or after the commencement of this section, if a coroner has not, before that commencement, made a finding under section 19 (1) of that Act in relation to the death. 35

10. *Coroner's discretion to make findings*

After section 19 (3) of the **Coroners Act 1985**
insert—

5 “(4) If a coroner has determined under section 17 (3)
not to conduct or complete an inquest, the
coroner is only required to make a finding
relating to any of the matters referred to in
paragraphs (a) to (e) of sub-section (1) if the
coroner believes it is desirable.”

10 11. *Public Sector Management Act*

In the **Coroners Act 1985**—

(a) in sections 9 (2) and 71 (2) for “Division 4 of
Part IV of the **Public Service Act 1974**”
15 substitute “Part 2 of Schedule 4 to the **Public**
Sector Management Act 1992”;

(b) in sections 9 (4) and 69 (3) for “**Public Service**
Act 1974” substitute “**Public Sector**
Management Act 1992 (except Part 9 or in
accordance with Part 8)”;

20 (c) in section 11 (1) for “**Public Service Act 1974**”
substitute “**Public Sector Management Act**
1992”.

12. *Responsible Ministers*

In section 67 (2) of the **Coroners Act 1985**—

25 (a) in paragraph (e) for “Minister for Health”
substitute “Minister for the time being
administering the **Health Services Act 1988**”;

30 (b) in paragraph (f) for “Minister for Police and
Emergency Services” substitute “Minister for
the time being administering the **Police**
Regulation Act 1958”.

13. *Statute law revision*

In the **Coroners Act 1985**—

35 (a) in section 57 (3) for “section 163 of the
Magistrates (Summary Proceedings) Act

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1975” substitute “section 55AB of the Evidence Act 1958”;

(b) in section 78 (d) for “deceased before his death”
substitute “deceased after his death”;

(c) Part 10 is **repealed**.

