

1993

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CORONERS (AMENDMENT) BILL 1993

EXPLANATORY MEMORANDUM

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ATTORNEY GENERAL**

CORONERS (AMENDMENT) BILL 1993

OUTLINE

The *Coroners Act 1956* (the Principal Act) provides for matters relating to the Coroner's Court of the Territory.

The only fees currently determinable under the Principal Act are fees paid by the Territory to medical practitioners under section 41 although, under section 29 of the Principal Act, the same fees payable for transcripts or copies of transcripts in the Magistrates Court are payable in the Coroner's Court. The Coroners (Amendment) Bill 1993 will provide a broad based scheme for determining fees and charges payable to the Coroner's Court and provide a review mechanism of decisions that are made in relation to fees and charges.

FINANCIAL CONSIDERATIONS

The amendments themselves will have some financial impact in that they provide for certain exemptions from payment of or refund of some fees. The determinations of fees and charges that may be made under the determining power will have financial implications for persons before the Coroner's Court.

DETAILS OF INDIVIDUAL CLAUSES

Clauses 1, 2 and 3 are formal provisions relating to the short title of the Bill and its commencement and defining the term "Principal Act" to mean the *Coroners Act 1956*.

Clause 4 will insert a definition of "Registrar".

Clause 5 will insert "Part VB - FEES AND CHARGES" containing sections 34P, 34Q, 34R and 34S.

Section 34P

Section 34P deals with the determination of fees and charges.

Subsection 34P(1) provides the power for the Minister to determine fees and charges by notice in writing published in the *Gazette*. The power is wide enough to determine fees and charges in respect of any matter associated with or incidental to proceedings in and the operation of the Court.

Subsection 34P(2) allows a high degree of flexibility by providing that a determination may provide for exemptions from payment of fees for the service or execution of process in whole or in part and for the remission, refund or deferral of liability for the payment of fees or charges, in whole or in part, by the Registrar of the Court.

Determinations will, under subsection 34P(3), be disallowable instruments for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Section 34Q

Section 34Q deals with the payment of fees and charges.

Subsection 34Q(1) imposes the obligation, subject to section 34Q, to pay a fee or charge, and to pay the fee or charge in advance, in accordance with the determination.

Subsection 34Q(2) requires payment to be made on notification from the Registrar if a fee or charge cannot be calculated until a function is performed or a facility or service provided.

Subsection 34Q(3) makes it clear that the Registrar or the Court is not obliged to perform a function or provide a facility or service if a fee or charge payable in advance is not paid when due.

Section 34R

Section 34R deals with the circumstances when fees and charges are not required to be paid.

Subsection 34R(1) provides that a fee or charge may be remitted, refunded or liability for its payment deferred in accordance with the determination.

Subsection 34R(2) deals with the circumstances, additional to those which might be set out in a determination, in which determined fees and charges are not payable. No determined fee or charge will be payable by a person -

(a) if the person otherwise liable to pay the fee or charge is -

(i) exempt from paying the fee or charge under subsection 93(1) of the *Legal Aid Act 1977*; or

(ii) legally assisted under a scheme or service provided or approved by the Attorney-General; or

(b) if the Registrar waives payment of the fee or charge in whole or in part because he or she considers that it would impose hardship on the person liable to pay the fee or charge - to the extent of the waiver.

Subsection 93(1) of the *Legal Aid Act 1977* provides, in effect, that no fees are payable in respect of a proceeding on behalf of a legally assisted person in a court or tribunal.

Section 34S

Section 34S provides a person who claims to be entitled to a remission, refund, deferral of liability for payment or waiver of payment of fees and charges with a right to apply to the Coroner for a review of the decision of the Registrar. No fee or charge is payable in relation to an application for review.