



AUSTRALIAN CAPITAL TERRITORY

Coroners (Amendment) Ordinance 1990

No. 7 of 1990

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 26 June 1990.

BILL HAYDEN
Governor-General

By His Excellency's Command,

MICHAEL TATE
Minister of State for Justice and
Consumer Affairs

An Ordinance to amend the *Coroners Ordinance 1956*

Short title

1. This Ordinance may be cited as the *Coroners (Amendment) Ordinance 1990*.¹

(Ord. 7/90)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Commencement

2. This Ordinance commences on a day fixed by the Minister by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, “Principal Ordinance” means the *Coroners Ordinance 1956*.²

Interpretation

4. Section 4 of the Principal Ordinance is amended by inserting the following definition:

“ ‘chief executive’, in relation to a hospital or other institution, means the person having the custody or control of the medical records of patients in that hospital or institution;”.

Jurisdiction re deaths

5. Section 11 of the Principal Ordinance is amended—

(a) by omitting paragraph (1) (e) and substituting the following paragraph:

“(e) dies during or within 72 hours after, or as a result of—

(i) an operation of a medical, surgical, dental or like nature; or

(ii) an invasive medical or diagnostic procedure;”;

(b) by omitting paragraph (1) (i) and substituting the following paragraph:

“(i) dies—

(i) in a prison, a remand centre within the meaning of the *Remand Centres Act 1976*, or a lock-up; or

(ii) while the subject of emergency procedures, or while subject to a treatment order, under the *Mental Health Act 1983*; or”; and

(c) by inserting after subsection (1) the following subsection:

“(1A) The regulations may provide that a specified operation or procedure is, or is not—

(a) an operation of a medical, surgical, dental or like nature; or

- (b) an invasive medical or diagnostic procedure;
- for the purpose of paragraph (1) (e), and that paragraph shall, in relation to such an operation or procedure, be construed accordingly.”.

Insertion

6. After section 12 of the Principal Ordinance the following section is inserted in Division 1 of Part III:

Suspected death

“12A. (1) Where, on the information of a police officer, it appears to the Coroner that there is reasonable cause to suspect—

- (a) that a person has died;
- (b) that—
 - (i) the remains of the person are in the Territory;
 - (ii) the death or cause of death occurred in the Territory; or
 - (iii) the death occurred outside the Territory and the person had a sufficient connection with the Territory; and
- (c) that the person was killed, was drowned, or died in suspicious or unusual circumstances;

the Coroner has jurisdiction to hold an inquest into the manner and cause of the suspected death.

“(2) For the purpose of subparagraph (1) (b) (iii), a person had sufficient connection with the Territory if the person was—

- (a) ordinarily resident in the Territory when the suspected death occurred;
- (b) in the course of a journey to or from the Territory when the suspected death occurred; or
- (c) last in the Territory before the circumstances of the suspected death arose.

“(3) Where the Attorney-General is of the opinion that a suspected death has occurred in circumstances referred to in paragraphs (1) (b) and (c), the Attorney-General may direct the Coroner to hold an inquest into the manner and cause of the suspected death and the Coroner shall comply with that direction.”.

Post-mortem examinations

7. Section 14 of the Principal Ordinance is amended by adding at the end the following subsections:

“(3) Where the Coroner has made an order under this section in relation to the body of a person who has died in hospital, the Coroner may, by order under his or her hand, direct the chief executive of the hospital or his or her delegate to deliver to the relevant medical practitioner the medical records relating to the person.

“(4) Where a medical practitioner has received any record pursuant to subsection (3), he or she shall return it to the chief executive of the hospital or his or her delegate as soon as practicable after completion of the post-mortem examination.”.

Insertion

8. After section 14 of the Principal Ordinance the following section is inserted:

Medical practitioner as observer

“14A. A medical practitioner who attended a person professionally at or immediately before the person’s death or during the person’s last illness is entitled to be present as an observer at a post-mortem examination of the body, or the remains of the body, of that person.”.

Insertion

9. After section 21 of the Principal Ordinance the following section is inserted in Part IV:

Assistants at post-mortems etc.

“21A. Where the Coroner makes an order for a post-mortem examination or a re-interment, or issues a warrant for an exhumation, the Coroner may, by instrument under his or her hand, appoint a person or persons to assist in the examination, re-interment or exhumation.”.

Procedure and evidence

10. Section 28 of the Principal Ordinance is amended by adding at the end the following subsection:

“(2) Where the procedure for taking any step in an inquest or inquiry is not prescribed in this Ordinance or the law under which the step is to be taken, the Coroner may give directions with respect to the procedure to be followed as regards that step.”.

Insertion

11. After section 37 of the Principal Ordinance the following section is inserted:

Retention of records of deceased patient

“37A. Where a person dies while a patient in a hospital or other institution in circumstances in which the Coroner has jurisdiction to hold an inquest, the chief executive of the hospital or institution shall ensure that all records relating to that person are retained intact for not less than 3 years after the date of the death.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 29 June 1990.
2. Ordinance No. 14, 1956 as amended by No. 5, 1965; No. 2, 1967; No. 49, 1973; Nos. 15 and 47, 1974; No. 65, 1977; No. 46, 1978; No. 5, 1980; No. 67, 1985; No. 70, 1986; No. 55, 1987; No. 25, 1989.