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**CORONER ACT**
**Principal Act****Act. No. 1889-11***Commencement*

8.7.1889

*Assent*

10.6.1889

| Amending enactments | Relevant current provisions  | Commencement Date |
|---------------------|--|-------------------|
| Acts. 1894-03       | s. 3   |                   |
| 1924-06             | ss. 4(1) and (3)   |                   |
| 1929-04             | s. 3   |                   |
| 1934-08             | ss. 4(1), 5, 6, 7, 8(2) and (3),<br>9,10, 12(1), 15, 17, 18 and 24 |                   |
| 1948-20             | s. 13  |                   |
| 1949-25             | s. 20  |                   |
| 1956-07             | s. 25  |                   |
| 1959-13             | s. 3(2)  |                   |
| Regs. of 28.5.1970  | s. 6(2)  |                   |
| Acts. 1967-04       | s. 11  |                   |
| 1974-16             | s. 16(4) and (6)   |                   |
| 1978-06             | ss. 6(2), 8(3), 11 and 25  |                   |
| 1980-04             | ss. 21 and 22  |                   |
| 1983-12             | s. 4(1)  |                   |
| 1988-35             | ss. 21A and 26   | 15.12.1988        |

## English sources

Coroner's Act 1887 (50 &amp; 51Vict. c. 71)

Coroner's (Amendment) Act 1926 (16 &amp; 17 Geo. 5. c.59)

**RENUMBERING OF SECTIONS**

| Previous number | New number | Remark                |
|-----------------|------------|-----------------------|
| 1-11            | 1-11       | Unchanged             |
| 12              |            | <i>Repealed</i>       |
| 13              | 12         |                       |
| 14              | 13         |                       |
| 15              | 14         |                       |
| 16              |            | <i>Repealed</i>       |
| 17              |            | <i>Repealed</i>       |
| 18              |            | Incorporated with s.3 |
| 19              | 15         |                       |
| 20              | 16         |                       |
| 21              |            | <i>Repealed</i>       |
| 22              |            | <i>Repealed</i>       |
| 23              | 17         |                       |
| 24              | 18         |                       |
| 25              |            | <i>Repealed</i>       |
| 26              | 19         |                       |
| 27              | 20         |                       |
| 28              | 21         |                       |
| 29              | 22         |                       |
| 30              | 23         |                       |
| 31              | 24         |                       |
| 32              |            | <i>Repealed</i>       |
| 33              | 25         |                       |
| 34              |            | <i>Repealed</i>       |

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## ARRANGEMENT OF SECTIONS.

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AN ACT TO REGULATE THE JURISDICTION AND DUTIES OF THE CORONER.

## **Short title.**

1. This Act may be cited as the Coroner Act.

## **Interpretation.**

2. In this Act,—

(1887 c.71, s.42).

“murder” includes the offence of being an accessory before the fact to a murder.

## **Appointment of Coroner and Deputy Coroner.**

3.(1) The Governor shall appoint some fit and proper person to be Coroner and may appoint a Deputy Coroner.

(2) In the event of the death, resignation, absence or incapacity from whatsoever cause of the Coroner, it shall be lawful for a Deputy Coroner to hold any inquest or do any act which the Coroner may hold or do by virtue of the provisions of this Act and for such purpose he shall have all the powers and duties and be subject to the liabilities, disqualifications and obligations of the Coroner under the provisions of this Act.

### *General Provisions as to Inquests.*

## **Summoning of jury.**

4.(1) Where the Coroner is informed that the dead body of a person is lying within his jurisdiction, and there is reasonable cause to suspect that such person has died either a violent or an unnatural death, or has died a sudden death of which the cause is unknown, or that such person has died in prison, or in such place, or under such circumstances to require an inquest in pursuance of any enactment, the Coroner, whether the cause of death arose within his jurisdiction or not, shall, as soon as practicable, issue his warrant for summoning not less than seven nor more than eleven good and lawful persons to appear before him at a specified time and place, there to inquire as jurors touching the death of such person.

(2) When an inquest is held on the body of a prisoner who dies within a prison, an officer of the prison or a prisoner therein or a person engaged in any sort of trade or dealing with the prison shall not be a juror on such inquest.

(3) When not less than seven jurors are assembled, they shall be sworn by or before the Coroner diligently to inquire touching the death of the person on whose body the inquest is about to be held, and a true verdict give according to the evidence.

**Post-mortem examination without inquest.**

(1926 c.59, s.21). 5.(1) Notwithstanding the provisions of section 4, where the Coroner is informed that the dead body of a person is lying within his jurisdiction and there is reasonable cause to suspect that the person has died a sudden death of which the cause is unknown, if the Coroner is of opinion that a post-mortem examination may prove an inquest to be unnecessary he may direct any duly registered medical practitioner whom, if an inquest were held, he would be entitled under section 17, to summon as a medical witness or may request any other duly registered medical practitioner, to make a post-mortem examination of the body of the deceased and to report the result thereof to him in writing, and for the purposes of the examination the Coroner and any person directed or requested by him to make the examination shall have the like powers, authorities and immunities as if the examination were a post-mortem examination directed by the Coroner at an inquest upon the body of the deceased.

(2) If as a result of such a post-mortem examination the Coroner is satisfied that an inquest is unnecessary, he shall send to the Registrar of Births and Deaths a certificate under his hand stating the cause of death as disclosed by the report, and the Registrar shall make an entry in the register or margin thereof accordingly in the form and manner prescribed under the Births and Deaths Registration Act<sup>1</sup>, or any enactment for the time being in force relating to the registration of deaths.

(3) Nothing in this section shall be construed as authorizing the Coroner to dispense with an inquest in any case where there is reasonable cause to suspect that the deceased has died either a violent or an unnatural death, or has died in prison, or in such place or in such circumstances as to necessitate the holding of an inquest in accordance with the requirements of any enactment other than this Act.

**Power to hold inquest without a jury.**

(1926 c.59, s.21). 6.(1) Subject to the provisions of this section, the Coroner may, in lieu of summoning a jury in the manner required by section 4 for the purpose of inquiring into the death of that person, hold an inquest on the body without a jury.

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<sup>1</sup> 1887-01

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(2) If it appears to the Coroner either before he proceeds to hold an inquest or in the course of an inquest begun without a jury, that there is reason to suspect—

- (a) that the death occurred in prison or in such place or such circumstances as to require an inquest under any enactment other than this Act; or
- (b) that the death was caused by an accident, poisoning or disease notice of which is required to be given to a government department or to any inspector or other officer of a government department under or in pursuance of any enactment; or
- (c) that the death occurred in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public or any section of the public,

he shall proceed to summon a jury in the manner required by section 4, and in any other case, if it appears to him, either before he proceeds to hold an inquest or in the course of an inquest begun without a jury, that there is any reason for summoning a jury, he may proceed to summon a jury in that manner.

(3) The provisions of this Act or any other enactment relating to the procedure in connection with an inquest shall, as respects an inquest or any part of an inquest which is held without a jury, have effect subject to such modifications as are rendered necessary by the absence of a jury, and where the whole of an inquest is held without a jury the inquisition shall be under the hand of the Coroner alone.

(4) Where an inquest or any part of an inquest is held without a jury, anything done at the inquest, or at that part of the inquest, by or before the Coroner alone shall be as validly done as if it had been done by or before the Coroner and a jury.

## **View of the body and burial order.**

7.(1) At or before the first sitting of an inquest on a body, the Coroner shall view the body, and if, before the body has been buried, the Coroner so directs, or a majority of the jury so desires, the body shall be viewed by the jury also: *(1926 c.59, s.14).*

Provided that, where a previous inquest on the body has been begun but not completed, it shall not be obligatory upon the Coroner holding a subsequent inquest to view the body.

(2) Subject to the provisions of any rules of court made under this Act, an order of the Coroner authorizing the burial of a body upon which he has decided to hold an inquest may be issued at any time after he has viewed the body.

**Proceedings at inquest.**

(1887 c.71, s.4). 8.(1) The Coroner shall, at the first sitting of the inquest, examine on oath, touching the death, all persons who tender their evidence respecting the facts and all persons having knowledge of the facts whom he thinks it expedient to examine.

(2) After hearing the evidence the jury shall give their verdict and certify it by an inquisition in writing, setting forth, so far as such particulars have been proved to them, who the deceased was, and how, when and where the deceased came by his death.

(3) They shall also inquire of and find the particulars for the time being required to be registered concerning the death by the Births and Deaths Registration Act, or any enactment for the time being in force relating to the registration of deaths.

**Failure of jury to agree.**

(1926 c.59, s.15). 9.(1) If the jury at an inquest fail to agree on a verdict, and the minority consists of not more than two, the Coroner may accept the verdict of the majority, and the majority shall, in that case, certify the verdict in accordance with the requirements of section 8(2).

(2) In any other case of disagreement the Coroner may discharge the jury and issue a warrant for summoning another jury, and thereupon the inquest shall proceed in all respects as if the proceedings which terminated in the disagreement had not taken place, except, that it shall not be obligatory on the Coroner to view the body.

**Inquest where body destroyed or irrecoverable.**

(1926 c.59, s.18). 10. Where the Coroner has reason to believe that a death has occurred in such circumstances that an inquest ought to be held, and that owing to the destruction of the body by fire or otherwise, or to the fact that the body is lying in a place from which it cannot be recovered, an inquest cannot be held except by virtue of the provisions of this section, he may report the facts to the Governor who may, if he considers it desirable so to do, direct an inquest to be held touching the death, and an inquest shall be held accordingly by the Coroner, and the law relating to the Coroner and inquests shall apply with such modifications as may be necessary in consequence of

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the inquest being held otherwise than on or after view of a body lying within the Coroner's jurisdiction.

## **Adjournment of inquest in case of murder, etc., or at request of Attorney-General.**

11.(1) If on an inquest touching a death the Coroner before the conclusion of the inquest—

- (a) is informed by the clerk of the magistrates' court in pursuance of subsection (8) that some person has been charged before the magistrates' court with—
  - (i) the murder, manslaughter or infanticide of the deceased;
  - (ii) an offence under section 29 of the Traffic Act<sup>2</sup> committed by causing the death of the deceased; or
  - (iii) an offence under section 68(1) of the Criminal Offences Act<sup>3</sup> consisting of aiding, abetting, counselling or procuring the suicide of the deceased; or
- (b) is informed by the Attorney-General that some person has been charged before the magistrates' court with an offence (whether or not involving the death of a person other than the deceased) alleged to have been committed in circumstances connected with the death of the deceased not being an offence within paragraph (a)(i), (ii) or (iii) and is requested by the Attorney-General to adjourn the inquest,

then, subject to subsection (2), the Coroner shall, in the absence of reason to the contrary, adjourn the inquest until after the conclusion of the relevant criminal proceedings and, if a jury has been summoned, may, if he thinks fit, discharge them.

(2) The Coroner—

- (a) need not adjourn the inquest in a case within subsection (1)(a) if, before he has done so, the Attorney-General notifies him that adjournment is unnecessary; and

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<sup>2</sup> 1957-04

<sup>3</sup> 1960-17

(b) may in any case resume the adjourned inquest before the conclusion of the relevant criminal proceedings if notified by the Attorney-General that it is open to him to do so.

(3) After the conclusion of the relevant criminal proceedings, or on being notified as mentioned in subsection (2)(b) before their conclusion, the Coroner may, subject to the following provisions of this section resume the adjourned inquest if in his opinion there is sufficient cause to do so.

(4) Where the Coroner adjourns an inquest in compliance with subsection (1) he shall furnish the Registrar of Births and Deaths with a certificate under his hand stating the particulars which under the Births and Deaths Registration Act are required to be registered concerning the death, so far as they have been ascertained at the date of the certificate, and the Registrar shall enter the death and particulars in the form and manner prescribed by regulations under that Act.

(5) Where the Coroner resumes an inquest which has been adjourned in compliance with subsection (1) and for that purpose summons a jury, but not where he resumes without a jury, or with the same jury as before the adjournment, he shall proceed in all respects as if the inquest had not previously been begun, and subject to subsection (6), the provisions of this Act shall apply accordingly as if the resumed inquest were a fresh inquest, except that it shall not be obligatory on him to view the body.

(6) Where the Coroner resumes an inquest which has been adjourned in compliance with subsection (1)–

- (a) the finding of the inquest as to the cause of death must not be inconsistent with the outcome of the relevant criminal proceedings; and
- (b) the provisions of section 15(2) of this Act and section 31 of the Births and Deaths Registration Act<sup>1</sup> shall not apply in relation to that inquest.

(7) Where a person is charged before the magistrates' court with murder, manslaughter or infanticide or an offence against section 29 of the Traffic Act<sup>2</sup> or an offence against section 68(1) of the Criminal Offences Act<sup>3</sup>, the clerk of the court shall inform the Coroner of the making of the charge and of the result of the proceedings before that court.

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<sup>1</sup> 1887-01

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<sup>3</sup> 1960-17

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(8) Where a person charged with murder, manslaughter or infanticide or an offence against section 29 of the Traffic Act<sup>2</sup> or an offence against section 68(1) of the Criminal Offences Act<sup>3</sup> is committed for trial to the Supreme Court the Registrar of that court shall inform the Coroner of the result of the proceedings before that court.

(9) Where the Attorney General has in pursuance of subsection (1)(b) requested the Coroner to adjourn an inquest, then, whether or not the inquest is adjourned as a result, the Attorney General shall inform the Coroner of the result of the proceedings before the magistrates' court in the case of the person charged as mentioned in that paragraph and, if that person is committed for trial to the Supreme Court, shall inform the Coroner of the result of the proceedings before that court.

(10) In this section "the relevant criminal proceedings" means the proceedings before the magistrates' court and before the court to which the person charged is committed for trial.

## **Ordering of Coroner to hold inquest.**

12. (1) Where the Supreme Court, upon application made by or under the authority of the Attorney-General, is satisfied either— *(1887 c.71, s.6).*

- (a) that the Coroner refuses or neglects to hold an inquest which ought to be held; or
- (b) where an inquest has been held by the Coroner, that by reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, the discovery of new facts or evidence, or otherwise, it is necessary or desirable, in the interest of justice, that another inquest should be held,

the court may order an inquest to be held touching the death, and may, if the court think it just, order the Coroner to pay such costs of and incidental to the application as to the court may seem fit, and where an inquest has been already held may quash the inquisition on that inquest.

(2) The court may order that such inquest shall be held either by the Coroner or by some other person who shall be deemed by the court to be a fit and proper person for such purpose, and such person shall, for the purpose of holding such inquest, have the same powers and jurisdiction as, and be deemed to be, the Coroner.

(3) Upon any such inquest, if the case be one of death, it shall not be necessary, unless the court otherwise orders to view the body, but save as aforesaid the inquest shall be held in like manner in all respects as any other under this Act.

**Inquest on naval personnel.**

13. Except upon the direction of the Governor, no inquest shall be held upon the death of any personnel of the Royal Navy on any of Her Majesty's ships in Gibraltar.

*Liabilities of Coroner***Punishment of Coroner.**

(1887 c.71, s.8). 14. If the Coroner shall be guilty of extortion, or of corruption, or of wilful neglect of his duty, or of misbehaviour in the discharge of his duty he shall be deemed guilty of an offence.

*Procedure***Procedure at inquests.**

(1887 c.71, s.18). 15. (1) Every inquisition shall be under the hands of the jurors who concur in the verdict, and of the Coroner.

(2) The Coroner, after the termination of an inquest on any death, shall send to the Registrar of Births and Deaths such certificate and within such time as is required by the Births and Deaths Registration Act.

**Attendance of jurors and witnesses.**

(1887 c.71, s.19). 16. (1) Where a person duly summoned as a juror at an inquest does not, after being openly called three times, appear to such summons, or appearing, refuses without reasonable excuse to serve as a juror, the Coroner may impose on such person a fine of £5.

(2) Where a person duly summoned to give evidence at an inquest does not, after being openly called three times, appear to such summons, or appearing, refuses without lawful excuse to answer a question put to him, the Coroner may impose on such person a fine of £5.

(3) Any power by this Act vested in the Coroner of imposing a fine on a juror or witness, shall be deemed to be in addition to and not in derogation of any power the Coroner may possess independently of this Act, for compelling any person to appear and give evidence before him on any inquest or other proceedings, or for punishing any person for contempt of court in not so appearing and giving evidence, with this qualification, that a person shall not be fined by the Coroner under this Act, and also be punished under the power of the Coroner independent of this Act.

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(4) A fine imposed by the Coroner shall be treated for the purpose of its collection, enforcement and remission as having been imposed by the magistrates' court and the Coroner shall, as soon as practicable after imposing the fine, give particulars of the fine to the clerk of the magistrates' court.

(5) Where a recognizance is forfeited at an inquest held before the Coroner, the Coroner shall proceed in like manner under this section as if he had imposed a fine under this section upon the person forfeiting that recognizance, and the provisions of this section shall apply accordingly.

(6) Notwithstanding anything contained in subsection (4) or (5) the Coroner may, for cause shown, where he has imposed a fine or has ordered a recognizance to be forfeited withdraw the imposition of such fine or order of forfeiture of such recognizance and shall, if he does so, inform the clerk of the magistrates' court forthwith.

### *Medical Witnesses and Post-mortem Examinations.*

#### **Post-mortem and other examinations by specially qualified persons.**

17. (1) Where it appears to the Coroner that the deceased was attended at his death or during his last illness by any duly registered medical practitioner, the Coroner may summon such practitioner as a witness; but if it appears to the Coroner that the deceased person was not attended at his death or during his last illness by any duly registered medical practitioner, the Coroner may summon any duly registered medical practitioner who is at the time in actual practice in Gibraltar, and any such medical witness as is summoned in pursuance of this section, may be asked to give evidence as to how, in his opinion, the deceased came to his death. (1926 c.59, s.22).

(2) The Coroner may, either in his summons for the attendance of such medical witness or at any time between the issuing of that summons and the end of the inquest, direct such medical witness to make a post-mortem examination of the body of the deceased.

(3) If a majority of the jury sitting at an inquest are of opinion that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witnesses brought before them, they may require the Coroner in writing to summon as a witness some other duly registered medical practitioner named by them, and further to direct a post-mortem examination of the deceased to be made by such last-mentioned practitioner, and that whether such examination has been previously made or not, and the Coroner shall comply with such requisition, and in default is guilty of an offence.

**Power of Coroner as to medical witnesses and post-mortem examination.**

(1887 c.71, s.21). 18. (1) Without prejudice to the power of the Coroner to direct a medical witness whom he may summon under section 17 to make a post mortem examination of the body of the deceased, the Coroner may, at any time after he has decided to hold an inquest, request any duly registered medical practitioner to make,–

- (a) a post-mortem examination of the body of the deceased; or
- (b) a special examination by way of analysis, test or otherwise of such parts or contents of the body or such other substances or things as ought in the opinion of the Coroner to be submitted to analyses, tests or other special examination with a view to ascertaining how the deceased came by his death,

or to make both such examinations, or may request any person whom he considers to possess special qualifications for conducting such a special examination (in this Act referred to as a “special examination”) to make the special examination.

(2) If any person who has made such a post-mortem or special examination is summoned by the Coroner as a witness, he may be asked to give evidence as to his opinion upon any matter arising out of the examination, and as to how in his opinion the deceased came by his death.

(3) Where a person states upon oath before the Coroner that in his belief the death of the deceased was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, that medical practitioner or other person, shall not be allowed to perform or assist at any post-mortem or special examination made under the provisions of this Act for the purposes of the inquest on the deceased, but such medical practitioner or other person shall have the right, if he so desires, to be represented at any such post-mortem or examination.

**Medical practitioner neglecting to attend.**

(1887 c.71, s.23). 19. Where a medical practitioner fails to obey a summons of the Coroner issued in pursuance of this Act, he shall, unless in the opinion of the Coroner he shows a good and sufficient cause for not having obeyed the same, be liable to such fine as the Coroner may impose, not exceeding £5, as a recalcitrant witness.

**Removal of body for post-mortem.**

(1887 c.71, s.24).

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20. The Coroner may order the removal of a dead body to and from the place in the cemetery for the reception of dead bodies during the time required to conduct a post-mortem examination, for the purpose of carrying out such examination, and the cost of such removal shall be deemed to be part of the expenses incurred in and about the holding of an inquest.

## *Expenses of Inquests.*

### **Fees and expenses.**

21. (1) The Governor may make regulations to provide for the payment of fees, allowances, disbursements, and expenses, to medical practitioners, medical witnesses, and other persons performing functions or providing services under this Act.

(2) Until such regulations are made, the Coroner may allow such reasonable sums in respect of fees, allowances and disbursements as he thinks fit in any case.

### **Payment in respect of jury service.**

21A. The Chief Justice may make rules to provide for payment of compensation for loss of earnings suffered by a person in consequence of his attendance as a juror at an inquest.

### **Payment of fees, etc.**

22. The Coroner shall, as soon as he may think convenient, pay the fees, allowances, disbursements, and expenses reasonably incurred in the carrying out of the provisions of this Act, not exceeding the amounts for the time being prescribed under this Act, and such fees, allowances, disbursements, and expenses shall be a charge on the Consolidated Fund.

## *Savings and Miscellaneous.*

### **Saving as to Official Coroners.**

23. Nothing in this Act shall prejudice the jurisdiction of a judge exercising the jurisdiction of a Coroner by virtue of his office, and such judge may, notwithstanding the passing of this Act, exercise any jurisdiction statutable or otherwise, previously exercisable by him, in the same manner as if this Act had not been passed. (1887 c.71, s.23).

### **Inquest on treasure trove.**

24. The Coroner shall continue as heretofore to have jurisdiction to inquire of treasure that is found, who were the finders, and who is suspected thereof, (1887 c.71, s.24).

and the provisions of this Act shall, so far as is consistent with the tenor thereof, apply to every such inquest.

**Power to make rules of court.**

(1926 c.59, s.26). 25. The Chief Justice may make rules of court for regulating the practice and procedure at or in connection with inquests and post-mortem examinations and, in particular (without prejudice to the generality of the foregoing provision), such rules may provide—

- (a) as to the procedure at inquests held without a jury;
- (b) as to the issue by the Coroner of orders authorizing burials;
- (c) for empowering the Coroner or his deputy to alter the date fixed for the holding of any adjourned inquest within his jurisdiction;
- (d) as to the procedure to be followed where the Coroner decides not to resume an adjourned inquest;
- (e) as to notices to be given and as to the variation or discharge of any recognizances entered into by jurymen or witnesses where the date fixed for an adjourned inquest is altered or where the Coroner decides not to resume an adjourned inquest.
- (f) as to the forms to be used in connection with any matter under this Act.

**Fees.**

26. The Chief Justice has, and is deemed always to have had, the power by rules to prescribe, vary or abolish the fees to be taken by the Coroner for copies of any documents put in evidence at an inquest and for the certification of any such copy as a true copy of the original .