

## CHAPTER 7:07

### INQUESTS ACT

*Acts 12/1951, 23/1958, 19/1963 (s. 12), 22/2001 (s. 4); R.G.N.s 801/1963, 214/1964, 217/1970.*

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#### **AN ACT to consolidate the law relating to inquests.**

[Date of commencement: 25th May, 1951.]

##### **1 Short title**

This Act may be cited as the Inquests Act [*Chapter 7:07*].

##### **2 Duty of police officer in relation to sudden deaths or deaths by violence**

As soon as it comes to the knowledge of any police officer that there is at any spot within the area over which he exercises supervision the body of any person who died suddenly or was found dead or is supposed or suspected to have come by his death by violence or otherwise than in a natural way, it shall be the duty of such police officer with all convenient speed to proceed to the spot where the body is, and he shall inspect the same and, if necessary, cause the same if interred to be disinterred for the purpose of inspection, and he shall also obtain all information procurable for the purpose of ascertaining the cause of death:

Provided that if the body is interred in a cemetery established or controlled and administered under the Cemeteries Act [*Chapter 5:04*], such body may only be so disinterred upon the order of the Minister responsible for home affairs.

##### **3 Police officer to inspect body and note appearance**

In viewing the dead body the police officer shall take careful note of all appearances, marks and traces presented by it and about it which tend to show whether the deceased did or did not come by his death from violence, and if from violence, whether the same was used by himself or some other, and if by some other, who such other was or how he may be discovered.

##### **4 Police officer to have body examined**

It shall be the duty of the police officer, where practicable, to cause the dead body to be examined as soon as possible by a duly registered medical practitioner, if such can be procured, and if not, then by the best qualified person or persons that can be obtained, and such medical man or other qualified person shall be entitled to receive his expenses, precisely as if he had been summoned to give evidence at a criminal trial held at the place where he made such examination as aforesaid.

##### **5 Police officer to report case to magistrate without delay**

The police officer shall, without delay, report to a magistrate, in detail, the circumstances of the case, in order that the magistrate may take such further steps, if any, as may be needful, either to ascertain the cause of death or to bring to justice such person or persons as appear to have unlawfully caused such death.

## **6 Powers of magistrate on receiving report**

(1) Upon receiving the report mentioned in section *five*, the magistrate may—

- (a) if no post-mortem examination of the body has been made and he is of the opinion that such an examination may prove an inquest to be unnecessary, direct any 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;
- (b) if in his opinion the circumstances of the case require it, hold an inquest for the purpose of ascertaining the cause of death *or* refer the report to such other magistrate as the Attorney-General may direct in order that such an inquest may be held.

(2) It shall be lawful for any registered medical practitioner to make a post-mortem examination upon the body of the deceased person in accordance with the direction of the magistrate given in terms of paragraph (a) of subsection (1).

(3) A magistrate may summon witnesses for the purpose of holding an inquest and may examine witnesses at the inquest.

## **7 Process for summoning witnesses**

The process for summoning witnesses to attend before any inquest shall be in substance in the form set forth in the First Schedule.

## **8 Penalty for non-attendance of witness**

If any person summoned as a witness does not attend pursuant to such summons, then such person so making default shall, unless reasonable excuse is proved by oath or affidavit, be liable to be sentenced by the magistrate to a fine not exceeding level five or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment; and the magistrate may, moreover, issue his warrant for the arrest of the person so making default, which warrant shall be in substance in the form set forth in the Second Schedule.

[Section amended by Act 22 of 2001]

## **9 Oaths of witnesses**

The oath to be taken by witnesses appearing before the inquest shall be administered by the magistrate, and shall be as follows: “The evidence which you shall give to this inquest touching the death of C. D. (or ‘of the deceased person, name unknown, regarding whom this inquest is held’) shall be the truth, the whole truth, and nothing but the truth. So help me God.”

## **10 Evidence and procedure at inquest**

(1) A magistrate holding an inquest shall not be bound by any rules of evidence which relate to civil or criminal proceedings and shall conduct the inquest in the manner provided by rules made under section *twelve*:

Provided that if any witness objects to answer any question on the ground that it will tend to incriminate him he shall not be required to answer the question nor be liable to any penalty for refusing so to answer.

(2) The evidence of each person who is called to give oral evidence shall be taken down in writing by the magistrate or such other person as the magistrate may appoint.

(3) If evidence is taken down in shorthand writing, any document purporting to be a transcription of the shorthand record of the said evidence and purporting to have been certified as correct under the hand of the person who took such evidence down shall, *prima facie*, be equivalent to that shorthand record.

(4) The magistrate may in his discretion permit evidence to be given by way of affidavit or report.

## **11 Witnesses entitled to expenses**

All witnesses, medical or otherwise, summoned or attending to give evidence before any inquest shall be entitled to receive their expenses as if they were witnesses summoned to give evidence at a criminal trial.

## **12 Power to make rules**

The Minister responsible for justice, after consultation with the Chief Justice, may make rules for regulating the practice and procedure at or in connection with inquests.

## **13 Transmission of inquests and reports**

The magistrate shall transmit to the Attorney-General the record of every inquest held by him and the report of any police officer made in terms of section *five* in any case where an inquest has not been held, together with the conclusion in regard to it at which the magistrate has arrived and such remarks upon the case, if any, as the magistrate thinks fit.

## **14 Inquest not to prevent issue of warrant and arrest of offenders**

Nothing in this Act shall prevent any person authorized by law to issue warrants of arrest, or authorized to arrest offenders or supposed offenders in that warrant, from acting in all respects as regards such warrants or such offenders whether an inquest has or has not been commenced.

## **15 Inquests on death of members of armed forces dispensed with in certain cases**

(1) When any member of the Defence Forces has, or is supposed to have, died within Zimbabwe otherwise than in a natural way, and the proper military or air force authority reports to the provincial magistrate of the

province within which the death occurred that a military or air force court of inquiry will be constituted in accordance with the law or custom of the service to inquire into the cause of death, it shall not be necessary for a magistrate or police officer to hold an inquest or inquiry or inspect the body in terms of this Act.

(2) Upon receipt of the record of proceedings of the court of inquiry in any such case, the proper military or air force authority shall give to the registrar of births and deaths for the district in which the death occurred such information as the registrar may require for the purposes of the Births and Deaths Registration Act [*Chapter 5:02*].

(3) Nothing in this section shall be deemed to preclude any proceedings being taken at any time in accordance with this Act if, in the opinion of a magistrate, the circumstances of the case require it.

## **16 Contempts at inquests**

All contempts committed by witnesses or others before or in regard to any inquest shall be dealt with in like manner, *mutatis mutandis*, as contempts committed by witnesses and others before any magistrates court.

### **FIRST SCHEDULE (Section 7)**

#### FORM OF SUMMONS

Inquest for the Province of  
To (name of police officer).

You are hereby required to summon A.B. of (describe him particularly) that he appear before me on this the            day of            , 19            , in the forenoon (or afternoon, as the case may be, stating the day and hour according to the fact), then and there to be examined at an inquest touching the death of C.D. (or “of a certain deceased person whose name is unknown”).

Dated at this            day of            , 19            .

Magistrate.

### **SECOND SCHEDULE (Section 8)**

#### FORM OF WARRANT OF ARREST

To            (name of police officer) and other police officers and officers of the law, proper to the execution of criminal warrants.

Whereas A.B., of (describe him particularly as in the summons), who was duly summoned to appear before me at (name the place as in the summons), at (state the time as in the summons), then and there to be examined at an inquest touching the death of C.D. or “of a certain deceased person whose name is unknown”, and has refused and neglected so to do, to the delay and hindrance of justice: You are therefore commanded to arrest and bring before me the said A.B., that he shall be dealt with according to law; and for so doing this shall be your warrant.

Dated at this            day of            , 19            .

Magistrate.