

Chapter 32.

Coroners Act 1953.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 32.

Coroners Act 1953.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Coroners Act 1953,

Being an Act relating to Coroners.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**Coroner**” means a person appointed under this Act to be a Coroner;

“**inquest**” means an inquest or inquiry under this Act;

“**the Registrar-General**” includes a Deputy Registrar-General and a Registration Officer appointed under the *Civil Registration Act 1963*;

“**the regulations**” means any regulations made under this Act;

“**this Act**” includes the regulations.

2. APPOINTMENT AND JURISDICTION OF CERTAIN CORONERS.

(1) The Judicial and Legal Services Commission may, by notice in the National Gazette—

(a) appoint a person to be a Coroner; and

(b) specify the province or provinces within which he has jurisdiction, power and authority as a Coroner.

(2) A Coroner appointed under Subsection (1) may hold an inquest in connection with a death or a fire that occurs, or on a dead body that is found, only within the province or provinces within which he has jurisdiction, power and authority as a Coroner.

3. DISTRICT OFFICERS TO BE CORONERS.

¹District Officers are, by virtue of their offices, Coroners and have jurisdiction, power and authority as Coroners throughout the country.

4. MEDICAL PRACTITIONER ACTING AS CORONER.

A Coroner who is a medical practitioner is not competent or compellable to hold an inquest on the body of a person whom he attended professionally at or immediately before his death or during his last illness.

5. INQUESTS BEFORE A CORONER ONLY.

An inquest shall be held by a Coroner sitting alone.

6. POWERS OF CORONER.

Subject to this Act, in respect of an inquest a Coroner has all the jurisdiction, power and authority that belongs to the office of a Coroner in England.

7. JURISDICTION CONCERNING DEATHS.

(1) A Coroner has jurisdiction to inquire into the manner and cause of the death of a person who—

- (a) was killed; or
- (b) was drowned; or
- (c) died a sudden death of which the cause is unknown; or
- (d) died under suspicious or unusual circumstances; or
- (e) died while under an anaesthetic in the course of a medical, surgical or dental operation or an operation of a like nature; or
- (f) died, but no certificate of a medical practitioner has been given as to the cause of death; or
- (g) died within a year and a day after the date of an accident where the cause of death is directly attributable to the accident; or
- (h) died in a corrective institution, rural lock-up or police lock-up, or while a prisoner or in custody; or
- (i) died in a mental hospital or other institution under such circumstances as to require an inquest under this or any other enactment; or
- (j) died in such circumstances that, in the opinion of the Attorney-General, the cause of death and the circumstances of the death should be more clearly and definitely ascertained; or

¹ Section 3 replaced by No. 17 of 1978.

(k) died, not having been attended by a medical practitioner at any time within three months before his death.

(2) Subject to this section, a Coroner shall inquire without delay into the manner and cause of a death occurring under any of the circumstances specified in Subsection (1).

(3) An inquest shall not be held after the expiration of 12 months from the date of a death, or after the expiration of 12 months from the date of finding a dead body, whichever is the later, unless the Attorney-General otherwise orders.

(4) Where, after considering any information as to the death in respect of which an inquest is by this section required to be held, the Coroner considers that no good purpose would be served by the holding of an inquest, he shall forward to the Attorney-General—

- (a) a certificate in the prescribed form stating the reason for coming to that decision and showing particulars of the deceased person and the cause of his death; and
- (b) a copy of any medical or post-mortem report made in connection with the death; and
- (c) copies of all other reports that have come to his attention dealing with the death where any of the information acted on by him is information that he has obtained otherwise than from reports; and
- (d) a copy of his own report on the death.

(5) The Coroner forwarding a certificate under Subsection (4)(a) shall send a copy of the certificate to the Commissioner of Police.

(6) This section does not relieve a Coroner from the obligation of holding an inquest where under an Act he is required to hold an inquest.

8. NOTICE TO REGISTRAR-GENERAL.

(1) Where a Coroner receives information of the death of a person in respect of which, under Section 7(2), an inquest is required to be held he shall, as soon as practicable after receiving the information, and whether or not an inquest is held, forward to the Registrar-General notice in the prescribed form of the death.

(2) Where, after considering any information as to the death of a person referred to in Subsection (1), a Coroner is satisfied that a medical practitioner knows the immediate cause of death, whether as the result of a post-mortem examination or otherwise, he may consent to that medical practitioner forwarding a medical certificate or post-mortem certificate of the cause of death to the Registrar-General.

9. NOTICE OF SUDDEN DEATH, ETC., TO BE GIVEN.

(1) Where a dead body is found or a case of sudden death or death attended with suspicious or unusual circumstances occurs, a person knowing, or becoming

acquainted with, the death or the finding of the body must immediately give notice to the nearest Coroner or commissioned officer of the Police Force.

Penalty: A fine not exceeding K20.00.

(2) A member of the Police Force who receives notice or otherwise becomes aware of—

- (a) a death referred to in Subsection (1); or
- (b) a dead body being found,

must without delay give to a Coroner such information as he can obtain concerning the death or the dead body.

10. PROCEDURE AT INQUESTS OF DEATH.

The Coroner holding an inquest concerning the death of a person shall—

- (a) examine on oath all persons—
 - (i) whom he thinks fit to examine; or
 - (ii) who tender their evidence; or
 - (iii) who, in his opinion, are able to give relevant evidence respecting the facts,

concerning the death; and

- (b) after hearing the evidence, give his decision or finding and certify it in writing in the prescribed form, setting forth, so far as they have been proved, the following particulars:—
 - (i) the identity of the deceased; and
 - (ii) how, when and where the deceased came by his death; and
 - (iii) the person (if any) suspected or accused of having caused the death by wilful murder, murder or manslaughter where the deceased came by his death by wilful murder, murder or manslaughter.

11. EXHUMATION.

Where it appears to a Coroner that there is grave suspicion as to the cause of the death of a person whose body has been buried, the Coroner may issue his warrant for the exhumation of the body for the purpose of holding an inquest.

12. VIEW OF BODY.

It is not necessary for the Coroner on an inquest of death to view the body of the deceased unless the Coroner thinks it advisable.

13. MEDICAL WITNESSES.

In an inquest concerning the death of a person, the Coroner may summon as a witness a medical practitioner who attended the deceased person.

14. POST-MORTEM EXAMINATIONS.

(1) Subject to Subsection (2), in a summons referred to in Section 13 or by a written order a Coroner may, at any time before the termination of the inquest, direct a medical practitioner to make a post-mortem examination of the body of the deceased person, with or without an analysis of the contents of the stomach, intestines or other organs.

(2) Where it appears to the Coroner that the death of the deceased person was or might have been caused partly or wholly by improper treatment by a medical practitioner or other person, the medical practitioner or other person must not be allowed to perform or assist at the post-mortem examination or analysis.

(3) Where it appears to the Coroner that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witnesses brought before him, he may summon as a witness some other medical practitioner and direct a post-mortem examination of the deceased person to be made by him, whether any such examination has already been performed or not.

(4) Where a Coroner considers it advisable to have a post-mortem examination made of—

- (a) the body of a person who has died and the cause of whose death is unknown or in doubt; or
- (b) a body respecting which a doubt exists as to whether it is that of a still-born child,

to assist him in deciding whether or not an inquest ought to be held, he may, at any time and without holding an inquest, by written order direct a medical practitioner to make a post-mortem examination of the body and report on the examination to the Coroner.

15. INQUESTS MAY BE HELD ON SUNDAY.

Where it appears to the Coroner that it is necessary or desirable, an inquest concerning the death of a person may be commenced or held on a Sunday.

16. PROVISION AS TO SUICIDE.

(1) The verdict of *felo de se* is abolished.

(2) Notwithstanding any law or custom to the contrary it is not lawful for a Coroner to forbid the rites of Christian burial at the interment of a person who has committed suicide or died by his own act, nor does a forfeiture or escheat to the State of real or personal property belonging to that person take place by reason of a verdict that he committed suicide or died by his own act.

17. INQUEST ON FIRES.

(1) A Coroner shall inquire into the cause and origin of any fire by which any property is destroyed or damaged where—

- (a) he is of opinion that such an inquest ought to be held; or
- (b) the Attorney-General directs him to hold an inquest.

(2) Except where the Attorney-General directs him to hold an inquest, if the Coroner considers that no good purpose would be served by holding an inquest, he shall forward to the Attorney-General—

- (a) a certificate in the prescribed form stating the reason for coming to that decision; and
- (b) copies of all other reports that have come to his attention dealing with the fire; and
- (a) where any of the information acted on by him is information that he has obtained otherwise than from reports—a copy of his own report on the fire.

(3) The Coroner shall examine on oath all persons—

- (a) whom he thinks fit to examine; or
- (b) who tender their evidence; or
- (c) who, in his opinion, may be able to give any relevant evidence respecting the facts,

concerning the fire.

(4) After hearing the evidence, the Coroner shall give his decision or finding and certify it in writing in the prescribed form, stating—

- (a) the time when and the place where the fire occurred; and
- (b) the cause of the fire; and
- (c) where the offence of arson has been committed, the person (if any) whom the Coroner finds to have been guilty of the offence.

18. REQUEST FOR INQUEST ON FIRE.

(1) Notwithstanding Section 17, an inquest concerning the cause and origin of a fire shall be held at the request of a person, on—

- (a) payment by him to the Coroner of the sum of K20.00 or such sum as is prescribed; and
- (b) giving an undertaking to pay any further costs entailed in the holding of the inquiry.

(2) The amount of the costs payable is as certified by the Coroner holding the inquiry, and may be recovered by the State as a debt.

19. PROCEEDINGS ON INQUISITION CHARGING A PERSON WITH MURDER, ARSON, ETC.

(1) Where a Coroner's inquisition charges a person with the offence of wilful murder, murder, manslaughter or arson, the Coroner shall—

- (a) read the charge to the person charged and explain its nature in ordinary language and say to him these words or words to the like effect:

“Do you wish to be sworn and give evidence or do you wish to say anything? You are not obliged to give evidence or to say anything and you will not be prejudiced in any way if you decide to remain silent. If you do wish to be sworn and give evidence or if you wish to make a statement, whatever you say, whether on oath or not, will be taken down in writing and may be given in evidence at your trial. You are clearly to understand that you have nothing to hope from any promise of favour, and nothing to fear from any threat, that may have been held out to you to induce you to make any admission or confession of your guilt, but whatever you now say may be given in evidence on your trial, notwithstanding any such promise or threat.”; and

- (b) put into writing, or cause to be put in writing, whatever the person charged says in answer; and
- (c) issue his warrant for arresting or detaining the person (if a warrant has not been previously issued) and commit the person for trial; and
- (d) bind by recognizance all persons examined before him who know or declare anything material about the offence to appear at the next sittings of the National Court then and there to prosecute or give evidence against the person charged.

(2) A statement put into writing in accordance with Subsection (1)(b), shall be read over to or by the person charged and signed by the Coroner and, if the person charged so desires, by the person charged.

(3) Where the offence charged is manslaughter or arson, if the Coroner thinks fit he may accept bail by recognizance with sufficient sureties for the appearance of the person charged at the sittings of the National Court at which the trial is to be held, and if the person is in the custody of an officer of the Coroner's Court or in custody under a warrant of commitment issued by the Coroner he shall be discharged.

(4) The Coroner shall transmit to the Registrar of the National Court, without delay, the inquisition, depositions, statement (if any) and recognizances, with a certificate under his hand that they have been taken before him.

20. INQUIRIES RESPECTING MISSING PERSONS.

(1) Where—

- (a) a person has been reported to a member of the Police Force as missing and the police have not found the missing person within the period of six months after the date of the report; or
- (b) a Coroner is of opinion that such an inquiry ought to be held; or
- (c) the Attorney-General directs a Coroner to hold an inquiry; or
- (d) a person authorized for the purpose by this section requests a Coroner to hold an inquiry,

a Coroner shall inquire into the cause and circumstances of the disappearance of the missing person and into all matters and things that will reveal, or are likely to reveal, whether the missing person is alive or dead, and if the person is alive or likely to be alive his whereabouts at the time of the inquiry.

(2) Without limiting the power conferred on a Coroner by this Act to summon a person to attend the inquiry and give evidence, a person who—

- (a) has, or alleges or has alleged that he has, knowledge or information concerning a matter or thing relevant to an inquiry under this section; or
- (b) the Coroner has reason to believe has, or is alleging or has alleged that he has, such knowledge or information,

is a competent and compellable witness as to the knowledge or information and the sources from which he obtained it.

(3) The Coroner shall examine on oath concerning the disappearance of the missing person, all persons—

- (a) whom he thinks fit to examine; or
- (b) who tender their evidence; or
- (c) who, in his opinion, are able to give relevant evidence,

respecting the facts.

(4) After hearing the evidence the Coroner shall—

- (a) give his decision or finding in writing signed by him; and
- (b) forward the decision or finding to the Attorney-General together with the depositions.

(5) Except in proceedings for an offence against this Act, a statement or disclosure made by a witness on an inquiry under this section in answer to a question put to him by or before the Coroner is not admissible in evidence against him in any civil or criminal proceeding.

(6) The persons authorized to request a Coroner to hold an inquiry under this section are the Commissioner of Police, a Superintendent of Police and the husband

or wife, father, mother, sister, brother, son, daughter or guardian of the missing person concerned.

21. REOPENING OF INQUEST.

(1) Where the Attorney-General directs a Coroner to re-open or hold an inquest, he shall—

- (a) re-open an inquest closed by him or another Coroner; or
- (b) hold the inquest, if an inquest into a death has not been held because he or another Coroner has certified that the inquest was not necessary.

(2) A Coroner may re-open or hold an inquest where—

- (a) he is of the opinion that the inquest ought to be re-opened or held; or
- (b) a person authorized for that purpose by this section requests him to re-open or hold the inquest.

(3) Before re-opening or holding an inquest at the request of a person authorized for the purpose by this section, a Coroner may require a written statement of the grounds for the request.

(4) Where a Coroner considers that the grounds given under Subsection (3) do not warrant the re-opening or holding of the inquest he may refuse to re-open or hold it, as the case may be, but he shall, in writing accompanied by a copy of the grounds for his refusal, inform the Attorney-General of his refusal.

(5) The persons authorized to request a Coroner to re-open or hold an inquest under this section are the Commissioner of Police, a Superintendent of Police, and the husband or wife, father, mother, sister, brother, son, daughter or guardian of the deceased person.

22. GENERAL POWERS OF CORONER.

Subject to this Act, a Coroner has, for the purposes of an inquest, all the powers conferred on a Magistrate by the *District Courts Act 1963* in respect of the preliminary hearing of an indictable offence, and the provisions of that Act relating or applicable to such proceedings, with the necessary modifications, apply to inquests.

23. DEPOSITIONS AND STATEMENT.

(1) At an inquest taken by him, a Coroner shall put into writing, or cause to be put into writing, the evidence given before him.

(2) The deposition of a witness taken under Subsection (1) shall be read over to or by the witness, and shall be signed by him and the Coroner.

(3) Except as provided in Section 20, on the trial of a person the depositions and any statement of the person charged taken in accordance with Section 19 are

admissible in evidence in the same manner and to the same extent as depositions, or a statement of the accused, taken on the preliminary hearing of an indictable offence.

(4) At the conclusion of an inquest, and whether a person is committed for trial or not, the Coroner shall—

- (a) forward the depositions to the Attorney-General with the certificate under Section 10 or 17(4), as the case may be; and
- (b) send a duplicate of the certificate to the Commissioner of Police and, where the inquest concerns a death, to the Registrar-General.

24. EVIDENCE OF ACCUSED PERSON, ETC.

Except in an inquiry under Section 20, the provisions of the *Evidence Act 1975*, regarding the right of an accused person, and the husband or wife of an accused person to give evidence or otherwise, extend to proceedings before a Coroner.

25. ATTENDANCE OF WITNESSES.

(1) A Coroner may issue to a person whose evidence he thinks it necessary to obtain a summons in the prescribed form to attend an inquest at the time and place named in the summons and then and there to give evidence and be examined.

(2) In the summons or by a written order, the Coroner may require a person to produce at the inquest books, documents or writings or any other thing in his custody, possession or control that the Coroner thinks ought to be produced.

(3) The Coroner shall deliver, or cause to be delivered, a summons issued under this section to a commissioned officer of the Police Force.

(4) A commissioned officer of the Police Force to whom a summons is delivered under Subsection (3) shall serve it, or cause it to be served, without delay.

(5) Where—

- (a) a person summoned as a witness neglects or refuses to appear at the time or place appointed by the summons; and
- (b) no reasonable excuse is offered to the satisfaction of the Coroner for the neglect or refusal,

and after proof on oath that the summons was duly served on the person, the Coroner may issue his warrant to bring the person before him at a time and place to be specified in the warrant.

(6) The provisions of the *District Courts Act 1963* relating to the enforcement of warrants, with the necessary modifications, apply to the enforcement of a warrant issued under Subsection (5).

26. PENALTY FOR NEGLECTING TO ATTEND.

(1) Where a person who has been summoned to attend as a witness at an inquest—

- (a) fails without reasonable excuse to appear at the inquest; or
- (b) refuses to take an oath or make an affirmation or be examined at the inquest; or
- (c) refuses without reasonable cause to give evidence at the inquest; or
- (d) when required by the Coroner, by summons or written order, fails or refuses without reasonable excuse to produce at the inquest books, documents or writings or any other thing in his custody, possession or control that the Coroner thinks ought to be produced,

the Coroner may impose on him a fine not exceeding K40.00.

(2) Where on the appearance of a person—

- (a) voluntarily; or
- (b) in obedience to a summons; or
- (c) brought before the Coroner by virtue of a warrant at an inquiry held under Section 20,

the person—

- (d) refuses without reasonable cause to give evidence at the inquiry; or
- (e) refuses without reasonable excuse to take an oath or to make an affirmation or to be examined on oath at the inquiry; or
- (f) fails or refuses without reasonable excuse, on being required by the Coroner, to produce at the inquiry, books, documents or writings or any other thing in his custody, possession or control that the Coroner thinks ought to be produced,

and, at or in respect of the same inquiry on a subsequent day, he fails or refuses to do any of the things specified in Paragraphs (d), (e) and (f), the Coroner (whether he has imposed on the person a fine under this Act for the failure or refusal on a previous day or not) may by his warrant commit the person to a corrective institution or, subject to any other law, to a rural lock-up or police lock-up until he consents to be examined and to answer concerning the matter, or to produce the books, documents, writings or other thing in question.

(3) The provisions of the *District Courts Act 1963* relating to warrants of commitment apply, with the necessary modifications, to the enforcement of a warrant issued under Subsection (2).

27. ADMISSIONS, ETC.

This Act does not—

- (a) make a person compellable to answer a question tending to incriminate himself; or

- (b) prevent the prosecutor in a trial from tendering in evidence any admission or confession or other statement of the accused made at any time, that would be admissible by law as evidence against the accused.

28. POWER TO PUNISH FOR CONTEMPT.

Where a person—

- (a) insults the Coroner during the holding of an inquest; or
- (b) wilfully interrupts the proceedings at an inquest; or
- (c) obstructs or assaults a person in attendance at an inquest; or
- (d) refuses or neglects to obey a lawful order of the Coroner,

the Coroner may impose on him a fine not exceeding K40.00.

29. PRESENCE OF WITNESSES AT INQUEST.

(1) Subject to Subsection (2), a person summoned as a witness shall not be permitted to be present in the room or place where a Coroner is conducting an inquest except—

- (a) when he is giving his evidence; or
- (b) after he has given his evidence.

(2) Where the Coroner considers—

- (a) that a person, whether subpoenaed as a witness or not, has a particular interest in the proceedings; or
- (b) the conduct or act of such a person is in any way material to the subject-matter of the inquest,

he may permit him to be present in the room or place where the inquest is being conducted.

(3) A person specified in Subsection (2) is entitled to be represented by a lawyer and to examine or cross-examine witnesses in relation to the subject-matter of the inquest.

30. POWER OF EXCLUSION.

(1) Subject to Subsections (2) and (3), where, in the opinion of a Coroner, the interests of public morality require that any person should be excluded from the room or place where the Coroner is conducting an inquest, he may exclude him from the room or place.

(2) The Coroner may not exercise his powers under this section for the purpose of excluding a lawyer.

(3) In a case to which this section applies, the Coroner—

- (a) may not exclude representatives of newspapers from the room or place where the inquest is being held; but
- (b) may make an order forbidding the publication of any report or account of the evidence or other proceedings in the inquest.

(4) A person who commits a breach of, or a colourable or attempted evasion of, an order made under Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K400.00.

31. WITNESSES' EXPENSES.

(1) Where he thinks fit, on the request of a person who has attended as a witness at an inquest a Coroner may grant a certificate to him of such amount as the Coroner thinks reasonable for his expenses, trouble and loss of time, computed at a rate not exceeding the rate allowed for the attendance of witnesses before the National Court in criminal cases.

(2) Where a medical practitioner not in the Public Service, who has attended a Coroner's inquest in obedience to a summons, makes a post-mortem examination of the body of the deceased by the direction of the Coroner, he is entitled to be paid such sum as is prescribed for the post-mortem examination in addition to expenses under Subsection (1), and the Coroner shall grant him a certificate for that sum.

(3) On the production to the Secretary for Finance of a certificate granted under this section, he may pay, out of moneys available for the purpose, to the person named in, or authorized by endorsement on, the certificate to receive it, the sum of money specified in the certificate.

32. DEFAULT IN PAYMENT OF FINE.

(1) On default in payment of a fine imposed under this Act, the Coroner who imposed the fine may make out and sign a certificate stating—

- (a) the name, residence and occupation of the person making default; and
- (b) the amount of the fine imposed; and
- (c) the cause of the fine,

and transmit it to the Clerk of the nearest District Court.

(2) Where a certificate under Subsection (1) is transmitted to the Clerk of a District Court, payment of the fine shall be enforced as if the fine had been a fine imposed by that Court.

33. SUMMONS, ETC., TO BE SIGNED BY CORONER.

A Coroner shall sign any written summons, warrant or order issued or made by him.

34. RETURN OF INQUESTS BY CORONERS.

(1) A Coroner by whom an inquest is held shall—

- (a) make an abstract of the proceedings on the inquest and his finding; and
- (b) state in the abstract the names of all witnesses examined at the inquest; and
- (c) annex to the abstract—
 - (i) an account of all sums of money ordered or certified by him to be paid on account of the inquest; and
 - (ii) an account of the number of days during which the inquest or any adjournment of the inquest continued.

(2) The Coroner shall certify the abstract and accounts to be true and correct and sign and transmit them without delay to the Attorney-General to be filed of record in such manner as the Minister directs.

35. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Office of Legislative Counsel, PNG