



LAWS OF SARAWAK

ONLINE VERSION

**Chapter 48
(1958 Ed.)**

INQUESTS ORDINANCE

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CHAPTER 48
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INQUESTS ORDINANCE

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CHAPTER 48
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INQUESTS ORDINANCE

An Ordinance to provide for the holding of inquests and matters relating thereto.

[1st August, 1933]

Short title

1. This Ordinance may be cited as the Inquests Ordinance.

Interpretation

2. In this Ordinance—

“cause of death” includes not only the apparent cause of death as ascertainable by inspection or *post-mortem* examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed how the deceased came by his death and whether his death resulted in any way from, or was accelerated by, any unlawful act or omission on the part of any other person;

“Government” includes the Government of the Federation and the Government of any State thereof;

[Mod. F.L.N. 213/65.]

“hospital assistant” includes any person or class of person authorized by the Director of Medical Services to act as such for the purpose of this Ordinance;

[Added Ord. No. 19/62.]

“Medical Officer” means a registered medical practitioner employed by Government or, if no such officer is available, any other duly registered medical practitioner;

[Amended by Commissioners of Law Revision]

“officer in charge of a police station” means the officer appointed to perform the duties of that office or, when such officer is absent therefrom or unable from illness to perform his duties, the police officer present and acting in the station who is next in rank below such officer;

“place” includes a house, building, tent and vessel.

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- NOTES: (1) This Ordinance was formerly part of the repealed Criminal Procedure Code. The date of operation, the chapter number and the numbers of the amending Ordinances beside the date of operation, and the figures in brackets at the end of each section, refer to the 1954 reprint of the repealed Criminal Procedure Code (*Cap. 62* — Laws of Sarawak 1948 Edition) and to legislation amending that Code as so printed.
- (2) This Ordinance has been declared to be Federal Law — see F.L.N. 200/65.

Duty of officer in charge of station

3.—(1) If an officer in charge of a police station receives information—

- (a) that a person has committed suicide;
- (b) that a person has been killed by another, or by an animal, or by machinery, or by an accident;
- (c) that a person has died under circumstances in which some other person may have committed an offence; or

(d) that a person has died or has disappeared in circumstances which raise a reasonable presumption that he has died, and the cause of such death or presumed death is not known, he shall immediately give information thereof to a Magistrate and shall himself immediately proceed, or shall direct some other police officer immediately to proceed, to the place where the body of such deceased person is, or, if the body has disappeared, to the place where the deceased person was last seen alive, and there shall make an investigation and draw up a report of the apparent cause of death, describing, if the body is available, such wounds, fractures, bruises and other marks as may be found thereon, and stating in what manner or by what weapon or instrument, if any, the same appear to have been inflicted, and, whether the body is available or not, giving an account of such objects and circumstances as in his opinion may relate to the cause of death or the person, if any, who caused the death:

Provided that—

(i) if no police officer is available to make the investigation required by this subsection, the Magistrate may direct a fit and proper person (hereinafter referred to as an “authorized officer”) to carry out such investigation and to draw up the report and forward it to the officer in charge of the police station; and

(ii) if the Magistrate is satisfied that no useful purpose would be served by any person proceeding to the place where the body is or, if the body has disappeared, to the place where the body was last seen alive, he may, by order in writing under his hand, dispense with such requirement.

(2) Any police or authorized officer making an investigation under this section may exercise all the powers granted to a police officer under the provisions of Chapter XIII of the Criminal Procedure Code [Act 574].

(3) A report of such investigation shall be made and signed by the officer in charge of the police station and forwarded by him to the Magistrate:

Provided that, if, as a result of the investigation, such officer drafts a charge under section 120 of the Criminal Procedure Code ~~[Act 574]~~ in respect of the death of such person, he shall forward the report to the Public Prosecutor and shall inform the Magistrate in writing of the commencement of such proceedings.

[Substituted by Ordinance 11 of 1956]

Duty of officer to arrange for *post-mortem* examination in certain cases

4.—(1) Every person making an investigation under section 3 shall, if there appears to him any reason to suspect that the deceased came by his death in a sudden or unnatural manner or by violence, or that his death resulted in any way from or was accelerated by any unlawful act or omission on the part of any other person, at once inform the nearest Medical Officer, and shall take or send the body to the nearest Government hospital or other convenient place for the performance of a *post-mortem* examination of the body by a Medical Officer:

Provided that, if such person is satisfied as to the cause of death and that the deceased came by his death by accident, or that in all the circumstances of the case, including the state of the body and the difficulties of communication, he is of the opinion that no useful purpose would be served by a further examination, he may order the body to be buried forthwith.

(2) The person making the investigation shall not remove the body if it appears to him that it should be viewed by a Magistrate in the place where it was found.

[Subsection (2) amended by Ordinance 11 of 1956]

(3) Where it is not practicable to obtain the services of a Medical Officer, a hospital assistant may perform the duties required by this section.

Post-mortem examination of body

5.—(1) Upon receiving the information referred to in section 4 a Medical Officer or hospital assistant shall, as soon as practicable, perform a *post-mortem* examination of the body of the deceased.

(2) The Medical Officer or hospital assistant, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion thereof, and may cause any portion thereof to be transmitted to the Government Analyst or the officer in charge of the Central Laboratory of the Medical Department, as the case may require.

[Am. Ord. No. 19/62.]

(3) If a *post-mortem* examination is held in pursuance of this section or pursuant to an order under section 9 (2) or if exhumation of a body is carried out in pursuance of this Ordinance the body or remains thereof shall not be buried or reburied as the case may be except under and in accordance with the order of a Magistrate having jurisdiction in the district where such body or remains may be.

(4) Subsection (3) shall not be deemed to require an order of a Magistrate to dispose of any portion of a body which may have been sent for examination under this Ordinance to a Medical Officer or hospital assistant and such portion may, unless a Magistrate otherwise orders, be disposed of in such manner as the Director of Medical Services may by any general or special direction direct.

[Subsections (3) and (4) inserted by Ordinance 15 of 1957]

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Report of Medical Officer

6. The Medical Officer or hospital assistant making any such examination shall draw up a report of the appearance of the body and of the conclusion which he draws therefrom, and shall certify as to the cause of death and shall date and sign the report and transmit it to the officer in charge of a police station who shall attach it to the report forwarded under section 3. [305]

[Amended by Ordinance 11 of 1956]

Duty of Magistrate on receipt of report

7.—(1) If the Magistrate shall be satisfied, without holding an inquest, as to the cause of death, and that the death did not result in any way from, or was not accelerated by, any unlawful act or omission, he shall report to the Public Prosecutor through the Resident the cause of death as ascertained to his satisfaction, with his reasons for being so satisfied, and shall at the same time transmit to the Public Prosecutor through the Resident all reports and documents in his possession connected with the matter.

(2) A Magistrate may in his discretion hold an inquest if there is no body available in the circumstances mentioned in section 3 (1).

(3) A Magistrate shall not hold any inquest under this Ordinance if he has reason to believe that criminal proceedings against any person for having caused the death of the deceased have been, or are about to be, commenced.

(4) In all other cases, the Magistrate shall proceed as soon as may be to hold an inquest.

*[Subsections (2), (3) and (4) substituted by
Ordinance 11 of 1956]*

Death of a person in custody of police or in any mental hospital

8. Notwithstanding section 7, when any person dies while in the custody of the police, or in a mental hospital, or prison, or whilst in the custody of any public officer, or in custody in any other place appointed or authorized under any written law as a place in which any person or persons of a particular class may lawfully be detained, the officer who had the custody of such person or was in charge of such mental hospital, prison or such other place, as the case may be, shall forthwith give intimation of such death to the nearest Magistrate; and such Magistrate or some other Magistrate shall hold an inquest into the cause of death and, for such purpose, may designate any person to make the investigation and report referred to in section 3, and such person shall for the purposes of such investigation be deemed to be a police officer.

[Amended by Ordinance 11 of 1956 and 2 of 1957]

Powers of Magistrate

9.—(1) A Magistrate holding an inquest shall have all powers which he would have in holding an inquiry into an offence under the Criminal Procedure Code ~~[Act 574]~~.

[Amended by Commissioners of Law Revision]

(2) A Magistrate holding an inquest, if he considers it expedient that the body of the deceased person should be examined by a Medical Officer or hospital assistant in order to discover the cause of death, may, whether a *post-mortem* examination has been performed under section 5 or not, issue his order to a Medical Officer or hospital assistant to perform a *post-mortem* examination of such body, and for such purpose order such body to be exhumed.

(3) The Magistrate holding the inquest may, if he thinks fit, summon to assist him a jury consisting of not less than three and not more than five persons, of whom at least half shall, if possible, be of the same race as the deceased.

Magistrate may view body

10. A Magistrate holding an inquest shall ordinarily view the body of the deceased and may for that purpose cause such body to be exhumed:

Provided that a Magistrate may in his discretion dispense with viewing the body if, for a reason which he shall record, he considers it to be unnecessary.

Inquest to be made by Magistrate

11. A Magistrate holding an inquest shall inquire when, where, how and after what manner the deceased came by his death, and also whether any person is criminally concerned in the cause of such death.

Evidence and finding to be recorded

12.—(1) The Magistrate holding an inquest shall record the evidence in the manner provided in Chapter XXV of the Criminal Procedure Code [*Act 574*] for the recording of evidence in trials, other than trial of summons cases, and shall record his finding thereon, and shall forthwith transmit to the Public Prosecutor through the Resident the original of such evidence and finding duly authenticated by his signature, or a copy of such evidence and finding certified under his hand as correct.

[Amended by Commissioners of Law Revision]

Powers of Public Prosecutor and Magistrate as to inquiries of death

13.—(1) Notwithstanding the provisions of section 7, the Public Prosecutor may at any time direct a Magistrate to hold an inquest into the cause of, and the circumstances connected with, any death such as is referred to in section 3, and the Magistrate to whom such direction is given shall thereupon proceed to hold an inquest, and shall record his finding as to the cause of death and also to any of the circumstances connected therewith with regard to which the Public Prosecutor may have directed him to make inquiry.

[Am. Swk. L.N. (F) 131/66.]

[Amended by Ordinance 11 of 1956]

Procedure where jury has been summoned

14.—(1) If a jury has been summoned under section 9 (3), the Magistrate shall not be required to arrive at or record a finding, but shall direct the jury as to their verdict, and shall record the verdict of such jury or, if they fail to agree, of the majority thereof which shall be deemed to be the finding of the jury and sections 12 and 13 shall in such case be construed with the modifications necessary to give effect to this section.

(2) The jury or a majority thereof, as the case may be, shall sign the verdict recorded under subsection (1).

[Inserted by Ordinance 11 of 1956]