

ACT

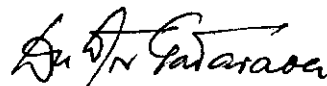
City

I HEREBY CERTIFY that the attached document is a fair print of an Act entitled Inquests Act, 1977 that has been made by Parliament and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Clerk of Parliament
1st April, 1977

Pursuant to Article 35 (3) and 47 of the Constitution I, DAVID PETER GADARAOA, Speaker of Parliament, HEREBY CERTIFY that the ~~Act~~ Inquests Act, 1977 a copy of which is attached has been passed by Parliament.



Speaker
1st April, 1977



REPUBLIC OF NAURU

INQUESTS ACT 1977

(No. 2 of 1977)

ARRANGEMENT OF SECTIONS

Section

- 1 Short title
- 2 Interpretation
- 3 Sudden or suspicious deaths and finding of dead bodies to be reported to the police
- 4 Duty of the officer in charge of the police station
- 5 Post-mortem examination of the body
- 6 Report of post-mortem examination
- 7 Duty and powers of the resident magistrate upon receiving reports
- 8 Exhumation of the body
- 9 The resident magistrate may view the body
- 10 Notice of inquest to be given
- 11 Powers of the resident magistrate when holding an inquest
- 12 Examination of witnesses
- 13 Order in which witnesses are to be examined
- 14 Questions with inculpatory answers
- 15 Rights of persons whose conduct may be impugned
- 16 Matters to be ascertained at an inquest
- 17 Evidence at inquests
- 18 Inquests to be held in public
- 19 Powers of the Secretary for Justice
- 20 Rules
- 21 Repeal and saving



AN ACT

To repeal the application to Nauru of the Coroners Ordinance 1911 of the Territory of Papua and to make new provision for the holding of inquests and for matters relating thereto.

(Certified: 1/4/1977)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE

1. This Act may be cited as the Inquests Act 1977.

INTERPRETATION

2. In this Act, unless the context otherwise requires—
 - “body” includes part of a human body;
 - “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 as to how the deceased came by his death and whether his death resulted in any way from, or was accelerated by, any negligent or unlawful act or omission on the part of any other person or by any industrial practice which is dangerous or injurious to health;
 - “sudden or unnatural death” means a death or disappearance where—
 - (a) a person has committed suicide;
 - (b) a person has been killed by another, or by an animal or by machinery or during the course of a fire or by accident;
 - (c) a person has died under circumstances in which some other person may have committed an offence; or
 - (d) 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 or the death apparently followed an illness which may have been due to an industrial practice injurious to health.

SUDDEN OR SUSPICIOUS DEATHS AND FINDING OF DEAD BODIES TO BE REPORTED TO THE POLICE

3. Any person who finds a dead human body anywhere in Nauru or who knows or has reason to believe that any person has died in Nauru, or on any ship or aircraft registered in Nauru, in circumstances affording reason to believe that the death may not have been due to natural causes, shall report the finding of the body or the death, as the case may be, to a police officer as soon as reasonably possible; if without reasonable cause he fails to do so, he is guilty of an offence and is liable to a fine of one hundred dollars.

DUTY OF THE OFFICER IN CHARGE OF THE POLICE STATION

4. (1) Where the officer in charge of the police station receives information that a sudden or unnatural death has occurred in Nauru, or on any ship or aircraft registered in Nauru, or that a person has died in Nauru while detained in the custody of a police officer or any other public officer or in the prison or any other place specified by the Minister by notice in the Gazette, he shall—

- (a) immediately inform the Director of Police of the information received;
- (b) immediately make, or direct some other police officer to make, an investigation into the cause of death and report to the resident magistrate in writing in the prescribed form that the investigation is being made;
- (c) if directed to do so by the Director of Police, take charge of the body of the deceased person and, unless the Director of Police, being of the opinion that no useful purpose would be served by a post-mortem examination of the body, directs otherwise, take or send it to the Nauru General Hospital or some other convenient place for the performance of a post-mortem examination in accordance with section 5 and notify the Director of Health and Medical Services in writing in the prescribed form that a post-mortem examination is required to be carried out;
- (d) when the investigation referred to in paragraph (b) has been completed, report the results of the investigation in writing to the resident magistrate in the prescribed form.

(2) Where the body of a deceased person in respect of whom an investigation is made under paragraph (b) of the preceding subsection is not taken or sent for a post-mortem examination thereof, the officer in charge of the police station shall state that fact in his report made under paragraph (d) of that subsection

(3) Written reports shall be made in accordance with the provisions of paragraph (b) and paragraph (d) of subsection (1) notwithstanding the fact that it is impossible or impracticable to discover, recover or view the body of the deceased person.

POST-MORTEM EXAMINATION OF THE BODY

5. (1) Upon receiving any such notice as is referred to in paragraph (c) of subsection (1) of section 4, the Director of Health and Medical Services shall carry out, or cause another medical officer to carry out, as soon as reasonably practicable a post-mortem examination of the body to which the notice relates.

(2) Where a post-mortem examination is carried out of the body of any deceased person, whether in pursuance of the preceding subsection or in compliance with a direction given by the resident magistrate under the provisions of subsection (2) of section 7—

(a) the person carrying out the examination shall, if he considers it necessary to do so for the purpose of ascertaining the cause of death, extend the examination to the dissection of the body and an analysis of any part thereof and may cause any part thereof to be taken or sent for analysis to a person in Nauru or elsewhere competent to carry out such an analysis; and

(b) the body or remains thereof—

(i) shall not be buried, except in accordance with a written order of the resident magistrate or the Director of Police; and

(ii) shall not be cremated, disposed of or dealt with otherwise than by burial within Nauru, except in accordance with a written order of the resident magistrate.

REPORT OF POST-MORTEM EXAMINATION

6. (1) The person making a post-mortem examination in pursuance of, or in compliance with an order made under, any of the provisions of this Act shall—

(a) draw up a report in the prescribed form of the appearance of the body and of the conclusions which he draws therefrom, and shall certify his opinion as to the cause of death and shall date and sign the report and send it to the officer in charge of the police station, who shall attach it to the report submitted by him under paragraph (d) of subsection (1) of section 4; and

(b) without delay send to the Register of Births and Deaths a certificate in the prescribed form stating the cause of death.

(2) Where in pursuance of paragraph (a) of subsection (2) of section 5 any part of a body has been sent for analysis, the person making the post-mortem examination of the body shall state that fact in his report under paragraph (a) of the preceding subsection and shall attach to that report the report of such analysis, if he has received it; and, if any such report is received after he has sent his report to the officer in charge of the police station in accordance with paragraph (a) of the preceding subsection, he shall send it forthwith to the officer in charge of the police station together with a written statement whether his opinion as to the cause of death has altered as a result of it. Where the officer in charge of the police station receives such a report after he has reported to the resident magistrate in pursuance of paragraph (d) of subsection (1) of section 4, he shall forthwith deliver the report and the written statement to the resident magistrate.

DUTY AND POWERS OF THE RESIDENT MAGISTRATE UPON RECEIVING REPORTS

7. (1) Where the resident magistrate has received a report under paragraph (b) of subsection (1) of section 4, he shall take appropriate steps to ensure that a report is made to him under paragraph (d) of that subsection without undue delay.

(2) Where the resident magistrate has received a report under paragraph (d) of subsection (1) of section 4, and, upon perusing it and the reports received with it or, after its receipt, under section 6, he considers that further investigation or a post-mortem examination, or a further post-mortem examination, is required, he shall direct the officer in charge of the police station to make such further investigation or, as the case may be, the Director of Health and Medical Services to make a post-mortem examination, or a further post-mortem examination, of the body, or to cause such an examination to be made by a medical officer; and the officer in charge of the police station or the Director of Health and Medical Services, as the case may be, shall comply with that direction and shall report the results of the further investigation, post-mortem examination or further post-mortem examination in writing to the resident magistrate as soon as reasonably practicable.

(3) Where the resident magistrate has received a report under paragraph (d) of subsection (1) of section 4 and, having perused it and any other reports received with it, or after it, under section 6 or the last preceding subsection, is satisfied as to the cause of death, he may, if he thinks fit, record his finding without holding an inquest; if he does so, he shall report his finding in writing to the Secretary for Justice.

(4) Except as provided by the last preceding subsection, the resident magistrate shall, as soon as possible after receiving a report made to him under paragraph (d) of subsection (1) of section 4, proceed to hold an inquest; but he shall adjourn the inquest sine die if he has reason to believe that criminal proceedings against any person for having caused the death of the deceased person have been, or are about to be, commenced and he may terminate it if any person is convicted thereof.

(5) Every inquest shall be held by the resident magistrate without jurors or assessors.

EXHUMATION OF THE BODY

8. The resident magistrate may, if he thinks it necessary to do so, at any time after he has received a report under paragraph (b) of subsection (1) of section 4 authorise and require the body of the person to whose death the report relates, if already buried, to be exhumed by the officer in charge of the police station or by other police officers under his supervision and taken to the Nauru General Hospital or some other convenient place for a post-mortem examination, or a further post-mortem examination, of it to be carried out by the Director of Health and Medical Services or another medical officer.

THE RESIDENT MAGISTRATE MAY VIEW THE BODY

9. The resident magistrate may, if he thinks fit, view the body of any deceased person in respect of whose death he has received a report under paragraph (b) of subsection (1) of section 4.

NOTICE OF INQUEST TO BE GIVEN

10. Not less than seven days before he holds an inquest under this Act the resident magistrate shall cause an announcement of his intention to do so, and of the date and time fixed therefor, to be broadcast by Radio Nauru in the English and Nauruan languages and in such other languages, if any, as he considers appropriate.

POWERS OF THE RESIDENT MAGISTRATE WHEN HOLDING AN INQUEST

11. The resident magistrate, when holding an inquest, shall have all the powers, including the powers to compel the attendance of witnesses, exercisable by the District Court or the resident magistrate in holding a criminal trial under the provisions of the Criminal Procedure Act 1972, and the inquest shall be deemed to be judicial proceedings.

EXAMINATION OF WITNESSES

12. (1) Any person who in the opinion of the resident magistrate is a properly interested person shall be entitled to examine any witness at an inquest either in person or by a barrister and solicitor or pleader:

Provided that the resident magistrate shall disallow any question which in his opinion is not relevant or is vexatious, scandalous or oppressive.

(2) If the death of the deceased person may have been caused by an injury received in the course of his employment or by an industrial disease, any person engaged in similar employment shall be taken to be a properly interested person for the purpose of this section.

(3) Any person having an insurable interest in relation to the deceased person or any representative of an insurance corporation which has insured the life or property of the deceased person, or which may be liable to indemnify any person in respect of his liability for any tortious act or omission which may have caused the death of the deceased person, or which may be liable to have judgment recovered against it by virtue of section 21 of the Motor Vehicles (Third-Party Insurance) Act 1967-1972, shall be taken to be a properly interested person.

ORDER IN WHICH WITNESSES ARE TO BE EXAMINED

13. Unless the resident magistrate otherwise determines, a witness at an inquest shall be examined first by him, or by a barrister and solicitor or pleader, if any, appointed by the Secretary for Justice at the request of the resident magistrate to assist him, and, if the witness is represented at the inquest by a barrister and solicitor or pleader, last by his barrister and solicitor or pleader.

QUESTIONS WITH INCRIMINATING ANSWERS

14. A witness at an inquest shall not be required to answer any question if the answer would tend to incriminate him. Where it appears to the resident magistrate that a witness has been asked a question of such a nature that the answer to it may tend to incriminate him, he shall inform the witness that he may refuse to answer it.

RIGHTS OF PERSONS WHOSE CONDUCT MAY BE IMPUGNED

15. (1) Every person whose conduct is likely in the opinion of the resident magistrate to be impugned at an inquest shall, if not duly summoned to give evidence thereat, be given not less than four days' notice in writing of the date, hour and place at which the inquest will be held.

(2) Where the conduct of any person is impugned at an inquest on grounds which the resident magistrate thinks substantial and which relate to any of the matters referred to in section 16 and that person is not present at the inquest and has not been duly summoned to attend or otherwise given notice in writing of the holding of the inquest, the inquest shall be adjourned to enable him to be present, if he so wishes.

MATTERS TO BE ASCERTAINED AT AN INQUEST

16. (1) The proceedings and evidence at an inquest shall be directed solely to ascertaining the following matters and any matters relevant thereto, namely—

- (a) the identity of the deceased person;
- (b) the cause and the date and place of death;
- (c) the persons, if any, to be charged with murder, manslaughter, infanticide, causing death by dangerous driving or of being accessories before the fact to any such offence, should the resident magistrate find that the deceased person came by his death by murder, manslaughter, infanticide or by dangerous driving;
- (d) where the deceased person came by his death as the result of—
 - (i) an injury received in the course of employment,
 - (ii) an industrial disease, or
 - (iii) an injury caused or resulting from an act done or omission made by any person in the course of his business or the business of his employer,whether any practice followed in the deceased's employment or in the business of the person referred to in sub-paragraph (iii) or his employer, as the case may be, is dangerous or injurious to health;
- (e) the particulars for the time being required to be entered in the Register of Deaths maintained under the Registration of Births and Deaths Act 1957-1976.

(2) For the purpose of avoiding doubt it is hereby declared that a finding under paragraph (c) of the preceding subsection shall not operate as a committal for trial nor shall such proceedings be deemed to be a preliminary inquiry held under the Criminal Procedure Act 1972.

(3) The resident magistrate shall set out in writing his findings as to the matters ascertained at an inquest and shall send a copy of them to the Secretary for Justice.

EVIDENCE AT INQUESTS

17. (1) The law relating to admissibility of evidence in judicial proceedings shall not apply to inquests and the resident magistrate may admit such evidence as he thinks fit to admit and shall give it such weight as he considers appropriate; but oral evidence shall be given on oath or affirmation, except in the case of persons of such a young age that they do not understand the significance of an oath or affirmation.

(2) Notwithstanding the preceding subsection, documentary evidence of any act or omission which resulted in the death of the deceased person shall not be admitted unless the person who made the document gives evidence at the inquest or the resident magistrate is satisfied that he is not able to be present and give evidence.

(3) The resident magistrate shall record, or cause to be recorded under his supervision, in writing the substance of all oral evidence given at an inquest.

INQUESTS TO BE HELD IN PUBLIC

18. (1) An inquest shall be held, and the resident magistrate's findings in respect of the matters ascertained thereat shall be pronounced by him, in a place open to the public.

(2) Notwithstanding the preceding subsection, the resident magistrate may at any stage of an inquest for good reason exclude any person from the place where the inquest is being held or may for reasons of public policy exclude therefrom the public generally.

POWERS OF THE SECRETARY FOR JUSTICE

19. (1) Where in pursuance of subsection (3) of section 7 the resident magistrate makes his finding in respect of the death of any person without holding an inquest, the Secretary for Justice may apply in writing to a judge of the Supreme Court for an order directing the resident magistrate to hold an inquest into the death and, if the judge is satisfied that an inquest should be held, he shall direct the resident magistrate accordingly and the resident magistrate shall comply with that direction.

(2) Where the proceedings at any inquest have been closed and it appears to the Secretary for Justice that further investigation is necessary, he may apply to a judge for an order directing the resident magistrate to re-open the inquest and to make further investigation; if the judge is satisfied that the inquest should be re-opened, he shall direct the resident magistrate accordingly and, if so directed, the resident magistrate shall re-open the inquest and make further investigation, and thereafter proceed in the same manner as if the proceedings at such inquest had not been closed:

Provided that this subsection shall not apply to any inquest at which a finding of murder, or culpable homicide not amounting to murder, has been returned against any person.

(3) Where a judge makes an order under this section, he may also direct that the body, if buried, is to be exhumed and that a post-mortem examination, or a further post-mortem examination, of it is to be carried out.

(4) Where upon application made to him under this section it appears to a judge that an inquest should be held or, as the case may be, re-opened and continued by a person other than the resident magistrate, he may direct that the resident magistrate is not to hold or re-open the inquest, as the case may be, but that it is to be held or re-opened by a person appointed under subsection (5) of section 9 of the Courts Act 1972 to act as the resident magistrate for the purpose.

(5) The Secretary for Justice shall be entitled to peruse the record of evidence received at an inquest and, upon application by him, to be supplied by the resident magistrate with a copy thereof.

RULES

20. The Chief Justice may make rules—

- (a) regulating the practices and procedures at inquests;
- (b) prescribing the forms to be used for the purposes of this Act;
- (c) regulating the records to be kept, and the returns to be made, by the resident magistrate in respect of functions exercised by him under this Act;
- (d) for carrying into effect the provisions and objects of this Act.

REPEAL AND SAVING

21. (1) The Third Schedule of the Laws Repeal and Adopting Ordinance 1922–1967 is amended by deleting therefrom “Coroners Ordinance 1911” and with effect from the commencement of this Act the Coroners Ordinance 1911 of the Territory of Papua shall cease to be applied to or to have any force or effect in Nauru.

(2) Notwithstanding the provisions of the preceding subsection, where before the commencement of this Act a coroner has received under the provisions of section 6 of the Coroners Ordinance 1911 of the Territory of Papua in its application to Nauru information of any such death as is referred to in subsection (1) of that section or the finding of a dead body, the coroner shall proceed in the matter in accordance with the provisions of that Ordinance and it shall continue to have force and effect in Nauru for that purpose.