

Zambia

## Inquests Act, 1938

### Chapter 36

Legislation as at 31 December 1996

There may have been updates since this file was created.

PDF created on 10 June 2025 at 08:31.

*Collection last checked for updates: 31 December 1996.*

[View online](#)



#### About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

[www.laws.africa](http://www.laws.africa)

[info@laws.africa](mailto:info@laws.africa)

FRBR URI: /akn/zm/act/1938/52/eng@1996-12-31

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Inquests Act, 1938 (Chapter 36)  
 Contents

Part I – Preliminary ..... 1

    1. Short title ..... 1

    2. Interpretation ..... 1

Part II – Powers and duties of coroners ..... 2

    3. Who may hold inquests ..... 2

    4. When inquest to be held ..... 2

    5. Power to dispense with inquest in certain cases ..... 2

    6. Postponement and adjournment of inquests in certain cases ..... 2

    7. Power to order exhumation ..... 3

Part III – Holding of inquests ..... 3

    8. Inquest on persons in prison or custody ..... 3

    9. Inquest to be held by coroner of place where body lying ..... 4

    10. Inquest where body destroyed or irrecoverable ..... 4

    11. Coroner may postpone burial or cremation till after inquest ..... 4

    12. Notice of death ..... 4

    13. Coroner may call for statements recorded by police officers ..... 4

Part IV – Post-mortem examination ..... 5

    14. Coroner may direct post-mortem examination ..... 5

    15. Medical practitioner to make an examination and report ..... 5

Part V – Procedure at inquest ..... 6

    16. Evidence at inquest ..... 6

    17. Provisions regarding the viewing of body ..... 6

    18. Coroner may summon witnesses ..... 6

    19. Coroner not bound by rules of evidence ..... 6

    20. Evidence: how recorded ..... 7

    21. Statements recorded by police officers may be admitted as evidence in inquest ..... 7

    22. Examination of witnesses ..... 7

    23. Power to take evidence of witness unable to attend ..... 7

    24. Inquest on Sunday, etc., or in private ..... 8

    25. Adjournment of inquest ..... 8

    26. Coroner to adjourn inquest in certain cases ..... 8

    27. Issue of summons or warrant ..... 9

    28. The inquisition ..... 9

    29. Where guilty party unknown ..... 10

30. Where guilty party cannot be found .....	10
31. Return of inquisitions .....	10
32. Copies of documents to be supplied .....	10
33. Powers of High Court .....	11
Part VI – Miscellaneous .....	11
34. Penalty where body is buried without authority .....	11
35. Obstructing medical officer, etc. ....	11
36. Regulations .....	11
37. Prescribed forms .....	12
Schedule .....	12

## Zambia

# Inquests Act, 1938

## Chapter 36

Commenced on 6 January 1939

*[This is the version of this document at 31 December 1996.]*

*[This legislation has been revised and consolidated by the Ministry of Legal Affairs of the Government of the Republic of Zambia. This version is up-to-date as at 31st December 1996. All subsequent amendments have been researched and applied by Laws.Africa for ZAMBIALII.]*

*[52 of 1938; 24 of 1939; 8 of 1940; 45 of 1940; 26 of 1955; 14 of 1957; 40 of 1959; 14 of 1960; 3 of 1963; 43 of 1966; 1 of 1967; 13 of 1994; Government Notices 224 of 1964; 303 of 1964; 493 of 1964; 497 of 1964; [Statutory Instrument 72 of 1964](#); 29 of 1977]*

**An Act relating to inquests.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Inquests Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**building operation**" has the meaning assigned to that expression by section three of the Factories Act;

*[Cap. 441]*

"**coroner**" means any person empowered or appointed to hold inquests under this Act;

"**factory**" has the meaning assigned thereto by section two of the Factories Act;

*[Cap. 441]*

"**medical practitioner**"\* means any person registered or licensed as a medical practitioner under the Medical and Allied Professions Act;

*[Cap. 297]*

\*See section 56 of the Medical and Allied Professions Act (Cap. 245)

"**mine**" has the meaning assigned thereto by section two of the Mines and Minerals Act;

*[Cap. 213]*

"**work of engineering construction**" has the meaning assigned to that expression by section three of the Factories Act.

*[Cap. 441]*

*[As amended by No. 14 of 1957 and G.N. No. 303 of 1964]*

## Part II – Powers and duties of coroners

### 3. Who may hold inquests

- (1) Every magistrate having authority under the provisions of the Subordinate Courts Act to hold a subordinate court of the first, second or third class may hold inquests under this Act.
- (2) The Judicial Service Commission may, by *Gazette* notice, appoint any other fit person to hold inquests under this Act within any area specified in such notice.
- (3) A coroner shall have jurisdiction—
  - (a) if he is a senior resident magistrate or resident magistrate, throughout Zambia;
  - (b) if, not being a senior resident magistrate or a resident magistrate, he is empowered to hold inquests in terms of subsection (1), within the limits of his magisterial jurisdiction;
  - (c) if he is appointed to hold inquests in terms of subsection (2), within such area as is specified in the notice referred to in that subsection.
- (4) Any inquest commenced by a coroner may be continued, resumed or reopened in the manner provided by this Act by such coroner or, if such coroner is absent or ill, by any other coroner having jurisdiction as provided by section nine.

*[As amended by No. 24 of 1939, No. 40 of 1959, No. 3 of 1963 and G.N. Nos. 303 and 493 of 1964]*

*[Cap. 28]*

### 4. When inquest to be held

Whenever a coroner is credibly informed that the body of a deceased person is lying within his jurisdiction, and that there is reasonable cause to suspect that such person has died either a violent or an unnatural death, or in prison or in police custody, or in any place or circumstances which, in the opinion of the coroner, makes the holding of an inquest necessary or desirable, such coroner shall, except as otherwise provided in this Act, hold an inquest on such body as soon as is practicable.

### 5. Power to dispense with inquest in certain cases

Whenever it shall appear to the coroner, either from the report of a medical practitioner rendered under section fifteen or otherwise, that the death is due to natural causes, and that the body shows no appearance of death being attributable to or of having been accelerated by violence or by any culpable or negligent conduct either on the part of the deceased or of any other person, it shall thereupon be lawful for the coroner at his discretion (except in the cases specified in section eight) to dispense with the holding of an inquest.

### 6. Postponement and adjournment of inquests in certain cases

- (1) Whenever the coroner is informed that some person has been or is about to be brought before a magistrate on a charge of the murder, manslaughter or infanticide of the deceased, or of causing the death of the deceased by the reckless or dangerous driving of a motor vehicle, or of complicity in the death of the deceased under section eight of the Suicide Act, in the absence of reason to the contrary, the inquest shall not be commenced, or if commenced shall not be continued or resumed, until after the conclusion of the criminal proceedings.
- (2) After the conclusion of the criminal proceedings, the coroner may, subject as hereinafter provided, hold an inquest or resume the adjourned inquest if he is of opinion that public benefit is likely to result from his so doing; but, if he is of opinion that no public benefit is likely to result from his so doing, he shall certify his opinion to that effect and transmit such opinion to the Director of

Public Prosecutions together with a certified copy of the inquest proceedings if the inquest has been commenced:

Provided that, if in the course of the criminal proceedings any person has been charged upon information, then upon the resumed inquest no inquisition shall contain any finding that sufficient grounds have been disclosed for charging that person with any offence of which he could have been convicted on such information or any finding which is inconsistent with the determination of any matter by the result of those proceedings.

- (3) Notwithstanding the provisions of subsection (2), where an inquest is postponed or adjourned in pursuance of subsection (1) and it is ascertained that a person to be charged cannot be found, the coroner shall commence or resume the inquest, as the case may be, and conclude it.
- (4) For the purposes of this section, the expression "the criminal proceedings" means the proceedings before the magistrate and before the High Court, if the accused person is committed for trial by such court, or before any court to which the accused person may appeal from any conviction, and criminal proceedings shall not be deemed to be concluded until no appeal can be made in the course thereof without special leave.

*[As amended by No. 14 of 1960, S.I. No. 72 of 1964 and No. 1 of 1967]*

*[Cap. 89]*

## **7. Power to order exhumation**

Notwithstanding any law or custom to the contrary enacted or obtaining, whenever it shall appear to any coroner that the body of any person, who has died in circumstances requiring the holding of an inquest thereon, has been buried without being viewed or without such inquest having been held, or where such inquest, although held, has been quashed or reopened, it shall be lawful for such coroner by his warrant in Form 1 in the Schedule to order the exhumation of such body; and he shall, after such exhumation, proceed to hold an inquest on such body and thereupon direct the reinterment thereof; and the expenses of such exhumation and reinterment shall be paid, upon the coroner's order, from the general revenues of the Republic:

Provided that such exhumation shall not be ordered in any case where, in the opinion of the coroner, it would be injurious to public health, or where there is no reasonable probability of a satisfactory result being obtained thereby.

*[As amended by S.I. No. 72 of 1964]*

## **Part III – Holding of inquests**

### **8. Inquest on persons in prison or custody**

Notwithstanding anything contained in this Act, where—

- (a) a prisoner; or
- (b) a person in the custody of a police officer or detained in custody under a detention order;

dies from any cause whatsoever, it shall be the duty of the prison officer having charge of such prisoner or the police officer or other person having charge of such person, as the case may be, to give notice of the death of such prisoner or person to a coroner within whose jurisdiction such death occurred and that coroner shall hold an inquest.

*[No. 43 of 1966]*

## 9. Inquest to be held by coroner of place where body lying

A coroner only within whose jurisdiction the body of any person, upon whose death an inquest ought to be held, is lying shall hold the inquest, notwithstanding that the cause of death arose elsewhere; and if any body is found in any river or in any inland waters, the inquest shall be held by the coroner within whose jurisdiction the body is first brought to land:

Provided that where it appears to a coroner by whom an inquest has been commenced that, owing to special circumstances to be entered upon the record of the inquest, it is expedient for the inquest to be continued by another coroner, he shall, after viewing the body (if such view is necessary in accordance with the provisions of subsection (1) of section seventeen) and making such entry upon the record as is required to be made under the provisions of subsection (4) of section seventeen, refer the record to such other coroner; and such other coroner shall thereupon, whether or not the body is lying within his jurisdiction and subject to any directions in that behalf which may be given by the High Court and which the High Court is hereby empowered to give, continue the inquest and conclude the same in accordance with the provisions of this Act.

*[As amended by No. 3 of 1963]*

## 10. Inquest where body destroyed or irrecoverable

When a coroner has reason to believe that a death has occurred in the area within which he has jurisdiction 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, if he considers it desirable so to do, hold an inquest touching the death, and the law relating to inquests shall apply with such modifications as may be necessary in consequence of the inquest being held otherwise than on or after view of a body lying within the coroner's jurisdiction.

*[As amended by No. 3 of 1963]*

## 11. Coroner may postpone burial or cremation till after inquest

A coroner may prohibit the burial or cremation of any body lying within his jurisdiction until an inquest shall have been held.

## 12. Notice of death

When any body is found or a person has died in such circumstances as to make the holding of an inquest under this Act necessary or desirable, it shall be the duty of any person finding the body or becoming aware of the death forthwith to inform either a coroner having jurisdiction or a police officer or a chief or headman or district messenger, and upon receiving any such information such chief or headman or district messenger or police officer shall notify a coroner having jurisdiction to hold an inquest. Any person who fails without good cause to inform the chief or headman or district messenger or police officer as required by this section shall be guilty of an offence and shall be liable to a fine not exceeding seven hundred and fifty penalty units.

*[As amended by Act No. 13 of 1994]*

## 13. Coroner may call for statements recorded by police officers

- (1) Where a death has occurred in such circumstances that an inquest is required or ought to be held under the provisions of this Act, the coroner having jurisdiction may direct any police officer having charge of or concerned in an investigation into the death to produce to the coroner, prior to the holding of the inquest, any statement made to, and recorded in writing by, such police officer by any person having knowledge of the circumstances, the cause of the death or the identity of the deceased, as the case may be, and the coroner may postpone the holding of the inquest for such time as may be necessary to enable him to obtain and peruse any such statement.

- (2) A coroner to whom a statement is produced under subsection (1) shall, before holding the inquest, return the statement to the police officer by whom it is so produced and may, at the same time, notify him of the name of any person whose attendance at the inquest will not be required unless otherwise ordered:

Provided that nothing in this section shall be construed as to prohibit the attendance at the inquest of any such person if he desires to attend.

[No. 43 of 1966]

## Part IV – *Post-mortem* examination

### 14. Coroner may direct *post-mortem* examination

- (1) If any coroner considers it necessary with a view to investigating the circumstances of the death of any person, to obtain a medical report on the appearance of the body of such person, and as to the conclusions to be drawn therefrom, he may, by written order in Form 2 in the Schedule, require any Government Medical Officer within or without his jurisdiction or any other medical practitioner within his jurisdiction to make an examination of the body and to report thereon:

Provided that—

- (i) a coroner shall not make any order as aforesaid if he is of opinion—
- (a) that the body cannot be brought to a medical officer or practitioner for examination; and
  - (b) that a medical officer or practitioner cannot make an examination at the place where the body is; and
  - (c) that the body cannot be brought to some specified place at which a medical officer or practitioner could make an examination;

so that the examination can be made within such time as would enable it to be of practical value;

- (ii) the coroner shall not make any order as aforesaid if he is of opinion that, by reason of the distance which a medical officer or practitioner would be obliged to travel in order to make an examination and the time which would be occupied in the journey, it would not be in the public interest that such an order should be made.
- (2) In any case of emergency where it would be impracticable to secure a coroner's order, any police officer of or above the rank of Sub Inspector may exercise the authority conferred on a coroner under subsection (1).

[As amended by No. 45 of 1940, No. 3 of 1963, G.N. No. 224 of 1964 and No. 24 of 1977]

### 15. Medical practitioner to make an examination and report

Every medical practitioner upon the receipt of such order shall, unless he procures the services of some other medical practitioner to perform the duty, immediately make an examination of the body, with a view to determining therefrom the cause of death, and to ascertaining the circumstances connected therewith, and shall make a report in writing to the coroner describing the appearance of the body, and the conclusions which he draws therefrom touching the death of such person. The examination shall extend, when the medical practitioner considers it necessary but not otherwise, to such dissection of the body as he may think requisite. The report shall be in Form 3 in the Schedule, and shall state the cause of death, and shall be signed and dated by the medical practitioner. Such report, on being read at the inquest by the coroner, shall be *prima facie* evidence of the facts therein stated without further proof, unless it is proved that the medical practitioner purporting to sign the report did not in fact sign it:

Provided that the coroner may, if he shall consider it necessary or desirable, call such medical practitioner to give evidence at the inquest.

## **Part V – Procedure at inquest**

### **16. Evidence at inquest**

The coroner shall at the inquest examine on oath in regard to 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.

### **17. Provisions regarding the viewing of body**

- (1) At or before the first sitting of an inquest on a body, the coroner shall view the body or shall satisfy himself that the body has been viewed by a police officer, medical practitioner, chief, headman, district messenger or other trustworthy person:

Provided that, when an inquest on the body has been previously opened, it shall not be necessary upon a resumed, continued, or subsequent inquest for the body to be viewed a second time.

- (2) An order authorising the burial of a body upon which it has been decided to hold an inquest may be issued at any time after the body has been viewed.
- (3) If the body has been buried and has not been viewed in the manner provided in subsection (1), the coroner shall order the exhumation of the body for the purpose of a view in the manner provided by section seven unless he certifies that, in his opinion, such exhumation would be injurious to the public health or that no satisfactory result would be obtained thereby.
- (4) In any case in which the coroner himself has viewed the body, he shall certify the fact upon the record of the inquest and in other cases he shall record evidence (if any) of the view of the body by a police officer, medical practitioner, chief, headman, district messenger or other trustworthy person.

### **18. Coroner may summon witnesses**

- (1) A coroner holding an inquest shall have and may exercise all the powers conferred upon a court by the Criminal Procedure Code with regard to summoning and compelling the attendance of witnesses and requiring them to give evidence, and with regard to the production of any document or thing at such inquest.
- (2) Every summons and warrant of arrest and summons to produce shall be in writing signed by the coroner.
- (3) Where the inquest concerns the death of a person executed in pursuance of a death warrant, the medical practitioner who was present at the execution shall be an essential witness at such inquest.
- (4) The provisions of the Criminal Procedure Code shall, as far as may be, apply to summonses to produce issued by a coroner.

*[Cap. 88]*

### **19. Coroner not bound by rules of evidence**

A coroner holding an inquest shall not be bound by any rules of evidence which may pertain to civil or criminal proceedings, but 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.

## 20. Evidence: how recorded

The coroner shall take down or cause to be taken down in his presence the evidence of every witness and such evidence shall be read over to such witness and shall be signed by him and by the coroner.

## 21. Statements recorded by police officers may be admitted as evidence in inquest

Where, upon hearing the evidence of a police officer having charge of or concerned in an investigation into the death of the deceased person, the coroner is satisfied that—

- (a) the death was caused in circumstances other than those referred to in subsection (3) of section twenty-two or in subsection (1) of section twenty-six; and
- (b) there are no grounds for making a charge against any person in connection with the death;

the coroner may, notwithstanding the provisions of section twenty, admit as evidence a statement made to, and recorded in writing by, a police officer by any person relating to the death or the identity of the deceased, and any such statement admitted as aforesaid shall be evidence in the inquest and shall form part of the record.

*[No. 43 of 1966]*

## 22. Examination of witnesses

- (1) The persons referred to in subsection (3) and any other person who, in the opinion of the coroner, is a properly interested person shall be entitled to examine any witness at an inquest either in person or by a barrister or solicitor.
- (2) Where any person examines a witness under the provisions of subsection (1), the coroner shall disallow any question which, in his opinion, is not relevant or is otherwise not a proper question.
- (3) Without prejudice to the generality of subsection (1), if the death of the deceased may have been caused by an injury received in the course of his employment or by an industrial disease, the following shall be deemed to be properly interested persons for the purposes of this section:
  - (a) any person appointed in writing by a trade union to which the deceased at the time of his death belonged;
  - (b) the employer of the deceased person; and
  - (c) any person duly authorised in writing by the Ministries responsible for labour or mines.
- (4) Unless the coroner otherwise determines, a witness at an inquest shall be examined first by the coroner and, if the witness is represented at the inquest, lastly by his representative.
- (5) Any person whose conduct is likely, in the opinion of the coroner, to be called in question at an inquest shall, if not duly summoned to give evidence at the inquest, be given reasonable notice of the date, hour and place at which the inquest will be held.
- (6) No person shall be allowed to address the coroner as to the facts.

*[No. 26 of 1955]*

## 23. Power to take evidence of witness unable to attend

- (1) Where any person within the coroner's jurisdiction who is able to give material evidence in respect of any inquest is, owing to illness or other cause which appears satisfactory to the coroner, unable to attend at the place where the coroner usually sits, it shall be lawful for the coroner to take the deposition of such person in the place where such person is.

- (2) Whenever in the course of any inquest the coroner is satisfied that the examination of a witness is necessary and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case would be unreasonable, the coroner may issue a commission to any coroner, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.
- (3) The coroner to whom the commission is issued shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down the evidence in the same manner and may, for this purpose, exercise the same powers as if he were holding the inquest.
- (4) After any commission issued under subsection (2) has been duly executed, it shall be returned, together with the recorded evidence of the witness examined, to the coroner before whom the inquest is pending and the commission, the return thereto and the evidence shall be evidence in the inquest and shall form part of the record.

#### **24. Inquest on Sunday, etc., or in private**

- (1) A coroner may lawfully hold inquests on any Sunday or public holiday.
- (2) If the coroner thinks it expedient in the interests of justice that any inquest should be held in private, he shall hold the same in private.
- (3) Whenever an inquest is held in private, the coroner shall record his reasons for so holding it.

#### **25. Adjournment of inquest**

A coroner holding an inquest in any place may adjourn the inquest to another day and may order the adjourned inquest to be held in the same or any other place.

#### **26. Coroner to adjourn inquest in certain cases**

- (1) Where a coroner holds an inquest on the body of any person whose death may have been caused—
  - (a) by any accident occurring in a factory, or in the course of building operations or works of engineering construction, or in any mine; or
  - (b) by any disease mentioned in the Second Schedule to the Workers' Compensation Act, when such disease may have been contracted in any factory, or during the course of any building operations or works of engineering construction, or in any mine;

*[Cap. 271]*

the coroner shall adjourn the inquest unless—

- (i) an officer duly authorised in writing by the Labour Commissioner, or in the case of an accident which has occurred in a mine, an officer duly authorised in writing by the Chief Inspector of Mines, is present to watch the proceedings; or
  - (ii) he has, before he commences the inquest, received notice in writing from the Labour Commissioner or the Chief Inspector of Mines, as the case may be, that he does not wish to be present.
- (2) In any case in which a coroner adjourns an inquest by virtue of the provisions of subsection (1), he shall, at least fourteen days before the holding of the adjourned inquest, send to the Labour Commissioner or the Chief Inspector of Mines, as the case may be, a notice in writing of the time and place of the holding of the adjourned inquest:

Provided that—

- (i) where the Labour Commissioner or the Chief Inspector of Mines has informed the coroner that he does not wish to be present at the adjourned inquest or that he or an authorised

officer can be present on an earlier day than that fixed for resumption as aforesaid, the coroner may, in the first mentioned instance, resume such inquest on such day as to him seems fit or, in the second mentioned instance, may if he thinks fit resume such inquest on any earlier day upon which the Labour Commissioner or the Chief Inspector of Mines or an authorised officer may be present;

- (ii) the coroner, before such adjournment, may take evidence to identify the body, medical evidence as to the cause of death and evidence as to the place where the accident occurred, and may order the interment of the body;
  - (iii) the coroner, before such adjournment, may take the evidence of any witness where he is satisfied, for reasons to be entered on the record, that such witness is unlikely to be available when the inquest is resumed.
- (3) Any officer duly authorised by the Labour Commissioner, or by the Chief Inspector of Mines, as the case may be, and being present at an inquest adjourned in accordance with the provisions of subsection (1), may exercise any right conferred upon a properly interested person by section twenty-two.
- (4) Where at any such inquest, at which a person authorised by the Labour Commissioner, or by the Chief Inspector of Mines, as the case may be, is not present, evidence is given of any neglect as having caused or contributed to the accident or disease, or of any defect in or about the mine, factory, location of the building operations or works of engineering construction, and such neglect or defect appears to the coroner to require a remedy, the coroner shall, notwithstanding the provisions of section thirty-two, without charge send to the Labour Commissioner, or the Chief Inspector of Mines, as the case may be, a copy of any deposition, note of evidence, medical report or other document in or from which evidence of any such neglect or defect appears.

*[No. 14 of 1957 as amended by No. 3 of 1963]*

## 27. Issue of summons or warrant

If during the course or at the close of any inquest the coroner is of opinion that sufficient grounds are disclosed for making a charge against any person in connection with the death, he may issue a summons or warrant to secure the attendance of such person before any subordinate court having jurisdiction, and may bind over any witness who has been examined by or before him on a recognizance with or without surety to appear and give evidence before such court.

## 28. The inquisition

- (1) The proceedings and evidence at an inquest shall be directed solely to ascertaining the following matters:
- (a) who the deceased was;
  - (b) how, when and where the deceased came by his death;
  - (c) the persons, if any, to be charged with murder, manslaughter, infanticide, or causing death by the reckless or dangerous driving of a motor vehicle, or of being accessories before the fact should the coroner find that the deceased came to his death by murder, manslaughter, infanticide, or such driving;
  - (d) the particulars for the time being required by any written law to be registered concerning the death.
- (2) If the conduct of any person is called in question at an inquest on grounds which the coroner thinks substantial and which relate to any matter referred to in subsection (1), and if that person is not present at the inquest and has not been duly summoned to attend or otherwise given notice of the holding of the inquest, the inquest shall be adjourned to enable him to be present if he so desires.

(3) After the view (if any) of the body and the completion of the evidence, the coroner shall give his finding and certify it by an inquisition in writing in Form 5 in the Schedule, showing such of the matters set forth in subsection (1) as have been proved at the inquest, and, where the inquest concerns the death of a person executed in pursuance of a death warrant, the verdict and inquisition shall include a finding as to whether the death was instantaneous and the person executed was the person named in the said warrant.

(4) The coroner shall not express any opinion on any matters other than those referred to in subsections (1) and (3):

Provided that nothing in this subsection shall preclude the coroner from making a recommendation designed to prevent the recurrence of fatalities similar to that in respect of which the inquest was held.

(5) No verdict shall be worded in such a way as to appear to determine any question of civil liability.

*[No. 26 of 1955 as amended by No. 14 of 1960]*

### **29. Where guilty party unknown**

If, at the close of any inquest, the coroner is of opinion that there is ground for suspecting that some person is guilty of an offence in respect of the matter inquired into, but cannot ascertain who such person is, he shall certify his opinion to that effect and transmit a copy of the proceedings to the Commissioner of Police.

### **30. Where guilty party cannot be found**

Where the proceedings upon any inquest have been transmitted to the Commissioner of Police under section twenty-nine and the guilty person remains undiscovered, and if, in the opinion of the Commissioner of Police, there is no probability that such person will be discovered, he shall certify his opinion to that effect and transmit the copy of the proceedings to the Director of Public Prosecutions.

*[As amended by S.I. No. 72 of 1964]*

### **31. Return of inquisitions**

(1) The original records of all inquests held by a coroner shall be retained by the coroner holding such inquests until the 31st December in each year, when such records shall be forwarded to the Registrar of the High Court.

(2) Where, in any particular case, the coroner thinks it desirable, or the High Court or the Director of Public Prosecutions calls for the record of an inquest, the coroner shall forward certified copies of the inquisition, depositions and recognizances to the High Court and the Director of Public Prosecutions.

*[No. 26 of 1955 as amended by G.N. No. 493 of 1964 and S.I. No. 72 of 1964]*

### **32. Copies of documents to be supplied**

A coroner or the Registrar of the High Court in the case where the original records of an inquest have been received by him in accordance with the provisions of section thirty-one—

(a) shall, on application and on payment of the prescribed fee (if any), supply to any person who, in the opinion of the coroner or such Registrar, is a properly interested person, a copy of any depositions taken by the coroner at an inquest or of any report of a *post-mortem* examination or of any notes of evidence or of any document put in evidence at any inquest or of the inquisition or any recommendation made by the coroner in terms of the proviso to subsection (4) of section twenty-eight; or

- (b) may, on application and without charge, permit any such person to inspect such deposition, report, notice, evidence, inquisition or recommendation.

*[No. 3 of 1963]*

### **33. Powers of High Court**

- (1) Where the High Court, upon application made by or under the authority of the Director of Public Prosecutions, is satisfied that it is necessary or desirable to do so, it may—
  - (a) order an inquest to be held touching the death of any person;
  - (b) direct any inquest to be reopened for the taking of further evidence, or for the inclusion in the proceedings thereof and consideration with the evidence already taken, of any evidence taken in any judicial proceeding which may be relevant to any issue determinable at such inquest, and the recording of a fresh finding upon the proceedings as a whole;
  - (c) quash the finding in any inquest substituting therefor some other finding which appears to be lawful and in accordance with the evidence recorded or included as hereinbefore in this section provided; or
  - (d) quash any inquest, with or without ordering a new inquest to be held.
- (2) The provisions of this section shall apply to all inquests and the findings therein.
- (3) For the purposes of this section, the expression "judicial proceeding" means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath.

*[As amended by S.I. No. 72 of 1964]*

## **Part VI – Miscellaneous**

### **34. Penalty where body is buried without authority**

- (1) Any person who, without lawful authority or excuse inter or cremates any body, the burial or cremation of which has been prohibited under section eleven, or the body of any person who has died in police custody or in any prison, or of any person who has died in any of the circumstances mentioned in section four, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding seven hundred and fifty penalty units.
- (2) Where any person is charged with having committed an offence under this section, the onus of proving that he had lawful authority or excuse shall be on the person charged.

*[As amended by Act [No. 13 of 1994](#)]*

### **35. Obstructing medical officer, etc.**

Any person who obstructs a medical practitioner, police officer, chief, headman or district messenger in the execution of any duty imposed upon him by this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding seven hundred and fifty penalty units.

*[As amended by Act [No. 13 of 1994](#)]*

### **36. Regulations**

The Chief Justice, with the concurrence of the Minister responsible for finance, may, by statutory instrument, make regulations prescribing the scale of fees to be paid by persons applying for a copy of any depositions taken by the coroner at an inquest, or of any report of a *post-mortem* examination or of any note of evidence or of any document put in evidence at an inquest, and prescribing the scale of fees to be

paid to medical practitioners for any *post-mortem* examination or other service required of them under this Act, and the scale of fees to be paid to witnesses and other persons.

[No. 26 of 1955 as amended by G.N. No. 303 of 1964]

### 37. Prescribed forms

The forms set out in the Schedule shall be used for the several matters to which they relate with such variations as circumstances may require. The Chief Justice may, from time to time by statutory order, amend, revoke or add to the Schedule.

[As amended by G.N. No. 303 of 1964]

## Schedule

### Prescribed forms (Section 37)

#### *Republic of Zambia*

#### *The Inquest Act*

#### Coroners Form 1 - Order of exhumation (Section 7)

\_\_\_\_\_ District

To \_\_\_\_\_

Whereas it appears that \_\_\_\_\_ has died in circumstances requiring the holding of an inquest upon his body and that the body of the said \_\_\_\_\_ has been buried at \_\_\_\_\_ without such inquest being held (or without the said body being viewed) (or that the inquest held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ was insufficient):

These are to charge and command you that you forthwith cause the said body to be taken up (and viewed) (or, and safely conveyed to \_\_\_\_\_ in the above-named District) that I may proceed to inquire into the cause of the death of the said \_\_\_\_\_ (or as the case may be).

Herein fail not.

Given under my hand at this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

\_\_\_\_\_  
Coroner

#### *Republic of Zambia*

#### *The Inquest Act*

**Coroner's Form 2 - Order for *post-mortem* examination (Section 14)**

To Dr \_\_\_\_\_

Whereas I am credibly informed that one:

\_\_\_\_\_ has died in circumstances which may require the holding of an inquest under the Inquests Act, you are hereby authorised and required to make a *post-mortem* examination of the body of the said:

\_\_\_\_\_ which will be delivered to you by \_\_\_\_\_ and to make a report to me thereon:

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

\_\_\_\_\_  
Coroner

**Republic of Zambia**

**The Inquest Act**

**Coroner's Form 3 - Report on *post-mortem* examination (Section 15)**

To the Coroner \_\_\_\_\_

I HEREBY CERTIFY THAT at \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at the hour of \_\_\_\_\_

I examined the body of a	}	male	}	European	}	adult
		female		African		child
		Asiastic	infant			
		Coloured				

(A) \*The body was identified to me by \_\_\_\_\_ of \_\_\_\_\_ in the presence of *(insert rank and name of police officer present, if any)* \_\_\_\_\_ as being that of \_\_\_\_\_

(B) \*The body was not identified to me and the external appearances are therefore fully described overleaf. From my examination, of which a record is appended, and from a consideration of the circumstances

reported to me by	}	the Police
		the District Secretary,
		informant, viz: _____

I am of the opinion that

- (C) \*death occurred \_\_\_\_\_ hours/days before m examination;
- (D) \*the cause(s) of death was/were \_\_\_\_\_ I am unable to form an opinion as to
- (E) \*the date or time of death
- (F) \*the cause of death.

**Summary of significant, abnormal findings at examination**

\_\_\_\_\_  
Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Signature of Examiner \_\_\_\_\_

Registered qualification

Designation	{	Government Medical Officer/Pathologist
		Designation Private Practitioner/Patholgoist

If space is insufficient, give and sign full statement on separate piece of paper and pin to this report.

\*Complete or delete as appropriate.

**Record of observations**

- Position and attitude of body \_\_\_\_\_
- Condition of clothing \_\_\_\_\_
- Surroundings of body \_\_\_\_\_
- Pupils \_\_\_\_\_
- Nutrition, Warmth, Rigidity \_\_\_\_\_
- Lividity, Putrefaction \_\_\_\_\_
- External injuries, fractures \_\_\_\_\_
- External apertures: condition of, injuries to and foreign bodies in \_\_\_\_\_
- (See also Note 2)
- Height \_\_\_\_\_ Weight (approx.) \_\_\_\_\_
- Age of deceased: Apparent \_\_\_\_\_ Reputed \_\_\_\_\_
- Skull and its contents including orbits and nasal cavities \_\_\_\_\_
- Mouth, Pharynx and Oesophagus \_\_\_\_\_
- Pericardium, Pericardial Sac, and Heart (See Note 3 [i]) \_\_\_\_\_
- Large Blood-vessels (e.g., aortic disease, thrombosis or suppuration in large veins) \_\_\_\_\_
- Larynx, Trachea, and Bronchi \_\_\_\_\_
- Pleurae, Pleural Sacs, and Lungs:

Right \_\_\_\_\_  
 Left \_\_\_\_\_  
 Thymus, Thyroid and Lymphatic Glands \_\_\_\_\_  
 Peritoneum and Peritoneal Sac (N.B.-Pouch of Douglas) \_\_\_\_\_  
 Spleen \_\_\_\_\_  
 Stomach and Omenta (See Notes 3[ii] and 4[i]) \_\_\_\_\_  
 Intestines and Mesentery (See Notes 3[ii] and 4[i]) \_\_\_\_\_  
 Liver, Gall Bladder and Bile Ducts (See Notes 3[ii] and 4[i]) \_\_\_\_\_  
 Kidneys, Ureters, and Suprarenal Glands (See Notes 3[ii] and 4[i]):  
 Right \_\_\_\_\_  
 Left \_\_\_\_\_  
 Urinary Bladder and Urethra (See Notes 3[ii] and 4[i]) \_\_\_\_\_  
 Pancreas \_\_\_\_\_  
 Generative Organs (See Note 6) \_\_\_\_\_  
 Spinal Column and Spinal Cord (See Note 7) \_\_\_\_\_

### ***Additional observations***

(Particular attention is drawn to the Notes on page 4 concerning the Transmission of Organs for Examination in suspected poisoning)

\_\_\_\_\_  
 Organs, Parts or Material reserved for further investigation, and how disposed of  
 \_\_\_\_\_

### ***Notes***

- (1) The scheme as given here for the examination of a body is devised to meet the maximum requirements of any case. Although the following out of this scheme in every detail may not in every case be necessary, yet the examination of the body and its organs should be, in all cases, as exhaustive as the circumstances warrant and the occasion permits. In every case in which the question of accident, suicide or murder may arise it is essential for all the organs in all the cavities of the body to be examined, even though an apparently sufficient cause of death has already been discovered. A Medical Officer may be called upon to give considerably more information-arising from his examination of the body-than the mere cause of death. In this respect a sketch of external injuries is often advisable. Any omission to examine a particular part or organ may, by providing cause for uncertainty, seriously prejudice the course of justice; the responsibility for such an omission must lie only with the Medical Officer who conducted the autopsy. When there is definite suspicion as to the cause of death, that cavity is to be opened first in which the principal changes are expected to exist. In the case of a new-born child, when it has to be determined whether the child has breathed or not, the trachea should first be ligatured above the sternum, the abdomen opened and the position of the diaphragm ascertained, and the thorax then opened and its organs removed-after dividing the trachea above the ligature. In all other cases the head should be opened first, then the thorax, and lastly the abdomen. In cases of undoubted accidental death where the head has not been injured, detailed examination of the cranial contents may be left to the discretion of the examiner. When not carried out, a note to the effect that there was no indication for such detailed examination should be inserted.

Special attention should be paid to the thymus, adrenals, thyroid and lymphatic glands in cases of sudden death not explained by other changes.

- (2) If the body be that of an unknown person, the colour of eyes and hair, number and condition of teeth, deformities, scars, and tattoo marks should be noted as aids to subsequent identification.
- (3)
  - (i) In cases of suspected irritant metallic poisoning the endocardium lining the left ventricle should be carefully examined and the presence or absence of petechial or large haemorrhages noted.
  - (ii) The entire stomach should be ligatured off at both ends, removed from the body, placed in a clean dish, opened along its lesser curvature and a careful note made of its contents and the appearance of its inner surfaces. Where circumstances might lead to a serious risk of contamination of the stomach contents and there is a strong presumptive evidence of poisoning, the organs should not be opened. In all cases where poisoning is suspected, the stomach and its contents should be transferred to a special wide-mouthed jar. In such cases both kidneys and about 500 gms. liver should be removed and placed in another jar. See Note (4).

Where poisoning is suspected, the intestines should, after removal of the stomach, be removed, slit open, washed out, and the appearance of the mucous membrane, especially that of the rectum, then carefully examined and noted. The presence or absence of solid faeces in the lower bowel should also be noted before the intestines are washed out. It is not necessary to forward the intestines to the analyst.

In all cases of suspected poisoning any urine which the bladder may contain should be preserved. In other cases, unless putrefaction be advanced, an examination of a sample of the urine may throw light on the cause of death.

- (4) It should be particularly noted that:
  - (i) All viscera specimens intended for toxicological analysis must be preserved in rectified (not methylated) spirit and a specimen of the spirit used should be sent separately. When analysis for acute alcoholic poisoning is requested, blood samples should be taken in specimen bottles obtainable from the Public Health Laboratory, Lusaka.
  - (ii) Except when a case summary is being forwarded by the Police, a brief history of the case should be submitted in order to assist in deciding what types of poison are likely to be worth searching for.
- (5) Whenever the possibility exists of a charge arising out of the death, blood samples must be submitted, both on absorbent paper and in acid-citrate-dextrose, in accordance with H.D. Circular No. 83 of 1957.
- (6) When it is suspected that delivery has recently occurred at term, the breasts and the skin of the anterior abdominal wall should be examined and their condition noted. In cases of suspected rape, or of violation of the dead, some of the secretion should be removed from the vaginal fornices and smeared upon clean glass slides for subsequent examination.
- (7) In females where abortion is suspected, after a thorough vaginal examination, the pelvic organs should be removed from the body in a mass, after ligaturing off the intestines, and the various organs dissected out one by one. To do this it is advisable to remove all the tissues from the pelvis by cutting close to the bone.

N.B.-The condition of the uterus and appendages, the presence or absence of products of conception, signs of recent delivery, etc., should always be noted.
- (8) The spinal cord need only be exposed when positive information may be expected from its examination. Fracture dislocation, especially in the upper cervical region, should always be examined for by manipulation; if detected it should be investigated by dissection.
- (9) When individual organs are found enlarged or wasted, their actual weight should, if possible, be ascertained and noted.
- (10) It may happen that a definite opinion as to the cause of death cannot be formed without a microscopic examination of tissues. In such cases small pieces of organs should be placed in 20 volumes of 10% formol-saline and preserved for further investigation. When death may possibly have resulted from

anthrax, malaria, leukaemia, etc., blood-smears should be made upon clean glass slides and preserved for microscopic examination.

*[Please note: paragraphs omitted in the original.]*

**Republic of Zambia**

***The Inquests Act***

**Coroners Form 4 - Record of evidence (Sections 20 and 22)**

In the Court of the Coroner for the District of \_\_\_\_\_

Inquest No. \_\_\_\_\_

Inquest on the body of \_\_\_\_\_

Witness No. \_\_\_\_\_

Apparent Sex \_\_\_\_\_ apparent age \_\_\_\_\_ apparent race \_\_\_\_\_

Sworn/affirmed \_\_\_\_\_

Saith in the \_\_\_\_\_ language:

My name is \_\_\_\_\_

My tribe is \_\_\_\_\_ My village is \_\_\_\_\_

My chief is \_\_\_\_\_ My district is \_\_\_\_\_

I am employed as \_\_\_\_\_

I live at \_\_\_\_\_

I made a statement to at the investigation into the circumstances leading to the death of the person on whose body this Court is now holding an inquest.

(NOTE.-The attached typescript marked " \_\_\_\_\_ " is read to the witness.)

What has been read to me is a correct record of my statement. It is a true statement. There is nothing which I wish to correct in it, and there is nothing which I can add to it \*except as follows:

\_\_\_\_\_  
† \_\_\_\_\_ Witness.

† \_\_\_\_\_ Interpreter.

† \_\_\_\_\_ Coroner.

\*Delete words in italics if inappropriate.

†These signatures should be placed here or at the end of any continuation sheets as appropriate.

**Republic of Zambia**

***The Inquests Act***

**Coroners Form 5 - The inquisition (Section 28)**

AN INQUISITION taken at \_\_\_\_\_ in the district of \_\_\_\_\_ in Zambia the  
\_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ before \_\_\_\_\_,

Esquire, Coroner, on the body of one \_\_\_\_\_

NOW I, the said Coroner, charged to inquire when, where, how and after what manner the said deceased person came to his/her death say that the following particulars have been disclosed:

1. Name of deceased \_\_\_\_\_
2. Residence and occupation \_\_\_\_\_
3. Means of identity \_\_\_\_\_
4. Where found \_\_\_\_\_  
When \_\_\_\_\_  
Under what circumstances \_\_\_\_\_
5. Date of death \_\_\_\_\_
6. Cause of death \_\_\_\_\_
7. Offence (if any) disclosed \_\_\_\_\_

AND I, the said Coroner, do say that my finding is that \_\_\_\_\_

In witness whereof I have to this inquisition set my hand this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Station

\_\_\_\_\_  
Coroner

*[G.N. No. 207 of 1961 as amended by S.I. No. 72 of 1964]*