



Tuvalu

DEATH AND FIRE INQUIRIES ACT

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DEATH AND FIRE INQUIRIES ACT

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Tuvalu

DEATH AND FIRE INQUIRIES ACT

AN ACT TO PROVIDE IN CERTAIN CASES FOR INQUIRIES INTO THE CAUSES OF DEATH OR FIRE¹

Commencement [6th November 1924]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Death and Fire Inquiries Act.

2 Interpretation

In this Act unless the context otherwise requires —

“**magistrate**” means the magistrate having jurisdiction for the place in question or, if there be more than one such magistrate, such one or more as the Senior Magistrate may appoint;

“**officer in charge of police**” bears the meaning ascribed to that term by section 2 of the Police Act²; and

“**medical practitioner**” means any person for the time being registered, or conditionally registered, as a medical practitioner, or as a medical officer, under the Medical and Dental Practitioners Act³.

PART II - DEATH INQUIRIES

3 Duties and powers of police and medical practitioners

- (1) Upon information being given to an officer in charge of police in any place that any person has died in the circumstances set out in section 4(1), such officer, or an officer delegated by him, shall forthwith proceed to the place where the body is lying, or, if the body has been destroyed or cannot be found, to the place where the death occurred and shall make an investigation into the circumstances surrounding the death of the deceased and shall draw up a report in the form specified in Schedule 1 to a magistrate for the place in which the body is lying or where the death occurred.
- (2) Where a police officer acting in pursuance of the provisions of this section considers it expedient that an examination of the body should be made in order to discover the cause of death he shall, if it is necessary and if practicable, forward the body to a medical practitioner for examination and such medical practitioner upon receiving an order in that behalf in pursuance of section 8 shall examine the body and make a report of his examination to the magistrate, to the officer in charge of police in the place in which the body was found, and to the Chief of Police.

4 Magistrate to hold inquiry in certain cases

- (1) Whenever a magistrate shall have been informed, or shall have reason to believe or suspect, that the death of any person occurring, or of any person who may be found dead, within his area has been brought about or accelerated by any unnatural cause, he shall, as soon as may be practicable, at such time and place as he shall fix, hold an inquiry into the cause of death.
- (2) At the conclusion of the evidence the magistrate shall record and sign a finding which shall as far as possible contain the following particulars:
 - (a) the name, sex, nationality, residence and occupation of the deceased;
 - (b) the place where and the time at which the body of the deceased was found;
 - (c) the date and the circumstances in which the deceased met his death;
 - (d) the cause of death:

Provided that where criminal proceedings are instituted against any person in respect of an offence connected with the death it shall be lawful for the magistrate at any stage of the proceedings to close the inquiry without recording any finding.

- (3) The Senior Magistrate, upon application made by the Attorney-General, or on his own motion, may, if he considers it desirable in the interests of justice so to do —

- (a) order an inquiry under this section to be held, adjourned, resumed, closed or re-opened;
- (b) quash any finding, substituting therefor some other finding which appears to be lawful and in accordance with the evidence or directing the taking of further evidence and the recording of a fresh finding.

5 Magistrate may order disinterment of body

If a body shall have been interred before an inquiry shall have been held the magistrate, if he shall think fit, may by warrant in the form specified in Schedule 2 under his hand order the disinterment of such body for the purpose of the inquiry and such disinterment shall be made accordingly.

6 Death in prison

A magistrate shall hold an inquiry into the cause of all deaths within his area of all persons confined in any prison or other place of lawful detention.

7 Powers of magistrate

For the purpose of every inquiry held under or by virtue of the provisions of this Act, the magistrate holding the same shall have powers like to those vested in magistrate's courts in respect of the following matters:

- (1) for administering oaths or affirmations to witnesses and compelling them to give evidence;
- (2) for compelling the attendance of witnesses and the production of documents;
- (3) for the punishment of contempt if committed in the presence of the magistrate during the inquiry.

8 Post-mortem examination of body

Whenever it is expedient that the dead body of any person should be examined by a medical practitioner, the magistrate shall forthwith issue an order in the form specified in Schedule 3 to any such medical practitioner to make a post-mortem examination of the body of the deceased person.

9 Medical practitioner to make post-mortem when required

Every medical practitioner who is required to make a post-mortem examination as in the last preceding section provided shall thereupon make such examination as may enable him to ascertain as far as possible the cause of death and shall send a report thereof to the magistrate requiring the examination.

10 Penalty for failure to comply with order

Every medical practitioner who fails or neglects to comply with the provisions of section 9, unless he shows good and sufficient cause for not complying with the same, shall be liable to a fine of \$20.

11 Fee for post-mortem

A medical practitioner for making a post-mortem examination of a body of a deceased person when required as aforesaid and for his report thereon to the magistrate shall receive such fee as the Minister may prescribe.

12 Penalty for failure to report unnatural death

Every person becoming aware of any unnatural death or of any death by violence or by accident, and who neglects to notify the nearest magistrate or to notify any such death at the nearest police station shall on summary conviction be liable to a fine of \$100 or to imprisonment for 1 month.⁴

PART III - FIRE INQUIRIES

13 Fire inquiry

A magistrate may hold an inquiry into the cause and origin of any fire occurring within his area when in his opinion the circumstances of the fire require an inquiry; and for such purpose a magistrate shall have and may exercise all or any of the powers conferred by Part II in so far as the same shall be applicable.

PART IV - MISCELLANEOUS

14 Power of Minister to appoint other persons

- (1) The Minister may appoint one or more fit and proper persons for the purposes of holding inquiries under this Act:

Provided always that any such person shall only exercise the powers thereby conferred upon him in the event of the magistrate of the area being unable to hold an inquiry owing to illness or absence or any other reasonable cause.

- (2) All the powers of a magistrate under this Act shall be thereupon vested in any such person appointed as aforesaid.

- (3) Every such person shall, before exercising any of the powers conferred upon him as hereinbefore provided, make and subscribe before the Minister or any magistrate the oath prescribed in Schedule 4.

15 Inquires to be judicial proceedings

Any proceedings under this Act shall be a judicial proceeding for the purpose of the Penal Code⁵.

SCHEDULE 1

(Section 3)

DEATH AND FIRE INQUIRIES ACT**REPORT OF DEATH MADE BY THE POLICE**

1. Name of deceased
2. Sex of deceased
3. Age of deceased
4. Place of birth of deceased
5. Period of residence in Tuvalu
6. Nationality
7. Place of death
8. Date and hour of death
9. Supposed cause of death
10. If death follows illness state length and nature of illness
11. If visited by medical practitioner, state where, when and by whom. If not so visited, the reasons why
12. How was deceased employed before death?
13. Where is body now?
14. Name of person who first informed police
15. Date and hour first information received by police
16. Where deceased was last seen, or known to be, alive
17. If deceased was married give the following particulars:
 - (a) where;
 - (b) at what age;
 - (c) to whom;
 - (d) names and ages of deceased's children in order of birth.
18. Names of deceased's parents

19. Names of persons (if any) present at time of death or during last illness
20. Name and address of persons able to identify deceased
21. Name of police officer detailed to ascertain full particulars before reporting to magistrate
22. Date and hour so detailed
23. Describe fully how the body was found, its exact position and whether face appeared distorted or natural
24. Was the presence of any poisonous odour detected?
25. Has any vomiting taken place on dress or bed-clothing?
26. What was condition of body?
27. Were there any marks of violence on the body?
28. Are there any circumstances leading to a suspicion of suicide or murder?
29. Date and hour report sent to magistrate
30. How forwarded
31. By whom forwarded
32. Was any medical examination under section 8 of the Act ordered?

Having made inquiries I have the honour to report that - *there are/*there are no suspicious circumstances surrounding the death and *there are/*there are no marks of violence on the body. In my view an inquiry under the Death and Fire Inquiries Act *ought to be/*ought not to be held.

.....

Investigating Police Officer

**Delete as applicable.*

To: His Worship,, Esquire,

Magistrate,

To: Officer in Charge of Police

at

I order that an inquiry under the Act be held and fix o'clock in the *fore/*after noon as the time, day the day of20... as the date and as the place thereof.

.....

Magistrate

**Delete as applicable.*

SCHEDULE 2

(Section 5)

DEATH AND FIRE INQUIRIES ACT

WARRANT ORDERING DISINTERMENT

IN exercise of the powers conferred upon me by section 5 of the Death and Fire Inquiries Act, *I DO HEREBY ORDER* that the body of late of deceased, who died on or about the day of 20...., be disinterred.

.....

Magistrate

To:

SCHEDULE 3

(Section 8)

DEATH AND FIRE INQUIRIES ACT

ORDER FOR POST-MORTEM EXAMINATION

IN exercise of the powers conferred upon me by section 8 of the Death and Fire Inquiries Act, *I DO HEREBY COMMAND AND REQUEST* you, medical practitioner, to make a post-mortem examination of the body of, late of deceased, and to make a report thereof, as required by the said Act.

Dated at this day of 20...

.....

Magistrate

To: Dr.

Medical Practitioner,

SCHEDULE 4

(Section 14)

DEATH AND FIRE INQUIRIES ACT

OATH TO BE TAKEN BY A PERSON APPOINTED UNDER SECTION 14 TO HOLD AN INQUIRY

I,, do swear that I will well and truly serve our Sovereign Lady the Queen and will act diligently and truly to the best of my ability for the doing of right and for the good of the people touching the matter of any inquiry I may be called upon to hold under the provisions of the Death and Fire Inquiries Act.

.....

Signature of person making oath.

Sworn before me at this day of, 20...

.....

Person before whom oath sworn

ENDNOTES

¹ 1990 Revised Edition, Cap. 13 – Acts 7 of 1924, 5 of 1965, 10 of 1967, 3 of 1968, 8 of 1971, 13 of 1972, LN 16/1974

Amended by Act 4 of 2009, commencement 6 July 2009

² Cap. 20.24

³ Cap. 28.12

⁴ Amended by Act 4 of 2009

⁵ Cap. 10.20