

eSwatini

Inquests Act, 1954

Act 59 of 1954

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1954/59/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 17:06.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



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.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

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, 1954
Contents

1. Short title 1

2. Interpretation 1

3. Duty to notify death 1

4. Duty of chiefs to report 2

5. Duty of member of the police force 2

6. Method of investigation 2

7. Duty of coroner 2

8. Power to order exhumation 3

9. Medical practitioner may dissect body 3

10. Offence to obstruct investigation or examination 3

11. Venue of inquests 4

12. Power to subpoena witnesses 4

13. Evidence to be taken on oath or by affidavit 4

14. Rules of evidence not to apply 4

15. Penalty for refusing to answer questions 5

16. False evidence 5

17. Evidence, how recorded 5

18. Duty of presiding officer where crime disclosed 5

19. Transmission of record to Attorney-General 5

20. Powers of Attorney-General 5

21. Witness fees and expenses 6

22. Mine accidents 6

23. Penalty where body is buried without authority and alternative verdicts 6

24. Saving of power of arrest 6

25. The Minister may prescribe fees for medical practitioners 6

26. Special appointment of coroners 7

eSwatini

Inquests Act, 1954

Act 59 of 1954

Commenced on 12 November 1954

[This is the version of this document at 1 December 1998.]

An Act to consolidate and amend the law relating to the holding of inquests and matters ancillary thereto.

1. Short title

This Act may be cited as the Inquests Act, 1954.

2. Interpretation

In this Act, unless the context otherwise requires—

“**chief**” means any chief to whom authority is extended under the provisions of the Swazi Administration Act, [No. 79 of 1950](#), or any person for the time being holding the office of chief;

“**coroner**” means a senior regional secretary, regional secretary or cadet and includes a magistrate and any person appointed to act as coroner in terms of [section 26](#);

“**crown counsel**” means any professional assistant appointed to assist the Attorney-General;

“**magistrate’s court**” means a court established under the Magistrates Courts Act, [No. 66 of 1938](#);

“**medical practitioner**” means any person registered or entitled to be registered or to practice as a medical practitioner in Swaziland in terms of the Medical and Dental Practitioner’s Act, [No. 3 of 1970](#);

“**Minister**” means the Prime Minister;

“**presiding officer**” means any coroner holding or about to hold an inquest in terms of this Act.

[Amended P.59/1961]

3. Duty to notify death

(1) Every person—

- (a) who finds the dead body of a person who appears to have come by his death otherwise than from natural causes;
- (b) to whom the knowledge of any such death may come; or
- (c) to whom any such death is reported;

shall as soon as possible notify the finding, knowledge or report, together with any other facts in connection therewith which are known to him to a coroner, or to the person in charge of the nearest police station or police post, or to the nearest chief.

(2) Any person who fails to comply with or contravenes this section shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni, or in default of payment thereof imprisonment not exceeding six months, or both.

[Amended P.59/1961]

4. Duty of chiefs to report

- (1) Every chief who receives a report under section 3(1) shall transmit such report forthwith to a coroner, or to the person in charge of the nearest police station or police post, together with any other facts in connection therewith which are known to him.
- (2) Any chief who fails to comply with or contravenes this section shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred emalangeni, or in default of payment thereof imprisonment not exceeding twelve months, or both.

[Amended P.59/1961]

5. Duty of member of the police force

A police officer on receiving a report in terms of section 3(1) or 4(1) or in any manner becoming aware of the death of any person who appears to have come by his death other than from natural causes shall report forthwith to a police officer of the rank of corporal or upwards:

Provided that if such officer holds the rank of corporal or upwards or if undue delay is likely to be caused by the submission of a report, such officer may take action under section 6.

6. Method of investigation

- (1) Any police officer of the rank of corporal or upwards acting on a report received shall proceed or cause another police officer to proceed, to the place where the body is lying and make a full investigation into the circumstances surrounding the death of the deceased and the probable cause thereof.
- (2) In the course of his investigation the police officer shall—
 - (a) take statements from any person who in his opinion may be able to give relevant information as to the cause of or the circumstances surrounding the death;
 - (b) make a report on the apparent cause of death, describing all wounds, fractures, bruises or other marks of injury found on the body, stating in what manner or by what weapon or instrument (if any) such marks appear to have been inflicted; and shall attach to such report any statements taken in pursuance of paragraph (a);
 - (c) transmit such report together with any statements and any other information which may be relevant to his superior officer; and
 - (d) in his discretion give authority for the body to be buried, or cause it to be forwarded to the nearest convenient place for such medical examination as may be directed under section 7(e).
- (3) On receipt of a report in terms of subsection (2)(c), such superior officer may require any statement to be made in the form of an affidavit; and shall forward the report, statements and any affidavits to a coroner.

[Amended P.59/1961]

7. Duty of coroner

- (1) If a coroner—
 - (a) receives a report under section 3 or 4 he shall ascertain whether a report has been made to the police, and, if no such report appears to have been made, shall cause it to be made forthwith;

[Amended P.59/1961]

- (b) receives a report under [section 6\(3\)](#) that the death is due to natural causes, or suicide, or accident, and that the body shows no appearance of death being attributable to or having been accelerated by violence or by any culpable or negligent conduct on the part of any person, and he is satisfied with such conclusion, he shall issue a certificate to that effect and forward the report, other relevant documents and the certificate to the Attorney-General or Crown Counsel;
[Amended P.59/1961]
 - (c) is satisfied that reasonable grounds exist for suspecting that the death was caused by the criminal act or culpable or negligent conduct of some known person or persons, he shall refer the matter to the Crown Prosecutor who, subject to section 9(3) of the Criminal Procedure and Evidence Act [No. 67 of 1938](#) shall take such action thereon as he deems fit;
 - (d) is not satisfied that the death is due to natural causes, or suicide or accident or is of opinion that there is reasonable suspicion that death is attributable to or has been accelerated by violence or by any culpable or negligent conduct on the part of any unknown person he shall direct that an inquest be held as soon as practicable;
 - (e) considers such examination necessary, he shall direct the examination of the body by a medical practitioner.
- (2) Notwithstanding subsection (1) if any person dies (otherwise than in the lawful execution of a sentence of death) while detained in any prison or reformatory or while in the custody of the police, the coroner shall direct that an inquest into such death shall be held as soon as practicable; and for this purpose the person having charge of the police in the region in which such death occurred shall forthwith report it to a coroner.

[Amended P.59/1961]

8. Power to order exhumation

If it appears 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 examination by a medical practitioner, or if it appears to him that further medical examination is necessary, he may order the exhumation of such body for examination or further examination:

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

[Amended P.59/1961]

9. Medical practitioner may dissect body

A medical practitioner who is required to examine any body in terms of this Act may make such dissection of the body as he thinks necessary, and may make, or cause to be made, an examination of any of the internal organs of the body.

10. Offence to obstruct investigation or examination

Any person who prevents, obstructs or interferes with a coroner, a chief, a medical practitioner or a police officer in carrying out his powers and duties under this Act shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or in default of payment thereof imprisonment not exceeding six months, or both.

[Amended P.59/1961]

11. Venue of inquests

- (1) If any coroner has in terms of [section 7\(1\)\(d\)](#) or (2) directed that an inquest be held, such inquest may be held by any coroner having jurisdiction in the region in which the body was found or in the region in which any injuries or wounds are alleged to have been inflicted and such inquest may be adjourned by the presiding officer at any stage for further hearing in any other region.

[Amended P.59/1961]

- (2) For the purpose of holding such inquest the presiding officer may avail himself of the services of such officers of a magistrate's court as he may consider necessary.

12. Power to subpoena witnesses

- (1) The presiding officer may subpoena witnesses to give evidence or to produce any document or thing at such inquest.
- (2) The process for subpoenaing witnesses to attend before, any inquest held under this Act shall be issued by the officer prescribed by the magistrate's courts Rules.
- (3) If any person so subpoenaed as a witness fails to attend or to produce any document or any other thing pursuant to such subpoena he shall, if he is unable to give a reasonable excuse for such default, be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeni or in default of payment thereof imprisonment not exceeding one month, or to such imprisonment without the option of a fine.

13. Evidence to be taken on oath or by affidavit

- (1) Subject to this section, the evidence of a witness at an inquest shall be upon oath administered by the presiding officer in the form which most clearly conveys to him the meaning of such oath, and which he considers to be binding on his conscience.
- (2) If any person objects to taking an oath, such person may make an affirmation in the form prescribed in criminal proceedings.
- (3) If any person has made a statement or affidavit under this Act, and, in the opinion of the presiding officer, the attendance of such person to give viva voce evidence at an inquest would cause unnecessary expense or delay, or cause unnecessary hardship or inconvenience to such person, the presiding officer may admit such statement or affidavit in evidence at the inquest upon the production thereof by the police officer in charge of the investigation:

Provided that this subsection shall not debar a presiding officer who has admitted such statement or affidavit in evidence from thereafter subpoenaing the deponent to give viva voce evidence, if he considers it necessary for the purpose of ascertaining the cause of, or criminal responsibility for, the death.

14. Rules of evidence not to apply

The presiding officer shall not be bound by the rules of evidence which 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 such question nor be liable to any penalty for refusing to answer it.

15. Penalty for refusing to answer questions

Subject to [section 14](#), any person lawfully required by the presiding officer to give evidence, who refuses to be sworn or, having been sworn, refuses to answer any question put to him, shall be liable to the penalties prescribed in section 200(1) of the Criminal Procedure and Evidence Act, [No. 67 of 1938](#).

[Amended P.59/1961]

16. False evidence

A person shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury if —

- (a) after an oath has been administered to him, or after affirming, under this Act he gives false evidence knowing it to be false; or
- (b) in an affidavit made for the purpose of this Act he makes a false statement knowing it to be false.

17. Evidence, how recorded

The evidence of every witness shall be taken down and recorded in the form of a deposition in the manner prescribed for preparatory examinations by the Criminal Procedure and Evidence Act, [No. 67 of 1938](#).

18. Duty of presiding officer where crime disclosed

If before or at the termination of an inquest the presiding officer is of opinion that the death of the deceased was caused by an act or omission which amounts to a criminal offence by some known person or persons he shall cause such person or persons to be arrested or summoned, or take such other steps as may be necessary, in order that criminal proceedings may be instituted; and in all such cases he shall forthwith terminate the inquest and record what action has been taken.

19. Transmission of record to Attorney-General

At the conclusion of an inquest otherwise than in pursuance of [section 18](#), the presiding officer shall record his opinion as to the cause of death, and any other matters relevant thereto, and forthwith transmit the original record to the Attorney-General or Crown Counsel.

[Original Section 19 repealed by P.59/1961]

20. Powers of Attorney-General

- (1) The Attorney-General may—
 - (a) upon receipt of a report and certificate direct that an inquest be held;
 - (b) direct that an inquest be reopened to take further evidence generally or in respect of any particular matter;
 - (c) cause an examination or further examination of a dead body to be made, and, if necessary, cause such body to be disinterred for the purpose of the examination;
 - (d) direct that no further action be taken; or
 - (e) take such measures and give such directions as he may deem most expedient in the interests of justice.
- (2) The Attorney-General may in writing order that all or any of the powers vested in him by this Act be vested for the time being in a Crown Counsel, and the exercise of these powers by a Crown Counsel shall then operate as if they had been exercised by the Attorney-General:

Provided that the Attorney-General may in writing vary any order made by Crown Counsel in terms of this subsection.

[Amended P.59/1961]

21. Witness fees and expenses

Every witness subpoenaed or appearing to give evidence at any inquest shall be entitled to receive such fees and expenses as he would be entitled to receive if he was a witness subpoenaed to give evidence at a criminal trial before a magistrate's court in the region where the inquest is being held.

22. Mine accidents

- (1) Notwithstanding this Act, any enquiry held by any inspector in accordance with the Mines and Works Act or any amendment thereof or any regulation made thereunder into an accident occurring at or upon any mine or works and causing death, shall be sufficient examination for the purpose of this Act, unless the Attorney-General or Crown Counsel otherwise directs.
- (2) Every inspector holding such enquiry shall transmit to the Attorney-General or Crown Counsel as soon as may be the records of such enquiry and his report thereon, and shall in every case append thereto a statement of opinion whether or not the death was due to an act or omission of a criminal nature or in contravention of a statute or regulation, on the part of any person, and, if so, on whose part.

[Amended P.59/1961]

23. Penalty where body is buried without authority and alternative verdicts

- (1) Any person who, without lawful authority or excuse, buries, cremates or otherwise disposes of the body of any person when there is reasonable cause to suspect that such person has died a violent or an unnatural death or as a result of some criminal act, or has died a sudden death of which the cause is unknown or causes or permits such body to be buried, cremated or otherwise disposed of shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred emalangen, or in default of payment thereof imprisonment not exceeding two years, or both.
- (2) If any person is charged with having committed or is liable to be convicted of an offence under this section the onus of proving that he had lawful authority or excuse shall be on such person.
- (3) Any person charged with murder or culpable homicide in regard to whom it is not proved that he caused the death of the person whom he is charged with killing or that he was an accessory to such killing, may, if it is proved that he is guilty of an offence under this section or under [section 3](#) be found guilty of, and sentenced for, such offence.

24. Saving of power of arrest

This Act shall not be construed as preventing any person authorised by law to issue warrants of arrest, or authorised to arrest offenders or supposed offenders, from acting in all respects as regards such warrants or such offenders (whether an inquest has or has not commenced) as if this Act had not been passed.

25. The Minister may prescribe fees for medical practitioners

The Minister may by notice in the *Gazette* prescribe the fees to be paid to medical practitioners not in the service of the Government who perform services for the purpose of this Act.

26. Special appointment of coroners

Notwithstanding anything in this Act, the Minister may appoint any public officer to preside as Coroner at any inquest or series of inquests.

[Added P.59/1961]