

THE CORONERS ACT
ARRANGEMENT OF SECTIONS

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CORONERS

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SCHEDULE

THE CORONERS ACT

[12th June, 1900.]

Cap. 77.
Acts
51 of 1964,
42 of 1969
3rd Sch.,
23 of 1971,
20 of 1976,
6 of 1982,
10 of 1999,
19 of 2000
S. 23,
6 of 2005,
2 of 2009,
16 of 2015
Sch.,
6 of 2016
Sch.

1. This Act may be cited as the Coroners Act.

Short title.

PART I. *Preliminary*

2. Save in so far as is inconsistent with this Act, any principle or rule of law, or established jurisdiction, practice, or procedure, or existing usage or custom, shall not withstanding the repeal of any enactment by this Act, remain in full force.

Preservation
of existing
jurisdiction,
practice, etc.

3. In this Act—

Interpreta-
tion.

“agent of the State” means—

2/2009
S. 2.

(a) a person who is a member of—

(i) the Jamaica Constabulary Force;

(ii) the Jamaica Defence Force, except when acting in time of war;

(iii) the Island Special Constabulary Force;
and

(b) a person appointed as a parish Special Constable pursuant to the Constables (Special) Act;

- (c) a correctional officer;
- (d) an officer within the meaning of section 2 of the Customs Act; and
- (e) such other public officer, as the Minister may by order specify, being a person upon whom is conferred any of the powers, authority and privileges as are conferred by law on a member of the Jamaica Constabulary Force;

“the appropriate Coroner” means—

- (a) the Office of the Special Coroner, in any case where there is reasonable cause to suspect that death occurred as a result of the act or omission of an agent of the State; or
- (b) subject to section 5B, in any other case, the Coroner having jurisdiction for the relevant parish pursuant to section 4,

and references, in any other enactment, to a Coroner shall be construed to mean the appropriate Coroner;

16/2015
Sch.

“document” means, in addition to a document in writing anything in which information of any description is recorded;

16/2015
Sch.

“interested party” means—

- (a) a parent, child or spouse of a deceased person or, if there are no such persons, the deceased’s next-of-kin;
- (b) a personal representative of the deceased;
- (c) any beneficiary under a policy of insurance issued on the life of the deceased;
- (d) the insurer who issued such a policy of insurance;

otherwise than in that capacity, shall only be permitted to examine a witness by an attorney-at-law.

(3) The appropriate Coroner shall disallow any question which in the appropriate Coroner's opinion is not relevant or is otherwise not a proper question. 2/2009 S. 9.

22D. If any person—

(a) wilfully insults the appropriate Coroner or any officer of the Court under this Act during his sitting or attendance in the Court; or

(b) wilfully interrupts the proceedings of the Court; or

(c) otherwise misbehaves in Court,

Power to deal with misbehaviour in Court. 6/1982 S. 10. 2/2009 S. 9.

the appropriate Coroner may order any constable or officer of the Court, with or without the assistance of any other person, to take the offender into custody and detain him till the rising of the Court; and such appropriate Coroner may, if he thinks fit, impose upon any such offender a fine not exceeding five thousand dollars for every such offence, and, in default of payment thereof, commit the offender to prison for any period not exceeding one calendar month, unless the fine is sooner paid; and in the case of a subsequent offence within six months, by a warrant under his hand, and sealed with the seal of the Court, commit any such offender to prison for any period not exceeding one calendar month.

2/2009 S. 9.

6/2005 S. 14.

23.—(1) Where a person duly summoned as a juror at an inquest does not appear to such summons or appearing refuses without reasonable excuse to serve as a juror, the appropriate Coroner may impose on such person a fine not exceeding four thousand dollars.

Penalty for non-attendance or refusal to serve or testify as juror or witness. 6/1982 S. 11. 10/1999 S. 2(a). 2/2009 S. 9.

(2) Where, pursuant to subsection (1), the appropriate Coroner imposes a fine upon any person in his absence, the provisions of section 41 of the Jury Act shall apply as regards the recovery and enforcement of the fine.

(3) Where a person duly summoned to give evidence at an inquest—

(a) does not appear to such summons; or

(b) appearing, refuses to be sworn or to affirm, or having affirmed or been sworn, refuses without reasonable excuse to answer any question put to him,

2/2009
S. 9.
10/1999
S. 2(b).

the appropriate Coroner may impose upon such person a fine not exceeding four thousand dollars and in default of payment thereof commit such person to prison for a term not exceeding one month unless he consents to be examined and to give evidence as aforesaid or unless the fine shall sooner be paid.

2/2009
S. 9.

(4) Where the appropriate Coroner imposes a fine upon a person under subsection (3)(a), the provisions of section 11 (2) and (3) of the Witnesses' Expenses Act shall apply in respect of the recovery and enforcement of the fine.

2/2009
S. 9.

(5) Where a recognizance is forfeited at an inquest held before the appropriate Coroner, the provisions of this section shall apply as regards the person forfeiting the recognizance as if a fine had been imposed upon that person under this section.

Admissibility of written statement at inquest.
6/2005
S. 15.

23A.—(1) At an inquest, a written statement by a person shall, if the conditions specified in subsection (2) are satisfied, be admissible in evidence to the same extent and effect as direct oral evidence by that person.

(2) The conditions referred to in subsection (1) are that—

(a) the statement purports to be signed by the person who made it;

(b) a copy of the statement and a notice of intention to admit the statement in evidence are caused to be served by the appropriate Coroner on all parties referred to in subsection (8), at least twenty-one days before the inquest;

2/2009
S. 9.

(c) none of the parties referred to in subsection (8) have, within ten days from the service of the copy of the statement, served a counter-notice on the appropriate Coroner, objecting to the statement being admitted in evidence and requiring the attendance of the maker of the statement as a witness at the inquest; 2/2009
S. 9.

(d) notice of the intention to admit the statement in evidence is accompanied by a declaration by the person who made it to the effect that it is true to the best of his knowledge and belief and that he made it knowing that, if it were admitted in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(3) [*Deleted by Act 16 of 2015, Sch.*]

(4) A statement shall be inadmissible in evidence under this section if a party referred to in subsection (8) serves a counter-notice objecting to the statement being admitted in evidence and requiring the person who made the statement to attend the inquest as a witness.

(5) Notwithstanding that a written statement made by any person may be admissible by virtue of subsection (2), the appropriate Coroner may, on his own motion or on application by any party referred to in subsection (8), require that the maker of the statement attend and give oral evidence at the inquest. 2/2009
S. 9.

(6) Notwithstanding the failure of any party referred to in subsection (8) to serve a counter-notice objecting to the admissibility of the statement, the appropriate Coroner may, if he thinks fit, permit that party to lead evidence contradicting the evidence contained in the written statement. 2/2009
S. 9.

(7) Where contradicting evidence is given as mentioned in subsection (6), the appropriate Coroner may admit additional evidence in response to the contradicting evidence. 2/2009
S. 9.

(8) The parties to which this subsection refers are—

- (a) all interested parties; and
- (b) all parties likely to be affected by the statement.

(9) For the purposes of subsection (8), a party is likely to be affected by a statement that contains anything which expressly, or by reasonable inference, indicates that the party is liable to be charged with an offence in relation to the death.

23B.—(1) [*Deleted by Act 16 of 2015, Sch.*]

(2) A statement made by a person in a document shall be admissible at an inquest as evidence of any fact of which direct oral evidence by that person would be admissible if it is proved to the satisfaction of the appropriate Coroner that such person—

- (a) is dead;
- (b) is unfit, by reason of his bodily or mental condition, to attend as a witness;
- (c) is outside of Jamaica and it is not reasonably practicable to secure his attendance;
- (d) cannot be found after all reasonable steps have been taken to find him; or
- (e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person.

23C. A statement contained in a document produced by a computer and which constitutes hearsay shall not be admitted in evidence at an inquest unless—

- (a) at all material times—
 - (i) the computer was operating properly;
 - (ii) the computer was not subject to any malfunction; and
 - (iii) there are no alterations to its mechanism or processes that might reasonably be expected

Admissibility of computer evidence constituting hearsay.
6/2005
S. 15.

to have affected the validity or accuracy of the contents of the document;

- (b) there is no reasonable cause to believe that—
- (i) the accuracy or validity of the document has been adversely affected by the use of any improper process or procedure or by inadequate safeguards in the use of the computer; or
 - (ii) there was any error in the preparation of the data from which the document was produced;
- (c) the computer was properly programmed; and
- (d) where two or more computers were involved in the production of the document or in the recording of the data from which the document was derived—
- (i) the conditions specified in paragraphs (a) to (c) are satisfied in relation to each of the computers so used; and
 - (ii) it is established by or on behalf of the person tendering the document in evidence that the use of more than one computer did not introduce any factor that might reasonably be expected to have an adverse effect on the validity or accuracy of the document.

23D. [*Deleted by Act 16 of 2015, Sch.]*

23E.—(1) Where the coroner is satisfied that arrangements are in place at an inquest to allow for notes of evidence to be taken—

Notes of
Evidence.
6/2016
Sch.

- (a) by such electronic or other means as may be specified by rules of court;
- (b) by a court reporter (whether or not using the means referred to in paragraph (a)),

the Judge may direct that the notes be so taken, and the notes so

taken shall be admissible in any other proceedings.

(2) The services of court reporters appointed under section 16 of the Judicature (Supreme Court) Act may be made available for the purpose of taking notes of evidence in any Parish Court.

Inquisition not to be quashed for defects. Power to amend and procedure thereon.

24.—(1) If in the opinion of the Judge having cognizance of the case, an inquisition finds sufficiently the matters required to be found thereby, and where it charges a person with murder or manslaughter sufficiently designates that person and the offence charged, the inquisition shall not be quashed for any defects, and the Judge may order the proper officer of the Court to amend any defect in the inquisition, and any variance occurring between the inquisition and the evidence offered in proof thereof, if the Judge is of opinion that such defect or variance is not material to the merits of the case, and that the defendant or person traversing the inquisition cannot be prejudiced by the amendment in his defence or traverse on the merits, and the Judge may order the amendment on such terms as to postponing the trial to be had before the same or another jury as to him may seem reasonable, and after the amendment the trial shall proceed in like manner, and the inquisition, verdict and judgment, shall be of the same effect, and the record shall be drawn up in the same form, in all respects as if the inquisition had originally been in the form in which it stands when amended.

Respite of recognizances on postponement of trial.
2/2009
S. 9.

(2) For the purposes of any such amendment, the Judge may respite any of the recognizances taken before the appropriate Coroner, and the person bound by such recognizances shall be bound without entering into any fresh recognizances to appear and prosecute, give evidence, or be tried at the time and place to which the trial is postponed, as if they were originally bound by their recognizances to appear and prosecute, give evidence, or be tried at that time and place.