



## ASCENSION

### REVISED EDITION OF THE LAWS, 2017

#### COURTS AND JUSTICE

#### **CORONERS AND PRESUMPTION OF DEATH (ASCENSION) ORDINANCE, 2015<sup>1</sup>**

*Ordinance SH3 of 2015*

*In force 13 April 2015*

*Correction Notice LN 14/2015*

*No other amendments to 1 November 2017*

*The SH Coroners Ordinance, 1987 (repealed and replaced by this Ordinance) was applied to Ascension by the Law Reform (Miscellaneous Provisions) Ordinance 1988 with amendments. Paragraph 1 of the Schedule to the Law Reform (Miscellaneous Provisions)(Ascension) Ordinance, 1988, which applied the Coroners Ordinance to Ascension, was repealed by Ord. A2 of 2015. This Ordinance therefore applies to Ascension by virtue of the St Helena Law (Application to Ascension) Ordinance, 1988, with necessary modifications, incorporated in the text below.<sup>2</sup>*

*SH subsidiary legislation:*

#### **CORONERS (INQUESTS) RULES, 2015**

*Legal Notice 8 of 2015 (in force 17 April 2015)*

#### **CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

*Legal Notice 11 of 2015 (in force 1 May 2015)*

#### **CORONERS (ALLOWANCES, FEES AND EXPENSES) REGULATIONS, 2015**

*Legal Notice 12 of 2015 (in force 1 May 2015)*

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#### **CORONERS AND PRESUMPTION OF DEATH (ASCENSION) ORDINANCE, 2015**

#### ARRANGEMENT OF SECTIONS

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<sup>1</sup> *This text is not authoritative but was prepared by the Law Revision Commissioner under section 14 of the Revised Edition of the Laws Ordinance, 1999 as stating the law at 1 November 2017.*

<sup>2</sup> *The Ascension Law Reform (Miscellaneous Provisions) Ordinance 1991 inserted in the Coroners Ordinance, 1987 for Ascension a new section on sound recording of oral evidence at inquests. As the Sound Recording Rules, 1989 (see the Courts (Appeals and Rules) Ordinance, 2017) do not extend to Coroner's inquests, the inserted section are set out in an Appendix to this Ordinance.*

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## CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015

AN ORDINANCE to make provision for the appointment and duties of Chief Coroner and Coroners and for matters relating to Coroners' investigations and in relation to the presumed death of missing persons; and for connected or incidental purposes.

### *Preliminary*

#### **Short title and commencement**

**1.** (1) This Ordinance may be cited as the Coroners and Presumption of Death (Ascension) Ordinance, 2015, and comes into force on a date the Governor appoints by notice in the *Gazette*.<sup>3</sup>

(2) A notice or notices issued under subsection (1) may appoint different dates for the purposes of different provisions or for different purposes of the same provision.

#### **Interpretation**

**2.** (1) In this Ordinance, unless the context otherwise requires—

“**body**” includes body parts;

“**Chief Coroner**” means the person so designated by or appointed under section 15(1);

“**Clerk to the Coroner**” means the person appointed as such under section 15(5);

“**Coroner**” means a person appointed as such under section 15(2);

“**Coroners’ regulations**” means regulations made under section 20;

“**Coroners’ rules**” means rules made under section 21;

“**court of trial**” means the court by which the offence is tried;

“**Deputy Chief Coroner**” means a person appointed as such under section 15(4);

“**document**” includes information stored in an electronic form and any reference to producing or providing a document, in relation to information stored in an electronic form, is to be read as a reference to producing or providing a copy of the information in a legible form;

“**functions**” includes powers and duties;

“**homicide offence**” means—

- (a) murder, manslaughter or infanticide;
- (b) any other offence of causing, allowing, encouraging or assisting death under any of

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<sup>3</sup> *In force 13 April 2015*

the provisions of the laws of Ascension;

**“interest in property”** means an interest in property of any description, including an estate in land and a right over property;

**“interested person”** is to be read in accordance with section 22;

**“land”** includes premises;

**“medical examiner”** means a person appointed under section 13;

**“missing person”**, in relation to a declaration under this Ordinance or an application, determination or order made in connection with such a declaration, means the person who is or would be the subject of the declaration;

**“public authority”** includes—

(a) a court, tribunal or commission; and

(b) any person some of whose functions are of a public nature;

**“Registrar-General”** means the Registrar-General appointed under section 2 of the Births and Deaths (Registration) Ordinance, 1853 (SH);

**“related offence”**, in relation to homicide, means an offence that—

(a) involves the death of the deceased, but is not a homicide offence; or

(b) involves the death of a person other than the deceased (whether or not it is a homicide offence) and is committed in circumstances connected with the death of the deceased;

**“sibling”** means a sibling of the full blood or the half-blood;

**“state detention”** refers to a person is being compulsorily detained by or on the authority of a public authority;

**“statutory provision”** means provision contained in, or in an instrument made under, any Ordinance (including this Ordinance);

**“trustee”** includes an executor, administrator or personal representative;

**“variation order”** has the meaning assigned to it in section 27.

(2) References in this Ordinance to a party to proceedings include a person intervening in the proceedings in accordance with section 33.

### *Coroners*

#### **Duty to investigate certain deaths**

**3.** (1) Subject to sections 4 and 5, a Coroner who is made aware that the body of a deceased person is within Ascension must as soon as practicable conduct an investigation into the person’s death if subsection (2) applies.

(2) This section applies if the Coroner has reason to suspect that—

(a) the deceased died a violent or unnatural death;

(b) the cause of death is unknown; or

(c) the deceased died while in custody or otherwise in state detention.

(3) A Coroner must report to the Chief Coroner any case in which the Coroner has reason to believe that—

(a) a death has occurred in or near Ascension;

(b) the circumstances of the death are such that there should be an investigation into it; and

(c) the duty to conduct an investigation into the death under subsection (1) does not arise because of the destruction, loss or absence of the body.

(4) On receiving a report under subsection (3), the Chief Coroner may direct a Coroner (who does not have to be the one who made the report) to conduct an investigation into the death.

(5) The Coroner to whom a direction is given under subsection (4) must, subject to section 5, conduct an investigation into the death as soon as practicable.

(6) A Coroner may make whatever investigations the Coroner considers necessary in order to decide whether—

- (a) the duty under subsection (1) arises;
- (b) the duty to report under subsection (3) arises.

#### **Direction for other Coroner to conduct investigation**

4. (1) The Chief Coroner may direct a Coroner to conduct an investigation into a person's death even though, apart from such direction, another Coroner would be under a duty to conduct it.

(2) If a direction is given under this section, the Coroner so directed (and not the other Coroner) must, subject to section 5 and any subsequent direction concerning the investigation given under this section, conduct the investigation as soon as practicable.

(3) A reference in this section to conducting an investigation, in the case of an investigation that has already begun, is to be read as a reference to continuing to conduct the investigation.

#### **Discontinuance where cause of death revealed by post-mortem examination**

5. (1) A Coroner who is responsible for conducting an investigation into a person's death may discontinue the investigation if—

- (a) an examination under section 10 reveals the cause of death; and
- (b) the Coroner considers that it is not necessary to continue the investigation.

(2) Subsection (1) does not apply if the Coroner has reason to suspect that the deceased—

- (a) died a violent or unnatural death; or
- (b) died while in custody or otherwise in state detention.

(3) If a Coroner discontinues an investigation into a death under this section—

- (a) the Coroner need not hold an inquest into the death; and
- (b) no determination or finding under section 8(1) need be made in respect of the death.

(3A) Subsection (2) does not prevent a fresh investigation from being conducted into the death.

(4) A Coroner who discontinues an investigation into a death under this section must, if requested by an interested person in writing to do so, give to that person a written explanation as soon as practicable as to why the investigation was discontinued.

### **Matters to be ascertained**

- 6.** (1) The purpose of an investigation into a person's death is to ascertain—
- (a) who the deceased was;
  - (b) how, when and where the deceased came by his or her death; and
  - (c) the particulars (if any) required by the Births and Deaths (Registration) Ordinance, (Ascension) 1853, to be registered concerning the death.

(2) If necessary in order to avoid a breach of any fundamental rights and freedoms of the individual within the meaning of the Constitution, the purpose mentioned in subsection (1)(b) is to be construed as including the purpose of ascertaining in what circumstances the deceased came by his or her death.

(3) Subject to paragraph 7 of Schedule 2, the Coroner conducting an investigation into a person's death must not express any opinion on any matter other than—

- (a) the questions mentioned in subsection (1)(a) and (b), read with subsection (2) where applicable; and
- (b) the particulars mentioned in subsection (1)(c).

(4) A Coroner who conducts an investigation into a person's death may, but need not, hold an inquest into the death as part of the investigation.

### **Juries**

- 7.** An inquest into a death must be held without a jury.

### **Determinations and findings to be made**

- 8.** (1) After concluding an investigation into a death, the Coroner must—
- (a) make a determination as to the questions mentioned in section 6(1)(a) and (b), read with section 6(2) where applicable; and
  - (b) if particulars are required by the Births and Deaths (Registration) (Ascension) Ordinance, 1853 to be registered concerning the death, make a finding as to those particulars.

(2) A determination under subsection (1)(a) must not be framed in such a way as to appear to determine any question of—

- (a) criminal liability on the part of a named person; or
- (b) civil liability.

### **Duty or power to suspend or resume investigations**

- 9.** Schedule 1 makes provision about suspension and resumption of investigations.

### **Post-mortem examinations**

**10.** (1) A Coroner may require a suitable practitioner to make a post-mortem examination of a body if—

- (a) the Coroner is responsible for conducting an investigation into the death of the

- person in question; or
- (b) a post-mortem examination is necessary to enable the Coroner to decide whether the death is one into which the Coroner has a duty under section 3(1) to conduct an investigation.

(2) A requirement under subsection (1) may specify the kind of examination to be made.

(3) For the purposes of subsection (1) a person is a “**suitable practitioner**” if the person is—

- (a) a medical practitioner ; or
- (b) designated by the Chief Coroner as suitable to make examinations of the kind contemplated by subsection (1).

(4) If the Coroner has reasonable grounds to suspect that a death was caused wholly or partly by improper or negligent treatment by a medical practitioner or other person, that practitioner or other person must not make, or assist at, an examination of the body under this section, but is entitled to be represented at such an examination.

(5) A person who makes a post-mortem examination under this section must, as soon as practicable, report the result of the examination to the Coroner in a form the Coroner requires.

(5A) Subsection (4) has no effect as regards a post-mortem examination already made.

### **Power to remove body**

11. (1) A Coroner may order a body to be removed to any suitable place (within Ascension or elsewhere), if that Coroner—

- (a) is responsible for conducting an investigation into a person’s death; or
- (b) needs to request a post-mortem examination under section 10 in order to decide whether the death is one into which the Coroner has a duty under section 3(1) to conduct an investigation.

(2) The Coroner may not order the removal of a body under this section to a place provided by a person who has not consented to such body being removed there.

(3) Subsection (2) does not apply to a place within Ascension that is provided for the purpose by the Government of Ascension.

### **Notification by medical practitioner to Coroner**

12. A medical practitioner or police officer must notify a Coroner of all deaths in Ascension of which the practitioner or officer is aware.

### **Medical examiners**

13. (1) The Governor, after consultation with the Chief Coroner, must appoint suitably qualified and experienced persons as medical examiners to discharge the functions

conferred on medical examiners by or under this Ordinance.

- (2) The Governor in Council may by regulations make provision—
- (a) about the terms of appointment of medical examiners and about termination of such appointments;
  - (b) for the payment to medical examiners of remuneration, expenses and fees;
  - (c) about the procedure to be followed in connection with the exercise of functions by medical examiners;
  - (d) conferring functions on medical examiners.

(3) Nothing in this section, or in regulations under this section, gives the Governor in Council any role in relation to the way in which medical examiners exercise their professional judgment.

### **Medical certificate of cause of death**

14. (1) The Governor in Council may by regulations make provision—
- (a) requiring a medical practitioner to prepare a certificate stating the cause of death to the best of the practitioner's knowledge and belief (referred to as a "**medical practitioner's certificate**");
  - (b) requiring a copy of a medical practitioner's certificate to be given to a Coroner;
  - (c) allowing a medical practitioner, if invited to do so by the Coroner, to issue a fresh certificate superseding the existing one;
  - (d) allowing a Coroner to refer a case to a medical examiner;
  - (e) requiring a medical examiner to make whatever enquiries appear to be necessary in order to confirm or establish the cause of death;
  - (f) requiring a medical examiner to whom a copy of a medical practitioner's certificate has been given—
    - (i) to confirm the cause of death stated on the certificate and to notify a Coroner that the cause of death has been confirmed; or
    - (ii) if the examiner is unable to confirm the cause of death, to refer the case to a Coroner;
  - (g) requiring a medical examiner to whom a case has been referred by a Coroner to issue a certificate stating the cause of death to the best of the examiner's knowledge and belief (a "medical examiner's certificate") and for a medical examiner's certificate to be given to the Coroner;
  - (h) allowing a medical examiner, if invited to do so by the Coroner, to issue a fresh medical examiner's certificate superseding the existing one;
  - (i) requiring a medical examiner or someone acting on behalf of a medical examiner—
    - (i) to discuss the cause of death with some other person whom the medical examiner considers appropriate; and
    - (ii) to give some other person the opportunity to mention any matter that might cause a Coroner to think that the death should be investigated under section 3;
  - (j) prescribing forms (including the form of a medical practitioner's certificate and of a medical examiner's certificate) for use by persons exercising functions under the regulations, and requiring the forms to be made available to those persons;
  - (k) provision requiring the Coroner to issue guidance as to how certificates and other forms under the regulations are to be completed;
  - (l) provision for certificates or other forms under the regulations to be signed or



otherwise authenticated.

- (2) Regulations under subsection (1) imposing a requirement may prescribe—
- (a) a period within which the requirement is to be complied with;
  - (b) cases or circumstances in which the requirement does, or does not, apply.

(3) Regulations under subsection (1) may provide for functions that would otherwise be exercisable by a specific medical practitioner to be performed by another medical practitioner.

### **Appointment etc of Coroners**

**15.** (1) The Chief Magistrate is by virtue of office the Chief Coroner, but if the office of Chief Magistrate is vacant, or the Chief Magistrate is otherwise unable to act, the Governor may, subject to section 90(4) of the Constitution, appoint a suitable person to act as Chief Coroner.

(2) The Governor may, subject to the provisions of section 90(4) of the Constitution, appoint any person to be a Coroner in and for Ascension.

(3) The Governor may appoint an officer of the public service to be a Coroner if, but only if—

- (a) the Judicial Service Commission has certified that it is satisfied that such appointment would be consistent with the independence of the judiciary; and
- (b) the Governor is satisfied that such appointment would be consistent with the efficiency of the public service.

**(3A)** A person appointed as a Coroner under subsection (3) is (unless the Governor, on the advice of the Judicial Service Commission, orders otherwise) deemed to have resigned as a Coroner if he or she is appointed to a public office different from that which he or she held at the time of the appointment as a Coroner.

(4) The Chief Coroner may appoint any Coroner appointed under subsection (2) as Deputy Chief Coroner who may perform any functions of the Chief Coroner (except the functions conferred by section 39)—

- (a) during a period when the Chief Coroner is absent or unavailable;
- (b) at any other time, with the consent of the Chief Coroner,

and any reference to the Chief Coroner (excluding section 39) is to be construed, where appropriate, as including reference to a Deputy Chief Coroner.

(5) The Governor, acting in his or her discretion, may appoint a person to act as Clerk or Deputy Clerk to the Coroner.

(6) Whenever there is no subsisting appointment of a Clerk or Deputy Clerk, the duties of the Clerk may be performed by the Clerk of the Peace.

### **Powers of Coroners**

**16.** Schedule 2 makes provision about powers of Coroners.

## Offences

17. Schedule 3 makes provision about offences relating to witnesses and evidence.

## Allowances, fees and expenses

18. Schedule 4 makes provision about allowances, fees and expenses.

## Investigation by Chief Coroner

19. (1) The Chief Coroner may conduct an investigation into a person's death.

(2) If the Chief Coroner is responsible for conducting an investigation by virtue of this section, the Chief Coroner has the same functions in relation to the body and the investigation as would be the case if he or she were a Coroner; and any reference in a statutory provision (whenever made) to a Coroner is to be construed, where appropriate, as including a reference to the Chief Coroner exercising functions by virtue of this section.

## Coroners' regulations

20. (1) The Governor in Council may make regulations (referred to as "**Coroners' regulations**") for regulating the practice and procedure at or in connection with —

- (a) investigations under this Ordinance;
- (b) examinations under section 10;
- (c) exhumations under paragraph 6 of Schedule 2.

(2) Without limiting the power in subsection (1), Coroners' regulations may make provision—

- (a) for the discharge of an investigation (including as to fresh investigations following discharge);
- (b) for or in connection with the suspension or resumption of investigations;
- (c) for the delegation by a Coroner of any of his or her functions;
- (d) allowing information to be disclosed or requiring information to be given;
- (e) giving to the Chief Coroner power to require information from Coroners;
- (f) with respect to the preservation, retention, release or disposal of bodies (including provision with respect to reinterment and with respect to the issue of orders authorising burial);
- (g) in relation to authorisations under paragraph 3 of Schedule 2 or entry and search under such authorisations;
- (h) in relation to the power of seizure conferred by paragraph 3(4)(a) of that Schedule;
- (i) about reports under paragraph 7 of that Schedule.

(3) Coroners' regulations may apply any provisions of the Coroners' rules.

(4) If Coroners' regulations apply any provisions of the Coroners' rules, those provisions may be applied—

- (a) to any extent;
- (b) with or without modifications; and
- (c) as amended from time to time.

## Coroners' rules

**21. (1)** The Chief Coroner may make rules (referred to as “Coroners’ rules”) for regulating the practice and procedure at or in connection with inquests.

**(2)** Coroners’ rules may make provision—

- (a) about evidence (including requiring evidence to be given on oath except in prescribed cases);
- (b) for the discharge of an inquest;
- (c) for or in connection with the adjournment or resumption of inquests;
- (d) for a Coroner to have power to give a direction, in proceedings at an inquest, allowing or requiring a name or other matter not to be disclosed except to persons specified in the direction;
- (e) for the delegation by a Coroner of any of his or her functions, except for functions that involve making judicial decisions or exercising any judicial discretion;
- (f) with respect to the disclosure of information;
- (g) for a Coroner to hold inquests when outside Ascension, if satisfied that—
  - (i) every party to the proceeding is able to participate, in person or through a legal representative, by teleconference or other means of electronic, oral or written communication;
  - (ii) no injustice will result; and
  - (iii) the course proposed is in the public interest, and
- (h) for evidence to be provided by teleconference or other means of electronic, oral or written communication (including prerecorded video).

**(3)** Coroners’ rules may make provision conferring power on a Coroner to give a direction excluding specified persons—

- (a) from an inquest, or part of an inquest, if the Coroner is of the opinion that the interests of national security so require;
- (b) from an inquest during the giving of evidence by a witness under the age of 16, if the Coroner is of the opinion that doing so would be likely to improve the quality of the witness’s evidence.

**(3A)** In subsection (3), “**specified persons**” means persons of a description specified in the direction or all persons except those of a description specified in the direction.

**(4)** Subsections (2) and (3) are not to be construed as limiting the power in subsection (1).

**(5)** Coroners’ rules may apply—

- (a) any provisions of the Coroners’ regulations; and
- (b) any other rules of court applicable in Ascension that relate to proceedings other than inquests.

**(6)** If any provisions or rules are applied by virtue of subsection (5), they may be applied—

- (a) to any extent;
- (b) with or without modifications; and
- (c) as amended from time to time.

(7) Practice directions may be given by the Chief Coroner on any matter that could otherwise be included in the Coroners' rules.

(8) The Coroners' rules may, instead of providing for a matter, refer to provision made or to be made by practice directions under subsection (7).

(9) In this section "**rules of court**" include any provision governing the practice and procedure of a court that is made by or under an enactment.

### *Presumption of death*

#### **Meaning of "interested person"**

**22.** (1) In this Ordinance, "**interested person**", in relation to an investigation into a person's death, means—

- (a) a spouse, life partner, parent or guardian, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
- (b) a personal representative of the deceased;
- (c) a beneficiary under a policy of insurance issued on the life of the deceased;
- (d) the insurer who issued such a policy of insurance;
- (e) a person who might by any act or omission have caused or contributed to the death of the deceased, or whose employee or agent might have done so;
- (f) in a case where the death may have been caused by an injury or disease received in the course of an employment a representative of a trade union of which the deceased was a member at the time of death;
- (g) if subsection (2) applies, the Chief of Police;
- (h) a person appointed by the Government of Ascension to attend an inquest into the death or to assist in, or provide evidence for the purposes of, an investigation into the death;
- (i) any other person whom the Coroner considers has a sufficient interest.

(2) This subsection applies if it appears that a person has or may have committed—

- (a) a homicide offence involving the death of the deceased; or
- (b) a related offence.

#### **Applying for declaration of presumed death**

**23.** (1) This section applies where a person who is missing—

- (a) is thought to have died; or
- (b) has not been known to be alive for a period of at least 7 years.

(2) Any person may apply to the Supreme Court for a declaration that the missing person is presumed to be dead.

(3) The Supreme Court has jurisdiction to hear and determine an application under this section only if—

- (a) the missing person was domiciled in Ascension on the day on which he or she was last known to be alive;
- (b) the missing person had been habitually resident in Ascension throughout the period

- (c) of one year ending with that day; or subsection (4) is satisfied.
- (4) This subsection is satisfied if the application is made by—
  - (a) a person whom the court considers to have a sufficient interest in the determination of the application; and
  - (b) the court considers such interest to have sufficient connection with Ascension.

### **Making declaration**

**24. (1)** On an application under section 23, the Supreme Court must make the declaration if satisfied that the missing person—

- (a) has died; or
- (b) has not been known to be alive for a period of at least 7 years.

(2) The Supreme Court must include in the declaration a finding as to the date and time of the missing person's death.

(3) If the Supreme Court—

- (a) is satisfied that the missing person has died; but
- (b) is uncertain at which moment during a period the missing person died,

the finding must be that the missing person is presumed to have died at the end of that period.

(4) If the Supreme Court—

- (a) is satisfied that the missing person has not been known to be alive for a period of at least 7 years; but
- (b) is not satisfied that the missing person has died,

the finding must be that the missing person is presumed to have died at the end of the period of 7 years beginning with the day after the day on which he or she was last known to be alive.

### **Effect of declaration**

**25. (1)** A declaration under this Ordinance is conclusive of—

- (a) the missing person's presumed death; and
- (b) the date and time of the death.

(2) A declaration under this Ordinance is effective against all persons and for all purposes, including for the purposes of—

- (a) the acquisition of an interest in any property; and
- (b) the ending of a marriage or civil partnership to which the missing person is a party.

(3) Subsections (1) and (2) apply to a declaration only if—

- (a) it has not been appealed against and the period for bringing an appeal has ended; or
- (b) it has been appealed against and the appeal (and any further appeal) has been unsuccessful.

(4) For the purposes of subsection (3), an appeal has been unsuccessful if—

- (a) it has been dismissed or withdrawn; and
- (b) any period for bringing a further appeal has ended.

### **Other powers of court making declaration**

**26. (1)** When making a declaration under this Ordinance, the Supreme Court may—

- (a) determine any question which relates to an interest in property and arises as a result of the declaration; and
- (b) determine the domicile of the missing person at the time of his or her presumed death.

**(2)** When making a declaration under this Ordinance, the Supreme Court may make any order it considers reasonable in relation to any interest in property acquired as a result of the declaration.

**(3)** An order under subsection (2) may direct that the value of any interest in property acquired as a result of the declaration is not to be recoverable by virtue of an order made under section 29(2).

**(4)** An order may, in particular, direct that the value of the interest is not to be recoverable —

- (a) in any circumstances; or
- (b) if conditions specified in the order are met.

### **Varying and revoking declaration**

**27. (1)** On an application by any person, a declaration under this Ordinance may be varied or revoked by an order of the Supreme Court (a “variation order”).

**(2)** The Supreme Court must refuse to hear an application for a variation order if the court considers that the applicant does not have a sufficient interest in the determination of the application.

### **Effect of variation order**

**28. (1)** Subject to section 29, a variation order does not affect an interest in property acquired as a result of a declaration under this Ordinance.

**(2)** A variation order does not revive a marriage or civil partnership that was brought to an end by virtue of a declaration under this Ordinance.

- (3)** Except as otherwise required by subsection (1) or (2)—
- (a) if a variation order varies a declaration, section 25(1) and (2) have effect in relation to the declaration as varied by the order; and
  - (b) if a variation order revokes a declaration, those subsections cease to have effect in relation to the declaration.

- (4)** Subsection (3) applies only if—
- (a) the variation order has not been appealed against and the period for bringing an appeal has ended; or
  - (b) the variation order has been appealed against and the appeal (and any further

appeal) has been unsuccessful.

- (5) For the purposes of subsection (4), an appeal has been unsuccessful if—
- (a) it has been dismissed or withdrawn; and
  - (b) any period for bringing a further appeal has ended.

### **Other functions of Supreme Court making variation order**

29. (1) When making a variation order, the Supreme Court may—
- (a) determine any question which relates to an interest in property and arises as a result of the variation order; and
  - (b) determine the domicile of the missing person at the time of his or her presumed death.

(2) When making a variation order, the Supreme Court must make such further order (if any) as it considers reasonable in relation to any interest in property acquired as a result of the declaration varied or revoked by the order (“the original declaration”) (but see subsections (3), (5) and (6)).

(3) The Supreme Court must not make an order under subsection (2) if the application for the variation order was made more than 5 years after the day on which the original declaration was made, unless the Supreme Court considers that there are exceptional circumstances which make it appropriate to do so.

(4) In considering what order to make under subsection (2), the Supreme Court must, as far as practicable, have regard to the principles in section 30.

(5) An order under subsection (2) does not affect income that accrued in the period—

- (a) beginning with the day on which the original declaration was made; and
- (b) ending with the day on which the variation order was made.

(6) An order under subsection (2) does not affect or provide grounds to challenge—

- (a) a related good faith transaction; or
- (b) an interest in property acquired under such a transaction.

(7) A “related good faith transaction” is a transaction under which a person acquires an interest in the property that is the subject of the order (or any part of it) in good faith and for value from—

- (a) a person who acquired an interest in the property (or any part of it) as a result of the original declaration; or
- (b) a person who acquired an interest in the property (or any part of it) from a person described in paragraph (a), whether directly or indirectly.

(8) If a person has entitlement under a trust by virtue of an order under subsection (2), the trustee is liable to that person for any loss suffered by that person on account of any breach of trust by the trustee in the administration or distribution of all or part of the property that is the subject of the order.

(9) Subsection (8) does not apply to the extent that the trustee’s liability is restricted

under any enactment or by any provision in a deed regulating the administration of the trust.

(10) In subsection (9) “enactment” includes an enactment contained in an instrument made under an Act or Ordinance.

### **Principles**

30. (1) These are the principles referred to in section 29(4).

(2) The first principle is relevant where property (“the relevant property”) is being or has been administered under a trust.

(3) The first principle is that—

(a) a person who, but for section 28(1), would have an interest in the relevant property by virtue of a variation order; and

(b) a person who, but for section 28(1), would have acquired an interest in the relevant property from a person described in paragraph (a),

should be entitled to have made over to him or her by the trustee in full satisfaction of that interest the things listed in subsection (4).

(4) For purposes of subsection (3), the things are—

(a) the interest in the relevant property or an equivalent interest in property representing the relevant property, to the extent that such property is still in the hands of the trustee when the variation order is made; and

(b) the value of the interest in the relevant property, to the extent that such property has been distributed.

(5) The second principle is relevant where an insurer has paid a capital sum as a result of a declaration varied or revoked by a variation order.

(6) The second principle is that the capital sum, or any part of the capital sum, should be repaid to the insurer if the facts in respect of which the variation order was made justify such repayment.

(7) The references in subsections (5) and (6) to a capital sum do not include a capital sum distributed by way of an annuity or other periodical payment.

### **Giving notice of application**

31. (1) A person who makes an application under this Ordinance for a declaration or a variation order must send to the persons specified by the Supreme Court—

(a) notice of the application; and

(b) any other information specified by the Supreme Court.

(2) An application under this Ordinance for a declaration or a variation order must be advertised as specified by the Supreme Court.

(3) The Supreme Court must refuse to hear an application under this Ordinance for a declaration or a variation order if the requirements in this section have not been met.



## **Attorney General**

**32. (1)** In proceedings on an application under this Ordinance for a declaration or a variation order, the Supreme Court may at any stage direct that papers relating to the matter be sent to the Attorney General.

**(2)** The Supreme Court may do so on the application of a party to the proceedings or without such an application being made.

**(3)** If the Attorney General incurs costs in connection with an application under this Ordinance for a declaration or a variation order, the Supreme Court may make such order as it considers appropriate as to the payment of the costs by parties to the proceedings.

**(4)** Subsection (3) applies whether the costs are incurred by virtue of a direction under subsection (1), an intervention under section 33(2) or otherwise.

## **Right to intervene**

**33. (1)** The missing person's spouse, life partner, parent, child or sibling may intervene in proceedings on an application under this Ordinance for a declaration or a variation order.

**(2)** The Attorney General may intervene in such proceedings, whether or not the Supreme Court directs that papers relating to the application be sent to the Attorney General.

**(3)** Any other person may intervene in such proceedings only with the permission of the Supreme Court.

**(4)** References in this section to intervening in proceedings include—

- (a)* arguing before the Supreme Court any question in relation to the application which the Supreme Court considers it necessary to have fully argued;
- (b)* in proceedings on an application for a declaration under this Ordinance, seeking a determination or order under section 26;
- (c)* in proceedings on an application for a variation order, seeking a determination or order under section 29.

## **Information**

**34. (1)** In proceedings on an application under this Ordinance for a declaration or a variation order, the Supreme Court may by order at any stage require a person who is not a party to the proceedings to provide it with specified information that it considers relevant to the question of whether the missing person is alive or dead.

**(2)** The Supreme Court may do so only if the court considers it necessary for the purpose of disposing of the proceedings.

**(3)** The Supreme Court may do so on the application of a party to the proceedings or without such an application being made.

**(4)** The order may not require the provision of information—

- (a) which is permitted or required by any rule of law to be withheld on grounds of public interest immunity;
- (b) which any person would be entitled to refuse to provide on grounds of legal professional privilege; or
- (c) the providing of which might incriminate the person providing it, or that person's spouse.

(5) Before making an order under this section, the Supreme Court must send notice of its intention to make the order to any person who, in the Supreme Court's opinion, is likely to be affected by the order.

(6) The Supreme Court may discharge or vary an order made under this section on an application made by any person who, in the opinion of the Supreme Court, is affected by it.

(7) In this section "**specified**" means specified in an order under this section.

### **Insurance against claims: trustees**

**35.** (1) If the Supreme Court so directs, the trustee of a trust affected by a declaration under this Ordinance must as soon as reasonably practicable take out an insurance policy in respect of any claim which might arise by virtue of an order under section 29(2).

(2) For the purposes of this section, a trust is affected by a declaration under this Ordinance if—

- (a) it arises as a result of the declaration; or
- (b) property held under the trust is affected by the declaration.

(3) A premium payable by the trustee in accordance with a direction under this section may be paid out of money or other property held under the trust.

### **Insurance against claims: insurers paying capital sums**

**36.** (1) Before paying a capital sum to a person as a result of a declaration under this Ordinance, an insurer may require the person to take out an insurance policy in respect of any claim which the insurer might make in the event of a variation order being made.

(2) The policy must be taken out—

- (a) in the person's own name; and
- (b) for the benefit of the insurer.

(3) Subsection (1) does not apply if—

- (a) the sum is paid in respect of an annuity or other periodical payment; and
- (b) the Supreme Court so orders at any time.

(4) In this section "**insurer**" means any person who provides for the payment of a benefit on a person's death.

### **Register of Presumed Deaths**

**37.** (1) The Registrar-General must maintain a register which is to be called the

Register of Presumed Deaths.

(2) The register must be maintained in the office of the Registrar-General.

(3) The register may be maintained in any form the Registrar-General considers appropriate.

(4) Schedule 5 (which makes further provision about the Register of Presumed Deaths) has effect.

### **Other determinations about death of missing person**

**38.** (1) No declaration which may be applied for under section 23 may be made otherwise than under this Ordinance.

(2) If a court or tribunal makes a declaration that a missing person is presumed to be dead (other than on an application under this Ordinance), section 24(2) to (4) apply to the court or tribunal as they apply to the Supreme Court when it makes a declaration under this Ordinance.

(3) Apart from subsections (1) and (2), nothing in the preceding provisions of this Ordinance affects any power or duty that a court or tribunal has other than under this Ordinance to determine a question relating to the death of a missing person.

### *Miscellaneous provisions*

### **Chief Coroner as judge of the Supreme Court**

**39.** (1) The Chief Coroner is by virtue of office a judge of the Supreme Court in terms of section 84 of the Schedule of the Constitution and for the purposes of that office has jurisdiction, powers, authority, privileges and immunities conferred on a judge of the Supreme Court in this Ordinance.

(2) The Chief Coroner may only exercise the jurisdiction, powers, authority, privileges and immunities conferred on a judge of the Supreme Court in this Ordinance, when directed to do so by the Chief Justice.

### **Power to amend periods of time**

**40.** The Governor in Council may by regulations amend this Ordinance by increasing or reducing a period of time referred to in section 23(1)(b), section 24(1) or (4) or section 29(3).

### **Consequential and supplementary etc provision**

**41.** (1) The Governor in Council may by regulations make consequential, supplementary, incidental, transitional, transitory or saving provision in relation to any provision of this Ordinance.

### **Application to Crown**

42. This Ordinance binds the Crown.

### Repeal and amendment of legislation

43. *Omitted*

## SCHEDULE 1

(Section 9)

### DUTY OR POWER TO SUSPEND OR RESUME INVESTIGATIONS

1. (1) A Coroner must suspend an investigation into a person's death if the Attorney General requests the Coroner to do so on the ground that a person may be charged with—
- (a) a homicide offence involving the death of the deceased; or
  - (b) an offence that is alleged to be a related offence.
- (2) Subject to paragraphs 2 and 3, a suspension of an investigation under this paragraph must be for—
- (a) a period of 28 days beginning with the day on which the suspension first takes effect; or
  - (b) any longer period (beginning with that day) the Coroner specifies.
- (3) The period referred to in sub-paragraph (2) may be extended or further extended at the further request of the Attorney General.
2. (1) Subject to sub-paragraph (2), a Coroner must suspend an investigation into a person's death if—
- (a) the Coroner becomes aware that a person has—
    - (i) appeared or been brought before a Magistrates' Court charged with a homicide offence involving the death of the deceased; or
    - (ii) been charged on an indictment with such an offence without having appeared or been brought before a Magistrates' Court charged with it;
  - (b) the Attorney General informs the Coroner that a person has—
    - (i) appeared or been brought before a Magistrates' Court charged with an offence that is alleged to be a related offence; or
    - (ii) been charged on an indictment with such an offence without having been sent for trial for it,
 and the Attorney General requests the Coroner to suspend the investigation.
- (2) The Coroner need not suspend the investigation—
- (a) under sub-paragraph (1)(a), if the Attorney General informs the Coroner that he or she has no objection to the investigation continuing; or
  - (b) in any case, if the Coroner thinks that there is an exceptional reason for not suspending the investigation.
- (3) In the case of an investigation that is already suspended under paragraph 1—
- (a) a suspension imposed by virtue of that paragraph comes to an end if, in reliance of sub-paragraph (2)(b), the Coroner decides not to suspend the investigation;
  - (b) a reference in this paragraph to suspending an investigation is to be read as a

reference to continuing the suspension of an investigation;

- (c) if the suspension of the investigation is continued under this paragraph, the investigation is to be treated for the purposes of paragraphs 1(3), 7 and 8 of this Schedule as suspended under this paragraph (and not as suspended under paragraph 1).

**3. (1)** Subject to sub-paragraph (2), a Coroner must suspend an investigation into a person's death if the Governor requests the Coroner to do so on the ground that the cause of death is likely to be adequately investigated by an inquiry under the Commissions of Enquiry Ordinance, 1926 (SH) that is being or is to be held.

**(2)** The Coroner need not suspend the investigation if there appears to be an exceptional reason for not doing so.

- (3)** In the case of an investigation that is already suspended under paragraph 1—
  - (a) a reference in this paragraph to suspending the investigation is to be read as a reference to continuing the suspension of the investigation;
  - (b) if the suspension of the investigation is continued under this paragraph, the investigation is to be treated for the purposes of paragraphs 1(3), 7 and 9 of this Schedule as suspended under this paragraph (and not as suspended under paragraph 1).

**4. (1)** This paragraph applies where an investigation is suspended under paragraph 3 on the basis that the cause of death is likely to be adequately investigated by an inquiry under the Commissions of Enquiry Ordinance, 1926 (SH)

**(2)** The terms of reference of the inquiry must be such that it has as its purpose, or among its purposes, the purpose set out in section 6(1) (read with section 6(2) where applicable); and the Commissions of Enquiry Ordinance, 1926 (SH) has effect accordingly.

**5.** A Coroner may suspend an investigation into a person's death in any case if it appears to the Coroner that it would be appropriate to do so.

**6.** If an investigation is suspended under this Schedule, the Coroner must adjourn any inquest that is being held as part of the investigation.

**7.** An investigation that is suspended under paragraph 1 must be resumed once the period under paragraph 1(2), or as the case may be the extended period under paragraph 1(3), has ended.

**8. (1)** An investigation that is suspended under paragraph 2 may not be resumed unless, but must be resumed if, the Coroner thinks that there is sufficient reason for resuming it.

- (2)** Subject to sub-paragraph (3)—
  - (a) an investigation that is suspended under paragraph 2 may not be resumed while proceedings are continuing before the court of trial in respect of a homicide offence involving the death of the deceased;
  - (b) an investigation that is suspended by virtue of paragraph 2(1)(a) or (b) may not be resumed while proceedings are continuing before the court of trial in respect of the

offence referred to in that sub-paragraph.

**(3)** The investigation may be resumed while the proceedings in question are continuing if in the case of an investigation suspended by virtue of 2(2)(a), the Attorney General informs the Coroner that he or she has no objection to the investigation being resumed.

**(4)** In the case of an investigation resumed under this paragraph, a determination under section 6(1)(a) may not be inconsistent with the outcome of—

- (a) the proceedings in respect of the charge (or each charge) by reason of which the investigation was suspended;
- (b) any proceedings that, by reason of sub-paragraph (2), had to be concluded before the investigation could be resumed.

**9. (1)** If an investigation is suspended under paragraph 3—

- (a) it may not be resumed unless, but must be resumed if, the Coroner thinks that there is sufficient reason for resuming it;
- (b) it may not be resumed earlier than 28 days after the relevant day;
- (c) where sub-paragraph (4), (6), (8) or (10) applies, it may be resumed only in accordance with that sub-paragraph (and not before the end of the 28-day period mentioned in paragraph (b)).

**(2)** In sub-paragraph (1)(b) “the relevant day” means—

- (a) if the Governor gives the Coroner notification under this paragraph, the day on which the inquiry concerned is concluded;
- (b) otherwise, the day on which the findings of that inquiry are published.

**(3)** Sub-paragraph (4) applies if, during the suspension of the investigation, the Coroner—

- (a) becomes aware that a person has appeared or been brought before a Magistrates’ Court charged with a homicide offence involving the death of the deceased; or
- (b) becomes aware that a person has been charged on an indictment with such an offence without having appeared or been brought before a Magistrates’ Court charged with it.

**(4)** The Coroner must not resume the investigation until after the conclusion of proceedings before the court of trial in respect of the offence in question, unless the Attorney General informs the Coroner that he or she has no objection to the investigation being resumed before then.

**(5)** Sub-paragraph (6) applies if, during the suspension of the investigation, the Attorney General informs the Coroner that a person—

- (a) has appeared or been brought before a Magistrates’ Court charged with an offence that is alleged to be a related offence; or
- (b) has been charged on an indictment with such an offence without having been sent for trial for it.

**(6)** If the Attorney General requests the Coroner not to resume the investigation until after the conclusion of proceedings before the court of trial in respect of the offence in question, the Coroner must not do so.

(7) In the case of an investigation resumed under this paragraph, a determination under section 6(1)(a) may not be inconsistent with the outcome of—

- (a) the inquiry under the Commissions of Enquiry Ordinance, 1926 (SH), by reason of which the investigation was suspended;
- (b) any proceedings that, by reason of sub-paragraph (4) and (6) had to be concluded before the investigation could be resumed.

10. An investigation that is suspended under paragraph 5 may be resumed at any time if the Coroner thinks that there is sufficient reason for resuming it.

11. If an investigation is resumed under this Schedule, the Coroner must resume any inquest that was adjourned under paragraph 6.

## SCHEDULE 2

(Section 16)

### POWERS OF CORONERS

1. (1) A Coroner may by notice require a person to attend at a time and place stated in the notice and to give evidence at an inquest.

(2) A Coroner who is conducting an investigation may by notice require a person, within a period the Coroner considers reasonable—

- (a) to provide information to the Coroner, about any matters specified in the notice, in the form of a written statement;
- (b) to produce any documents in the custody or under the control of the person which relate to a matter that is relevant to the investigation; or
- (c) to produce for inspection, examination or testing any other thing in the custody or under the control of the person which relates to a matter that is relevant to the investigation.

(3) A Coroner who is conducting an investigation may order a member of the emergency services, a medical practitioner or an undertaker to collect, examine or test anything which relates to a matter that is relevant to the investigation (including from the body of a deceased person) at any location and in such time scales as the Coroner directs and to report on the same to the Coroner.

(4) A notice under sub-paragraph (1), (2) or (3) must—

- (a) explain the possible consequences, under Schedule 3, of not complying with the notice; and
- (b) indicate what the recipient of the notice should do if he or she wishes to make a claim under sub-paragraph (5).

(5) A claim by a person that—

- (a) he or she is unable to comply with a notice under this paragraph; or
- (b) it is not reasonable in all the circumstances to require him or her to comply with such a notice, is to be determined by the Coroner, who may revoke or vary the notice on that ground.

(6) In deciding whether to revoke or vary a notice on the ground mentioned in sub-

paragraph (5)(b), the Coroner must consider the public interest in the information in question being obtained for the purposes of the investigation, having regard to the likely importance of the information.

(7) For the purposes of this paragraph a document or thing is under a person's control if it is in the person's possession or if he or she has a right to possession of it.

2. (1) A person may not be required to give, produce or provide any evidence or document under paragraph 1 if he or she could not be required to do so in civil proceedings in a court in Ascension.

(2) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to an investigation as they apply in relation to civil proceedings in a court in Ascension.

3. (1) A Coroner conducting an investigation may enter and search any land specified in the authorisation if so authorised by —

- (a) the Chief Coroner; or
- (b) another Coroner nominated by the Chief Coroner to give such authorisation,

(2) An authorisation may be given only if—

- (a) the Coroner conducting the investigation has reason to suspect that there might be anything on the land which relates to a matter that is relevant to the investigation; and
- (b) any of the conditions in sub-paragraph (3) are met.

(3) Those conditions are that—

- (a) it is not practicable to communicate with a person entitled to grant permission to enter and search the land;
- (b) permission to enter and search the land has been refused;
- (c) the Coroner has reason to believe that such permission would be refused if requested;
- (d) the purpose of a search might be frustrated or seriously prejudiced unless the Coroner can secure immediate entry to the land on arrival.

(4) A Coroner conducting an investigation who is lawfully on any land may—

- (a) seize anything that is on the land; and
- (b) inspect and take copies of any documents.

4. (1) The person by whom an authorisation under paragraph 3(1) is given must make a record—

- (a) setting out the reasons for the suspicion referred to in paragraph 3(2)(a);
- (b) specifying which of the conditions in paragraph 3(3) is met.

(2) If the authorisation is given by a Coroner nominated under paragraph 3(1)(b), that Coroner must give the record made under this paragraph to the Chief Coroner.

5. (1) A power under paragraph 3(4) is not exercisable unless the person exercising the power has reasonable grounds for believing—

- (a) that its exercise might assist the investigation; and



- (b) in the case of the seizure of anything, that the seizure is necessary to prevent the thing being concealed, lost, damaged, altered or destroyed.

(2) The power under paragraph 3(4)(b) includes power to require any information that is stored in an electronic form and is on, or accessible from, the land to be produced in a form in which—

- (a) it can be taken away; and
- (b) it is legible or from which it can readily be produced in a legible form.

(3) A power under paragraph 3(4) does not apply to any item that the person by whom the power is exercisable has reasonable grounds for believing to be subject to legal privilege.

(4) Anything that has been seized or taken away under paragraph 3 may be retained for so long as is necessary in all the circumstances.

(5) A person on whom a power is conferred by virtue of paragraph 3 may use reasonable force, if necessary, in the exercise of the power.

(6) In this paragraph “subject to legal privilege”, in relation to an item, has the meaning given by section 9 of the Police and Criminal Evidence Ordinance, 2003 (SH).

6. (1) A Coroner may order the exhumation of a person’s body if sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies if—

- (a) the body is buried in Ascension; and
- (b) the Coroner considers it necessary for the body to be examined under section 10.

(3) This sub-paragraph applies if—

- (a) the body is buried within Ascension; and
- (b) the Coroner considers it necessary for the body to be examined for the purpose of any criminal proceedings that have been instituted or are contemplated in respect of—
  - (i) the death of the person whose body it is; or
  - (ii) the death of another person who died in circumstances connected with the death of that person.

7. (1) If—

- (a) a Coroner has been conducting an investigation into a person’s death;
- (b) anything revealed by the investigation gives rise to a concern that circumstances creating a risk of other deaths will occur, or will continue to exist, in the future; and
- (c) in the Coroner’s opinion, action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances,

the Coroner must report the matter to a person whom the Coroner believes has power to take such action.

(2) A person to whom a Coroner makes a report under this paragraph must give the

Coroner a written response to it.

**(3)** A copy of a report under this paragraph, and of the response to it, must be sent to the Chief Coroner.

### **SCHEDULE 3**

(Section 17)

#### **OFFENCES**

**1.** A Coroner may impose a fine not exceeding £1000 on a person who fails without reasonable excuse to do anything required by a notice or order under paragraph 1 and 2 of Schedule 2.

**2. (1)** It is an offence for a person to do anything that is intended to have the effect of—

- (a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided for the purposes of an investigation; or
- (b) preventing any evidence, document or other thing from being given, produced or provided for the purposes of such an investigation,

or to do anything that the person knows or believes is likely to have that effect.

Penalty: A fine of £20,000 or imprisonment for 5 years, or both.

**(2)** It is an offence for a person—

- (a) intentionally to suppress or conceal a document that is, and that the person knows or believes to be, a relevant document; or
- (b) intentionally to alter or destroy such a document.

Penalty: A fine of £20,000 or imprisonment for 5 years, or both.

**(3)** For the purposes of sub-paragraph (2) a document is a “relevant document” if it is likely that a person conducting an investigation would (if aware of its existence) wish to be provided with it.

**(4)** A person does not commit an offence under sub-paragraph (1) or (2) by doing anything that is authorised or required—

- (a) by a Coroner; or
- (b) by virtue of paragraph 2 of Schedule 2 or any privilege that applies.

**(5)** Proceedings for an offence under sub-paragraph (1) or (2) may be instituted only by the Attorney General.

**3.** It is an offence for a person, in giving unsworn evidence at an inquest by virtue of section 21(2)(a), to give false evidence in such circumstances that, had the evidence been given on oath, he or she would have been guilty of perjury.

Penalty: A fine of £20,000 or imprisonment for 5 years, or both

**4. (1)** The powers of a Coroner under paragraph 1 are additional to, and do not affect, any other power of the Coroner to—

- (a) compel a person to appear before him or her;
- (b) compel a person to give evidence or produce any document or other thing;

- (c) punish a person for contempt of court for failure to appear or to give evidence or to produce any document or other thing.

(2) A person may not be fined under paragraph 1 and also be punished under any such other power.

#### **SCHEDULE 4**

(Section 18)

#### **ALLOWANCES, FEES AND EXPENSES**

1. (1) Regulations, under section 20 may prescribe the allowances that may be paid by (or on behalf of) Coroners to—

- (a) witnesses;
- (b) persons who produce documents or things by virtue of paragraph 1(1), (2) or (3) of Schedule 2;
- (c) persons who provide evidence in the form of a written statement by virtue of paragraph 1(2)(a) of that Schedule.

(2) In this paragraph “**witness**” means a person properly attending before a Coroner to give evidence at an inquest or in connection with the possibility of doing so (whether or not the person actually gives evidence), but does not include—

- (a) a police officer, attending in his or her capacity as such;
- (b) an officer of an institution to which the Prisons (Ascension) Ordinance, 1960 applies in his or her capacity as such;
- (c) a prisoner in respect of an occasion on which he or she is conveyed in custody to appear before a Coroner.

2. Regulations may prescribe the fees and allowances that may be paid by (or on behalf of) Coroners to persons who make examinations under section 10.

3. Fees payable to Coroners for supplying copies of documents in their custody relating to investigations or inquests that they are conducting or have conducted must be an amount the Coroner considers reasonable.

4. (1) Regulations, under section 20, may make provision for or in connection with meeting or reimbursing expenses incurred by Coroners.

#### **SCHEDULE 5**

(Section 37(4))

#### **REGISTER OF PRESUMED DEATHS**

1. (1) When a declaration under this Ordinance satisfies section 25(3)(a) or (b), the Supreme Court must send to the Registrar-General —

- (a) a copy of the declaration; and
- (b) any prescribed information.

(2) On receipt of a copy of a declaration in accordance with sub-paragraph (1), the Registrar-General must—

- (a) make an entry in the Register of Presumed Deaths containing the name of the missing person and any other information prescribed in relation to that person's presumed death;
- (b) secure that the entry made in the Register of Presumed Deaths is included in the index of the registers of deaths; and
- (c) make traceable the connection between the entry in the Register of Presumed Deaths and the index of the registers of deaths.

(3) In this paragraph "**prescribed**" means prescribed by the Registrar-General with the approval of the Chief Coroner.

2. (1) When a variation order satisfies section 28(4)(a) or (b), the Supreme Court must send to the Registrar-General—

- (a) a copy of the order; and
- (b) any prescribed information.

(2) If the variation order varies a declaration, on receipt of a copy of the order in accordance with sub-paragraph (1), the Registrar-General must—

- (a) amend the entry in the Register of Presumed Deaths in relation to the missing person; and
- (b) amend any entry relating to that person made in the index of the registers of deaths in accordance with paragraph 1(2)(b).

(3) If the variation order revokes a declaration, on receipt of a copy of the order in accordance with sub-paragraph (1), the Registrar-General must—

- (a) cancel the entry in the Register of Presumed Deaths relating to the missing person; and
- (b) cancel any entry relating to that person made in the index of the registers of deaths in accordance with paragraph 1(2)(b).

(4) In this paragraph "**prescribed**" means prescribed by the Registrar-General with the approval of the Chief Coroner.

3. (1) Any right to search the index of the registers of deaths includes the right to search entries included in it in accordance with paragraph 1(2)(b).

(2) Any person is entitled to have a certified copy of an entry in the Register of Presumed Deaths (but see paragraph 6).

(3) The Registrar-General must cause a certified copy of an entry in the Register of Presumed Deaths to be sealed or stamped with the seal of the General Register Office.

(4) A certified copy of an entry in the Register of Presumed Deaths is of no force or effect unless it is sealed or stamped in accordance with sub-paragraph (3).

4. A certified copy of an entry in the Register of Presumed Deaths in relation to a person is to be received as evidence of the person's death, without further or other proof, if it purports to be sealed or stamped in accordance with paragraph 3(3).

5. (1) If it appears to the Registrar-General that there is a clerical error in the Register

of Presumed Deaths, the Registrar-General may authorise a person to correct the error.

(2) If it appears to the Supreme Court that there is an error in the Register of Presumed Deaths, the Supreme Court may direct the Registrar-General to secure that the error is corrected.

(3) The Registrar-General may annotate, or cancel the annotation of, any entry in the Register of Presumed Deaths.

(4) Sub-paragraph (5) applies if it appears to the Registrar-General that the death of a missing person to whom an entry in the Register of Presumed Deaths relates—

- (a) has been registered in a register of deaths made under the Births and Deaths (Registration) (Ascension) Ordinance, 1853; or
- (b) has been recorded in a register kept or maintained under the law of a country or territory outside St Helena, Ascension and Tristan da Cunha corresponding in nature to a register described in paragraph (a).

(5) The Registrar-General must annotate the relevant entry in the Register of Presumed Deaths accordingly.

6. (1) A fee of a prescribed amount is payable to the Registrar-General for a certified copy of an entry in the Register of Presumed Deaths.

(2) The Registrar-General may refuse to provide such a copy until the prescribed fee is paid, except as otherwise prescribed.

(3) In this paragraph “**prescribed**” means prescribed by the Registrar-General with the approval of the Chief Coroner.

7. In this Schedule “**the index of registers of deaths**” means the index kept in the General Register Office of certified copies of entries in the registers of deaths made under the Births and Deaths (Registration) Ordinance, 1853.

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## CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015

### CORONERS (INQUESTS) RULES, 2015

(Section 21)

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### **Citation and commencement**

1. These Rules may be cited as the Coroners (Inquests) Rules, 2015, and come into force on 17th April 2015.

### **Interpretation**

2. (1) In these Rules, “**working day**” means a day that is not a Saturday, a Sunday, or a public holiday.

(2) All references to section and schedule provisions in these Rules are references to provisions in the Ordinance, unless a rule specifically states otherwise.

### **Application to existing inquests**

3. (1) These Rules apply to any inquest which has not been completed before the commencement of these Rules.

(2) Any direction, time limit, adjournment or other decision made by the Coroner in relation to an inquiry made before the commencement of these Rules must stand.

### **General application**

4. These Rules apply where a Coroner holds an inquest under section 6(4) of the Ordinance.

### **Pre-inquest review hearing**

5. A Coroner may at any time during the course of an investigation and before an inquest hearing hold a pre-inquest review hearing.

### **Days on which an inquest may be held**

6. An inquest must be held on a working day, unless the Coroner considers that

there is an urgent reason for holding it on some other day.

### **Notification of inquest hearing arrangements**

**7. (1)** A Coroner must give 2 weeks' notice to the next of kin or personal representative of the deceased, if known, and any other interested persons who have made themselves known to the Coroner, of the date, time and place of the inquest hearing.

**(2)** If an inquest hearing is to be held, the Coroner must make details of the date, time and place of the inquest hearing publicly available before the inquest hearing commences.

### **Alteration of arrangements for an inquest hearing**

**8. (1)** If the date, time or place of the inquest hearing is altered, the Coroner must notify the next of kin or personal representative of the deceased, if known, and any other interested persons who have made themselves known to the Coroner, of the alteration within one week of the decision to alter.

**(2)** The Coroner must make the details of any alteration made under paragraph (1) publicly available within one week of the decision to alter.

### **Inquest hearings to be held in public**

**9. (1)** An inquest hearing and any pre-inquest review hearing must be held in public unless paragraph (2) applies.

**(2)** A Coroner may direct that the public be excluded from a pre-inquest review hearing or an inquest hearing, or any part of a pre-inquest review hearing or an inquest hearing, if the Coroner considers it would be in the interests of justice or national security to do so.

### **Disclosure of documents at the request of an interested person**

**10. (1)** Subject to rule 12, if an interested person asks for disclosure of a document held by the Coroner, the Coroner must provide that document or a copy of that document, or make the document available for inspection by that person as soon as is reasonably practicable.

**(2)** Documents to which this rule applies include—

- (a)* any post-mortem examination report;
- (b)* any other report that has been provided to the Coroner during the course of the investigation;
- (c)* where available, the recording of any inquest hearing held in public, but not in relation to any part of the hearing from which the public was excluded under rule 9(2);
- (d)* any other document which the Coroner considers relevant to the inquest.

### **Managing disclosure**

**11.** A Coroner may—

- (a)* disclose an electronic copy of a document instead of, or in addition to, a paper

- copy;
- (b) disclose a redacted version of all or part of a document; or
- (c) make a document available for inspection at a particular time and place.

### **Restrictions on disclosure**

**12.** A Coroner may refuse to provide a document or a copy of a document requested under rule 10 if—

- (a) there is a statutory or legal prohibition on disclosure;
- (b) the consent of any author or copyright owner cannot reasonably be obtained;
- (c) the request is unreasonable;
- (d) the document relates to contemplated or commenced criminal proceedings; or
- (e) the Coroner considers the document irrelevant to the investigation.

### **Costs of disclosure**

**13.** A Coroner may not charge a fee for any document, or copy of any document, disclosed to an interested person before or during an inquest.

### **Evidence by video link**

**14. (1)** A Coroner may direct that a witness may give evidence at an inquest hearing through a live video link.

**(2)** A direction may not be given under paragraph (1) unless the Coroner determines that giving evidence in the way proposed—

- (a) would improve the quality of the evidence given by the witness;
- (b) would allow the inquest to proceed more expediently; or
- (c) due to the witnesses location, would be more practicable than the witness being required to attend the inquest personally.

**(3)** Before giving a direction under paragraph (1), the Coroner must consider all the circumstances of the case, including in particular—

- (a) any views expressed by the witness or any interested person;
- (b) whether it would be in the interests of justice or national security to give evidence by video link; and
- (c) whether in the opinion of the Coroner, giving evidence by video link would impede the effectiveness of the questioning of the witness.

**(4)** A direction may be given under paragraph (1) on—

- (a) an application by the witness or, in the case of a child witness, the parent or legal guardian of that witness;
- (b) an application by an interested person; or
- (c) the Coroner's own initiative.

### **Evidence given from behind a screen**

**15. (1)** A Coroner may direct that a witness may give evidence at an inquest hearing from behind a screen.



(2) A direction may not be given under paragraph (1) unless the Coroner determines that giving evidence in the way proposed would be likely to improve the quality of the evidence given by the witness or allow the inquest to proceed more expediently.

(3) In making that determination, the Coroner must consider all the circumstances of the case, including in particular—

- (a) any views expressed by the witness or an interested person;
- (b) whether it would be in the interests of justice or national security to allow evidence to be given from behind a screen; and
- (c) whether giving evidence from behind a screen would impede the effectiveness of the questioning of the witness by an interested person or a representative of the interested person.

(4) A direction may be given under paragraph (1)—

- (a) on the application by the witness or, in the case of a child witness, the parent or legal guardian of that witness;
- (b) on an application of an interested person; or
- (c) on the Coroner's own initiative.

### **Entitlement to examine witnesses**

16. (1) A Coroner must allow any interested person, who so requests, to examine any witness at an inquest either in person or by the interested person's representative.

(2) A Coroner must disallow any question put to the witness which the Coroner considers irrelevant.

### **Evidence given on oath or affirmation**

17. (1) A witness providing evidence at an inquest hearing must be examined by the Coroner on oath or affirmation, subject to paragraph (2).

(2) A child under the age of 14, or a child aged 14 or over who is considered by the Coroner to be unable to understand the nature of an oath or affirmation, may, on promising to tell the truth, be permitted to give unsworn evidence.

### **Examination of witnesses**

18. Unless the Coroner otherwise determines, a witness at an inquest hearing must be examined in the following order—

- (a) first by the Coroner;
- (b) then by any interested person who has asked to examine the witness;
- (c) if the witness is represented at the inquest, the witness's representative; and
- (d) again by the Coroner, if required.

### **Self-incrimination**

19. (1) A witness at an inquest is not obliged to answer any question tending to incriminate him or her.

(2) If it appears to the Coroner that a witness has been asked such a question, the Coroner must inform the witness that he or she may refuse to answer it.

### **Written evidence**

**20.** (1) Written evidence as to who the deceased was and how, when and where the deceased came by his or her death is not admissible unless the Coroner is satisfied that—

- (a) it is not possible for the maker of the written evidence to give evidence at the inquest hearing at all, or within a reasonable time;
- (b) there is a good and sufficient reason why the maker of the written evidence should not attend the inquest hearing;
- (c) there is a good and sufficient reason to believe that the maker of the written evidence will not attend the inquest hearing; or
- (d) the written evidence (including evidence in admission form) is unlikely to be disputed.

(2) Before admitting such written evidence the Coroner must announce at the inquest hearing—

- (a) what the nature of the written evidence to be admitted is;
- (b) the full name of the maker of the written evidence to be admitted in evidence;
- (c) that any interested person may object to the admission of any such written evidence; and
- (d) that any interested person is entitled to see a copy of any written evidence if he or she so wishes.

(3) A Coroner must admit as evidence at an inquest hearing any document made by a deceased person if the Coroner is of the opinion that the contents of the document are relevant to the purposes of the inquest.

(4) A Coroner may direct that all or parts only of any written evidence submitted under this rule may be read aloud at the inquest hearing.

### **Inquiry findings**

**21.** (1) A Coroner may admit the findings of an inquiry, including any inquiry under the Commissions of Enquiry Ordinance, 1926, if the Coroner considers them relevant to the purposes of the inquest.

(2) Before admitting such inquiry findings as evidence, the Coroner must announce publicly—

- (a) that the findings of the inquiry may be admitted as evidence;
- (b) the title of the inquiry, date of publication and a brief account of the findings; and
- (c) that any interested person is entitled to see a copy of the inquiry findings if he or she so wishes.

### **Adjournment and resumption of an inquest**

**22.** (1) A Coroner may adjourn an inquest if the Coroner is of the view that it is reasonable to do so.

(2) The Coroner must inform the next of kin or personal representative of the deceased and any other interested persons who have made themselves known to the Coroner as soon as reasonably practicable of the decision to adjourn, the date of the decision to adjourn and the reason for the adjournment.

(3) The Coroner must inform the next of kin or personal representative of the deceased and any other interested persons who have made themselves known to the Coroner as soon as reasonably practicable of the date, time and place at which an adjourned inquest is to be resumed.

(4) A Coroner must adjourn an inquest and notify the Attorney General if, during the course of the inquest, it appears to the Coroner that the death of the deceased is likely to have been due to a homicide offence and that a person may be charged in relation to the offence.

### **Recording inquest hearings**

23. A Coroner must keep a recording of every inquest hearing, including any pre-inquest review hearing.

### **Address as to facts**

24. An interested party may, with the leave of the Coroner, address the Coroner as to the facts of who the deceased was and how, when and where the deceased came by his or her death prior to the conclusion of the inquest.

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## **CORONERS (INVESTIGATIONS) REGULATIONS, 2015** (Sections 14 and 20)

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### **Citation and commencement**

1. These Regulations may be cited as the Coroners (Investigations) Regulations, 2015, and come into force on 1st May 2015.

### **Interpretation**

2. (1) In these Regulations—  
**“full investigation”** means an investigation other than a preliminary investigation;  
**“investigation”** means a preliminary and/or full investigation;  
**“preliminary investigation”** means whatever investigations seems to the Coroner necessary in order to decide whether a duty arises under section 3(2) of the Ordinance or otherwise to conduct a full investigation;  
**“Coroner’s Officer”** means any detective of the St Helena Police Service or any other person designated as such by the Chief Coroner for the purposes of these Regulations;  
**“suitable practitioner”** has the meaning given to that term by section 10(3) of the Ordinance.

(2) All references to sections and schedule provisions in these Regulations are references to provisions in the Ordinance, unless a regulation specifically states otherwise.

(3) A reference to a Form in these Regulations is a reference to a form in the Schedule to these Regulations, or any other similar form approved by the Chief Coroner.

### **Application**

3. (1) These Regulations have effect in relation to any investigation, (including any inquiry commenced under the Coroners Ordinance, Cap. 11, prior to its repeal), which has not been completed before the commencement of these Regulations.

(2) Any decision of a Coroner made in relation to an investigation, or such inquiry as the case may be, including any decision relating to a post-mortem examination before the commencement of these Regulations, stands.

### **Report of death to Coroner**

4. (1) As soon as reasonably practicable after the report of a death to a Coroner under section 12, a Coroner must require a medical practitioner to—

- (a) prepare a medical practitioner's certificate using Form 1—
  - (i) in so far as the information required in it is known; and
  - (ii) stating, if possible, the cause of death to the best of the practitioner's knowledge and belief; and
- (b) deliver a copy of such certificate, together with a copy of all medical records held by the Health Directorate, to the Coroner within timescales the Coroner directs.

(2) A Coroner may allow a medical practitioner to issue a fresh medical practitioner's certificate superseding an existing one.

(3) A Coroner may refer any case to a medical examiner and require that such medical examiner, or someone acting on the medical examiner's behalf, make whatever enquiries appear to be necessary in order to confirm or establish the probable cause of death.

(4) A Coroner may request a medical examiner, to whom a copy of the medical practitioner's certificate has been given to—

- (a) confirm the probable cause of death stated on the certificate or, if the medical examiner is unable to confirm the probable cause of death, to intimate such to the Coroner and the reasons for it;
- (b) prepare a medical examiner's certificate stating the probable cause of death to the best of the medical examiner's knowledge and belief, using Form 2; and
- (c) deliver a copy of such medical examiner's certificate to the Coroner within such timescales as the Coroner directs.

(5) A Coroner may allow a medical examiner to issue a fresh medical examiner's certificate superseding an existing one.

### **Register of reported deaths**

5. (1) The Clerk to the Coroner must keep a register of all deaths reported in Ascension, using Form 3.

(2) The Clerk to the Coroner must record in the register the following information, when known—

- (a) the date on which a death was reported under section 3;
- (b) the deceased's full name, gender, age and full address;
- (c) any other information that aids the identification of the deceased; and
- (d) the place of death or, if that is unknown, the place where the body was found.

### **Preliminary investigations**

6. As soon as practicable after a death is notified under section 12, the Coroner to whom such notification is made, or any other Coroner directed to do so by the Chief Coroner, must—

- (a) conduct a preliminary investigation; and
- (b) attempt to identify the deceased's next of kin or personal representative and ascertain from that person, if identified, whether any circumstances of the death are such that there should be a full investigation into the death.

### **Movement of deceased and delegation of administrative functions**

**7.** (1) Subject to subsection (2), the body of a person who appears to be deceased must not be moved—

- (a) until life has been pronounced extinct by a medical practitioner or other person designated by the Senior Medical Officer as suitable to make such a pronouncement; and
- (b) without the authority of a Coroner.

(2) Subsection (1) does not apply if—

- (a) the purpose of movement is to administer emergency medical treatment or to preserve the body from loss, destruction or damage;
- (b) there is any other necessary and urgent ground for moving the body; or
- (c) the movement of the body has been agreed in writing in protocols approved by the Chief Coroner.

(3) A Coroner may delegate administrative, but not judicial, functions (including authorising the movement of the body of a deceased) to a Coroner's Officer or other support staff.

### **Certificate of fact of death**

**8.** (1) If a Coroner has begun but not yet completed a preliminary investigation, or having completed a preliminary investigation decides that a full investigation is unnecessary, the Coroner must, when requested to do so by a person under a duty to register the death under section 15 of the Births and Deaths (Registration) Ordinance, 1853, provide that person with a Certificate of the Fact of Death using Form 4.

(2) The Registrar-General may register the particulars contained in a Certificate of Fact of Death even if all of the particulars required to fully register the death under the Births and Deaths (Registration) Ordinance, 1853 have not at that time been so provided.

(3) The Registrar-General may issue a death certificate containing the particulars contained in the Certificate of Fact of Death.

### **Providing information to Registrar-General**

**9.** (1) If a Coroner completes or discontinues a full investigation, the Coroner must provide the Registrar-General with all available particulars required to fully complete the registration of the death under the Births and Deaths (Registration) Ordinance, 1853, so far as not already provided.

(2) A Coroner must use Form 5 when providing the Registrar-General with the particulars required by paragraph (1).

### **Commencement and resumption of full investigation**

**10.** (1) A Coroner who is under a duty to conduct a full investigation must inform the deceased's next of kin or personal representative and any other interested persons who have made themselves known to the Coroner, of the Coroner's decision to conduct a full investigation.

(2) If a Coroner resumes a suspended investigation, the Coroner must notify the resumption and the reason for it to —

- (a) the next of kin or personal representative of the deceased; and
- (b) any other interested persons who have made themselves known to the Coroner.

### **Delay in post-mortem examination to be avoided**

11. A Coroner, who considers that a post-mortem examination should be made under section 10, must request a suitable medical practitioner to make the post-mortem examination as soon as reasonably practicable.

### **Post-mortem examination where homicide offence is suspected**

12. If a Coroner is informed by the Director of Police that a homicide offence is suspected in connection with the death of the deceased, the Coroner must consult with the Director of Police about who should make the post-mortem examination.

### **Notification of post-mortem examination**

13. (1) If a Coroner has requested a suitable medical practitioner to conduct a post-mortem examination, the Coroner must notify the persons or bodies listed in paragraph (3) of the date, time and place at which that post-mortem examination is to be made.

(2) A Coroner need not give such notification where it is impracticable or where to do so would cause the post-mortem examination to be unreasonably delayed.

(3) The persons to be notified are—

- (a) the next of kin or the personal representative of the deceased and any other interested person who has notified the Coroner in advance of his or her desire to be represented at the post-mortem examination;
- (b) the deceased's regular medical practitioner, if there was one, and if that person has notified the Coroner of his or her desire to be represented at the post-mortem examination;
- (c) if the deceased died in hospital - the Director of Health;
- (d) if the death of the deceased may have been caused by an accident or disease which must be reported to an enforcing authority - that enforcing authority or the appropriate inspector or representative of that authority;
- (e) any Government directorate which has notified the Coroner of its desire to be represented at the examination; and
- (f) if the Chief of Police has notified the Coroner of his or her desire to be represented at the examination - the Chief of Police.

(4) Any of the persons or bodies listed in paragraph (3) are entitled to be represented at a post-mortem examination by a medical practitioner, or if they are a medical practitioner, may represent themselves.

(5) Any other person, including a trainee doctor, medical student or other medical practitioner, may attend a post-mortem examination, but only with the consent of the Coroner.

### **Preservation or retention of material from post-mortem examination**

**14. (1)** If a suitable practitioner conducts a post-mortem examination under section 10 of the Ordinance and preserves or retains material which in the practitioner's opinion might relate to the cause of death or identity of the deceased, the practitioner must provide the Coroner with written notification of that fact.

**(2)** A medical practitioner who preserves or retains material under paragraph (1) must provide the Coroner with a written notification that—

- (a)* identifies the material being preserved or retained; and
- (b)* explains why the practitioner is of the opinion set out in paragraph (1).

**(3)** A written notification under paragraph (2) may—

- (a)* specify the period of time for which the practitioner believes the material should be preserved or retained; and
- (b)* specify different periods of time in relation to different preserved or retained material.

**(4)** On receiving a notification under paragraph (1), the Coroner must notify the medical practitioner of the period of time for which the Coroner requires the material to be preserved or retained for the purposes of fulfilling the Coroner's functions under the Ordinance.

**(5)** On making the notification under paragraph (4), the Coroner must also notify, where known—

- (a)* the next of kin or personal representative of the deceased; and
- (b)* any interested person who has notified the Coroner of his or her desire to be represented at the post-mortem examination,

that material is being preserved or retained, the period or periods for which it is required to be preserved or retained and the options for dealing with the material under paragraph (6) once the period or periods of preservation or retention has or have expired.

**(6)** The options for dealing with material must be exercised in the sole discretion of the Coroner after consideration of any representations made by persons notified under paragraph (5). They are—

- (a)* disposal of the material by burial, cremation or other lawful disposal by the medical practitioner;
- (b)* return of the material to a person listed in paragraph (5)(a) or (b); or
- (c)* retention of the material with the consent of a person listed in paragraph (5)(a) for medical research or other purposes.

### **Preservation or retention of material: further rules**

**15. (1)** A Coroner who—

- (a)* receives a request from the Attorney General to suspend an investigation because a person may be charged with an offence in relation to the death of the deceased; or
- (b)* becomes aware or is informed that a person has been charged with an offence in relation to, or connected with, the death of the deceased,

must notify the Director of Police and the Attorney General of any period for which the Coroner requires material to be preserved or retained under regulation 14(4).



(2) If the Coroner is informed that, instead of an investigation, an enquiry is to be held under the Commissions of Enquiry Ordinance, 1926, or any other lawfully constituted public inquiry, the Coroner must notify the person presiding over that enquiry of any period for which the Coroner requires material to be preserved or retained under regulation 14(4).

(3) A Coroner may from time to time vary a period notified under regulation 14(4) and must notify both the suitable practitioner conducting the post-mortem examination and any person notified under regulations 14(5), 15(1) and 15(2) of the variation.

(4) If a suitable practitioner has received a notification from a Coroner under regulation 14(4) and the practitioner believes that the material should be preserved or retained for a different period, the practitioner may request that the Coroner vary the time by providing a notification in accordance with regulation 14(2).

(5) If a suitable practitioner has retained material in accordance with regulation 14 and the period notified under regulation 14(4) has expired, the practitioner must record the fact that the material has been—

- (a) disposed of by the practitioner or on behalf of the practitioner;
- (b) delivered into the possession of a specified person; or
- (c) dealt with in accordance with regulation 14(6).

(6) Any record made by a suitable practitioner under paragraph (5) must be retained by him or her for a period the Chief Coroner directs.

### **Post-mortem examination report**

16. (1) A suitable practitioner, on completion of a post-mortem examination, must report to the Coroner as soon as practicable after the examination has been made.

(2) Unless authorised in writing by the Coroner, the practitioner who made the post-mortem examination may not supply any other person, other than the Attorney General, with the post-mortem examination report or any copy of it.

### **Discontinuance of investigation**

17. If a Coroner discontinues an investigation in accordance with section 5(1) because the post-mortem examination reveals the cause of death, the Coroner must record the cause of death and notify the next of kin or personal representative of the deceased, using Form 6.

### **Transfer of investigations**

18. (1) If the Chief Coroner directs a Coroner to conduct an investigation under section 4—

- (a) the existing Coroner must provide the directed Coroner with all relevant evidence, documents and information;
- (b) the directed Coroner must notify the next of kin or personal representative of the deceased of the transfer; and
- (c) the directed Coroner must notify any other interested persons who have made

themselves known to the Coroner of the transfer.

(2) A Coroner must fulfil the obligations under this regulation within a period the Chief Coroner directs.

### **Release of bodies**

19. (1) A Coroner must release the body for burial or cremation as soon as is reasonably practicable.

(2) If a Coroner cannot release the body within 7 days of being made aware that the body is within Ascension, the Coroner must notify the next of kin or personal representative of the deceased of the reason for the delay.

### **Burial or cremation order**

20. (1) A Coroner may issue an order authorising the burial or cremation of a body if the Coroner no longer needs to retain the body for the purposes of the investigation.

(2) A Coroner must use Form 7 when issuing an order to bury or cremate a body.

### **Exhumation**

21. (1) A Coroner may issue a direction to exhume a body lying within Ascension.

(2) If such a direction is made the Coroner must use Form 8.

### **Disclosure**

22. Rules 10 to 13 of the Coroners (Inquests) Rules, 2015, apply to the disclosure of documents to an interested person made by the Coroner at any time during the course of a full investigation, unless the Chief Coroner directs that such is not in the interests of justice at that time.

### **Providing information to the Safeguarding of Children Board**

23. (1) If a Coroner decides to conduct a full investigation into a death, or directs that a post-mortem examination should be made, and the Coroner believes the deceased was under the age of 18, the Coroner must notify the Safeguarding of Children Board within three days of making the decision or direction.

(2) A Coroner must provide all information to the Safeguarding of Children Board.

(3) In this regulation—

“**information**” means any information that is—

(a) held by the Coroner for the purposes of an investigation under the Ordinance; and

(b) relates to the death of a person who was, or may have been, under the age of 18 at the time of death;

“**Safeguarding of Children Board**” means the Ascension Safeguarding of Children Board

established under section 19 of the Child Welfare Ordinance, 2011.

### **Power of the Chief Coroner to require information**

**24. (1)** The Chief Coroner may at any time require information from a Coroner in relation to any investigation that has been or is being conducted by that Coroner.

**(2)** A Coroner must provide the Chief Coroner with the information requested under paragraph (1) within the period specified in the direction.

### **Retention and release of documents**

**25. (1)** Any document in the possession of a Coroner in connection with an investigation or post-mortem examination must, unless a court or the Chief Coroner otherwise directs, be retained by the Clerk to the Coroner for at least 15 years after the investigation is completed.

**(2)** Subject to these Regulations or other rules of law, the Coroner may provide any document or a copy of any document to any person who in the opinion of the Coroner is a proper person to have possession of it.

**(3)** Subject to regulation 22, a Coroner may charge for the provision of any document or copy of any document.

### **Report on action to prevent other deaths**

**26. (1)** This regulation applies where a Coroner is under a duty by virtue of paragraph 7(1) of Schedule 2 of the Ordinance to make a report to prevent other deaths.

**(2)** A report may not be made until the Coroner has considered all the documents, evidence and information that in the opinion of the Coroner are relevant to the investigation.

**(3)** the Coroner—

- (a)* must send a copy of the report to the Chief Coroner and every interested person who, in the Coroner's opinion, should receive it;
- (b)* must send a copy of the report to the Safeguarding of Children Board (which has the same meaning as in regulation 23(3)) if the Coroner believes the deceased was under the age of 18; and
- (c)* may send a copy of the report to any other person whom the Coroner believes might find it useful or of interest.

**(4)** On receipt of a report the Chief Coroner may—

- (a)* publish a copy of the report, or a summary of it in any manner the Chief Coroner thinks fit; and
- (b)* send a copy of the report to any person whom the Chief Coroner believes might find it useful or of interest.

### **Response to a report on action to prevent other deaths**

**27. (1)** This regulation applies if a person is under a duty to give a response to a

report to prevent other deaths made in accordance with paragraph 7(1) of Schedule 2 of the Ordinance.

(2) the response to a report must contain—

- (a) details of any action that has been taken or which it is proposed will be taken by the person giving the response or any other person, whether in response to the report or otherwise, and set out a timetable of the action taken or proposed to be taken; or
- (b) an explanation as to why no action is proposed.

(3) The response must be provided to the Coroner who made the report within 31 days after the report is sent.

(4) The Coroner who made the report may extend the period referred to in paragraph (3), even if an application for extension is made after the time for compliance has expired.

(5) On receipt of a response to a report the Coroner—

- (a) must send a copy of the response to the report to the Chief Coroner;
- (b) must send a copy of the response to any interested persons who in the Coroner's opinion should receive it; and
- (c) may send a copy of the response to any other person whom the Coroner believes might find it useful or of interest.

(6) On receipt of a copy of a response under paragraph (5)(a), the Chief Coroner may—

- (a) publish a copy of the response, or a summary of it, in any manner the Chief Coroner thinks fit; and
- (b) send a copy of the response to any person whom the Chief Coroner believes might find it useful or of interest (other than a person who has been sent a copy of the response under paragraph (5)(b) or (c)).

(7) A person who gives a response to a report may make written representations to the Coroner about—

- (a) the release of the response; or
- (b) the publication of the response.

(8) Representations under paragraph (7) must be made to the Coroner no later than the time when the response to the report to prevent other deaths is provided to the Coroner under paragraph (3).

(9) The Coroner must pass any representations made under paragraph (7) to the Chief Coroner, who must consider those representations and decide whether there should be any restrictions on the release or publication of the response.

## **Record of Investigations**

**28.** A Coroner must make a determination and any findings required under section 8 using Form 9.

## **Penalties for offences**

**29.** Without prejudice to the penalties for offences under Schedule 3, a Coroner may impose a fine not exceeding £1,000 on a person who fails without reasonable excuse to do anything they are required by a Coroner to do under these regulations.

**SCHEDULE**  
(Regulation 2(3))

**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 1**

**MEDICAL PRACTITIONER'S CERTIFICATE**  
(Regulation 4(1))

I Dr [inset full name of doctor] hereby certify, to the best of my knowledge and belief that [Full name of deceased] Date of Birth [insert date for birth] Age [insert age] Place of Birth [insert Place of birth] of [insert full address] Nationality [insert nationality] Marital Status [insert marital status] died at [insert time] on the [insert date] and that the most probable cause of death was: [insert approximate interval between onset and death then disease or condition directly (or as a consequence) leading to death and antecedent causes and other significant conditions contributing to the death]

Date:

Signature:

Medical Practitioner

Annex (if known): Name, address and contact details for next of kin and relationship to the deceased.

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**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 2**

**MEDICAL EXAMINER'S CERTIFICATE**  
(Regulation 4(4))

I Dr [inset full name of examiner] hereby certify, to the best of my knowledge and belief that [Full name of deceased] Date of Birth [insert date for birth] Age [insert age] Place of Birth [insert Place of birth] of [insert full address] Nationality [insert nationality] Marital Status [insert marital status] died at [insert time] on the [insert date] and that the most probable cause of death was: [insert approximate interval between onset and death then disease or condition directly (or as a consequence) leading to death and antecedent causes and other significant conditions contributing to the death).

Date:  
Signature:  
Medical Examiner

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**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 3**

**CORONER'S REGISTER OF DEATHS**

(Regulation 5(2))

Date of report	Full name	Gender	Age	Full address	Identification information	Place of death/where body found

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**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 4**

**CORONER'S CERTIFICATE OF FACT OF DEATH**

(Regulation 8)

Date of death*	Full name*	Full address*	Gender*	Age*	Rank or profession*	Probable cause of death*

\*If known

Date:  
Signature:

Coroner

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**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 5**

**SUPPLEMENTARY CERTIFICATE TO REGISTRAR-GENERAL**

(Regulation 9(2))

Date of death	Full name	Full address	Gender	Age	Rank or profession	Probable cause of death

Date:

Signature:

Coroner

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**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 6**

**NOTICE OF DISCONTINUANCE**

(Regulation 17)

To (insert name):

The investigation into the death of A.B. has been discontinued under section 5 of the Coroners and Presumption of Death Ordinance, 2015.

The investigation was discontinued for the following reason(s):

Date:

Signature:

Coroner

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**CORONERS AND PRESUMPTION OF DEATH ORDINANCE, 2015**

**CORONERS (INVESTIGATIONS) REGULATIONS, 2015**

**FORM 7**

**ORDER FOR BURIAL**

(Regulation 20(2))

I authorise the burial of A.B. (insert name)  
aged, (insert age)  
who died at, (insert time and place)  
on, (insert date)

Date:

Signature:

Coroner

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**FORM 8**

**DIRECTIONS TO EXHUME**

(Regulation 21(2))

To (insert the names of the Governor or other persons having control over the churchyard, cemetery, or other place where the body is buried).

I have been informed that the body of A.B., has been buried in (insert the named churchyard, cemetery or other place where the body is buried), and it appears to me necessary for the body to be exhumed and examined for the purposes of:

1. Conducting an investigation into the death of the deceased under the Coroners and Presumption of Death Ordinance 2015; or
2. Discharging a Coroner's function in relation to the body or death of the deceased, namely; (inset function).

I direct you allow the body of A.B. to be exhumed.

Date:

Signature:

Coroner

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**FORM 9**

**RECORD OF AN INVESTIGATION**

(Regulation 28)

The following is the record of the investigation (including the statutory determination and, where required, findings)-

1. Name of deceased (if known):
2. Medical cause of death:



3. How, when and where, and for investigations where section 6(2) of the Coroners Ordinance applies, in what circumstances the deceased came by his or her death;
4. Conclusion of the Coroner as to death (see notes (i) and (ii));
5. Further particulars required by the Births and Deaths (Registration) Ordinance Cap 79 to be registered concerning the death:

Signature of Coroner:

Notes:

- (i) One of the following short-form conclusions may be adopted:-
  - I. Accident or misadventure
  - II. Alcohol/ drug related
  - III. Industrial disease
  - IV. Lawful/unlawful killing
  - V. Natural causes
  - VI. Open
  - VII. Road Traffic Collision
  - VIII. Stillbirth
  - IX. Suicide
- (ii) As an alternative, or in addition to one of the short-form conclusions listed in NOTE (i), the Coroner may make a narrative conclusion.
- (iii) The standard of proof required for the conclusions of “unlawful killing” and “suicide” is the criminal standard of proof. For all other conclusions and a narrative statement the standard of proof is the civil standard of proof.

Date:

Signature:

Coroner

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## **CORONERS (ALLOWANCES, FEES AND EXPENSES) REGULATIONS**

(Section 20 and Schedule 4)

### **Citation and commencement**

1. These Regulations may be cited as the Coroners (Allowances, Fees and Expenses) Regulations, 2015, and come into force on 1st May 2015.

### **Interpretation**

2. (1) In these Regulations—
  - “**copy**” in relation to a document, means anything on which information recorded in a document has been copied, by whatever means and whether directly or indirectly;
  - “**Coroner’s officer**” means a detective of the St Helena Police Service or any other person designated as such by the Chief Coroner for the purposes of these Regulations;
  - “**expense**” means any allowance, fee or expense payable under these Regulations;
  - “**expert witness**” means a person of any calling, profession or trade who provides assistance to a Coroner or gives evidence in an investigation because of his or her expertise (including a suitable practitioner), other than a factual witness;
  - “**ordinary witness**” means any person who provides assistance to a Coroner or gives evidence in an investigation and is not an expert witness;
  - “**unusual expense**” means any expense which is likely to cause the total expenses budgeted

for by the Financial Secretary in any particular financial year to be exceeded;  
**“witness”** means an expert witness or an ordinary witness.

(2) All references to sections and Schedule provisions in these Regulations are references to provisions in the Ordinance, unless a regulation specifically states otherwise.

### **Delegation of administrative functions**

3. A Coroner may delegate administrative functions under these Regulations, but not judicial functions, to a Coroner’s officer and other staff.

### **Calculation and payment by the Coroner**

4. Any expense under these Regulations is to be calculated by the Coroner.

### **Determination by the Coroner**

5. A Coroner may require a person claiming an expense to provide receipts, invoices or other documents proving the expense incurred before determining and authorising any payment under these Regulations.

### **Explanation by the Coroner**

6. A Coroner must, if requested to do so by a person claiming an expense, provide that person with information on how his or her particular expense has been calculated.

### **Unusual allowance, fee or expense**

7. (1) A Coroner must report any unusual expense likely to be incurred to the Financial Secretary before it is incurred.

(2) If it is not possible to report the unusual expense before it is incurred under paragraph (1), the Coroner must report the unusual expense –

- (a) on the date it is incurred; or
- (b) as soon as reasonably practicable after that date.

### **Provision of expenses for ordinary witnesses**

8. (1) Subject to paragraph (2), the Financial Secretary may pay any ordinary witness who is deprived of any earnings, an attendance allowance equal to—

- (a) if the witness is in employment - the earnings he or she has lost as certified by his or her employer; or
- (b) if the witness is self-employed or works for a commission - the amount which, in the opinion of the Coroner, the witness might reasonably have expected to earn during the time he or she was necessarily absent from work.

(2) The attendance allowance under paragraph (1) must not be more than £300 or less than £10 for each day or part of a day exceeding 3 hours, or £5.00 for a half day of 3 hours or less.

### **Expert witness fee for preparatory work**

**9.** The Financial Secretary must pay an expert witness who has carried out preparatory work directly related to providing assistance or the giving of evidence in an investigation a fee that the Coroner considers reasonable having regard to the nature and complexity of the work carried out.

### **Additional expenses**

**10.** A Coroner may reimburse a witness for any additional expenses, other than those prescribed by these Regulations, including travelling and accommodation expenses, which the Coroner believes have been reasonably incurred.

### **Fee for disclosure after an investigation**

**11. (1)** This regulation applies if a Coroner discloses a document to an interested person after an investigation.

**(2)** No fee is payable if a document is disclosed by e-mail by a Coroner to an interested person.

**(3)** If a document is disclosed by a Coroner as a paper copy, a fee of £5 for a document of 10 pages or less is payable, with an additional 50p payable for each subsequent page.

**(4)** A fee of £5 per document is payable if a document is disclosed in any other medium, other than by e-mail or as a paper copy.

**(5)** The fee for a transcription of a hearing is:

*(a)* for a copy consisting of 360 words or less - £6.20;

*(b)* for a copy consisting of between 361 words and up to an including 1439 words - £13.10;

*(c)* for a copy consisting of 1440 words or more - £13.10 for the first 1440 words and 70p for each additional 72 words or part thereof.

### **Mechanism for payment of expenses**

**12. (1)** The Clerk to the Coroner must provide the Financial Secretary with an account of all allowances, fees and expenses to be paid under these Regulations as soon as reasonably practicable.

**(2)** An account provided to the Financial Secretary under paragraph (1) must include any receipt, invoice or other document that proves the sum incurred.

**(3)** The Financial Secretary must, on being satisfied that an account submitted under paragraph (1) is correct, make the payments to which the account relates.

### **Return of receipts**

**13.** The Financial Secretary must, if so requested by a person, return any receipts,

invoices or other documents submitted by that person.

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## **APPENDIX**

The Ascension Law Reform (Miscellaneous Provisions) Ordinance 1991 inserted in the Coroners Ordinance, 1987 for Ascension a new section on sound recording of oral evidence at inquests. As the Sound Recording Rules, 1989 (see the Courts (Appeals and Rules) Ordinance, 2017) do not extend to Coroner's inquests, the inserted section is set out here for reference.

### **“Sound recording of oral evidence**

- 9A. When in any inquiry a sound recording is being made of the oral evidence, the coroner may dispense with the requirements of section 9(1), provided that:
- (a) in addition to such sound recording a written record is kept of the names of the witnesses with a summary of the evidence given by each;
  - (b) if during any inquiry the sound recording is interrupted by a power failure, mechanical breakdown or other cause, the coroner shall revert to the procedure required by section 9(1);
  - (c) if it appears that some part of the evidence has not been recorded because such failure, breakdown or other cause was not immediately detected, the witness or witnesses whose evidence has been lost shall be recalled;
  - (d) where any deposition may be read as evidence at a resumed inquiry a sound recording made in accordance with this section may be played back or, with the agreement of all interested parties, a transcript thereof may be read;
  - (e) any person entitled to receive any deposition shall be entitled to receive a copy or, at his option, a transcript of any sound recording made in accordance with this section;
  - (f) the coroner shall ensure that all sound recordings are sufficiently marked so as to identify the witness or witnesses whose evidence appears upon them and that any such marking is signed by himself and such witness or witnesses;
  - (g) in the case of the incapacity or refusal of any witness to sign such marking, the coroner and some other person in whose presence the sound recording was made shall sign the same;
  - (h) the coroner shall cause each marked sound recording to be placed in a plastic bag or other suitable container, to be sealed and such sealed bag or container to be similarly marked as provided for above;
  - (i) at the conclusion of the inquiry, the coroner shall cause all sound recordings to be forwarded to the Attorney General;
  - (j) the Attorney General shall in any case where a transcript of any such sound recording may be required for any purpose cause such transcript to be prepared;
  - (k) the Attorney General may require a coroner to certify that any transcript so prepared is an accurate transcript of a sound recording made in his presence;
  - (l) any interested party may require the original sound recording of the evidence of any witness at an inquiry to be played over in his hearing.”