

Jersey Law 9/1995

**INQUESTS AND POST-MORTEM EXAMINATIONS (JERSEY)
LAW 1995**

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**INQUESTS AND POST-MORTEM EXAMINATIONS (JERSEY)
LAW 1995**

A LAW to make new provision for the holding of inquests and post-mortem examinations, and for connected purposes, sanctioned by Order of Her Majesty in Council of the

8th day of FEBRUARY 1995

(Registered on the 21st day of April 1995)

STATES OF JERSEY

The 26th day of July 1994

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART I

PRELIMINARY

ARTICLE 1

Interpretation

(1) In this Law, unless the context otherwise requires –

“the Court” means the Royal Court;

“registered medical practitioner” means a medical practitioner registered under the Medical Practitioners (Registration) (Jersey)

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Law 1960¹ and, for the purpose of the performance of a post-mortem examination pursuant to Article 17 or 18, includes a person who is qualified to be registered under that Law;

“police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force.

(2) A reference in this Law to an Article or Schedule by number only, and without further identification, is a reference to the Article or Schedule of that number in this Law.

(3) A reference in an Article of this Law to a paragraph or sub-paragraph by number or letter only, and without further identification, is a reference to the paragraph or sub-paragraph of that number or letter contained in the Article in which that reference occurs.

(4) Unless the context otherwise requires, where this Law refers to an enactment, the reference is to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under another enactment including any other provision of that enactment.

PART II

FUNCTIONS AND POWERS OF VISCOUNT

ARTICLE 2

Duty to notify death

(1) Subject to paragraphs (3) and (4), any person who has reason to believe that a deceased person died –

(a) as a result of violence or misadventure;

¹ Tome VIII, page 829, and Volume 1992–1993, page 268.

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- (b) as a result of negligence or misconduct or malpractice on the part of others;
- (c) from any cause other than natural illness or disease for which he had been seen and treated by a registered medical practitioner; or
- (d) under such circumstances as may require investigation, shall immediately notify a police officer of the facts and circumstances relating to the death, and the police officer shall, as soon as reasonably practicable thereafter, notify the Viscount of such facts and circumstances.

(2) Where –

- (a) the police officer to whom notice is given under paragraph (1) is not a member of the Honorary Police; and
- (b) the body of the deceased person is in the Island,

that police officer shall forthwith communicate the facts and circumstances relating to the death to a Centenier of the Parish in which the body is lying.

(3) Where a person dies while –

- (a) in the custody of the police; or
- (b) in prison or other legal place of detention,

the police officer having custody of that person, or the person in charge of the prison or other legal place of detention, shall immediately give notice of the death to the Viscount.

(4) Where a person dies while –

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- (a) a patient in a hospital within the meaning of the Mental Health (Jersey) Law 1969²;
- (b) a patient in a mental nursing home within the meaning of the Nursing and Residential Homes (Jersey) Law 1994³; or
- (c) accommodated in a children's home or voluntary home within the meaning of the Children (Jersey) Law 1969⁴, the person in charge of the hospital or home shall immediately notify a police officer of the facts and circumstances relating to the death, and the police officer shall, as soon as reasonably practicable thereafter, notify the Viscount of such facts and circumstances.

(5) Any person who fails to comply with paragraph (3) or (4) shall be guilty of an offence and be liable to a fine not exceeding level 3 on the standard scale⁵.

(6) Where there is any reason to believe that a deceased person died in any of the circumstances mentioned in paragraph (1), (3) or (4) –

- (a) the body of the deceased person shall not be cremated or buried;
- (b) no chemical shall be applied to it externally or internally; and
- (c) no alteration of any kind shall be made to it,

until the Viscount so authorizes.

² Volume 1968–1969, page 345, and Volume 1970–1972, page 549.

³ Volume 1994–199 , page 88.

⁴ Volume 1968–1969, pages 248 and 251.

⁵ Volume 1992–1993, page 437.

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(7) Any person who contravenes paragraph (6) shall be guilty of an offence and be liable to a fine not exceeding level 3 on the standard scale⁵.

ARTICLE 3

Inquiries by Viscount

- (1) Where –
- (a) a dead body has been found in a public place; or
 - (b) there is reason to believe that a deceased person died in any of the circumstances mentioned in paragraph (1), (3) or (4) of Article 2,

the body shall come under the jurisdiction of the Viscount who shall issue such instructions and make such investigation as may be required to enable him to determine whether or not an inquest should be held.

(2) For the purposes of exercising his powers under paragraph (1), the Viscount may, without the consent of any other authority, direct the exhumation of the body.

ARTICLE 4

Power to hold inquest

- (1) The Viscount may hold an inquest –
- (a) where a dead body has been found in a public place; or
 - (b) where –
 - (i) the body of the deceased has been removed into the Island, or

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- (ii) the Viscount has reason to believe that the death occurred in the Island but the body of the deceased has been destroyed or cannot for any reason be found or recovered,

and the Viscount has reason to believe that the deceased died in any of the circumstances mentioned in subparagraph (a) or (b) of paragraph (1), or paragraph (3), of Article 2; or

- (c) where the Viscount has any reason to believe that the deceased died suddenly and unexpectedly or in suspicious circumstances.

(2) An inquest may be held pursuant to this Article notwithstanding that the body of the deceased has been buried and not exhumed.

ARTICLE 5

Duty to hold inquest

The Viscount shall hold an inquest –

- (a) where the body of the deceased is in the Island and the Viscount has reason to believe that the deceased died in the Island in any of the circumstances mentioned in subparagraph (a) or (b) of paragraph (1), or paragraph (3), of Article 2;
- (b) where the Viscount has reason to believe that the deceased died in any of the circumstances mentioned in paragraph (4) of Article 2 unless –
 - (i) there is produced to the Viscount a certificate of a registered medical practitioner stating that he personally attended the deceased during his last illness and certifying the cause of death, or

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- (ii) the Viscount is satisfied that there is no ground for holding an inquest.

ARTICLE 6

Burial or cremation of body

Where a body has come under the jurisdiction of the Viscount he may, in writing –

- (a) at any time, release the body for burial;
- (b) at any time after an inquest has been opened, release the body for cremation.

PART III

INQUESTS

ARTICLE 7

Jury

(1) For the purposes of an inquest, the Viscount may, if he considers it to be in the public interest, summon 12 persons selected by him to act as a jury.

(2) No person shall be selected to serve on a jury unless he is capable of serving as a juror under the provisions of Article 8 of the “Loi (1864) réglant la Procédure Criminelle”⁶.

(3) If it appears to the Viscount whether before he proceeds to hold an inquest without a jury, or in the course of an inquest begun without a jury that there is any reason for summoning a jury, he may proceed to summon a jury in accordance with this Article.

⁶ Tomes I–III, page 282, Volume 1973–1974, page 195, Volume 1982–1983, pages 3, 4 and 27, Volume 1986–1987, page 20, Volume 1988–1989, pages, 231, 232 and 233, and R & O 5643.

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(4) Members of the jury shall take oath before the Viscount in the form set out in the First Schedule.

(5) If during the course of an inquest a juror dies or is discharged by the Viscount for any reason, the Viscount may proceed with the remaining jurors and take their finding which shall have the same effect as the finding of the whole number, so long as the number of jurors is not reduced below ten.

ARTICLE 8

Inquest without a jury

(1) The provisions of this Law relating to the procedure in connexion with an inquest shall, as respects an inquest, or any part thereof, which is held without a jury, have effect subject to such modifications as are rendered necessary by the absence of a jury and, where the whole of an inquest is held without a jury, the finding of the inquest shall be under the hand of the Viscount alone.

(2) Where an inquest, or any part thereof, is held without a jury anything done at the inquest, or at that part of the inquest, by or before the Viscount alone shall be as validly done as if it had been done by or before the Viscount and a jury.

ARTICLE 9

Summoning of witnesses

(1) Where the Viscount intends to hold an inquest, he may issue a summons to any person whom he thinks necessary to attend the inquest at the time and place specified in the summons for the purpose of giving evidence concerning the death.

(2) This Article does not prevent a person who has not been summoned from giving evidence at the inquest.

ARTICLE 10

View of body

(1) Where any body comes under the jurisdiction of the Viscount he may view the body but shall not be obliged to do so.

(2) The validity of an inquest shall not be questioned in any court on the ground that the Viscount did not view the body.

ARTICLE 11

Proceedings at inquest

(1) The Viscount may at the inquest examine on oath all persons having knowledge of the facts whom he thinks it expedient to examine.

(2) At any inquest, any person who in the opinion of the Viscount has a sufficient interest in the subject or the result of the inquest may attend personally or be represented by an advocate or solicitor and may question witnesses.

(3) The Attorney General shall be entitled to attend or to be represented at any inquest and to examine, or cause to be examined, any witness.

(4) Subject to the provisions of this Article, an inquest shall be held in public.

(5) If the Viscount considers it desirable in the interests of justice or good order, he may exclude any person from the whole or any part of the proceedings at the inquest, or may prohibit or restrict the publication of any part of the evidence given at the inquest.

(6) The Viscount may direct that any witness not yet heard at an inquest shall go and remain outside the place of hearing until required to give evidence.

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(7) At any inquest the Viscount may admit any evidence that he thinks fit whether or not the same is otherwise admissible in a court of law.

ARTICLE 12

Protection of witnesses and counsel

Every witness attending and giving evidence at an inquest held under this Law and every advocate and solicitor (including the Attorney General or his representative) and every interested person appearing before the Viscount shall have the same privileges and immunities as they would have in a court of law.

ARTICLE 13

Adjournment of inquest

(1) Subject to the provisions of this Article, the Viscount may adjourn an inquest from day to day or for such time as he sees fit.

(2) If at an inquest the Viscount is informed that some person has been, or may be, charged with causing the death in respect of which the inquest is being held, the Viscount shall, subject to paragraph (3), adjourn the inquest until after the conclusion of any criminal proceedings and, if a jury has been summoned, he may, if he thinks fit, discharge them.

(3) The Viscount –

- (a) need not adjourn the inquest pursuant to paragraph (2) if, before he has done so, the Attorney General notifies him that such adjournment is unnecessary;
- (b) may in any case resume the adjourned inquest before the conclusion of any criminal proceedings if notified by the Attorney General that it is open to him to do so.

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(4) Where the Viscount resumes an inquest which has been adjourned pursuant to paragraph (2) and for that purpose summons a jury (but not where he resumes without a jury, or with the same jury as before the adjournment) he shall proceed in all respects as if the inquest had not previously been begun and, subject to paragraph (5), the provisions of this Law shall apply as if the resumed inquest were a fresh inquest.

(5) Where the Viscount resumes an inquest which has been adjourned pursuant to paragraph (2), the finding of the inquest must not be inconsistent with the outcome of any criminal proceedings.

ARTICLE 14

Finding of inquest

(1) After hearing the evidence the jury shall give its finding in writing which shall state –

- (a) who the deceased was; and
- (b) how, when and where he came by his death,

so far as such particulars have been proved to them.

(2) The jury shall also enquire of and find the particulars required by the “Loi (1842) sur l’Etat Civil” to be registered concerning the death.

(3) The jury shall not make any finding of legal responsibility on any matter referred to in paragraph (1).

(4) If the jury fail to agree on a finding the Viscount may accept a majority finding where not more than two members of the jury disagree.

⁷ Tomes I-III, page 85, Volume 1975–1978, pages 207 and 208, Volume 1992–1993, page 431, and R & Os – 7650 and 8269.

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(5) In any other case of disagreement, the Viscount shall discharge the jury and summon another and the inquest shall then proceed as if the first inquest had not taken place.

(6) The finding shall be transmitted by the Viscount to the Court for registration.

ARTICLE 15

Order to hold inquest

(1) Where in respect of any death the Court is satisfied, on the application of any person appearing to it to have sufficient interest in the matter, that the Viscount refuses or neglects to hold an inquest which ought to be held, the Court may order the Viscount to hold an inquest into the death.

(2) Unless the order of the Court otherwise provides, any such inquest shall be held in the same manner as any other inquest.

ARTICLE 16

Court may order fresh inquest to be held

(1) Where an inquest has been held and it is shown to the satisfaction of the Court, on an application made by, or on behalf of, the Attorney General that, by reason of fraud, irregularity of proceedings, the discovery of new facts or evidence, or otherwise, it is necessary or desirable in the interests of justice that another inquest should be held, the Court may quash the finding of the former inquest and order that another inquest should be held.

(2) On any such inquest, unless the Court otherwise directs, all evidence taken on the former inquest in respect of the death shall be deemed to have been taken on the new inquest.

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(3) Except as otherwise provided by this Article, or by the order of the Court, any such inquest shall be held in the same manner as any other inquest.

PART IV

POST-MORTEM AND SPECIAL EXAMINATIONS

ARTICLE 17

Post-mortem examination

(1) The Viscount may at any time before the termination of an inquest authorize a registered medical practitioner to perform a post-mortem examination of the body of the deceased person.

(2) Any registered medical practitioner who has attended the deceased person immediately prior to his death shall be entitled to be present at the post-mortem examination and the Viscount may, if he thinks it necessary, have notice served on any such registered medical practitioner requiring him to attend the post-mortem examination or to submit a report for the assistance of the person holding the post-mortem examination.

(3) On application being made to him, the Viscount may permit any other person to be represented by a registered medical practitioner as an observer at any such post-mortem examination.

ARTICLE 18

Post-mortem examination without inquest

(1) Where the Viscount is informed that there is reasonable cause to suspect that a person has died of an unknown cause, if he is of opinion that a post-mortem examination may prove an inquest to be unnecessary, he may authorize any registered medical practitioner to

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make a post-mortem examination of the body of the deceased and to report the result thereof to him in writing.

(2) If, following a post-mortem examination pursuant to paragraph (1), the Viscount decides that an inquest is unnecessary he shall authorize the registered medical practitioner who performed the examination to deliver to the Registrar of the Parish in which the death took place a certificate stating the cause of death as disclosed by the examination, and the Registrar shall make an entry in the Register of Deaths accordingly.

(3) Where a certificate has been delivered in accordance with the provisions of paragraph (2), the delivery to the Registrar of a medical certificate of the cause of death under paragraph 5=248= of Article 19 of the “Loi (1842) sur l’Etat Civil”⁸ shall not be required.

(4) In this Article, “Registrar” means a Registrar of births, marriages and deaths appointed in pursuance of the “Loi (1842) sur l’Etat Civil”⁹.

(5) Nothing in this Article shall be construed as authorizing the Viscount to dispense with an inquest in any case to which Article 5 applies.

ARTICLE 19

Viscount may require medical report

Whether or not an inquest is to be held, the Viscount may require any registered medical practitioner who has recently attended the person into whose death the Viscount is inquiring to supply him with a medical report relating to the deceased person.

⁸ Tomes I-III, page 97.

⁹ Tomes I-III, page 85.

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ARTICLE 20

Viscount may order analysis

Where the Viscount considers an analysis of any thing necessary for the purposes of his duties under this Law, he may direct that such analysis be made, and the person who makes or supervises such analysis shall submit a report of the analysis to the Viscount.

PART V

SUPPLEMENTAL

ARTICLE 21

Connétable to be notified of inquest

- (1) Where the Viscount –
 - (a) intends to hold an inquest; and
 - (b) has reason to believe that, immediately before his death, the deceased person was resident in the Island,

he shall notify the Connétable of the Parish in which he believes the deceased person to have been resident of the time and place of the inquest.

- (2) Subject to paragraph (5) of Article 11, a Connétable who has received notification from the Viscount under paragraph (1) shall be entitled to attend the inquest or to be represented thereat by a Centenier of the Parish.

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ARTICLE 22

Attendance of jury and witnesses

Every person summoned as a member of a jury or as a witness who fails without good and sufficient cause to obey any such summons, or who refuses without lawful excuse to answer any question put to him at the inquest, shall be guilty of an offence and be liable to a fine not exceeding level 2 on the standard scale¹⁰.

ARTICLE 23

Unlawful publication of proceedings

Every person who publishes any proceedings of an inquest in contravention of a prohibition or restriction under paragraph (5) of Article 11 shall be guilty of an offence and be liable to a fine.

ARTICLE 24

Expenses

All expenses incurred by the Viscount in connexion with the holding of inquests, and in the discharge of his other functions under this Law, shall be paid out of the annual income of the States.

ARTICLE 25

Power to make Rules

(1) The power to make Rules of Court under the Royal Court (Jersey) Law 1948¹¹ shall include a power to make Rules relating to the procedure and practice to be followed by the Viscount under this Law and to give effect to this Law.

¹⁰ Volume 1992–1993, page 437.

¹¹ Tome VII, page 502, Volume 1979–1981, page 195, Volume 1984–1985, pages 175 and 178, Volume 1990–1991, page 113, and Volume 1992–1993, page 461.

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(2) Without prejudice to the generality of paragraph (1), Rules may be made as to –

- (a) the records to be kept by the Viscount;
- (b) the practice and procedure at or in connexion with inquests and post-mortem examinations;
- (c) the fees to be paid to a registered medical practitioner supplying a report or performing a post-mortem examination;
- (d) the fees and costs, if any, to be paid to members of the jury or witnesses at an inquest.

ARTICLE 26

Consequential amendment

Article 6 of the Cremation (Jersey) Law 1953 shall be amended to the extent set out in the Second Schedule.

ARTICLE 27

Repeals

The enactments set out in the Third Schedule are repealed.

ARTICLE 28

Short title and commencement

This Law may be cited as the Inquests and Post-mortem Examinations (Jersey) Law 1995, and shall come into force on such day as the States may by Act appoint.

G.H.C. COPPOCK

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Greffier of the States.

FIRST SCHEDULE

(Article 7(4))

Form of oath to be taken by members of jury

You swear and promise before God that you will well and faithfully report your finding, according to the evidence presented, as to how, when and where you conscientiously believe that came by his/her death and the particulars required by the “Loi (1842) sur l’Etat Civil” to be registered concerning the death, which you will do without favour, hatred or partiality as you will answer to Almighty God at your peril.

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SECOND SCHEDULE

(Article 26)

Amendment of Cremation (Jersey) Law 1953¹²

For paragraph (1) of Article 6 of the Cremation (Jersey) Law 1953 there shall be substituted the following paragraph –

“(1) Nothing in this Law shall be construed as derogating in any way from the jurisdiction of the Royal Court or the Viscount under the Inquests and Post-mortem Examinations (Jersey) Law 1995.”.

¹² Tome VIII, page 308.

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THIRD SCHEDULE

(Article 27)

Enactments repealed¹³

Loi (1880) sur les levées des corps.

Inquests and Post-mortem Examinations (Jersey) Law 1951.

Inquests and Post-mortem Examinations (Amendment) (Jersey) Law 1952.

Loi (1965) (Amendement) sur les levées des corps.

Loi (1983) (Amendement) sur les levées des corps.

¹³ Tomes I–III, page 429, Tome VIII, page 15, Volume 1963–1965, page 563, and Volume 1982–1983, page 140a.