



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 661.

28 March 1991

No. 661.

28 Maart 1991

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 8 of 1991: Inquests Amendment Act, 1991.

No. 8 van 1991: Wysigingswet op Geregtelike Doodsondersoeke, 1991.



## Act No. 8, 1991

## INQUESTS AMENDMENT ACT, 1991

**Amendment of section 5 of Act 58 of 1959, as amended by section 4 of Act 45 of 1990**

2. Section 5 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If on the information submitted to him in terms of subsection (1) it appears to the magistrate that a death has occurred and that such death was not due to natural causes, he shall, subject to the **[provisions of section 6, proceed to hold]** directions of the Minister, take such steps as may be necessary to ensure that an inquest as to the circumstances and cause of the death is held by a judicial officer in terms of section 6: Provided that no inquest in respect of which it is alleged that either the death or the incident has occurred outside the Republic shall be held unless the Minister, or any person authorized thereto by him, so directs.”.

**Amendment of section 8 of Act 58 of 1959, as substituted by section 8 of Act 45 of 1990**

3. Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The judicial officer who is to hold or holds an inquest may, of his own accord or at the request of any person who has a substantial and peculiar interest in the issue of the inquest, cause to be subpoenaed any person to give evidence or to produce any document or thing at the inquest: Provided that the said judicial officer shall, if so requested by the attorney-general within whose area of jurisdiction the inquest is to be held or is being held, cause persons or any particular person to be subpoenaed to give oral evidence in general or in respect of any particular matter at the inquest.”.

**Amendment of section 9 of Act 58 of 1959, as substituted by section 9 of Act 45 of 1990**

4. Section 9 of the principal Act is hereby amended by the addition of the following proviso to subsection (3):

“Provided that, if an assessor dies or is for any reason unable to act as assessor at any time during an inquest, the judicial officer may—  
 (i) direct that the inquest proceed without the said assessor; or  
 (ii) summon any person to his assistance in the place of the said assessor, in which case the judicial officer may cause any person who has already given evidence at the inquest to be subpoenaed to give evidence as if he had not previously so given evidence.”.

**Substitution of section 10 of Act 58 of 1959, as substituted by section 10 of Act 45 of 1990**

5. The following section is hereby substituted for section 10 of the principal Act:

**“When inquest to be held in public**

**10. (1)** Unless the giving of oral evidence is dispensed with under this Act or the judicial officer concerned directs otherwise under subsection (2), an inquest shall be held in public **[Provided that the judicial officer holding the inquest may in his discretion exclude from the place where the inquest is held any person whose presence thereat is, in his opinion, not necessary or desirable].**

(2) If it appears to the judicial officer who holds an inquest that it would be in the interest of the safety of any witness or of good order or of the administration of justice that—

(a) the inquest be held behind closed doors; or

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(b) the presence of any particular person is not desirable, that judicial officer may direct that members of the public in general or of any particular category, or that particular person, shall not be present at the inquest or any part thereof.

(3) If it appears to the judicial officer who holds an inquest that the safety of any person may be endangered if he testifies at the inquest, that judicial officer may direct that the identity of that person shall not be revealed, or that it shall not be revealed for such period or except on such conditions as that judicial officer may determine.

(4) Any person who fails to comply with a direction under subsection (2) or (3) shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

**Substitution of section 13 of Act 58 of 1959, as substituted by section 13 of Act 45 of 1990**

6. The following section is hereby substituted for section 13 of the principal Act:

**“Admissibility of declarations and interrogatories**

13. (1) Upon production by any person, any document purporting to be **[an affidavit made]** a statement under oath or affirmation by any person in connection with any death or alleged death in respect of which an inquest is held, or any certified copy thereof, shall at the discretion of the judicial officer holding the inquest be admissible in proof of the facts stated therein: Provided that the said judicial officer may admit any statement which is not so admissible, or any certified copy thereof, if that judicial officer, having regard to—

- (a) the form and contents of the document in which any such statement is contained;
- (b) the availability of the person who made any such statement;
- (c) the probative value of any such statement;
- (d) any prejudice to any person which the admission of any such statement might entail; and
- (e) any other circumstance which should in the opinion of that judicial officer be taken into account,

is of the opinion that any such statement, or any certified copy thereof, should be admitted in the interests of justice.

(2) The judicial officer may in his discretion cause the person who made such **[affidavit]** statement to be subpoenaed to give oral evidence at the inquest or may cause written interrogatories to be submitted to him for reply, and such interrogatories and any reply thereto purporting to be a reply from such person shall likewise be admissible in evidence at the inquest.

(3) Any person who in any statement in writing under oath or affirmation contemplated in this section makes a false statement knowing it to be false or without reasonable grounds (the onus of proof of which shall be on him) for believing it to be true, shall be guilty of an offence and liable on conviction to the penalties which may in law be imposed for perjury.”.

**Amendment of section 16 of Act 58 of 1959, as substituted by section 16 of Act 45 of 1990**

7. Section 16 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (2) of the following paragraph:

“(d) as to whether the death was brought about by any act or omission *prima facie* involving or amounting to an offence on the part of any person.”.

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**Amendment of section 17 of Act 58 of 1959, as substituted by section 17 of Act 45 of 1990**

8. Section 17 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) if he has in terms of section 16 (2) (d) recorded a finding upon the inquest that the death was brought about by any act or omission *prima facie* involving or amounting to an offence on the part of any person; or”: and

(b) by the addition of the following subsection:

“(3) (a) The provisions of section 16 shall *mutatis mutandis* apply in respect of any inquest re-opened in terms of subsection (2).

(b) The judicial officer who held such inquest shall cause the record of the proceedings to be submitted to the attorney-general concerned.”.

**Substitution of section 2 of Act 23 of 1979**

9. The following section is hereby substituted for section 2 of the Dissolution of Marriages on Presumption of Death Act, 1979:

**“Effect of certain findings on marriages**

2. Whenever an inquest has been held in accordance with the provisions of the Inquests Act, 1959 (Act No. 58 of 1959), in respect of the death of any married person, and any finding in respect of that death has **[on review as contemplated in section 18 of that Act]** the same effect in terms of section 18 (2) or (2A) of that Act, as if it were an order granted by the relevant reviewing court or judge or by the relevant provincial or local division of the Supreme Court of South Africa, as the case may be, that the death of the person concerned shall be presumed in accordance with such finding, the marriage in question shall for all purposes be deemed to have been dissolved by death as from the date of death of the said person as recorded in terms of section 16 (2) (c) of that Act in that finding.”.

**Short title and commencement**

10. (1) This Act shall be called the Inquests Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.