



Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016

2016 asp 2

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 10th December 2015 and received Royal Assent on 14 January 2016

An Act of the Scottish Parliament to make provision for the holding of public inquiries in respect of certain deaths.

Inquiries into certain deaths

1 Inquiries under this Act

- (1) Where an inquiry is to be held into the death of a person in accordance with sections 2 to 7, the procurator fiscal must—
 - (a) investigate the circumstances of the death, and
 - (b) arrange for the inquiry to be held.
- (2) An inquiry is to be conducted by a sheriff.
- (3) The purpose of an inquiry is to—
 - (a) establish the circumstances of the death, and
 - (b) consider what steps (if any) might be taken to prevent other deaths in similar circumstances.
- (4) But it is not the purpose of an inquiry to establish civil or criminal liability.
- (5) In this Act, unless the context requires otherwise—
 - (a) “inquiry” means an inquiry held, or to be held, under this Act,
 - (b) references to a “sheriff” in relation to an inquiry are to a sheriff of the sheriffdom in which the inquiry is, or is to be, held.

Commencement Information

II [S. 1](#) in force at 15.6.2017 by [S.S.I. 2017/155](#), [reg. 2](#) (with [reg. 5](#))

Changes to legislation: There are currently no known outstanding effects for the *Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016*. (See end of Document for details)

Inquiries into deaths occurring in Scotland

2 Mandatory inquiries

- (1) An inquiry is to be held into the death of a person which—
 - (a) occurred in Scotland, and
 - (b) is within subsection (3) or (4).
- (2) Subsection (1) is subject to section 3.
- (3) The death of a person is within this subsection if the death was the result of an accident which occurred—
 - (a) in Scotland, and
 - (b) while the person was acting in the course of the person's employment or occupation.
- (4) The death of a person is within this subsection if, at the time of death, the person was—
 - (a) in legal custody, or
 - (b) a child required to be kept or detained in secure accommodation.
- (5) For the purposes of subsection (4)(a), a person is in legal custody if the person is—
 - (a) required to be imprisoned or detained in a penal institution,
 - (b) in police custody, within the meaning of section 64 of the Criminal Justice (Scotland) Act 2016,
 - (c) otherwise held in custody on court premises,
 - (d) required to be detained in service custody premises.
- (6) For the purposes of subsections (4)(b) and (5)(a) and (d), it does not matter whether the death occurred in secure accommodation, a penal institution or, as the case may be, service custody premises.
- (7) In this section—

“penal institution” means any—

 - (a) prison (including a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989), other than a naval, military or air force prison,
 - (b) remand centre, within the meaning of section 19(1)(a) of that Act,
 - (c) young offenders institution, within the meaning of section 19(1)(b) of that Act,

“secure accommodation” means accommodation provided in a residential establishment, approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010, for the purpose of restricting the liberty of children,

“service custody premises” has the meaning given by section 300(7) of the Armed Forces Act 2006.

Commencement Information

I2 S. 2 in force at 15.6.2017 by S.S.I. 2017/155, reg. 2 (with reg. 5)

Changes to legislation: There are currently no known outstanding effects for the *Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016*. (See end of Document for details)

3 Mandatory inquiries: exceptions

- (1) The Lord Advocate may decide that an inquiry is not to be held into the death of a person within section 2(3) or (4) if satisfied that the circumstances of the death have been sufficiently established during the course of proceedings of a kind mentioned in subsection (2).
- (2) The proceedings referred to in subsection (1) are—
- (a) criminal proceedings,
 - (b) an inquiry under section 17(2) of the Gas Act 1965 (accidents),
 - (c) an inquiry under section 14(2A) of the Health and Safety at Work etc. Act 1974 (power of the Health and Safety Executive to direct investigations and inquiries),
 - (d) an inquiry under section 1 of the Inquiries Act 2005 (power to establish inquiry),
 - (e) an inquiry under section 85(1) of the Energy Act 2013 (inquiries).

^{F1}(3)

Textual Amendments

- F1** S. 3(3) repealed (15.6.2017) by [The Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016](#) (S.I. 2016/1142), arts. 1(2), **2(2)**; [S.S.I. 2017/155](#), reg. 2

Modifications etc. (not altering text)

- C1** S. 3(1) applied (15.6.2017) by [The Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016](#) (S.I. 2016/1142), arts. 1(2), **2(1)**; [S.S.I. 2017/155](#), reg. 2

Commencement Information

- I3** S. 3 in force at 15.6.2017 by [S.S.I. 2017/155](#), **reg. 2** (with [reg. 5](#))

4 Discretionary inquiries

- (1) An inquiry is to be held into the death of a person which occurred in Scotland if the Lord Advocate—
- (a) considers that the death—
 - (i) was sudden, suspicious or unexplained, or
 - (ii) occurred in circumstances giving rise to serious public concern, and
 - (b) decides that it is in the public interest for an inquiry to be held into the circumstances of the death.
- (2) Subsection (1) does not apply to a death within section 2(3) or (4).

Commencement Information

- I4** S. 4 in force at 15.6.2017 by [S.S.I. 2017/155](#), **reg. 2** (with [reg. 5](#))

Changes to legislation: There are currently no known outstanding effects for the *Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016*. (See end of Document for details)

5 Certain deaths and accidents to be treated as occurring in Scotland

- (1) For the purposes of sections 2 and 4, the death of a person, or an accident, is to be treated as having occurred in Scotland if it occurred—
 - (a) in connection with an activity falling within section 11(2) of the Petroleum Act 1998 (application of civil law to offshore activities), and
 - (b) in a relevant area.
- (2) In subsection (1)(b), “relevant area” means an area in respect of which it is provided by Order in Council under section 11(1) of the Petroleum Act 1998 that questions arising out of acts or omissions taking place in the area are to be determined in accordance with the law in force in Scotland.

Commencement Information

I5 [S. 5](#) in force at 15.6.2017 by [S.S.I. 2017/155](#), [reg. 2](#) (with [reg. 5](#))

Inquiries into deaths occurring abroad

6 Inquiries into deaths occurring abroad: general

- (1) Subsection (3) applies to the death of a person if—
 - (a) the death occurred outwith the United Kingdom, and
 - (b) at the time of death, the person was ordinarily resident in Scotland.
- (2) But that subsection does not apply to the death of a person within section 12(2) or (3) of the Coroners and Justice Act 2009 (investigation in Scotland of deaths of service personnel abroad).
- (3) An inquiry is to be held into a death to which this subsection applies if the Lord Advocate—
 - (a) considers that the death—
 - (i) was sudden, suspicious or unexplained, or
 - (ii) occurred in circumstances giving rise to serious public concern,
 - (b) considers that the circumstances of the death have not been sufficiently established in the course of an investigation in relation to the death,
 - (c) considers that there is a real prospect that those circumstances would be sufficiently established in an inquiry, and
 - (d) decides that it is in the public interest for an inquiry to be held into the circumstances of the death.

Commencement Information

I6 [S. 6](#) in force at 15.6.2017 by [S.S.I. 2017/155](#), [reg. 2](#) (with [reg. 5](#))

7 Inquiries into deaths occurring abroad: service personnel

- (1) An inquiry is to be held into the death of a person if—

Changes to legislation: There are currently no known outstanding effects for the *Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016*. (See end of Document for details)

- (a) the Lord Advocate is notified in relation to the death under section 12(4) or (5) of the Coroners and Justice Act 2009 (investigation in Scotland of deaths of service personnel abroad),
 - (b) the death is within subsection (2) or (3), and
 - (c) the Lord Advocate—
 - (i) decides that it is in the public interest for an inquiry to be held into the circumstances of the death, and
 - (ii) does not reverse that decision.
- (2) The death of a person is within this subsection if the person was, at the time of death, in custody in circumstances analogous to legal custody (as construed by reference to section 2(5)).
- (3) The death of a person is within this subsection if the Lord Advocate considers that the death—
- (a) was sudden, suspicious or unexplained, or
 - (b) occurred in circumstances giving rise to serious public concern.
- (4) But this section does not apply to a death within subsection (2) if the Lord Advocate is satisfied that the circumstances of the death have been sufficiently established in the course of any criminal proceedings against any person in respect of the death.

Commencement Information

I7 [S. 7](#) in force at 15.6.2017 by [S.S.I. 2017/155](#), [reg. 2](#) (with [reg. 5](#))

Family liaison charter

8 Family liaison charter

- (1) The Lord Advocate must prepare a family liaison charter.
- (2) A family liaison charter is a document setting out how the procurator fiscal will liaise with the family of a person in relation to whose death an inquiry may or is to be held.
- (3) In particular, the charter must set out—
 - (a) information to be made available to the family, and
 - (b) timescales for the giving of the information.
- (4) The Lord Advocate may from time to time revise the charter prepared under subsection (1).
- (5) The Lord Advocate must—
 - (a) consult such persons as the Lord Advocate considers appropriate before preparing the charter under subsection (1) or revising it under subsection (4),
 - (b) lay the charter or revised charter before the Scottish Parliament, and
 - (c) publish the charter or revised charter in such manner as the Lord Advocate considers appropriate.