



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

2016 asp 2

Inquiry procedure rules

36 Power to regulate procedure etc.

- (1) The Court of Session may by act of sederunt make provision for or about—
 - (a) the practice and procedure to be followed in inquiry proceedings,
 - (b) any matter incidental or ancillary to an inquiry.
- (2) Without limiting the generality of subsection (1), the power in that subsection includes power to make provision for or about—
 - (a) the giving of notice under section 17,
 - (b) the conduct and management of inquiry proceedings, including the use of technology,
 - (c) the form of any document to be used in, or in connection with, inquiry proceedings,
 - (d) the process by which a person becomes a participant in an inquiry,
 - (e) the representation of the procurator fiscal and participants in inquiry proceedings, including representation of participants by persons who—
 - (i) are neither solicitors nor advocates, or
 - (ii) do not have the right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,
 - (f) witnesses and evidence, including modifying the rules of evidence as they apply to an inquiry,
 - (g) action to be taken by the procurator fiscal and the participants before the start of an inquiry or a re-opened inquiry,
 - (h) the fees payable to solicitors and advocates in relation to inquiry proceedings,
 - (i) the expenses payable to persons attending inquiry proceedings,
 - (j) the appointment of assessors under section 24(1) (including their functions and the terms on which they may be appointed),
 - (k) the giving and publication of responses under section 28,

- (l) such other matters as the Court thinks necessary or appropriate for the purposes of carrying out or giving effect to the provisions of any enactment (including this Act) relating to inquiry proceedings or matters incidental or ancillary to such proceedings.
- (3) An act of sederunt under subsection (1) may make—
- (a) incidental, supplemental, consequential, transitional, transitory or saving provision,
 - (b) provision amending, repealing, or revoking any enactment (including any provision of this Act) relating to matters with respect to which an act of sederunt may be made,
 - (c) different provision for different purposes.
- (4) Before making an act of sederunt under subsection (1) with respect to any matter, the Court of Session must—
- (a) consult the Scottish Civil Justice Council, and
 - (b) take into consideration any views expressed by the Council with respect to that matter.
- (5) Subsection (4) does not apply in relation to an act of sederunt that embodies, with or without modifications, draft rules submitted by the Scottish Civil Justice Council to the Court of Session.
- (6) Schedule 1 makes further provision in relation to the regulation of the practice and procedure to be followed in inquiry proceedings.