

*These notes relate to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2) which received Royal Assent on 14 January 2016*

# INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC. (SCOTLAND) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Findings and recommendations*

#### *Section 27 – Dissemination of the sheriff’s determination*

79. [Section 27](#) confers duties on the SCTS to publish and disseminate an FAI determination once it has been made by the sheriff.
80. Subsection (1)(a) requires the SCTS to publish all FAI determinations in such manner as it considers appropriate, but it is expected that this will be done by posting on the SCTS website. Subsection (1)(b) requires the SCTS to issue a copy of the determination to the Lord Advocate, participants at the FAI, any person to whom a recommendation has been addressed and anyone else who may have an interest in any recommendation made.
81. Subsections (2) and (3) make new provision in replacement for sections 6(4)(a) and (5) of the 1976 Act respectively. Subsection (2) requires the SCTS on request to send to the people and bodies listed there: a copy of the determination, the notice given by the procurator fiscal which initiated the FAI, any transcript of the evidence which was taken and any report or documentary production used in the FAI. Any office-holder in the Scottish Administration is to be provided with that material on request, which is intended to capture the Scottish Government and also the Scottish Housing Regulator and Food Standards Scotland, all of which are part of the devolved Scottish Administration. Subsection (3) requires the SCTS to give to any other person, if requested and on payment of a fee to be set out in the FAI rules, any transcript of the evidence at the inquiry if the person has an interest in the FAI and makes the request within a timeframe set out in rules. If an interested person requests a copy of the determination, this will be available on the SCTS website and if this cannot be accessed the SCTS should provide a copy separately, for example if an alternative format were requested for reason of disability.
82. There may, however, be cases where persons should not receive all the details (for example cases involving children where identities may be irrelevant to the recipients). Subsection (5) provides that the sheriff may decide that part of the determination should not be published or should not be given to a person within subsection (1)(b)(iii) or (iv). A full copy of the determination will always be given to the Lord Advocate and participants in the FAI. It is expected that the determination will be treated in the same way as any other sensitive court judgement. The subsection gives the sheriff flexibility to redact where he or she thinks fit. The Lord President issued guidance to judicial office holders, under section 2 of the Judiciary and Courts (Scotland) Act 2008, about

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the redaction of judgments which applies in relation to FAIs as well as other judicial proceedings.<sup>1</sup>

83. Subsection (6) provides that the procurator fiscal must, after the determination has been issued, advise the Registrar General of Births, Deaths and Marriages for Scotland of the date, place and cause death and the deceased's name and last known address. This restates section 6(4)(b) of the 1976 Act.

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**1** The guidance about reporting restrictions and anonymising judgments has been issued directly to Senators and Sheriffs as part of guidance on data protection via the Judicial Hub, which is used for judicial learning and communication.