



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

## 2016 asp 2

### *Findings and recommendations*

#### **26 The sheriff's determination**

- (1) As soon as possible after the conclusion of the evidence and submissions in an inquiry, the sheriff must make a determination setting out—
  - (a) in relation to the death to which the inquiry relates, the sheriff's findings as to the circumstances mentioned in subsection (2), and
  - (b) such recommendations (if any) as to any of the matters mentioned in subsection (4) as the sheriff considers appropriate.
- (2) The circumstances referred to in subsection (1)(a) are—
  - (a) when and where the death occurred,
  - (b) when and where any accident resulting in the death occurred,
  - (c) the cause or causes of the death,
  - (d) the cause or causes of any accident resulting in the death,
  - (e) any precautions which—
    - (i) could reasonably have been taken, and
    - (ii) had they been taken, might realistically have resulted in the death, or any accident resulting in the death, being avoided,
  - (f) any defects in any system of working which contributed to the death or any accident resulting in the death,
  - (g) any other facts which are relevant to the circumstances of the death.
- (3) For the purposes of subsection (2)(e) and (f), it does not matter whether it was foreseeable before the death or accident that the death or accident might occur—
  - (a) if the precautions were not taken, or
  - (b) as the case may be, as a result of the defects.
- (4) The matters referred to in subsection (1)(b) are—
  - (a) the taking of reasonable precautions,
  - (b) the making of improvements to any system of working,

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**Changes to legislation:** *Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, Section 26 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (c) the introduction of a system of working,
  - (d) the taking of any other steps,
- which might realistically prevent other deaths in similar circumstances.
- (5) A recommendation under subsection (1)(b) may (but need not) be addressed to—
- (a) a participant in the inquiry,
  - (b) a body or office-holder appearing to the sheriff to have an interest in the prevention of deaths in similar circumstances.
- (6) A determination is not admissible in evidence, and may not be founded on, in any judicial proceedings of any nature.

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**Commencement Information**

**II** S. 26 in force at 15.6.2017 by [S.S.I. 2017/155](#), **reg. 2** (with [reg. 5](#))

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A and cross-heading inserted by [2023 c. 41 Sch. 11 para. 3\(1\)](#)
- Sch. A1 inserted by [2023 c. 41 Sch. 11 para. 3\(2\)](#)