

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Inquiries into deaths occurring abroad

Section 7 – Inquiries into deaths occurring abroad: service personnel

33. **Section 7** restates section 1A of the 1976 Act which was inserted by section 12 of the Coroners and Justice Act 2009. Those provisions were inserted following a Legislative Consent Motion agreed to by the Scottish Parliament on 21 May 2009¹. Section 12 permits the Secretary of State or the Chief Coroner to notify the Lord Advocate if it is considered that it is appropriate for the death abroad of armed forces service personnel, or of a civilian subject to service discipline who was accompanying service personnel who were engaged in active service, to be the subject of an FAI rather than a coroner's inquest. This will normally be where the deceased was domiciled in Scotland.
34. Section 7 of the 2016 Act makes provision for an FAI to be held into such a death if it occurs while the person is in legal custody, or is sudden, suspicious or unexplained, or occurs in circumstances giving rise to serious public concern. This includes a death abroad whilst detained abroad in premises analogous to service custody premises as defined under the Armed Forces Act 2006.
35. An FAI will be held if the Lord Advocate decides that it is in the public interest so to do. Subsection (4) means that no FAI can be held if the Lord Advocate is satisfied that the circumstances of the death have been sufficiently established in criminal proceedings. An FAI into a death within this section will proceed in the same way as any other FAI under the 2016 Act.

¹ For details of the legislative consent process see <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/16067.aspx>.