
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 103

Act of Sederunt (Fatal Accident Inquiry Rules) 2017

PART 2
OVERVIEW

The structure of an inquiry

2.1. An inquiry proceeds as follows—

- (a) the procurator fiscal begins the procedure by sending the sheriff first notice of the inquiry (see rule 3.1);
- (b) the sheriff makes a first order and other participants become involved in the inquiry (see rules 3.2 to 3.5);
- (c) the sheriff normally holds one or more preliminary hearings, to make sure that the inquiry is ready to start (see rules 3.6 to 3.8);
- (d) the sheriff may make orders about the presentation of information and the participants will notify each other and the sheriff of the information they intend to present at the inquiry (see Part 4);
- (e) the inquiry is held, with the sheriff presiding (see Part 5); and
- (f) the sheriff produces a determination (see Part 6).

The inquiry principles

2.2.—(1) An inquiry is inquisitorial not adversarial.

(2) An inquiry is to be progressed expeditiously and efficiently, with as few delays as possible.

(3) Taking into account the nature and complexity of the inquiry—

- (a) the procedure at an inquiry is to be as flexible as appropriate; and
- (b) the manner in which information is presented is to be as efficient as possible.

(4) All participants are to be able to participate effectively in furthering the purpose of the inquiry.

Taking into account the inquiry principles

2.3.—(1) The sheriff must take into account the inquiry principles when—

- (a) interpreting these Rules; and
- (b) making any orders.

(2) Participants and representatives must respect the inquiry principles by—

- (a) taking into account the inquiry principles when seeking an order; and
- (b) assisting the sheriff with the duty in paragraph (1).

Representation and support

2.4.—(1) A participant other than the procurator fiscal may—

- (a) appear on the participant's own behalf;
- (b) be represented by a solicitor, an advocate, or both;
- (c) with the permission of the sheriff, be represented by a lay representative;
- (d) with the permission of the sheriff, be supported by a lay supporter.

(2) Where a solicitor or lay representative withdraws from acting on behalf of a participant, the solicitor or lay representative must lodge a notice of withdrawal.

Judicial continuity

2.5. Where possible, the same sheriff is to—

- (a) consider the first notice and make the first order;
- (b) preside at all preliminary hearings; and
- (c) preside at the inquiry.

The inquiry management powers

2.6.—(1) The sheriff may make any order necessary to further the purpose of an inquiry, including—

- (a) an order made to assist the sheriff to identify which issues are in dispute, such as an order—
 - (i) fixing a hearing and specifying a purpose for that hearing;
 - (ii) requiring participants to disclose the existence and nature of any information they hold relating to the inquiry;
 - (iii) requiring participants to lodge particular documents or other items, or to lead particular witnesses;
 - (iv) restricting the documents or other items which a participant may present, or the witnesses a participant may lead;
 - (v) granting authority to recover documents or other items relating to the inquiry;
 - (b) an order made to allow the sheriff to manage time efficiently, such as an order—
 - (i) imposing a time limit on any step to be taken by a participant;
 - (ii) varying a deadline or time limit set out in these Rules;
 - (c) dealing with a participant's non-compliance with a rule or order, such as an order—
 - (i) requiring that participant to take a step as a consequence of not complying with a rule or order;
 - (ii) relieving the participant from the consequences of not complying with a rule or order;
 - (iii) imposing conditions on any relief from non-compliance.
- (2) The sheriff may make orders—
- (a) of the sheriff's own accord; or
 - (b) on the application of a participant.