
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 103

Act of Sederunt (Fatal Accident Inquiry Rules) 2017

PART 4

INFORMATION

Witnesses and productions

Citation of witnesses

4.3.—(1) The order which fixes a date for the start of the inquiry is warrant for the citation of witnesses by participants.

(2) A participant only needs to cite a witness to appear at the inquiry if the participant is otherwise unable to ensure that witness's appearance.

(3) A participant may cite a witness by—

- (a) intimating a citation in Form 4.1A on that witness at least 7 days before the date fixed for the start of the inquiry; and
- (b) lodging a certificate of citation in Form 4.1B.

(4) Where a properly cited witness fails to answer that citation, the sheriff may—

- (a) grant warrant for the apprehension of the witness and for bringing the witness to the inquiry;
- (b) order the witness to make a payment to a participant.

(5) A solicitor who cites a witness is liable for that witness's fees and expenses.

(6) Where a participant is not represented by a solicitor, that participant must—

- (a) apply to the sheriff to fix caution in such sum as the sheriff considers reasonable having regard to the number of witnesses the participant proposes to cite and the period for which they may be required to attend the inquiry; and
- (b) before citing a witness, find caution for such expenses as can reasonably be anticipated to be incurred by the witness in answering the citation.

(7) Where a participant who is not represented by a solicitor does not intend to cite all the witnesses referred to in the application to fix caution, that participant may apply to the sheriff for variation of the amount of caution.

Gathering information

4.4. Once the sheriff has made the first order, a participant may gather information for use in an inquiry in accordance with schedule 5.

Oath and affirmation

4.5. The sheriff may administer either the oath or affirmation to a witness.

Lodging productions

4.6.—(1) All productions which a participant intends to present to an inquiry must be lodged by the date ordered by the sheriff.

(2) A participant may only present a production which has not been lodged with the leave of the sheriff.

(3) A copy of every documentary production must be lodged for the use of the sheriff no later than 7 days before the start of the inquiry.

(4) Any productions which have been borrowed must be returned no later than 2 days before the start of the inquiry.

Witness lists

4.7.—(1) A list of witnesses must be lodged by the date ordered by the sheriff.

(2) A participant may only present a witness who is not listed with the leave of the sheriff.

Recording of the inquiry

4.8.—(1) The information presented at the inquiry is to be recorded by any means ordered by the sheriff.

(2) Under section 27(3) (transcript of evidence at the inquiry), SCTS must give a person a copy of any transcript if that person makes the request within 28 days following the date of the sheriff's determination.

(3) The transcript will be provided to that person upon payment of a fee of—

(a) where a transcript has to be made, £1.61 for each minute that has to be transcribed; or

(b) where a transcript has already been made—

(i) £6.00 for a photocopy of a transcript up to 10 pages; and

(ii) £0.50 for each page in excess of 10 pages.

(4) Where more than one person makes a request within 28 days following the date of the sheriff's determination, the sheriff may make an order about how the fee payable under paragraph (2) is to be divided between them.

Vulnerable witnesses

4.9. Schedule 6 makes provision about vulnerable witnesses.