

## **POLICY NOTE**

### **THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC. (SCOTLAND) ACT 2016 (CONSEQUENTIAL PROVISIONS) REGULATIONS 2017**

#### **SSI 2017/156**

The above instrument (the “Consequential Regulations”) is made in exercise of the powers conferred by sections 41(1) and (2) of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (“the 2016 Act”) and all other powers enabling them to do so. The Consequential Regulations are subject to the negative procedure.

#### **Background**

The 2016 Act received Royal Assent on 14 January 2016. It provides a framework for the implementation of most of the recommendations of the Review of Fatal Accident Inquiry (“FAI”) Legislation carried out by Lord Cullen of Whitekirk. The overarching aim of the 2016 Act is to reform and modernise the law governing the holding of FAIs in Scotland. The 2016 Act entirely replaces the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (the “1976 Act”).

#### **Policy Objectives**

The Consequential Regulations make a number of changes to secondary legislation that are consequential to the commencement of the 2016 Act. Separate Commencement Regulations (the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Commencement No. 3 , Transitional and Saving Provisions) Regulations 2017) provide for commencement, transitional and saving arrangements.

Articles 2, 4 and 7 revoke the Fatal Accidents and Sudden Deaths Inquiry Procedure (Scotland) Rules 1977 and amending instruments.

Articles 3 and 6 amend other instruments to replace references to the 1976 Act with reference to the 2016 Act.

Article 6 repeals a redundant transfer of functions provision relating to the 1976 Act.

Because the Commencement Regulations referred to save the 1976 Act for certain purposes, described in the Policy Note for those regulations, none of the consequential modifications referred to apply to FAIs to which the 1976 Act continues to apply. Where the 1976 Act applies to a FAI the Fatal Accidents and Sudden Deaths Inquiry Procedure (Scotland) Rules 1977 will also apply.

Similar consequential modifications are set out in schedule 2 of the 2016 Act and in the schedule of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 and the saving arrangements referred to apply to those modifications in the same manner as provided for in the Consequential Regulations.

## **Commencement**

The Consequential Regulations come into force on 15 June 2017 which is the date of full commencement of the 2016 Act prescribed in the Commencement Regulations.

## **Consultation**

The Crown Office and Procurator Fiscal Service have been consulted. No formal consultation has taken place on the Regulations as they are being made as a consequence of the 2016 Act which has already been the subject of a consultation exercise.

The Government consulted on the Bill in the summer of 2014. The consultation can be viewed on the Scottish Government website at:

<http://www.gov.scot/Publications/2014/07/6772>

The analysis of consultation responses can be viewed on the Scottish Government website at:

<http://www.gov.scot/Publications/2014/11/2861>

## **Impact assessments**

An Equality Impact Assessment (EQIA) for the Bill was published on the Scottish Government website at <http://www.gov.scot/Publications/2015/04/6163> and the Bill was found to have no significant effects in relation to the protected characteristics.

No other impact assessments are required in respect of these Regulations.

## **Financial effects**

Responses to the consultation and meetings with stakeholders indicated that the Bill would have only a minimal financial impact on organisations. Business or consumer groups did not respond to the consultation despite being sent a notification. It is assumed that they consider that they will not be affected by the Bill.

A Business and Regulatory Impact Assessment (BRIA) was not considered necessary because changes in the Bill to the current system will not affect business except in the very exceptional circumstances that they may be obliged to respond to a sheriff's recommendation. Any additional costs for public sector organisations will also only relate to responding to sheriffs' recommendations.

Scottish Government  
Courts Reform Team  
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