



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

2016 asp 2

Pre-inquiry procedure

15 Initiating the inquiry

- (1) Where an inquiry is to be held into the death of a person, the procurator fiscal must give the sheriff notice that the inquiry is to be held.
- (2) A notice under subsection (1) must include—
 - (a) a brief account of the circumstances of the death so far as known to the procurator fiscal, and
 - (b) any other information required by an act of sederunt under section 36(1).
- (3) On receiving notice under subsection (1), the sheriff must make an order—
 - (a) fixing—
 - (i) a date and place for the holding of a preliminary hearing in accordance with section 16 (if one is to be held), and
 - (ii) a date for the start of the inquiry and the place at which it is to be held, and
 - (b) granting warrant for the procurator fiscal and the participants in the inquiry to cite persons to attend and give evidence at the inquiry.
- (4) But the sheriff need not fix a date for the start of the inquiry (and the place at which it is to be held) in the order if—
 - (a) a preliminary hearing is to be held, and
 - (b) the sheriff considers that it is not appropriate to fix the date before that hearing.
- (5) The sheriff may make an order varying a date or place fixed in an order under subsection (3).
- (6) The sheriff must, when fixing a date for the start of the inquiry, have regard to the desirability of holding the inquiry as soon as is reasonably practicable.

16 Preliminary hearings

- (1) At least one preliminary hearing is to be held before the start of an inquiry unless the sheriff dispenses with that requirement in accordance with provision made in an act of sederunt under section 36(1).
- (2) Subsection (3) applies where the sheriff dispenses with the requirement to hold a preliminary hearing.
- (3) The sheriff may subsequently make an order—
 - (a) for the holding of such a hearing, and
 - (b) fixing the date and place for it to be held.
- (4) Provision is to be made in an act of sederunt under section 36(1) about—
 - (a) matters to be dealt with at a preliminary hearing under this Act,
 - (b) things that the procurator fiscal and the participants in the inquiry must do before such a hearing.

17 Notice of the inquiry

- (1) After the sheriff makes an order under section 15(3) in relation to an inquiry, the procurator fiscal must give notice to the persons mentioned in subsection (2) of the following matters—
 - (a) the fact that the inquiry is to be held, and
 - (b) if fixed in the order—
 - (i) the date and place for the holding of the preliminary hearing,
 - (ii) the date for the start of the inquiry and the place at which it is to be held.
- (2) The persons referred to in subsection (1) are—
 - (a) a person appearing to the procurator fiscal to be entitled to participate in the inquiry under section 11(1)(a) to (d), and
 - (b) any other person specified, or in a category of persons specified, in an act of sederunt under section 36(1).
- (3) The procurator fiscal must also give public notice of the matters specified in subsection (1)(a) and (b).
- (4) Subsection (5) applies where the sheriff makes an order under section 15(5).
- (5) The procurator fiscal must—
 - (a) give notice to the persons mentioned in subsection (2) of the new date or, as the case may be, place fixed in the order, and
 - (b) give public notice of that fact.
- (6) Subsection (7) applies where the sheriff makes an order under section 16(3).
- (7) The procurator fiscal must—
 - (a) give notice to the persons mentioned in subsection (2) of the following matters—
 - (i) the fact that a preliminary hearing is to be held, and
 - (ii) the date and place fixed for the holding of the hearing, and
 - (b) give public notice of those matters.

18 Agreement of facts before an inquiry

- (1) Provision is to be made in an act of sederunt under section 36(1) about the agreement, by the procurator fiscal and the participants in an inquiry, of any facts of a kind mentioned in subsection (2) before the start of the inquiry.
- (2) The facts referred to in subsection (1) are facts—
 - (a) in relation to which the procurator fiscal or a participant intends to bring forward evidence at the inquiry, and
 - (b) which the procurator fiscal or, as the case may be, participant considers are unlikely to be disputed at the inquiry.