

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 certain deaths

Section 1 - Inquiries under this Act

18. Subsection (1) provides that where an FAI is to be held into a death, it is the duty of the procurator fiscal to investigate the death, and arrange for an FAI to be held into it. Subsection (2) provides that the FAI is to be conducted by a sheriff as defined in subsection (5)(b). Subsection (3) makes it clear that the purpose of an FAI is to establish the circumstances of the death and to consider whether any precautions could be taken which may prevent other deaths in similar circumstances. Subsection (4) makes it clear that it is not the purpose of FAIs to establish civil or criminal liability. They are not adversarial hearings and are not designed to be like civil litigation. Nor have they any connection to criminal proceedings. The definition of sheriff in subsection (5)(b) means that when the 2016 Act refers to a sheriff it is referring to a sheriff of the sheriffdom in which the FAI is, or is to be, held. Section 13 makes provision about where the FAI is to be held. The powers of the sheriff can also be exercised by a summary sheriff, given the effect of section 38 of the 2016 Act, and the reference to sheriff also includes the sheriff principal given the effect of section 134(2) of the Courts Reform (Scotland) Act 2014.