

# **INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC. (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Findings and recommendations***

#### ***Section 28 – Compliance with sheriff’s recommendations***

84. Subsection (1) requires a person to whom a sheriff has made a recommendation to provide the SCTS with a written response to that recommendation if he or she was a participant in the inquiry. In any other case, the person may choose to respond voluntarily.
85. Under subsection (2) the respondent must state—
  - what the respondent has done or proposes to do in response to the sheriff’s recommendation; or
  - if the respondent has not done and does not intend to do anything in response to the recommendation, their reasons for that.
86. Under subsection (3), the respondent should reply within eight weeks of receipt of a copy of the determination. If the person does not respond to the determination with that period, there will be no sanction as such – the incentive for parties to respond would be that a lack of response or lack of good reasons for not implementing the recommendation would become public knowledge, thus promoting accountability and transparency. A person responding will have the opportunity to make representations to the SCTS that all or part of the response should be withheld (subsection (4)).
87. The SCTS will publish the response alongside the original determination, subject to such redaction as is considered appropriate taking into account any representations from the respondent and any other reason (such as data protection law). Where a response has been partly withheld from publication, the SCTS must publish a notice explaining that fact (subsection (5)(b)). Where a response has been completely withheld from publication – which may only be done if representations are made to that effect – the SCTS must publish a notice explaining that fact (subsection (5)(c)). If no response is received, the SCTS will publish a note to that effect alongside the original determination (subsection (7)).
88. Subsection (9) provides that responses to recommendations are inadmissible in evidence and cannot be founded on in other judicial proceedings.