

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 deaths occurring abroad

Section 6 – Inquiries into deaths occurring abroad: general

31. **Section 6** permits an FAI to be held into a death of a person ordinarily resident in Scotland, if the death occurs outwith the United Kingdom (subsection (1)). Until now it has only been possible to hold an FAI into a death which occurred or is treated as having occurred in Scotland (other than the deaths of service personnel). Section 6 does not apply to deaths in England, Wales and Northern Ireland as such deaths continue to be subject to the system of coroners' inquests in those countries (see the use of the words "outwith the United Kingdom" in subsection (1)(a)). The effect of subsection (2) is that this section does not apply to deaths of service personnel abroad, which are dealt with in section 7.
32. Subsection (3) sets out the criteria for the Lord Advocate's discretion to decide if an FAI should be held into such a death. As for other discretionary FAIs, the Lord Advocate will consider whether the death was either sudden, suspicious or unexplained, or occurred in circumstances giving rise to serious public concern. The Lord Advocate must also consider whether the circumstances of the death have already been established in the course of an investigation by the appropriate authorities in the country where the death occurred, and whether there is a real prospect that those circumstances would be sufficiently established in an FAI. The FAI will only be held if the Lord Advocate decides that it is in the public interest to investigate the circumstances of the death. An FAI into a death within this section will proceed in the same way as any other FAI under the 2016 Act.