

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

Participants

Section 11 – Persons who may participate in the inquiry

39. **Section 11** specifies the people who may participate in an FAI in addition to the procurator fiscal. The provisions in this section have been updated to capture modern relationships as the 1976 Act does not include civil or cohabiting partners. There may be circumstances where the deceased may not have been living with a spouse or civil partner at the time of death and may instead have been cohabiting with another person. This provision gives a cohabitee in such circumstances the right to participate in the FAI. The 2016 Act's description in section 11(1)(b) of a person living with A as if married to A at the time of A's death includes a same sex couple living together.
40. The provisions preserve the effect of section 4(2) of the 1976 Act providing that, where the FAI concerns a death at work, an inspector appointed under section 19 (appointment of person inspectors) of the Health and Safety at Work etc. Act 1974 may also be a participant if he or she so chooses.
41. **Section 11(1)(d)(iii)** entitles a trade union or similar body to participate in mandatory FAIs held under section 2(3) (death in the course of employment or occupation) but only if the deceased was a member of the trade union or body and it represents the interests of workers in connection with the employment or occupation concerned.