



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

2016 asp 2

The inquiry

19 The powers of the sheriff

- (1) The sheriff has all such powers in relation to inquiry proceedings as a sheriff, under the law of Scotland, inherently possesses for the purposes of the discharge of the sheriff's jurisdiction and competence and giving full effect to the sheriff's decisions in civil proceedings.
- (2) Subsection (1) is subject to—
 - (a) the other provisions of this Act,
 - (b) provision made in an act of sederunt under section 36(1).

20 Evidence and witnesses

- (1) At an inquiry—
 - (a) the procurator fiscal must bring forward evidence relating to the circumstances of the death to which the inquiry relates,
 - (b) a participant in the inquiry may bring forward such evidence.
- (2) Without limiting subsection (1), the sheriff may require the procurator fiscal or a participant in the inquiry to bring forward evidence about any matter relating to the circumstances of the death.
- (3) The rules of evidence which apply in relation to civil proceedings in the sheriff court (other than a simple procedure case) apply in relation to an inquiry.
- (4) Subsection (3) is subject to provision made in an act of sederunt under section 36(1).
- (5) The examination of a person at an inquiry does not prevent criminal proceedings being taken against the person.
- (6) A person is not required at an inquiry to answer a question tending to show that the person is guilty of an offence.

- (7) In subsection (3), “simple procedure case” has the same meaning as in section 72(9) of the Courts Reform (Scotland) Act 2014.

21 Inquiry to be conducted in public

- (1) Inquiry proceedings are to be conducted in public.
- (2) But the sheriff may order that such proceedings (or any part of them) are to be conducted in private.
- (3) The sheriff may make an order under subsection (2)—
 - (a) on the sheriff’s own initiative, or
 - (b) on the application of the procurator fiscal or a participant in the inquiry.

22 Publishing restrictions in relation to children

- (1) Subsection (2) applies where a child is involved in an inquiry.
- (2) The sheriff may order that no person may publish any material by which the child may be identified in connection with the inquiry.
- (3) Such material includes (but is not limited to)—
 - (a) the child’s name or address,
 - (b) the name of a school attended by the child,
 - (c) a picture of the child.
- (4) The sheriff may make an order under subsection (2)—
 - (a) on the sheriff’s own initiative, or
 - (b) on the application of the procurator fiscal or a participant in the inquiry.
- (5) A person who fails to comply with an order under subsection (2) commits an offence.
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) It is a defence for a person charged with an offence under subsection (5) to show that the person did not know or have reason to believe that the publication of the material would identify the child in connection with the inquiry.
- (8) In this section—

“material” means anything that is capable of being read, looked at, watched or listened to, either directly or after conversion from data stored in another form,

“publish” includes in particular—

 - (a) to publish in a programme service, as defined by section 201 of the Broadcasting Act 1990,
 - (b) to cause to be published.

23 Offences by bodies corporate etc.

- (1) Subsection (2) applies where—
 - (a) an offence under section 22(5) has been committed by—
 - (i) a body corporate,

- (ii) a Scottish partnership, or
 - (iii) an unincorporated association other than a Scottish partnership, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—
 - (i) a relevant individual, or
 - (ii) an individual purporting to act in the capacity of a relevant individual.
- (2) The individual (as well as the body corporate, partnership or, as the case may be, association) commits the offence and is liable to be proceeded against and punished accordingly.
- (3) In subsection (1)(b), “relevant individual” means—
 - (a) in relation to a body corporate (other than a limited liability partnership)—
 - (i) a director, manager, secretary or similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, a member,
 - (b) in relation to a limited liability partnership, a member,
 - (c) in relation to a Scottish partnership, a partner,
 - (d) in relation to an unincorporated association other than a Scottish partnership, an individual who is concerned in the management or control of the association.

24 Assessors

- (1) The sheriff may appoint a person (an “assessor”) to assist the sheriff in an inquiry.
- (2) The sheriff may appoint a person as an assessor if the sheriff considers that the person has knowledge and expertise in matters that are relevant to the inquiry.
- (3) The sheriff may make an appointment under subsection (1)—
 - (a) on the sheriff’s own initiative, or
 - (b) on the application of the procurator fiscal or a participant in the inquiry.

25 Expenses

The sheriff may not make any award of expenses in relation to inquiry proceedings.