



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

2016 asp 2

Findings and recommendations

26 The sheriff's determination

- (1) As soon as possible after the conclusion of the evidence and submissions in an inquiry, the sheriff must make a determination setting out—
 - (a) in relation to the death to which the inquiry relates, the sheriff's findings as to the circumstances mentioned in subsection (2), and
 - (b) such recommendations (if any) as to any of the matters mentioned in subsection (4) as the sheriff considers appropriate.
- (2) The circumstances referred to in subsection (1)(a) are—
 - (a) when and where the death occurred,
 - (b) when and where any accident resulting in the death occurred,
 - (c) the cause or causes of the death,
 - (d) the cause or causes of any accident resulting in the death,
 - (e) any precautions which—
 - (i) could reasonably have been taken, and
 - (ii) had they been taken, might realistically have resulted in the death, or any accident resulting in the death, being avoided,
 - (f) any defects in any system of working which contributed to the death or any accident resulting in the death,
 - (g) any other facts which are relevant to the circumstances of the death.
- (3) For the purposes of subsection (2)(e) and (f), it does not matter whether it was foreseeable before the death or accident that the death or accident might occur—
 - (a) if the precautions were not taken, or
 - (b) as the case may be, as a result of the defects.
- (4) The matters referred to in subsection (1)(b) are—
 - (a) the taking of reasonable precautions,
 - (b) the making of improvements to any system of working,

- (c) the introduction of a system of working,
 - (d) the taking of any other steps,
- which might realistically prevent other deaths in similar circumstances.
- (5) A recommendation under subsection (1)(b) may (but need not) be addressed to—
- (a) a participant in the inquiry,
 - (b) a body or office-holder appearing to the sheriff to have an interest in the prevention of deaths in similar circumstances.
- (6) A determination is not admissible in evidence, and may not be founded on, in any judicial proceedings of any nature.