

1977 No. 191 (S.29)

SHERIFF, SCOTLAND

**The Fatal Accidents and Sudden Deaths Inquiry Procedure
(Scotland) Rules 1977**

Made - - - - 7th February 1977

Coming into Operation 1st March 1977

In exercise of the powers conferred on me by section 7(1) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976(a) and of all other powers enabling me in that behalf I hereby make the following rules:—

Citation and commencement

1. These rules may be cited as the Fatal Accidents and Sudden Deaths Inquiry Procedure (Scotland) Rules 1977 and shall come into operation on 1st March 1977.

Interpretation

2.—(1) In these rules, unless the context otherwise requires,—

“the Act” means the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976(a);

“inquiry” means an inquiry under the Act;

“officer of law” has the meaning assigned to it by section 462 of the Criminal Procedure (Scotland) Act 1975(b);

“procurator fiscal” has the meaning assigned to it by section 462 of the Criminal Procedure (Scotland) Act 1975;

“sheriff clerk” includes sheriff clerk depute and any person duly authorised to execute the duties of sheriff clerk.

(2) In these rules, unless the context otherwise requires, a reference to any enactment shall be construed as a reference to that enactment as amended or re-enacted by any subsequent enactment.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

Application for holding of inquiry

3. The application for the holding of an inquiry in accordance with section 1(1) of the Act and the sheriff's first warrant thereon shall be in the case of such a death as is referred to in section 1(1)(a) of the Act in the form as nearly as may be of Form 1 of the Schedule to these rules, and in the case of such a death as is referred to in section 1(1)(b) of the Act in the form as nearly as may be of Form 2 of the said Schedule.

(a) 1976 c. 14.

(b) 1975 c. 21.

(c) 1889 c. 63.

Notice of holding of inquiry

4.—(1) Intimation of the holding of an inquiry in accordance with section 3(2)(a) of the Act shall be made by notice in writing in the form as nearly as may be of Form 3 of the Schedule to these rules, given not less than twenty-one days before the date of the inquiry.

(2) Such notice shall be given to the following persons, besides those specified in the said section 3(2)(a),—

- (a) in the case of such a death as is referred to in section 1(1)(a)(i) of the Act, to the Health and Safety Commission;
- (b) in the case of such a death as is referred to in section 1(1)(a)(ii) of the Act, to any Minister, Government Department or other authority in whose legal custody the person who has died was at the time of his death;
- (c) in the case of a death occurring in the circumstances specified in section 9 of the Act, or a death resulting from an accident occurring in those circumstances, to the Secretary of State for Energy;
- (d) in any case where it is competent for a Minister or Government Department under any statute other than the Act to cause public inquiry to be made into the circumstances of the death, to such Minister or Government Department.

(3) Public notice of the holding of an inquiry in accordance with section 3(2)(b) of the Act shall be given by publishing in at least two newspapers circulating in the sheriff court district where the inquiry is to be held, not less than twenty-one days before the date of the inquiry, an advertisement in the form as nearly as may be of Form 4 of the Schedule to these rules.

Custody of productions

5. The sheriff may at the time of making an order for the holding of an inquiry or at any time thereafter, upon the application of the procurator fiscal or of any other person entitled to appear at the inquiry or at his own instance, grant warrant to officers of law to take possession of anything connected with the death which is the subject of inquiry and which it may be considered necessary to produce at the inquiry and to hold any such thing in safe custody, subject to inspection by any persons interested.

Inspection of land, premises, etc.

6. The sheriff may at the time of making an order for the holding of an inquiry or at any time thereafter, upon the application of the procurator fiscal or of any other person entitled to appear at the inquiry or at his own instance, inspect or grant warrant for any person to inspect any land, premises, article or other thing the inspection of which the sheriff considers desirable for the purposes of the inquiry.

Representation

7.—(1) The procurator fiscal may appear on his own behalf at an inquiry or be represented by an assistant or depute procurator fiscal or by Crown Counsel.

(2) Any person entitled to appear at an inquiry in terms of section 4(2) of the Act may appear on his own behalf or be represented by an advocate or a solicitor or, with the leave of the sheriff, by any other person.

Citation of witnesses or havers

8. The citation of a witness or haver to appear at an inquiry shall be in the form as nearly as may be of Form 5 of the Schedule to these rules, and an execution of citation in the form as nearly as may be of Form 6 of the said Schedule shall be sufficient evidence of such citation.

Adjournment of inquiry

9. The sheriff may at any time adjourn the inquiry to a time and place specified by him at the time of adjournment.

Written statements

10.—(1) The sheriff may admit in place of oral evidence by any person in an inquiry, to the like extent as such oral evidence, a written statement by that person signed by that person and sworn or affirmed to be true by that person before a notary public, commissioner for oaths or justice of the peace, or before a commissioner appointed by the sheriff for that purpose:

Provided that such a statement may only be admitted if—

- (a) all persons who appear or are represented at the inquiry agree to its admission; or
- (b) the sheriff considers that its admission will not result in unfairness in the conduct of the inquiry to any person who appears or is represented at the inquiry.

(2) A certificate that the statement has been so sworn and affirmed, annexed to the statement and signed by the person making the statement and by the person before whom it is sworn or affirmed, shall be sufficient evidence that it has been so sworn or affirmed.

(3) Any statement which is admitted in evidence by virtue of this rule shall, unless the sheriff otherwise directs, be read aloud at the inquiry; and where the sheriff directs that a statement or any part of it shall not be read aloud he shall state his reason for so directing and, where appropriate, an account shall be given orally of what the sheriff has directed not to be read aloud.

(4) Any document or object referred to as a production and identified in a written statement tendered in evidence under this rule shall be treated as if it had been produced and had been identified in court by the maker of the statement.

Sheriff's determination

11.—(1) The sheriff's determination shall be in writing and shall be signed by him.

(2) The sheriff's determination shall, except in the circumstances specified in paragraph (3) of this rule, be read out by him in public.

(3) Where the sheriff requires time to prepare his determination and considers that in the circumstances it is not reasonable to fix an adjourned sitting of the inquiry for the sole purpose of reading out the determination, the sheriff shall not be required to read out the determination, but the sheriff clerk shall send free of charge a copy of the determination to the procurator fiscal and to any person who appeared or was represented at the inquiry and shall allow any person to inspect a copy of the determination at the sheriff clerk's office free of charge during the period of three months after the date when the determination was made.

Assessors

12.—(1) A request to the sheriff to summon a person to act as an assessor in terms of section 4(6) of the Act shall be made by written motion lodged with the sheriff clerk not less than seven days before the date of the inquiry.

(2) The appointment of an assessor shall not affect the admissibility of expert evidence in the inquiry.

Recording of evidence

13. Evidence given in an inquiry shall be recorded in the same manner as evidence given in an ordinary civil cause in the sheriff court:

Provided that where the evidence shall have been taken down in shorthand it shall not be necessary to extend such evidence unless the sheriff shall so direct or unless a copy of the transcript of evidence shall be duly requested by any person entitled thereto in terms of the Act and these rules.

Time limit for obtaining copy of transcript of evidence

14. A person shall be entitled to obtain a copy of the transcript of the evidence in accordance with section 6(5)(b) of the Act only if he makes application therefor to the sheriff clerk within a period of three months after the date when the sheriff's determination was made.

Fee on obtaining copy of determination, or of transcript of evidence

15.—(1) The fee payable upon obtaining a copy of the sheriff's determination in accordance with section 6(5)(a) of the Act shall be such fee as is payable to sheriff clerks for copying documents relating to civil proceedings in the sheriff court.

(2) The fee payable upon obtaining a copy of the transcript of the evidence in accordance with section 6(5)(b) of the Act shall be—

- (a) where the copy is made by a shorthand writer, such copying fee as is payable by the sheriff clerk to the shorthand writer;
- (b) where the copy is made by the sheriff clerk, such fee as is payable to sheriff clerks for copying documents relating to civil proceedings in the sheriff court.

Service of documents

16.—(1) The notice intimating the holding of an inquiry in accordance with section 3(2)(a) of the Act, the citation of a witness for precognition by the procurator fiscal, the citation of a witness or haver to attend at an inquiry, and any interlocutor, warrant or other order of the sheriff or writ following thereon issued in connection with an inquiry may be served on a person in any of the following manners:—

- (a) the procurator fiscal or the solicitor for any person entitled to appear at the inquiry, as appropriate, may post the document in a registered or recorded delivery letter addressed to the person on whom the document requires to be served at his residence or place of business or at any address specified by him for the purpose of receiving documents;

- (b) a police officer (where the document is issued by the procurator fiscal) or a sheriff officer may—
- (i) serve the document personally on the person on whom it requires to be served; or
 - (ii) leave the document in the hands of an inmate or employee at that person's residence or place of business or any address specified by him for the purpose of receiving documents;
 - (iii) introduce the document into that person's residence or place of business or any address so specified by means of a letterbox or other lawful means; or
 - (iv) affix the document to the door of that person's residence or place of business or any place so specified;

Provided that when it proves difficult for any reason to serve any document on any person the sheriff, on being satisfied that all reasonable steps have been taken to serve it, may dispense with service of such document or order such other steps as he may think fit.

Dispensing power of sheriff

17. The sheriff may in his discretion relieve any person from the consequences of any failure to comply with the provisions of these rules if the failure resulted from mistake, oversight or any cause other than wilful non-observance of these rules and in granting such relief may impose such terms and conditions as appear to him to be just; and in any such case the sheriff may make such order as appears to him to be just regarding extension of time, lodging or amendment of papers or otherwise, so as to enable the inquiry to proceed as if such failure had not happened.

Lord Advocate's Chambers
7th February 1977.

Ronald King Murray,
Lord Advocate.

SCHEDULE

Rule 3

FORM 1

UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS
INQUIRY (SCOTLAND) ACT 1976

To the Sheriff of _____ at (place of court)

The APPLICATION of the Procurator Fiscal for the District of

From information received by the Applicant it appears that (narrate briefly the apparent facts of the death);

In terms of the said Act an inquiry requires to be held into the circumstances of said death.

May it therefore please your Lordship to fix a time and place for the holding by your Lordship of such an inquiry; to grant warrant to cite witnesses and havers to attend at such inquiry, at the instance of the Applicant, and of any other person who may be entitled by virtue of said Act to appear thereat; to grant warrant to officers of law to take possession of, and hold in safe custody, subject to inspection by any person interested, anything which it may be considered necessary to produce at the inquiry.

According to Justice, &c.

(Signature)

Procurator Fiscal

(Place and date). The Sheriff having considered the foregoing Application orders that inquiry into the circumstances of the death of _____ within designed, be held on the _____ day of _____ 19____, at (time), within the Sheriff Court House at _____; grants warrant to cite witnesses and havers as craved; also grants warrant to officers of law to take possession of, and to hold in safe custody, subject to the inspection by any person interested, anything which it may be considered necessary to produce at the inquiry.

(Signature)

FORM 2

Rule 3

UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS
INQUIRY (SCOTLAND) ACT 1976

To the Sheriff of _____ at (place of court)

The APPLICATION of the Procurator Fiscal for the District of _____

From information received by the Applicant it appears that (narrate briefly the apparent facts of the death);

and it appears to the Lord Advocate to be expedient in the public interest that an inquiry under the said Act should be held into the circumstances of said death. May it therefore please your Lordship to fix a time and place for the holding by your Lordship of such an inquiry; to grant warrant to cite witnesses and havers to attend at such inquiry, at the instance of the Applicant and of any other person who may be entitled by virtue of said Act to appear thereat; to grant warrant to officers of law to take possession of, and hold in safe custody, subject to inspection by any person interested, anything which it may be considered necessary to produce at the inquiry.

According to Justice, &c.

(Signature)

Procurator Fiscal

(Place and date). The Sheriff having considered the foregoing Application orders that inquiry into the circumstances of the death of _____ within designed, be held on the _____ day of _____ 19____, at (time) within the Sheriff Court House at _____; grants warrant to cite witnesses and havers as craved; also grants warrant to officers of law to take possession of, and to hold in safe custody, subject to the inspection by any person interested, anything which it may be considered necessary to produce at the inquiry.

(Signature)

Rule 4(1)

FORM 3

(Address of Procurator Fiscal)

(Date)

(Name and address of
person to whom notice
is given)

Dear Sir

DEATH OF (insert name of deceased)

I have to intimate that an inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 into the circumstances of the death of (insert name and address of deceased) will be held on the day of at (time) within the Sheriff Court House at (address).

*[You have the right to appear, call witnesses and lead evidence at the inquiry. You may attend in person or be represented by an advocate or a solicitor instructed by you or, with the leave of the sheriff, by some other person.]

Yours faithfully,

(Signature)

Procurator Fiscal

*To be inserted only when the person to whom notice is given is the wife, husband or nearest known relative, or the employer, of the deceased.

FORM 4

Rule 4(3)

ADVERTISEMENT

Under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

The Sheriff of

will hold an inquiry on the day of (month) 19 at (time) within
the Sheriff Court House at (address) into the circumstances of the death of (name,
occupation, address).

(Signature)

Procurator Fiscal for the District of

Rule 8

FORM 5

To (name and designation).

YOU are cited to attend at the Sheriff Court House at (address) on (date) at (time) as a witness at the instance of (insert "the Procurator Fiscal for the District of " or name and address of person calling witness) at the INQUIRY then to be held into the circumstances of the DEATH of (name and address of deceased) [and are required to bring with you] and if you fail to attend you may be ordered to pay a penalty not exceeding*

(Signature and designation of Procurator Fiscal,
police officer, sheriff officer or solicitor)

*(Insert penalty specified in rule 71 of the First Schedule to the Sheriff Courts (Scotland) Act 1907 (a)).

FORM 6

Rule 8

I certify that on (date) I lawfully cited (name and designation) to attend at the Sheriff Court House at (address) on (date) at (time) as a witness at the instance of (insert "the Procurator Fiscal for the District of or name and address of person calling witness) at the INQUIRY then to be held into the circumstances of the DEATH of (name and address of deceased) [and I required him to bring with him].

This I did by (specify exactly how served).

(Signature and designation of
Procurator Fiscal, police officer,
sheriff officer or solicitor)

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules make provision for the procedure to be followed in relation to inquiries held under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

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