



Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

CHAPTER 14

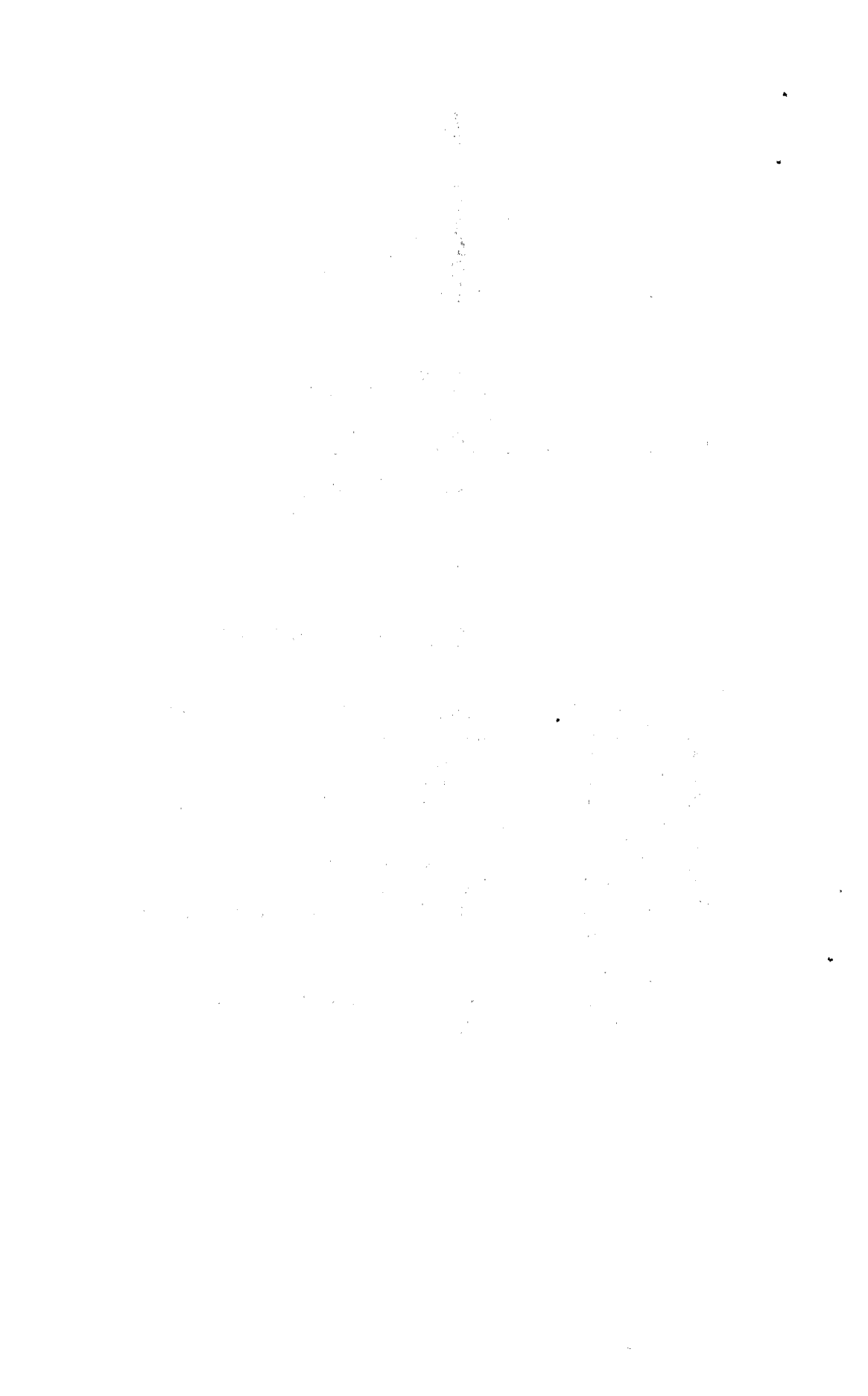
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Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

1976 CHAPTER 14

An Act to make provision for Scotland for the holding of public inquiries in respect of fatal accidents, deaths of persons in legal custody, sudden, suspicious and unexplained deaths and deaths occurring in circumstances giving rise to serious public concern.

[13th April 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Subject to the provisions of any enactment specified in Schedule I to this Act and subsection (2) below, where— Investigation of death and application for public inquiry.

(a) in the case of a death to which this paragraph applies—

(i) it appears that the death has resulted from an accident occurring in Scotland while the person who has died, being an employee, was in the course of his employment or, being an employer or self-employed person, was engaged in his occupation as such; or

(ii) the person who has died was, at the time of his death, in legal custody; or

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(b) it appears to the Lord Advocate to be expedient in the public interest in the case of a death to which this paragraph applies that an inquiry under this Act should be held into the circumstances of the death on the ground that it was sudden, suspicious or unexplained, or has occurred in circumstances such as to give rise to serious public concern,

the procurator fiscal for the district with which the circumstances of the death appear to be most closely connected shall investigate those circumstances and apply to the sheriff for the holding of an inquiry under this Act into those circumstances.

(2) Paragraph (a) of subsection (1) above applies to a death occurring in Scotland after the commencement of this Act (other than such a death in a case where criminal proceedings have been concluded against any person in respect of the death or any accident from which the death resulted, and the Lord Advocate is satisfied that the circumstances of the death have been sufficiently established in the course of such proceedings), and paragraph (b) of that subsection applies to a death occurring there at any time after the date 3 years before such commencement.

(3) An application under subsection (1) above—

(a) shall be made to the sheriff with whose sheriffdom the circumstances of the death appear to be most closely connected ;

(b) shall narrate briefly the circumstances of the death so far as known to the procurator fiscal ;

(c) may, if it appears that more deaths than one have occurred as a result of the same accident or in the same or similar circumstances, relate to both or all such deaths.

(4) For the purposes of subsection (1)(a) (ii) above, a person is in legal custody if—

(a) he is detained in, or is subject to detention in, a prison, remand centre, detention centre, borstal institution, or young offenders institution, all within the meaning of the Prisons (Scotland) Act 1952 ; or

(b) he is detained in a police station, police cell, or other similar place ; or

(c) he is being taken—

(i) to any of the places specified in paragraphs (a) and (b) of this subsection to be detained therein ;
or

(ii) from any such place in which immediately before such taking he was detained.

2.—(1) The procurator fiscal may, for the purpose of carrying out his investigation under section 1(1) of this Act, cite witnesses for precognition by him, and this section shall be sufficient warrant for such citation. Citation of witnesses for precognition.

(2) If any witness cited under subsection (1) above—

- (a) fails without reasonable excuse and after receiving reasonable notice to attend for precognition by the procurator fiscal at the time and place mentioned in the citation served on him ; or
- (b) refuses when so cited to give information within his knowledge regarding any matter relevant to the investigation in relation to which such precognition is taken,

the procurator fiscal may apply to the sheriff for an order requiring the witness to attend for such precognition or to give such information at a time and place specified in the order ; and the sheriff shall, if he considers it expedient to do so, make such an order.

(3) If the witness fails to comply with the order of the sheriff under subsection (2) above, he shall be liable to be summarily punished forthwith by a fine not exceeding £25 or by imprisonment for any period not exceeding 20 days.

3.—(1) On an application under section 1 of this Act being made to him, the sheriff shall make an order— Holding of public inquiry

- (a) fixing a time and place for the holding by him of an inquiry under this Act (hereafter in this Act referred to as “the inquiry”), which shall be as soon thereafter as is reasonably practicable in such court-house or other premises as appear to him to be appropriate, having regard to the apparent circumstances of the death ; and
- (b) granting warrant to cite witnesses and havers to attend at the inquiry at the instance of the procurator fiscal or of any person who may be entitled by virtue of this Act to appear at the inquiry.

(2) On the making of an order under subsection (1) above, the procurator fiscal shall—

- (a) intimate the holding of the inquiry and the time and place fixed for it to the wife or husband or the nearest known relative and, in a case where the inquiry is being held in respect of such a death as is referred to in section 1(1)(a)(i) of this Act, to the employer, if any, of the person whose death is the subject of the inquiry, and to such other person or class of persons as may be prescribed in rules made under section 7(1)(g) of this Act ; and

(b) give public notice of the holding of the inquiry and of the time and place fixed for it.

(3) Where an application under section 1 of this Act relates to more than one death, the order made under subsection (1) above shall so relate; and in this Act references to a death shall include references to both or all deaths or to each death as the case may require, and in subsection (2)(a) above the reference to the person whose death is the subject of the inquiry shall include a reference to each person whose death is the subject of the inquiry.

Conduct of
public inquiry.

4.—(1) At the inquiry, it shall be the duty of the procurator fiscal to adduce evidence with regard to the circumstances of the death which is the subject of the inquiry.

1974 c. 37.

(2) The wife or husband, or the nearest known relative, and, in a case where the inquiry is being held in respect of such a death as is referred to in section 1(1)(a)(i) of this Act, the employer, if any, of the person whose death is the subject of the inquiry, an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974 and any other person who the sheriff is satisfied has an interest in the inquiry may appear and adduce evidence at the inquiry.

(3) Subject to subsection (4) below, the inquiry shall be open to the public.

(4) Where a person under the age of 17 is in any way involved in the inquiry, the sheriff may, at his own instance or on an application made to him by any party to the inquiry, make an order providing that—

(a) no report of the inquiry which is made in a newspaper or other publication or a sound or television broadcast shall reveal the name, address or school, or include any particulars calculated to lead to the identification of that person;

(b) no picture relating to the inquiry which is or includes a picture of that person shall be published in any newspaper or other publication or televised broadcast.

(5) Any person who contravenes an order made under subsection (4) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250 in respect of each offence.

(6) The sheriff may, either at his own instance or at the request of the procurator fiscal or of any party who may be entitled by virtue of this Act to appear at the inquiry, summon any person having special knowledge and being willing to do so, to act as an assessor at the inquiry.

(7) Subject to the provisions of this Act and any rules made under section 7 of this Act, the rules of evidence, the procedure and the powers of the sheriff to deal with contempt of court and to enforce the attendance of witnesses at the inquiry shall be as nearly as possible those applicable in an ordinary civil cause brought before the sheriff sitting alone.

5.—(1) The examination of a witness or haver at the inquiry shall not be a bar to criminal proceedings being taken against him.

Criminal proceedings and compellability of witnesses.

(2) No witness at the inquiry shall be compellable to answer any question tending to show that he is guilty of any crime or offence.

6.—(1) At the conclusion of the evidence and any submissions thereon, or as soon as possible thereafter, the sheriff shall make a determination setting out the following circumstances of the death so far as they have been established to his satisfaction—

Sheriff's determination etc.

- (a) where and when the death and any accident resulting in the death took place ;
- (b) the cause or causes of such death and any accident resulting in the death ;
- (c) the reasonable precautions, if any, whereby the death and any accident resulting in the death might have been avoided ;
- (d) the defects, if any, in any system of working which contributed to the death or any accident resulting in the death ; and
- (e) any other facts which are relevant to the circumstances of the death.

(2) The sheriff shall be entitled to be satisfied that any circumstances referred to in subsection (1) above have been established by evidence, notwithstanding that that evidence is not corroborated.

(3) The determination of the sheriff shall not be admissible in evidence or be founded on in any judicial proceedings, of whatever nature, arising out of the death or out of any accident from which the death resulted.

(4) On the conclusion of the inquiry—

- (a) the sheriff clerk shall send to the Lord Advocate a copy of the determination of the sheriff and, on a request being made to him, send to any Minister or Government Department or to the Health and Safety Commission, a copy of

- (i) the application made under section 1 of this Act ;

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- (ii) the transcript of the evidence ;
 - (iii) any report or documentary production used in the inquiry ;
 - (iv) the determination of the sheriff, and
 - (b) the procurator fiscal shall send to the Registrar General of Births, Deaths and Marriages for Scotland the name and last known address of the person who has died and the date, place and cause of his death.
- (5) Upon payment of such fee as may be prescribed in rules made under paragraph (i) of section 7(1) of this Act, any person—
- (a) may obtain a copy of the determination of the sheriff ;
 - (b) who has an interest in the inquiry may, within such period as may be prescribed in rules made under paragraph (j) of the said section 7(1), obtain a copy of the transcript of the evidence,
- from the sheriff clerk.

Rules.

7.—(1) The Lord Advocate may, by rules, provide in relation to inquiries under this Act—

- (a) as to the form of any document to be used in or for the purposes of such inquiries ;
- (b) for the representation, on such conditions as may be specified in the rules, of any person who is entitled by virtue of this Act to appear at the inquiry ;
- (c) for the authorisation by the sheriff of the taking and holding in safe custody of anything which it may be considered necessary to produce ;
- (d) for the inspection by the sheriff or any person authorised by him of any land, premises, article, or other thing ;
- (e) that written statements and reports may, on such conditions as may be specified in the rules, be admissible in lieu of parole evidence ;
- (f) as to the duties, remuneration and other conditions of appointment of any assessor summoned under section 4 of this Act, and for keeping of lists of persons willing to act as such ;
- (g) as to intimation of the holding of the inquiry ;
- (h) as to the payment of fees to solicitors and expenses to witnesses and havers ;
- (i) as to the payment of a fee by a person obtaining a copy of the determination of the sheriff or a copy of the transcript of the evidence ;

(j) as to the period within which a person entitled may obtain a copy of the transcript of the evidence at the inquiry;

(k) as to such other matters relating to procedure as the Lord Advocate thinks appropriate.

(2) The power to make rules conferred by any provision of this Act shall be exercisable by statutory instrument.

(3) Rules made by the Lord Advocate under this Act may contain such incidental, consequential and supplemental provisions as appear to him to be necessary or proper for bringing the rules into operation and giving full effect thereto.

8.—(1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments and amendments consequential on the provisions of this Act. Minor and consequential amendments and repeals.

(2) The enactments set out in Schedule 2 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

9. For the purposes of this Act a death or any accident from which death has resulted which has occurred— Application to continental shelf.

(a) in connection with the exploration of the sea bed or subsoil or the exploitation of their natural resources; and

(b) in that area, or any part of that area, in respect of which it is provided by Order in Council under section 3(2) of the Continental Shelf Act 1964 that questions arising out of acts or omissions taking place therein shall be determined in accordance with the law in force in Scotland, 1964 c. 29.

shall be taken to have occurred in Scotland.

10.—(1) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment including this Act. Interpretation, transitional, citation, commencement and extent.

(2) Any inquiry instituted under the Fatal Accidents Inquiry (Scotland) Act 1895 or the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1906 or section 25(2) of the Prisons (Scotland) Act 1952 and continuing at the commencement of this Act may be continued under that Act as if this Act had not been passed. 1895 c. 36.
1906 c. 35.
1952 c. 61.

(3) Where, before the date appointed under subsection (5) below, a death has occurred in respect of which an inquiry is required to be held under the said Act of 1895 or the said section

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25(2) but that inquiry has not been instituted before that appointed date, an inquiry shall take place, but shall be held under this Act as if the death was one in respect of which application is required to be made under section 1(1) of this Act.

(4) This Act may be cited as the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

(5) This Act, except this section, shall come into force on such date as the Lord Advocate may by order made by statutory instrument appoint.

(6) This Act, other than subsections (4) and (5) of section 4 and section 9 of this Act, extends to Scotland only.

SCHEDULES

SCHEDULE 1

Section 8(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Gas Act 1965

1965 c. 36.

1. In section 17(4) (accidents), for the words "Inquiry (Scotland) Act 1895" there shall be substituted the words "and Sudden Deaths Inquiry (Scotland) Act 1976."

The Merchant Shipping Act 1970

1970 c. 36.

2. In section 61(4) (inquiries into death of crew members and others), for the words from "Inquiry (Scotland) Act 1895" to the end there shall be substituted the words "and Sudden Deaths Inquiry (Scotland) Act 1976."

The Mineral Workings (Offshore Installations) Act 1971

1971 c. 61.

3. At the end of section 6 (safety regulations), there shall be added the following subsection—

"(5) If an inquiry is held in pursuance of regulations under this Act into an accident which causes the death of any person, no inquiry with regard to that death shall, unless the Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976."

The Health and Safety at Work Etc. Act 1974

1974 c. 37.

4. In section 14(7) (which provides that no inquiry under the Fatal Accidents Inquiry (Scotland) Act 1895 is to be held into a death which is the subject of an inquiry under section 14(2)(b) of the said Act of 1974 unless the Lord Advocate otherwise directs), for the words "Inquiry (Scotland) Act 1895" there shall be substituted the words "and Sudden Deaths Inquiry (Scotland) Act 1976".

The Petroleum and Submarine Pipe-lines Act 1975

1975 c. 74.

5. In section 27(5) (inspectors), for the words "Inquiry (Scotland) Act 1895" there shall be substituted the words "and Sudden Deaths Inquiry (Scotland) Act 1976".

SCHEDULE 2

Section 8(2).

REPEALS

Chapter	Short Title	Extent of Repeal
58 & 59 Vict. c. 36.	The Fatal Accidents Inquiry (Scotland) Act 1895.	The whole Act.
6 Edw. 7 c. 35.	The Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1906.	The whole Act.
1933 c. 41.	The Administration of Justice (Scotland) Act 1933.	Section 38.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 61.	The Prisons (Scotland) Act 1952.	Section 25(2).

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