

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

Further inquiry proceedings

Section 35 – Further proceedings: compliance with recommendations

110. Under section 32(6)(a), a sheriff will set aside the original determination made after the original proceedings where further proceedings are to be held. The sheriff will therefore issue a new determination at the conclusion of a re-opened or fresh FAI even if the only change to the original determination is to record the new evidence led at that FAI. Section 35(2) makes provision about the application of section 28 (compliance with the sheriff's recommendations) where there is a new determination.
111. Under subsection (2), the requirement on a participant to respond to a sheriff's recommendation under section 28 will not apply anew if the recommendation is the same as that already made in the original determination from the original FAI. This removal of a requirement to respond again to the same point does not affect any published response or published note of a lack of response made by the SCTS in relation to the original FAI.
112. Under subsections (3) and (4), if a recommendation was addressed to a person in the original determination, but that recommendation is not made again in the new determination, the SCTS will be required to withdraw from publication any response made to the recommendation and any notices stating that part or all of a response has been withheld from publication, or that no response has been given.