



Inquiries into Deaths (Scotland) Bill

Bill Number: SP Bill 71, Session 4 (2015)
Introduced on: 1 June 2015
Introduced by: Patricia Ferguson MSP (Member's Bill)
Withdrawn: 24 September 2015

Passage of the Bill

The Inquiries into Deaths (Scotland) Bill ("the Bill") was introduced in the Scottish Parliament on 1 June 2015. It was a Member's Bill, introduced by Patricia Ferguson MSP. The [Bill as introduced](#) was accompanied by [Explanatory Notes](#) and a [Policy Memorandum](#).

The Justice Committee undertook scrutiny of the Bill at Stage 1. It held a dedicated evidence session on [9 June 2015](#). Many of the issues raised by the Bill were also scrutinised during the Committee's consideration of the Scottish Government's Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill. This took place in May 2015.

The Delegated Powers and Law Reform Committee [reported](#) on the delegated powers contain in the Bill (41st Report, 2015 (Session 4)).

The Committee published its [Stage 1 Report](#) on 4 September 2015 (14th Report 2015 (Session 4)). Ms Ferguson did not respond to the Stage 1 Report.

The Scottish Government outlined its views on Ms Ferguson's Bill in its [response to the Justice Committee's Stage 1 Report](#) on the Scottish Government bill. Those views can be found in Annex A to the letter (from Paul Wheelhouse MSP, Minister for Community Safety, dated 17 September 2015).

Patricia Ferguson withdrew her Bill on 24 September 2015. She outlined her reasons in the [Stage 1 debate](#) on the Scottish Government bill, which also took place on that date (see col 60).

Purpose and objectives of the Bill

The purpose of the Bill was to modernise the system of Fatal Accident Inquiries (FAIs) to take into account the recommendations of the [Review of Fatal Accident Inquiry Legislation](#). This is also known as the “Cullen Review”.

Patricia Ferguson acknowledged that the Bill’s proposals went further than the Cullen Review recommendations in several respects.

FAIs are held to establish the circumstances surrounding certain deaths. They are presided over by sheriffs. The sheriff may make recommendations intended to prevent future deaths in similar circumstances.

Mandatory FAIs must be held where someone dies in legal custody, or in an accident relating to their work. An FAI can also be held where a death is sudden, suspicious, unexplained, or gives rise to serious public concern.

Procurators Fiscal lead evidence about the death at an FAI. The Lord Advocate (through the Crown Office and Procurator Fiscal Service) exercises a number of decision-making powers in the FAI process. In particular, he decides if an FAI should be held in circumstances where this is not mandatory.

Provisions of the Bill

As noted above, Ms Ferguson’s Bill and a Scottish Government bill were considered in the Scottish Parliament at the same time. More information about the Scottish Government’s bill can be found in the relevant Bill Summary.

The key areas where this Bill would go beyond the Scottish Government’s bill are:

- **Mandatory FAIs** – extending the mandatory categories of death inquiry to cover work-related deaths from industrial diseases and exposure to hazardous substances, as well as some other categories.
- **Role of the family** – requiring the Lord Advocate to give written reasons to inquiry participants for a number of decisions, including the decision not to hold an inquiry.
- **Delays** – creating time limits for the Lord Advocate to apply for death inquiries with the intention of speeding up the process.
- **Sheriffs’ recommendations** – making sheriffs’ recommendations legally binding in certain circumstances (subject to further hearings and a right of appeal).
- **Lessons learned** – clarifying the role of death inquiries in preventing future deaths.

Parliamentary consideration

Both this Bill and the Scottish Government bill would repeal and restate existing FAI legislation. It was therefore not practical for both bills to proceed through the legislative process.

In its Stage 1 Report, the Justice Committee supported the general principles of both bills. However, it stated “We consider the Government’s Bill to be the appropriate vehicle to modernise fatal accident inquiry legislation”¹. It recommended that Ms Ferguson worked with the Scottish Government to strengthen the Scottish Government bill.

On this basis, Ms Ferguson withdrew her Bill. She tabled several amendments to the Scottish Government’s bill at Stage 2.

¹Scottish Parliament Justice Committee (2015). [Stage 1 Report on the Inquiries into Deaths \(Scotland\) Bill](#). 14th Report 2015 (Session 4). Paragraph 5.