

Justice Committee

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

Written submission from Zurich Insurance plc

By way of introduction, Zurich is one of the world's largest insurance groups and one of the few to operate on a truly global basis. Our mission is to help our customers understand and protect themselves from risk. We have over 60,000 employees serving customers in more than 170 countries worldwide, including 11,000 in the UK. We offer a wide range of general and life insurance products and services for individuals, small businesses, mid-sized and large companies and multinational corporations.

As a leading UK employer's liability insurer in the UK, a major insurance service provider in both private and fleet motor insurance and of risk management and insurance solutions to Britain's public services, we very much welcome the opportunity to respond to the request for submission of views in relation to this Bill.

Zurich supports the creation and maintenance of fair, effective and efficient procedures which will enable swift investigation and assessment of circumstances and support involved parties throughout. We believe it is essential that Inquiries are undertaken only in appropriate circumstances and that there should be no potential for duplication or conflict between investigations, Criminal Proceedings or Inquiries.

Our views on the areas highlighted are noted below and are restricted to those areas where we have specific expertise, knowledge and involvement, based on a genuine attempt to provide clear insight.

1. General comments

We welcome the policy objective of the Bill to reform and modernise the law governing the holding of fatal accident inquiries in Scotland. We note that there is a proposed Members' Bill to reform fatal accident inquiries but consider that the Scottish Government's proposals, as currently set out in the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill, provide a more workable, flexible and effective reform package.

2. Mandatory fatal accident inquiries (Sections 2 - 3)

We support the proposed circumstances provided for in the Bill for mandatory fatal accident inquiries and do not believe that alternative approaches should be considered.

3. Discretionary fatal accident inquiries (Section 4)

We support the proposed circumstances provided for in the Bill for discretionary fatal accident inquiries and do not believe that alternative approaches should be considered.

4. Inquiries into deaths occurring abroad (Sections 6 - 7)

We support the proposed circumstances provided for in the Bill for inquiries into deaths occurring abroad.

5. Pre-inquiry procedure (Sections 14 - 17)

We consider that a fatal accident inquiry should not take place where criminal proceedings are being considered or are still underway, as competing investigations would not be in the public interest. We note that this is not explicitly provided for in the Bill and whilst we understand that the decision to launch both criminal proceedings and fatal accident inquiries rests with the Lord Advocate, it may be appropriate to have an express provision to this effect within the Bill

6. Expenses (Section 24)

We consider that section 24 requires amendment as we are of the view that a Sheriff should retain the power to make an award of expenses against the Crown, where the Inquiry is deemed unnecessary or vexatious by the Sheriff, in line with current legal precedent as outlined in the case of *Global Santa Fe Drilling (North Sea) Limited and others v The Lord Advocate* 2009 CSIH 43.¹

We would be happy to discuss any of the above areas further. If the Justice Committee wishes to discuss any aspect in our response, please do not hesitate to contact us.

John Latter
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UK Claims
27 April 2015

¹ <http://www.scotcourts.gov.uk/opinions/2009csih43.html>