

PE2085/H: Introduce a statutory definition of residency for Fatal Accident Inquiries into the deaths of Scots abroad

Crown Office and Procurator Fiscal Service written submission, 29 November 2024

The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 provides jurisdiction for COPFS to investigate deaths abroad when the person who died was ordinarily resident in Scotland at the time of their death. Where that is not the case, we have no jurisdiction to carry out any investigation into the death. However, not every such investigation under the 2016 Act will result in a Fatal Accident Inquiry. A Fatal Accident Inquiry will only be held into such a death if the Lord Advocate considers it to be in the public interest.

As such, whilst it is correct to say that the Crown Office and Procurator Fiscal Service can conduct inquiries short of a Fatal Accident Inquiry in relation to deaths abroad, we can only do so where the person who died was ordinarily resident in Scotland.

Those Inquiries can include the instruction of a post-mortem examination, obtaining statements in Scotland from witnesses who were with the person at the time of their death, or requesting information from the country where the death occurred about the extent and findings of their investigation. This is not an exhaustive list but rather a general indication of the most common lines of inquiry. The outcomes of these inquiries are shared with the family of the deceased to provide clarity and reassurance to them regarding the death of their loved one.

I hope this information is of assistance to the Committee.