

**SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT PERTH**

Court ref: PER-B143-19 [2019] FAI 42

**RESPONSE**

to the

DETERMINATION OF SHERIFF LINDSAY DAVID ROBERTSON FOULIS  
UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS  
ETC. (SCOTLAND) ACT 2016

IN THE

INQUIRY INTO THE DEATH OF GRAHAM STEWART SHAW

To: the Scottish Courts and Tribunals Service

1. The Health and Safety Executive, being a person to whom a recommendation under section 26(1)(b) was addressed, do respond as follows.
2. The Health and Safety Executive was a participant in the inquiry.
3. *(Set out in full each recommendation in numbered paragraphs together with your corresponding response. Please respond as fully as possible).*
  - 3.1. The Health and Safety Executive responds to Determination 6. recommending that... “a revision of the “Safe Stop” section of the Health and Safety Executive document “Working safely with Agricultural Machinery” should be undertaken to remove any ambiguity as to the circumstances in which “Safe Stop” procedure should be adopted by extending its operation to any situation in which an operator of agricultural machinery vacates the driver’s seat/operating position”.
  - 3.2. ‘Safe Stop’ is an important safety procedure devised to tackle two separate risks; workplace transport risks arising from moving vehicles/mobile machinery, and machinery risks arising from user interaction with stationary machinery during maintenance/adjustment. The Health and Safety Executive (HSE) promote and explain the ‘Safe Stop’ routine on the agriculture pages of HSE website and in a number of publications for the agriculture industry, some of which focus on transport, some focusing on maintenance and safe use, and some covering both topics. All publications are freely available from

the HSE website.

3.3. HSE publication INDG241(rev1) “Working Safely with Agricultural Machinery” <https://www.hse.gov.uk/pubns/indg241.pdf> is intended to give advice on how to work safely with mobile and stationary agricultural machinery, particularly when carrying out maintenance and dealing with blockages, as explained in the introductory paragraph on its first page. This guidance is directed towards scenarios involving work on the machine such as maintenance, adjustments and clearing blockages, and it is not therefore the primary HSE published guidance for workplace transport issues and not the most relevant guidance for the circumstances of the death of Mr Graham Stewart Shaw.

3.4. HSE believes the description of ‘Safe Stop’ in INDG241(rev1) “Working Safely with Agricultural Machinery” is clear in the context of work on machinery during maintenance, adjustments and clearing blockages and therefore does not require revision at this time. It also clearly states that ‘Safe Stop’ should be followed before leaving the driver’s seat/operating position which would deal with both the ‘run-over’ transport risk and other machinery maintenance/intervention risks if followed.

3.5. HSE also believe revision is not necessary because the importance of following the ‘Safe Stop’ procedure before leaving the driver’s seat/operating position is clearly explained and reinforced in other HSE agriculture publications and through other work by HSE and its industry partners. These are described in the following paragraphs.

3.6. HSE’s main publication for the industry is HSG270 “Farmwise” <https://www.hse.gov.uk/pubns/books/hsg270.htm> with sections covering both workplace transport and maintenance. For workplace transport this publication describes how incidents happen when people leave a vehicle without making sure it cannot move and describes ‘Safe Stop’ as the most important safety action of all in relation to workplace transport. For maintenance farmers are first reminded to follow the ‘Safe Stop’ procedures before carrying out maintenance operations.

3.7. Relevant guidance with a workplace transport risk focus can also be found at:

- The HSE Agriculture web pages covering farm vehicles <https://www.hse.gov.uk/agriculture/topics/machinery/farm-vehicles.htm> - farmers are first instructed to follow ‘Safe Stop’ procedure before leaving the driver’s seat/operating position.
- “Using Tractors Safely” (INDG185(rev3)) <https://www.hse.gov.uk/pubns/indg185.pdf> - the first page introduces ‘Safe Stop’ as a basic safety procedure that users must know before starting a tractor and states “*Always use Safe Stop before leaving your seat*”.

3.8. Relevant guidance with a machinery safe use and machinery

maintenance risk focus can also be found at:

- HSE agriculture web pages covering safe use of machinery and machinery maintenance - farmers are first instructed to follow the 'Safe Stop' procedure before leaving the driver's seat/operating position. <https://www.hse.gov.uk/agriculture/topics/machinery/safe-use-1.htm>  
For machinery maintenance farmers are then reminded again to follow 'Safe Stop' before starting maintenance work.
- INDG241(rev1) "Working Safely with Agricultural Machinery"
- Machine specific information sheets covering maintenance and intervention with Power-take-off shafts, Big Round Balers, Combine Harvesters, Potato Harvesters, Forage Harvesters, Rotary Flail Hedge Cutters, and Agricultural Mowers. These can be found at <https://www.hse.gov.uk/agriculture/topics/machinery/safe-use-2.htm>

3.9. For many years HSE has delivered a programme of Safety and Health Awareness Days (SHADs) at which the importance of 'Safe Stop' featured in more than one topic scenario and was practically demonstrated at SHADs featuring the Telescopic Material Handler scenario.

3.10. In 2018 HSE replaced SHADs with classroom-based health and safety training for farmers titled 'Preparing for an Inspection' and aimed at delivering simple and concise advice to reduce risk and secure compliance. The training forms part of a wider intervention programme which includes targeted follow-up inspection activity. 'Safe Stop' is covered and in the accompanying course learners' workbook "Agriculture Health and Safety: Preparing for an Inspection" the first warning given to farmers in the vehicles and machinery topic is that 60% of farm workplace transport deaths involve "*...the vehicle operator being run over by their own vehicle having left the cab without first applying the handbrake*". The workbook also explains the 'Safe Stop' procedure and makes it clear that 'Safe Stop' must be followed before leaving the driver's seat/operating position.

3.11. To coincide with and compliment the new training HSE has also produced a new simple and concise guide named "What a Good Farm Looks Like" <https://www.hse.gov.uk/agriculture/resources/pdf/good-farm.pdf> . 'Safe Stop' is covered on the first page and explains that the routine should be followed before the operator gets out or off the vehicle. Farmers are also advised to follow the 'Safe Stop' routine whenever someone else approaches their vehicle.

3.12. HSE also work closely to support the Farm Safety Partnerships in England, Wales and Scotland to make sure that farms across Great Britain are provided with clear and simple information on the key things to do to control the risk of someone being injured or made ill by work. HSE worked with the England Partnership and members of Agriculture Industry Advisory Committee to develop the 'Safe Stop' procedure. HSE links to the England Farm Safety Partnership 'Safe Stop' campaign from the HSE website, where it is again made clear that the procedure is to be followed before leaving the

cab. The three GB Partnerships and their members have also committed to concentrating their efforts to tackle four key themes, each with agreed key messages, and in January-March 2020 will again return to the transport theme. The first agreed key message of which is “Don’t be a run over victim – follow Safe Stop every time you leave the cab”. To support this theme HSE is also working with Wales Farm Safety Partnership to produce a ‘Safe Stop’ TV advert which will highlight the dangers of exiting the cab without following ‘Safe Stop’. HSE will also help spread the Partnerships key messages through targeted communications. Organisations that are members of the partnerships, such as the NFU, also produce machinery safety guidance that refers to Safe Stop. An example can be found at <https://www.nfuonline.com/assets/7224>

3.13. Finally, and specifically in relation to use of telescopic materials handlers (telehandlers), HSE has specific guidance for farmers on the Agriculture pages of the HSE website. Although this does not specifically cover ‘Safe Stop’ it does highlight unintended movement as one of the hazards associated with machine operation. The guidance also explains that telehandlers and teleloaders should only be driven by authorised, trained and competent people who have completed appropriate training and testing. The ‘Safe Stop’ procedure would be covered on such training courses.

3.14. May we also take this opportunity to offer our condolences to the family, friends and colleagues of Mr Shaw.

## NOTES

*(Please refer to section 28 of the Act. A person to whom a recommendation has been addressed under section 26(1) of the Act, if they were also a participant in the inquiry, is under a legal duty to respond to those recommendations in writing. Persons who were not participants but to whom recommendations have been directed are encouraged to respond, though they are not obliged to.*

*The response must set out–*

*(a) details of what the respondent has done or proposes to do in response to the recommendation, or*

*(b) if the respondent has not done, and does not intend to do, anything in response to the recommendation, the reasons for that.*

*A response must be given to the Scottish Courts and Tribunals Service within the period of 8 weeks beginning with the day on which the respondent receives a copy of the determination in which the recommendation is made.*

*The response may be published, though you may make representations to SCTS as to the withholding of all or part of the response from publication.*

*A response made under section 28(1) is not admissible in evidence, and may not be founded on, in any judicial proceedings of any nature).*