

Sheriffdom of Grampian, Highland and Islands at Lerwick

DETERMINATION

of

Sheriff Philip Mann

Sheriff of Grampian, Highland

And Islands at Lerwick

in respect of

Fatal Accident Inquiry

relating to the Death of

James Bryden Budge

Representation:

For the Crown: Mr Duncan MacKenzie, Senior Procurator Fiscal Depute

For James Budge and Mrs Agnes Lillian Budge, parents of Mr Budge: Mr Cairns,
Solicitor

In Attendance

Mrs Helen Jane Budge, Mr Budge's widow

Lerwick 06 August 2015.

The Sheriff, having heard evidence on 3 August 2015 led by Mr MacKenzie, by way of a joint minute of agreed facts and reference to various productions, and

submissions by him and by Mr Cairns, having made avizandum and now having resumed consideration of the matter Finds and Determines as follows:-

- (a) In terms of Section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, James Bryden Budge, aged 46 years (date of birth 8 September 1968) died in the course of his self-employment at about 10:00 hours on 14 October 2014 at Bigton Farm, Bigton, Shetland.
- (b) In Terms of Section 6(1)(b) of the said Act, Mr Budge's death occurred as the result of traumatic asphyxia. This occurred whilst Mr Budge was working on a loader attached to the front of a tractor. It followed upon Mr Budge having disconnected the hydraulic hose connecting the hydraulic circuit of the lift rams to the machine's Soft Drive system whilst he was positioned between the loader's elevated lifting frame and the tractor. With the loader in the raised position the disconnection of the hydraulic hose allowed hydraulic fluid, supporting the loader, to leak out from the connection under the pressure exerted by the Soft Drive accumulator system and the weight of the loader, resulting in the lifting frame dropping in an uncontrolled manner thereby trapping Mr Budge between the lifting frame of the loader and the tractor.

- (c) In terms of section 6(1)(c) of the said Act if the following precautions had been taken before Mr Budge placed himself between the lifting frame of the loader and the tractor the accident which resulted in his death might have been avoided:
- A) Lowering the lifting frame of the loader to the ground; or
 - B) Installing a scotch mechanism over the extended lift ram rod, physically preventing the lift rams from retracting; or
 - C) Lowering the lifting frame of the loader onto specifically designed props or a suitable *ad hoc* but stable and sturdy platform and chocking the tractor wheels in order to prevent the tractor moving.
 - D) In all cases, switching the machine off (which Mr Budge had actually done) and causing the hydraulic pressure within the machine to be dissipated safely.
- (d) In terms of section 6(d) of the said Act, other than as already determined I cannot determine any defect in any system of working which contributed to the accident resulting in Mr Budge's death.
- (e) In terms of section 6(e) of the said Act it is relevant to this specific accident to note that Mr Budge suffered from a bad back which necessitated treatment from a chiropractor from time to time. Mr Budge had had such treatment a short time before the date of the accident and I determine that he was suffering from pain in his back at the time of the accident to such an extent that he was unable to

comfortably bend and perform the task which he had undertaken except with the lifting frame of the loader being in a raised position.

Sheriff Philip Mann

Note

1. There is nothing that I can usefully add by way of narrative to the formal determinations set out above but I would like to associate myself with the eloquent remarks made by Mr MacKenzie in his closing submissions.
2. Mr Mackenzie described Mr Budge as a diligent, conscientious and hard-working man who was neither reckless nor cavalier. The decision he made as to his method of working on the machine in question was of a type that many, if not most, people make day in and day out in the conduct of their daily lives. Mr Budge's legacy is to be found in the man that he was rather than in the decisions he made on that fateful day.
3. I wish, once again, to express my sincere condolences to Mr Budge's widow, to his parents and to his wider family members, all of whom have suffered the very sad and tragic loss of a man who was loved and admired by them and by a much wider community.