



Risks Newsletter



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Risks is the TUC's weekly online bulletin for safety reps and others, read each week by over 12,000 subscribers and 1,500 on the TUC website. To receive this bulletin every week, click [here](#). Past issues are [available](#). This edition contains [Useful links](#) [TUC courses for safety reps](#) [Disclaimer](#) and [Privacy statement](#).

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ACTION

Sign here to stop deaths in the workplace!

Dorothy Wright's son, Mark, was killed on 12 April 2005 "following an explosion and fire at work caused by the employer's total disregard for health and safety." Dorothy is not willing to allow his death go unremarked. She says it is wrong that no-one has been charged in relation to his death. She adds: "We need to let the government know that we the voters want rogue directors and managers to be personally held criminally responsible and sent to jail as it is only then that they will spend the money and time safeguarding their employees' lives." Through her online petition, 'Stop deaths in the workplace', she hopes to "ensure that individual directors and managers are made legally responsible for health and safety and criminally responsible for death of an employee through negligence." The government's draft bill on corporate killing would not give Dorothy justice, because it would not meet her aim, a new law "to enable negligent directors and managers to face criminal charges when an employee is killed." A joint work and pensions and home affairs select committees' report reached the same conclusion ([Risks 238](#)). Sign Dorothy's petition, and help make sure her message is heard.

- Sign now! [Stop deaths in the workplace petition](#).

So, what do you think of us?

You've seen 242 issues and over 5,000 stories and over 1 million words. Risks, launched by the TUC in May 2001, was the world's first weekly

online health and safety bulletin and was TUC's bid to create free, accessible, high quality and up-to-date news and information, and to stimulate activity on health and safety issues. It's now got 12,000 subscribers, with a further 2,000 readers accessing it from the TUC website and thousands more seeing it passed on by unions, campaigners and friends. You've heard plenty from us - now we want to hear what you have to say. The Risks reader survey is designed to find out more about our readers, and to identify improvements that could be made. Responses to the survey will be confidential and all personal information will be deleted before any use is made of the figures. This survey takes less than five minutes to complete online and will run until 28 February 2006. The findings will be reported, exclusively, in Risks.

- [Risks online survey](#).

UNION NEWS

"Dreadful" asbestos ruling will rob victims of £1bn

The Court of Appeal has overturned a ruling that thousands of people suffering from an asbestos-related condition should receive compensation. Insurance companies had appealed against a judgment that pleural plaques, a scarring of the lungs, could indicate a future risk of disease and were source of considerable stress to affected workers ([Risks 195](#)). In a decision described as "dreadful" by the union Amicus, appeal court judges said the presence of pleural plaques did not mean a person was suffering from any disease and therefore should not be compensated. By a two-to-one majority, the panel of judges headed by the Lord Chief Justice, Lord Phillips, reversed the findings of the High Court and said the controversial case should now go to the House of Lords. Lord Phillips said statistics indicated "a small minority" of people who developed pleural plaques after asbestos exposure would go on to suffer from asbestos-related disease, but "the

odds are that the asbestos fibres in his lung will remain innocuous”. The union Amicus and its lawyers, acting for the asbestos claimants, are now applying for leave to appeal the decision to the House of Lords. If the decision is not overturned, it will end all compensation for pleural plaques, which in almost every case are caused by workers being exposed to asbestos due to the negligence of their employers. The outcome, if it stands, will result in a substantial windfall saving to the insurance industry, estimated at in excess of £1 billion. Amicus general secretary Derek Simpson said: “This judgment is dreadful and harms many of our members who have been exposed in their working lives to asbestos. We believe that people with pleural plaques should be compensated and we will fight on.” Asbestos disease specialist Ian McFall from Thompsons Solicitors commented: “We’re shocked at the result of this ruling and the impact it will now have on thousands of people. Pleural plaques are recognised by medical experts as a sign of irreversible damage to the lining of the lung caused by a history of exposure to asbestos which carries with it an increased risk of malignant disease such as the deadly cancer mesothelioma.” A study last year linked the presence of pleural plaques to a 50 per cent higher risk of colon cancer ([Risks 233](#)).

- [Thompsons Solicitors news release](#). [International Ban Asbestos Secretariat briefing](#). [Irwin Mitchell Solicitors news release](#). [ABI news release](#). [BBC News Online](#). [Reuters](#). [Daily Record](#). [Western Daily Press](#). [Yorkshire Evening Post](#).

Asbestos fine “peanuts” says union

The £136,000 fines and costs bill facing an egg box company that left its workforce exposed to deadly asbestos lagging for over a decade has been described as “peanuts” by a union. In a TGWU statement after the Norwich Crown Court sentencing of Omni-Pac, the union added that many former workers may still pay the price through future ill-health ([Risks 141](#)). The company had earlier pleaded guilty to safety

offences at a magistrates’ court hearing ([Risks 233](#)). The union said it had campaigned hard to ensure the company was held accountable. TGWU regional industrial organiser Ivan Crane said: “This plant was described at the time as ‘one of the most dangerous workplaces in East Anglia’. It has been a scandalous example of a company wishing to wash its hands of its responsibility to workers and society in general.” He said the health effects of asbestos exposure may not become apparent for some years, adding former workers “are, in essence, sitting on a potential time bomb and are facing an uncertain future, both for themselves and their families.” The court heard concerns about the asbestos risk had been raised with the company by senior plant engineer Michael James in 1993. American owned Omni-Pac finally closed the Great Yarmouth factory in March 2004, although it had been non-operational from October 2003 following the asbestos revelations ([Risks 133](#)). The judge imposed a £55,000 fine and told the company to pay £86,000 in costs to reflect the period of time that workers could have been exposed to asbestos fibres.

- [HSE news release](#). [Norwich Evening News](#). [BBC News Online](#).

RMT calls for safety-trained staff at all stations

Uniformed and safety-trained staff should be on duty at every railway station every moment they are open to the public, rail union RMT has said. “No railway station should ever be left unstaffed while it is open to the public,” RMT general secretary Bob Crow said. “We need adequate uniformed and safety-trained staff on every station all the time they are open and properly trained guards on all trains. Station staff and guards have been cut for financial reasons by companies more worried about their bottom line than about the safety of passengers and rail workers - and that is a direct result of privatisation and fragmentation.” The union leader added: “Passengers want to see more visible station staff, not fewer, particularly in today's climate, and our members should have

the right to work without constant fear of assault and abuse.” He welcomed the London Assembly transport committee's call for “stricter standards” for passenger safety at rail stations and a call for better station staffing. London mayor Ken Livingstone said the new franchise operating the capital’s Silverlink's suburban network after the current deal expires in 2007 will be required to ensure all stations are staffed all the time they are open. He said: “We will not consider any bid for a franchise that does not include that complete commitment that staff will be at every station throughout its entire opening hours.”

- [RMT news release](#), [London Assembly news release](#), [BBC News Online](#).

Amicus wins compensation for sacked print worker

A print worker targeted for redundancy after winning compensation for a disabling strain injury has received a £45,000 payout for unfair dismissal. Amicus member Karen Sketchley believed managers at the West Midlands printing company Cradley Print had never forgiven her for taking legal action over a decade ago after she developed a repetitive strain injury affecting her wrist. The magazine printing company conceded Karen's claims for unfair dismissal and unfair selection for redundancy as their case dramatically crumbled on the second day of a Birmingham employment tribunal. Amicus regional official Kathy Brooks said Karen had been redeployed to an office job after suffering repetitive strain injury in her right wrist when working as a shopfloor print finisher. The worker, who was classed as disabled as a result of the injury, won £64,000 in a settlement with the company. Commenting on the case, Karen said: “After 26 years of working there I was out, I was numb and couldn't believe it. I don't think they ever forgave me for the personal injury case. They made me disabled and I have to live with that for the rest of my life.”

- [Amicus news release](#).

Union outrage as directive threatens work standards



UK unions are calling on the government to withdraw their support from a European directive that threatens safety and employment rights. Trade

unionists from all over Europe will demonstrate in Strasbourg on 14 February. UK union Amicus says the threat comes from the controversial Services Directive, which would allow workers from other European countries to work in Britain with the wages and safety standards of their home country. An Amicus postcard campaign calls on the UK government to abandon its support for the directive. The draft directive says service providers will only be subject to the laws and conditions applying in the country where they are based, rather than those of the country where they provide the service, under the “country of origin principle”. European companies working in Britain, for example, would only be expected to abide by safety standards in place in their own country, enforced in the UK by their own safety enforcement agency.

- [Amicus briefing](#), [ETUC 14 February day of action webpage](#).
- Background: December 2004 article on the health and safety implications of the Service Directive [[pdf](#)].

OTHER NEWS

HSE in pact with employers' body

The Health and Safety Executive has signed a “groundbreaking partnership agreement” with EEF, the manufacturers’ organisation, which it says will promote effective health and safety management across manufacturing industries. HSE says the agreement is the first of its kind between the safety watchdog and another organisation. This type of deal is already common in the US, however, where safety agency OSHA has almost 200 current partnerships. HSE says the deal will improve HSE’s communications, allowing EEF members across England, Wales and Scotland to “receive the latest information and guidance from the regulator, as well as offering opportunities to feedback issues, concerns and examples of good practice.” There would also be joint seminars and training events, HSE said. Launching the pact, Bill Callaghan, chair of the Health and Safety Commission (HSC), said: “I am sure that the EEF/HSE partnership will help us achieve our vision of being a modern, 21st century regulator. I hope all here at the partnership launch recognise the great benefits that regulation can bring in protecting people at work. But we all know that ill-designed regulation can bring unnecessary burden. Getting the balance right can be tricky but you have already helped us on difficult issues.” HSE head of field operations, Sandra Caldwell, said: “This partnership agreement reflects a relationship of equals interested in a strong manufacturing sector with a healthy and safe workforce. It offers improved communications, better co-ordination of effort, greater efficiency in the delivery of effort and empowers us to work together more effectively without constraining initiative.”

- [HSE news release.](#)

Union warning on “maritime disaster” threat

A ship involved in a collision in the English Channel had failed a number of safety checks around the world, it has been revealed, prompting a union warning about a real threat of “a major maritime disaster on our doorstep”. Serious deficiencies including problems with fire

doors and safety equipment were found on board the 23,000-tonne bulk carrier the General Grot-Rowecki during inspections in Canada, Norway and Belgium. The Maltese-registered carrier was in a collision with the chemical tanker Ece about 30 miles (48km) off Guernsey. The tanker subsequently sank, with its 22 crew rescued by helicopter and lifeboat. After the incident NUMAST, the union which represents around 19,000 ship masters, officers and staff in the shipping industry, called for urgent action to address “alarming signs of a decline in safety standards around the UK coast”. General secretary Brian Orrell said “the clear message from current trends is that next time we may not be so lucky. It is a matter of not ‘if’ there is a major maritime disaster on our doorstep, but ‘when’ it will be.” Mr Orrell said: “We believe these incidents should serve as a wake-up call to the authorities and we are not alone in feeling disturbed at trends within the industry at present.”

- [NUMAST news release.](#) [Maritime and Coastguard Agency news release.](#) [BBC News Online.](#)

Free vote on total pub smoke ban

A total ban on smoking in pubs and clubs in England will be one of three options put to MPs in a free vote, ministers have promised. The Department of Health has put up two alternatives to a total ban for the vote, which is due later this month. One is to ban smoking in all pubs but not private clubs; the other sticks to the original government policy, which is to ban it only in food-serving pubs. Health minister Caroline Flint said a new clause for the bill, containing the three options, offered a “clear choice”. Many Labour backbenchers are angry that the Health Bill's partial ban plan would allow smoking to continue in private clubs and non-food serving pubs. In a recent report, the Commons health select committee said a total ban was the “only effective means” of protecting public health and that a partial ban would “widen health inequalities” and “be disputed in

the courts” ([Risks 238](#)). Health secretary Patricia Hewitt is expected to vote for a total ban in licensed premises - against her department's official policy. Poll findings released this week by anti-smoking campaign ASH showed the majority of the public in England back the House of Commons Select Committee in its call for comprehensive smoke-free legislation. Asked whether they support the Committee's proposal, 70 per cent of those polled said yes, with only 18 per cent saying they were opposed.

- [DH news release](#). [ASH news release](#). [BBC News Online](#).
- [TUC smoking webpages](#). [Hazards smoking news and resources](#).

Sickness absence bill put at £12 billion a year

The cost of sickness absence to the British economy is around £12 billion per year, the safety minister has said. Addressing a human resources conference this week, Lord Philip Hunt said: “The workplace in the 21st century is a fast paced, dynamic and highly stimulating environment. It brings a number of benefits and opportunities, however, with these benefits comes new risks.” The minister added: “Sickness absence and return to work policies are only worth having if they have the full support of directors and top-level managers. After all, leadership starts from the top.” Lord Hunt said the government's October 2005 ‘Health, work and well-being’ strategy aims to tackle sickness absence across the public and private sectors to improve the occupational health of the British workforce. He said under the strategy employers and employees are encouraged to work in partnership to solve issues of occupational ill-health, adding a joined up approach is vital if absenteeism is to be reduced and potential future problems identified early and addressed.

- [HSE news release](#). [HSE health agenda](#).
- TUC [sickness absence](#) webpages. [Hazards sickness absence](#) and [work and health](#)

webpages.

NHS plan “should promote occupational health”

The health of people in the workplace should be a key consideration in the government's ‘Our health, our care’ White Paper on the health service, the Institution of Occupational Safety and Health (IOSH) has said. Neil Budworth, IOSH president, said: “We very much welcome the White Paper's focus on preventing ill-health and improving access to primary healthcare. However, as it's well known that occupation and overall health are inter-related (work can affect health and health can affect work), we believe more emphasis should be placed on this in the government's initiative.” He added: “With 28 million days lost last year to work-related ill-health and 2 million people suffering illness they believe was caused or made worse by work, we need everyone to pull in the same direction. Competent advice is essential, as is a flexible and sensible approach to adapting workplaces and work arrangements, meeting the needs of an ageing workforce, those managing illness, disability or caring roles, and the needs of employers.”

- [IOSH news release](#). [DH news release](#).

Landmark ruling confirms rights of overseas workers

A House of Lords ruling means overseas workers have the right to seek compensation in the UK even if they work aboard. The case involved Serco, the multinational service company, which employed ex-RAF policeman Stephen Lawson as a security supervisor on Ascension Island. Mr Lawson resigned after six months, claiming constructive dismissal. The company had required Mr Lawson to work additional hours - longer hours than stipulated in his contract, and in excess of the statutory limit under the

Working Times Regulations. Mr Lawson claimed his health suffered in consequence. This matter was not at issue in the House of Lords judgment, which was concerned solely about his right to claim unfair dismissal compensation in the UK despite working on Ascension Island. Barry Clark, an employment lawyer with Russell Jones & Walker, commented: “In an increasingly globalised workplace, the House of Lords has taken a flexible approach to determining which employees may bring claims of unfair dismissal in Great Britain, despite working outside the country. This right has been confirmed as available to employees who have their ‘base’ in Britain even if they work mainly overseas.” He added that the judgment “should ensure that more overseas employers recognise their obligations under British employment law.”

- [Russell Jones & Walker news release. Full text of the judgment.](#)

RESOURCES

Compensation increases for safety victimisation

The limits on payments and awards made to workers in employment rights cases, including unfair dismissal for trade union activity, safety rep activity or raising or acting on safety concerns, rose on 1 February in line with inflation. The minimum amount of basic award for breaches of relevant sections of the Employment Rights Act 1996 which result in detriment or dismissal for a worker rises from £3,800 to £4,000. Sections relevant to safety include 100(1)(a), which covers carrying out safety duties designated by the employer, section 100(1)(b) on carrying out legal functions of a safety rep, and section 100(1)(d) on the right to refuse work that presents a serious and imminent risk. Hazards magazine revealed last year that in the five years from 1999, over 1,500 workers had been fired for raising safety concerns with their employer ([Risks 195](#)).

- [DTI news release.](#)
- [Hazards victimisation and whistleblowing webpages.](#)

Working Immigrants

Working Immigrants, described as a “weblog about the business of immigrant work: employment, compensation, legal protections, education, mobility, and public policy,” is a new resource dealing with a sorely neglected area. Much of its content has a safety angle – inevitable, as migrant workers are frequently shunted into the highest risk jobs and are vulnerable because of factors which can include concerns about their immigration status, language difficulties and old-fashioned exploitation. The resource is concerned with working immigrants in the US, but is a useful resource for anyone interested in or concerned about the topic. The deaths of immigrant farm labourers on UK farms and their exploitation at the hands of gangmasters and the deaths of 23 Chinese cocklers at Morecambe Bay show the problem is every bit as acute here.

- [Working Immigrants.](#)
- [Hazards news and resources on migrant workers and health and safety in the UK.](#)

INTERNATIONAL NEWS

China: Record payout for silicosis victim

A jewellery worker in China who contracted life-threatening silicosis because of unsafe working conditions has been awarded record compensation from a Hong Kong jewellery manufacturer. Feng Xingzhong, a 33-year-old Sichuan native who worked in Guangdong, won his case on appeal after a three-year legal battle. The court awarded Feng a total of 463,761 yuan

(£32,350), in a compensation package that included a lump sum payment of 219,000 yuan (£15,280) to cover Feng's long-term medical treatment. China Labour Bulletin reports that this the first time a court has awarded compensation for medical treatment. It says without regular long-term treatment, silicosis is a fatal disease. "While Feng and several other silicosis-afflicted jewellery workers have been awarded substantial amounts of compensation by the courts over the past year, most of the other 100 or so workers in Guangdong identified by Hong Kong labour rights groups who have contracted this deadly occupational disease have received little or no compensation," it said. "Moreover, these cases are the tip of the iceberg: according to the PRC (People's Republic of China) ministry of health, around 440,000 Chinese workers currently have silicosis, but in April 2005 the ministry's own experts estimated that the real figure was 10 times higher."

- [China Labour Bulletin](#). Deadly dust publication [[pdf](#)].
- [Sign the online petition](#) calling for safer conditions for jewellery workers.

Europe: Warning on new workplace health risks

Current trends in society and work organisation are creating new risks and putting new demands on occupational safety and health research, a new report has concluded. Launching 'Priorities for occupational safety and health research in the EU-25', a working paper for the European Commission, the Bilbao-based European Agency said the future is not all rosy. "The nature and organisation of work are changing, becoming more client- and knowledge-driven," said agency director Hans-Horst Konkolewsky. "Europe's workforce has also been changing; it is ageing, less male-dominated, more precarious and more difficult to monitor, as it has spread out into small companies. As a consequence, health issues have become more complex and we need to find new ways to approach occupational safety and

health research and prevention." The agency said concerns about work-life balance, the emergence of dual income households, carer responsibilities and the rise of temporary and insecure work were all factors that had to be considered. Stress, harassment, violence, strain injuries and new risks like nanotechnology are all areas of concern, the report said.

- [European Agency news release](#), [full report](#) and [EC proposals on stress and violence](#).

India: Site union demands safety inspections

The death of a three members of a family at a camp housing labour for a construction site in India has prompted a union call for safety inspections at all sites. The dead included two girls under the age of three in a fire that broke out at the camp in Magarpatta City. Nitin Pawar, general secretary of the union of construction labourers Bandhkam Mazdoor Sabha, said authorities must carry out a survey of all construction sites in the city and inspect the working and living conditions of the labourers. Pawar said talks with labourers at the site had revealed a lack of basic amenities at the huge project. Families lived in densely packed huts constructed of flammable thatch and bamboo, in breach of regulations. He said police should file a legal case against the operators of the site, adding that the union had already sent its own memorandum to this effect to the inspector in charge of Hadapsar police station.

- [Express News](#).

USA: All West Virginia mines told to shut after more deaths

Two more fatalities this week in West Virginia mines have prompted governor Joe Manchin to call on all mines in the state to shutdown until safety checks have been conducted. The two deaths occurred in separate incidents on 1

February, and followed 12 deaths at the Sago mine last month ([Risks 239](#)). “We're going to check for unsafe conditions, and we're going to correct any unsafe conditions before we mine another lump of coal,” Manchin said. The deaths brought to 16 the number of mining-related fatalities in West Virginia since 2 January. There have also been three miners killed in other states this year. While Manchin's call was voluntary, he also ordered the state's mine inspection schedule speeded up so that all 229 surface and 315 underground mines are examined by regulators as soon as possible. The mining union UMWA had already ordered an immediate inspection of every union mine in West Virginia. Union president Cecil E Roberts said if UMWA-represented coal mines did not cooperate with the inspections, the union would consider taking further action under the authority of the union’s collective bargaining agreements. Last week, a federal judge ordered the owners of the non-union Sago mine where 12 died to allow UMWA representatives to participate in the investigation. Federal law allows the union to be involved where its representation has been requested by two or more miners.

- [Charleston Gazette](#). [Confined Space](#). [UMWA news release](#). [AFL-CIO news release](#).

USA: Criminal probe takes shape over BP blast

Civil and criminal investigations of BP appear to be heating up in the US, 10 months after the March 23 explosion at its Texas City refinery. FBI agents and criminal investigators from the Environmental Protection Agency have begun exploring whether criminal wrongdoing on the part of the company or its managers could have caused the blast, reports the Houston Chronicle. FBI agents from Texas City, EPA criminal investigators from Houston and an assistant US attorney from Houston are handling the case locally, its sources said. Both official safety watchdog OSHA and the US Chemical Safety and Hazard Investigation Board (CSB) previously reported that known flaws in

equipment, failure to follow safety guidelines and inadequate training contributed to the 15 deaths and more than 170 injuries in the blast ([Risks 237](#)). Even though the civil and criminal investigations are likely to include Clean Air Act violations and explore the role of BP managers, the two inquiries are separate and involve different attorneys and different investigators, officials said. The global safety policy for the company is signed off by Lord John Browne, London-based CEO for BP worldwide.

- [Houston Chronicle](#). [Confined Space](#).
- [Find out more about BP’s safety record](#).

EVENTS AND COURSES

24 February - put your foot down and your feet up



WORK YOUR PROPER HOURS DAY
FRI 24 FEB '06

TUC says Work Your Proper Hours Day 2006 promises to be even bigger and better than last

year. The event, on Friday 24 February, marks the day the average worker would start earning if they did all their free overtime for 2006 at the start of the year. The day’s official website will be stacked with games, quizzes, advice and downloads for the day you put your foot down and, er, your feet up. Already on the webpage are colourful Work Your Proper Hours Day posters. And the TUC’s trademark Boss-A-Gram is back! Last year nearly 2,000 bosses were delivered a gentle anonymous reminder, letting them know it was Work Your Proper Hours Day and suggesting they take their staff out for a drink to say thanks – and some of them really did. If you log on and order your boss their very own Boss-A-Gram today, it will be sent to them on the morning of 24 February.

- [Work your proper hours day website, posters](#),

and [Boss-A-Gram](#).

- Also from TUC: The TUC Directory 2006, the complete source of information about the TUC's trade unions and their six and a half million members, is now available through [TUC Publications](#).

TUC courses for safety reps

COURSES FOR JANUARY TO MARCH 2006

- [Northern](#), [North West](#) [South East](#), [Yorkshire and the Humber](#), [South West](#), [Midlands](#), [Scotland](#)

USEFUL LINKS

- **Visit** the TUC http://www.tuc.org.uk/h_and_s/ website pages on health and safety. See what's on offer from [TUC Publications](#) and [What's On in health and safety](#).
- **Subscribe** to [Hazards](#) magazine, supported by the TUC as a key source of information for union safety reps.
- **What's new** in the [HSC/E](#) and the [European Agency](#).
- [HSE Books](#), PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel: 01787 881165; fax: 01787 313995