

# Risks

TUC 

*e-bulletin*

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**HAZARDS**  
MAGAZINE

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**HSE Lives**  
Slips, trips & falls at work 

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**Risks** is the TUC's weekly online bulletin for safety reps and others, read each week by over 16,000 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](#)

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### **Firm pays after unfair alcohol sacking**

Northeast Press has been ordered by an employment tribunal to pay an award of more than £20,000 after unfairly sacking a senior journalist with a drink problem. Journalists' union NUJ, who backed senior sub-editor Paul Gray's tribunal case, says it highlights the importance of employers fully implementing their alcohol and drugs policies. The journalist, who is a self-confessed alcoholic, had worked on the Hartlepool Mail for 14 years and had a clean disciplinary record. He was sacked for gross misconduct after he was said by the company to have sent inappropriate text messages to a junior female colleague late at night while he was on annual leave and had been drinking. The firm also cited an incident the same day, where he was refused alcohol at an Asda store, and was made to leave the premises. The women who received the message said she shared vulgar jokes with Mr Gray and had no wish to complain about his behaviour and Asda made no complaint about the incident in its store. The tribunal ruled that Northeast Press, a subsidiary of Johnston Press, ignored its own policy on alcohol and drugs "in circumstances where there were clear procedures to follow and a statement that compliance would be a matter of mitigation against an act of misconduct." Mr Gray was denied that opportunity, the tribunal stated. It went on to conclude that, on balance, had the alcohol and drugs policy been followed Mr Gray would not have been dismissed. He would instead have had the opportunity for treatment for his alcoholism and to mitigate his behaviour.

- [NUJ news release](#). [Press Gazette](#). [TUC](#) and [Hazards guidance on drugs and alcohol policies](#).

### **Nine of out 10 hacks say bullying affects them**

Nine out of ten journalists who responded to a survey by media union NUJ said they had been affected by bullying. The survey, carried out on the union's website, showed that 74 per cent of respondents had themselves been bullied whilst a further 18 per cent had witnessed it happening in their workplace. The survey backs up anecdotal evidence that indicates bullying is a major workplace problem in many media companies, the union said. NUJ equality officer Lena Calvert commented: "Bullying can be enormously damaging to both the individuals and those who witness it. Workplace bullying costs money and is unhealthy for the organisation which allows it to happen. It is demoralising for those who witness it and devastating to those who experience it." An NUJ bullying handbook was launched this month "in an attempt to halt the historic culture of bullying which is prevalent in the media."

- [NUJ news release](#) and bullying handbook [[pdf](#)].

### **Probe into 'dangerous' housing association**

An official investigation has been launched into union claims that a housing association flouted rules on handling deadly asbestos. William Whalen, an official with the construction union UCATT, presented a petition at a drama filled meeting of Carlisle City Council last week calling for Carlisle Housing Association to be wound up and its 6,140 homes handed back to the council. He produced a lump of asbestos, safely wrapped, and brandished it at councillors. Mr Whalen said: "This is asbestos taken from one of the houses. It was swept up with a shovel, thrown onto a flat wagon and taken to a dump. If that's not dangerous, I don't know what is." The union officer added: "It shows the [lack of] care this housing association has for its employees and the people of this city." Councillor Ray Bloxham, the environmental portfolio holder, told the meeting an investigation would be launched. Mr Whalen failed to persuade councillors to reverse the transfer of council houses to Carlisle Housing Association that took place in 2002, after a council official said legal, financial and contractual issues would make the reversal of the housing transfer "non feasible". Mr Whalen said he intended to raise the issue at the autumn Labour Party conference. He said: "I will be asking Gordon Brown to investigate this housing association."

- [News and Star.](#)

### **Teachers warned on minibus use**

Teaching union NUT is advising its members to "consider very carefully" whether they should agree to drive school minibuses. It says NUT "is not advising members generally that they should not under any circumstances drive school minibuses." Instead it outlines stringent safety considerations that should be met before teachers get behind the wheel. It adds that teachers cannot be required to drive a school minibus. The new guidance from the union says "it is preferable, on the basis of both safety and workload issues, that minibus driving is undertaken by individuals who are specifically employed for that role rather than by teachers," adding, "only where you are certain that the burden of driving the minibus will not lead to undesirable pressures or to unacceptable risks to health and safety should you agree to drive school minibuses." Teachers agreeing to drive minibuses should have the necessary Category DI licence entitlement, the union says, but should also "have received approved training specifically for minibus driving from the local authority or other appropriate provider."

- [NUT minibus safety briefing.](#)

### **Motor firm pays for wrecked knee**

A Unite member from Maidstone has been paid £517,500 compensation after suffering a serious workplace knee injury when using faulty equipment. Glyn Davies, aged 62, was dismantling and re-erecting large industrial racking systems at automotive manufacturer Intier when he sustained the injury in November 2002. A lack of securing bolts led to the racks collapsing. Glyn fell backwards, severely damaging his leg. "I underwent a total knee replacement operation which forced me to remain in hospital for

seven weeks," he said. "Since the first operation, I have undergone further surgery and I will require another two knee revisions and ongoing medical care. This catastrophic injury has affected most aspects of my life." Niamh O'Brady of Pattinson and Brewer Solicitors represented Mr Davies for Unite. She said: "This serious injury came about because Mr Davies was operating equipment in circumstances where he had no training and which was faulty. There is even a question mark over whether the racking had ever been checked for safety during the 15 years since it was first installed." Unite regional secretary Andy Frampton commented: "Mr Davies has won the right to return to the High Court to secure a further award of damages if he suffers a deterioration in his condition leading to knee fusion or amputation. Mr Davies injuries were caused by avoidable breaches of health and safety regulations for which there can be no excuse."

- [Pattinson and Brewer news release.](#)

### **£1 million payout for travel-to-work injuries**

The value of union legal services inside and outside the workplace has been starkly illustrated by a £1 million payout to a union member seriously injured while cycling to work. The Unite member, whose identity has not been revealed, has been awarded £1,123,676.98. He was hit by a disqualified and uninsured motorcyclist, who was killed in the collision. The man was trying to evade an unmarked police car. The Unite member sustained multiple injuries including the amputation of his right lower leg and a serious right shoulder injury which resulted in his right arm being of little use. Unite officer Des Quinn said: "Our member suffered a terrible accident at the hands of a negligent and uninsured motorist. In this case, however, his union membership enabled him to seek legal advice and he was able to get compensation. While this compensation will never make up for the injuries he sustained it does at least help him and his family." Law firm Rowley Ashworth pursued the member's claim on behalf of Unite. Dave Fisher of Rowley Ashworth said: "The member was given valuable assistance by his regional organiser regarding his employment. Despite his workplace closing the organiser was able to provide evidence that the member would have been redeployed, which established that without his injuries he would have been able to continue working. The member was therefore able to establish his future wage loss claim." As the motorcyclist was disqualified and therefore uninsured the claim was pursued through the Motor Insurance Bureau.

- [Unite news release.](#) [Rowley Ashworth news release.](#)

### **Six figure payout for drill injury**

A production worker from Ashford has been awarded £220,000 compensation after being injured by a defective drill. Caroline May, 47, was working for Cohline (UK) Limited when she suffered serious arm injuries in May 2003. She did not know the drill she was using was defective. When she operated it, it kicked back striking her right arm. She said: "I broke my arm in this accident but the

fracture went undiagnosed for a year. I later had an operation where screws were inserted in my arm. Unfortunately I developed a complication in surgery, developing Compartment Syndrome which required me to undergo an emergency decompression operation." She added: "My injuries have left me with a permanent lack of movement in my right forearm. I am unable to carry out my pre-accident duties and am extremely anxious about my capacity to work in the future and what sort of work I may be able to do." Representing Caroline for Unite, Niamh O'Brady of law firm Pattinson and Brewer said: "Ms May was the victim of employers who failed to maintain equipment properly. Her situation was made worse by the delay in diagnosis of a fracture, an operation to repair the fracture causing an unnecessary complication and Ms May is now worse off than before her fracture was repaired." Unite regional secretary Andy Frampton commented: "Ms May has been put through a great deal of pain and worry as a result of her employer's failure to ensure that her work equipment was safe for her to use as well as a failure to make suitable adjustments to employment at the early stage of her return to work." The case was settled shortly before a High Court trial was due to start this month.

- [Pattinson and Brewer news release](#).

## *Other news*

### **HSE loses deaths information case**

The Health and Safety Executive (HSE) was wrong to withhold the names of people killed at work, the Information Commissioner has ruled. A decision issued this week by the Information Commissioner's Office requires the HSE to provide the Centre for Corporate Accountability (CCA) with the names of those who have died in work-related deaths once the opening of the coroner's inquest has taken place. The referral to the Commissioner came after CCA had exhausted the HSE Freedom of Information appeals process, following the refusal of an original February 2005 information request. CCA had sought the information in order to publicise the circumstances of deaths and to track how deaths are dealt with by the investigation and prosecution authorities. It said its work had been hampered because of "extreme difficulties" identifying the deceased. HSE had argued that providing names of those who had died would be in breach of the European Convention on Human Rights, in that families could be badly affected by the disclosure. But CCA argued successfully that the information was already in the public domain once an inquest had opened. HSE has 28 days to appeal this decision. CCA executive director David Bergman said he was delighted at the ICO ruling. "It is important that members of the public are informed about how people die at work, how these deaths can be prevented and the effectiveness of the state bodies in their investigation and prosecution," he said. "Allowing us to know the names of those who have died – when the information is already in the public domain, but very difficult to obtain – will make doing that job easier."

- [CCA news release](#) and [deaths, inquests and prosecutions database](#).
- Decision notice, ICO reference FS50104541, 21 July 2008.

## **BP again avoids a jury verdict**

London-based oil multinational BP Plc has again avoided a jury verdict over the deadly 2005 explosion at its Texas refinery by settling claims of four injured workers before all evidence could be presented in a court case in Galveston, Texas. Four previous blast-related state court trials ended before jurors could be seated or all evidence heard. The curtailed legal proceedings have ensured top BP bosses at the time of the disaster have avoided the stand. As with the earlier settlements, terms of the latest agreement have not been disclosed. BP has now settled almost all of the more than 4,000 injury and property-damage claims generated by the 23 March 2005 explosion at its largest refinery, which killed 15 and injured hundreds. The company set aside \$2.1 billion (approx. £1bn) to resolve all blast-related claims. Fewer than 10 claims remain and these could be tried in September, if settlement talks fail. Judicial District Judge Susan Criss issued a statement saying lawyers believe only two of the remaining disputed claims will go to trial. "Our goal from the outset has been to fairly compensate people harmed by this tragedy," BP said in statement released after the 20 July settlements. "We deeply regret what occurred and are working hard to become an industry leader in the areas of personal and process safety." BP also pleaded guilty to a felony charge of violating the federal Clean Air Act, but the fate of the plea agreement is uncertain because victims' lawyers are challenging it, saying the proposed \$50 million (approx. £25m) fine is too lenient. The victims' lawyers also said the US Department of Justice didn't consult them before setting the terms of the agreement.

- [Galveston Daily News](#). [Bloomberg.com](#). [More on BP's safety record](#).

## **ICL boss denies gas check responsibility**

The boss of a Glasgow factory that exploded killing nine people has told a public inquiry he was not involved in making crucial safety critical decisions as the company was a "democratic organisation". Campbell Downie, 73, was chair of ICL Plastics when the plant in Maryhill blew up on 11 May 2004. ICL Tech and ICL Plastics were both fined £400,000 last year after admitting health and safety breaches. Safety consultant Alastair McCourt had told the inquiry that the Victorian building, a former textile mill, was "not a good building" for the kind of work. However, questioned on the suitability of the premises, Mr Downie said: "I think you have to say that in my view one could always move to better accommodation, progressing right up to class A industrial architecture building but I think the building would have been suitable for the type of work we were doing." Roy Martin QC, leading the evidence at the inquiry, questioned Mr Downie on whether or not he was responsible for decisions regarding liquefied petroleum gas (LPG) at the plant – it was a gas leak on a corroded pipe that led to the deadly explosion. He presented evidence from two witnesses, who claimed Mr Downie was in overall charge of the company and took major decisions. However the company boss denied this, saying the company "was a democratic organisation." Questioned on the extent to which he could make or control decisions relating to LPG, Mr Downie responded: "Decisions that were taken with regard to LPG were not referred to me." The first stage of the public inquiry into the blast ended on 22 July. It will reconvene on 22 October, when it will consider recommendations to prevent similar incidents.

- [STUC news release](#). [The Herald](#). [ICL-Stockline disaster campaign website](#). [ICL inquiry website](#).

### **Chemical firm's small fine over dust blast**

A chemical company in Wales has been fined £12,000 following an "entirely foreseeable and avoidable" April 2006 dust explosion and fire. Warwick International Group Ltd has since changed procedures and spent £1.3 million in rebuilding the part of its Mostyn factory destroyed in the blaze. Flintshire magistrates' court at Mold heard the company admitted its risk assessment for operating a particular dryer in the granulation unit had not been updated. The company should have acted sooner to reduce the risk to employees, said Simon Parrington, prosecuting for the Health and Safety Executive (HSE). The court heard that no-one was hurt in the blast but magistrates said there had been a high risk of serious injury to employees. In addition to the fine, the company was ordered to pay £22,500 costs. After the hearing, HSE investigating inspector Jo-Anne Michael said: "This incident was entirely foreseeable and avoidable, and it is extremely lucky that no-one was hurt as a result." She added: "While the company took action quickly following the incident, our investigation showed that this was a continuing breach and they could, and should, have taken measures several years before to prevent this happening."

- [HSE news release](#). [Daily Post](#).

### **Rolls-Royce fined for dangerous exposures**

Rolls-Royce has been fined £120,000 for failing to ensure that five of its agency staff were sufficiently protected against dangerous substances. Derby Crown Court heard the workers developed ill effects, including skin rashes, bowel problems and breathing difficulties, while decommissioning a light alloy foundry at the firm's plant in Osmaston Road, Derby, between July and October 2005. One of the men, a 27-year-old, is still off work and suffers dizziness. The men were exposed to hazardous substances including potassium fluorosilicate, fume from hot metal cutting and oxides of sulphur. Judge David Price said that, in pleading guilty, the company accepted it failed to give agency staff suitable information, instruction and training about what to do when liable to be exposed to chemicals. He said: "The risk assessment was too generic and there was no health and safety plan and there should have been." He said that, as a result, the workers had experienced "reasonably long-lasting ill health effects." He also ordered Rolls-Royce to pay £12,122.53 costs. After the hearing, Health and Safety Executive (HSE) inspector Noelle Walker said: "This incident could have been avoided if safe working practices had been put in place. Employers must ensure that decommissioning work is properly planned to take account of health and safety risks and that employees and agency workers are made fully aware of the risks associated with hazardous substances to prevent this sort of exposure, which has resulted in potentially long term ill health for these men."

- [HSE news release](#). [Derby Evening Telegraph](#). [HSE COSHH webpages](#).

### **Safety offences bill moves a step closer**

The Health and Safety (Offences) Bill successfully completed its Committee Stage in the House of Lords on 18 July. The Bill, put forward by Labour MP Keith Hill, cleared the Commons last month after being given an unopposed third reading (Risks 361). Under the proposed law, the maximum fine in magistrates' courts will be raised to £20,000 for most offences and imprisonment will be made an option for a wider range of breaches. The next stage of the process, Report and Third Reading in the House of Lords, is now expected to take place on 7 October. It now looks possible the Bill will make it on to the Statute Book before the end of the parliamentary session in November. However, earlier similar bills have failed to survive the tortuous passage through parliament – they have had support but not sufficient priority – so its progress is not guaranteed.

- [Health and Safety \(Offences\) Bill](#). [UNISON news release](#).

### **'Work for benefits' plan criticised**

Unemployed people will be forced to work for their benefits, as part of welfare reforms unveiled this week by work and pensions secretary James Purnell. The Welfare Green Paper includes plans to scrap incapacity benefit and make those jobless for more than two years work full-time in the community. Critics says the proposals duck the issue of the availability of suitable, decent jobs, instead blaming the victims for their plight. Stephen Bevan, director of research at The Work Foundation, commented: "The right of the state to expect people to seek work in return for support needs to be balanced by a corresponding concern for the quality of work people do. If it's bad work, as in short-term, insecure, low-paying, monotonous, and sometimes degrading, with no way to rise on merit, the plans are likely to fail and the revolving door between work and benefits will keep turning." Hilda Palmer of the Hazards Campaign said she had little confidence in the government providing good, safe work under the scheme as it "prides itself on rewarding business by removing the 'burdens' that civilised regulation and enforcement of health and safety would impose, and transferring it to the backs of the many sick vulnerable workers who will be forced from the frying pan into the fire." A TUC spokesperson said the DWP proposals on reform of the industrial injury and disease benefit system, which include replacing regular payments with a lump sum payout, were "disappointing". He added: "We accept that there will be cases where claimants may prefer a lump sum but this should only be introduced where the lump sum offered is no less than the person would be likely to have got through regular payments."

- [DWP news release](#) and [green paper](#). [TUC news release](#). [Hazards Campaign news release](#). [BBC News Online](#).

## **Physiotherapists want work fitness role**

Physios' union CSP has welcomed a government decision to pilot an NHS-based Fit for Work service. Commenting on the decision, revealed in the DWP welfare reform green paper published this week, chief executive Phil Gray said: "Physiotherapists are ideally placed to tackle workplace ill-health and help keep people in work. By intervening early, and playing a key role in the treatment and prevention of health conditions that affect ability to work, physiotherapists can improve patient health and well-being and reduce benefit dependency. The CSP is therefore calling on government to make physiotherapy central to the development of this much-needed NHS-based Fit for Work service." Mr Gray added: "Physiotherapists are ideally placed to provide the advice and treatment that will keep people in work and help people return to work, reducing sickness absenteeism and increasing productivity. We look forward to physiotherapy being at the heart of the pilot and development of this new Fit for Work service." Consultation on the welfare reform green paper ends on 22 October.

- [CSP news release.](#)

## **Government plans in need of rehabilitation**

Government efforts to get the long-term sick off benefits and back to work risk being undermined by low levels of rehabilitation support in the workplace, according to a survey. The Chartered Institute of Personnel and Development's (CIPD) Annual Absence Management Survey 2008 found over a third (36 per cent) of employers offer no rehabilitation support. Such services are most common in the public sector, where 84 per cent of employers offer them. The figure falls to 48 per cent in private sector services, and just 25 per cent in organisations employing fewer than 50 people. CIPD says where support is offered, on average it takes more than two months before the employee is referred, by which time chances of a successful return may already have diminished significantly. Ben Willmott, CIPD adviser on workplace health, said workplace rehabilitation support was necessary in helping people return to work, "in particular the provision of access to occupational health services, the use of flexible working to aid phased returns to work and the provision of access to counselling services." CIPD also called for tax incentives to encourage employers to provide occupational health and rehabilitation support.

- [CIPD news release.](#)

## *International News*

### **Australia: Deadly work demands strong laws**

Australia's poor record on workplace death and injury underlines the need for the highest possible national workplace health and

safety standards, the country's national union federation has said. ACTU assistant secretary Geoff Fary was speaking after a national meeting of unions resolved to push strongly for new national laws that impose a duty of care on all employers and give unions the capacity to initiate prosecutions over breaches of workplace safety law. The unions ratified a joint Communiqué in response to official moves to reform and harmonise Australia's workplace health and safety laws. In April, federal employment minister Julia Gillard announced a national review of safety law. Unions want the best laws from the current state based system to be permed into one high quality national law. The employers' lobby backed by some state leaders, however, is pressing for a lower standard across the board ([Risks 364](#) and [Risks 365](#)). ACTU's Geoff Fary said: "All of the States and Territories have some good features, but no one jurisdiction has the best. Instead of aiming for a less than optimal outcome, we should make sure we get the highest possible standards." He warned: "The harmonisation process should not be used by employers to cut their costs or to reduce their obligation to ensure all workplaces are healthy and safe."

- [ACTU news release](#) and [Communiqué](#).

### **Holland: Solvent repro hazards prompt review**

The Dutch government has ordered a review of workplace solvent health effects after new studies added to evidence of a significant reproductive risk in exposed workers ([Risks 358](#)). The Dutch State Secretary for Social Affairs has asked the Health Council of the Netherlands to investigate the issue. The recent studies found both male and female workers and their offspring are at risk from a range of solvents, including glycol ethers, chlorinated solvents like tetrachloroethylene and methylene chloride and aromatic solvents like xylene and toluene. Dutch government experts are concerned the health effects of many other common workplace solvents are poorly studied and poorly understood. It is estimated that half a million workers in the Netherlands are regularly exposed to organic solvents. They are widely used in industries from engineering to microelectronics, and are found in household and car paints, stains, glues, drycleaning chemicals and many other products.

- [ETUI-HESA news report](#). Occupational exposure to organic solvents:
- effects on human reproduction, Health Council of the Netherlands, 2008 [[pdf](#)].

### **USA: Secret Bush rule to protect toxins**

The Bush administration has been caught trying to introduce secretly an eleventh-hour rule that would make it harder to set new safety standards limiting workers' exposure to chemicals. The Labor Department has refused to discuss or disclose the proposal, which has spurred anger and condemnation from unions, Democrats in Congress and public health scientists. They claim the rule is a "midnight regulation" that will block the next administration's efforts to reduce work-related illnesses and deaths. The Labor Department bypassed the usual consultative and administrative

process. The rule only came public as a result of the vigilance of a safety specialist with the Project on Scientific Knowledge of Public Policy, who spotted the title of the standard on another government website and smelled a rat. The department's speed in trying to make the regulatory change contrasts with its reluctance to alter workplace safety rules over the past 7½ years. In that time, the department adopted only one major health rule for a chemical in the workplace, chrome 6, and it did so under a court order after a union legal challenge ([Risks 302](#)). This new rule proposal has become the department's top priority in the final months of the Bush administration, although proposed worker safety rules for limiting exposure to beryllium, silica and combustible dust remain works in progress after years of being under consideration. The chairmen of the Senate and House labor committees demanded this week that Labor Secretary Elaine Chao withdraw the proposal.

- [Washington Post](#) and [related earlier coverage](#). [The Pump Handle](#) and [related earlier story](#). [AFL-CIO Now](#). [New York Sun](#).
- Requirements for DOL Agencies' Assessment of Occupational Health Risks. Action: Proposed Rulemaking. Department of Labor, RI 1290-AA23 [[pdf](#)].

## *Resources*

### **Global union precarious work campaign**

Globalisation is not just about stuff – how and where it is made. It's also about people. Transnational companies want cheap and flexible workers. So they have shifted from secure to insecure employment - making all jobs more precarious. 'Precarious work affects us all' is a global union campaign to stop the rise in precarious employment and to regain power and justice for working people. Campaign webpages prepared by the global metal unions' federation IMF provide links to materials, background information and details on what trade unions around the world are doing to mobilise against precarious work. IMF says unions around the world are challenging the legal and political ruses that allow precarious work to flourish. The campaign is urging unions to mobilise globally to address the problem. One of the major consequences of precarious work is greatly increased health and safety risks – temporary workers frequently lack the skills, training and union support to work safely. And without union protection, they face the problem of being kicked out if they speak up. New materials in several languages will be added to the website in the coming weeks, including workplace action guides and posters.

- [IMF 'Precarious work affects us all' campaign websites](#).

## *Events and Courses*

### **Workplace bullying conference, Midlands, 15 November 2008**

The UK National Work Stress Network is holding a conference on eradicating workplace bullying, including cyberbullying, on Saturday 15 November and Sunday 16 November 2008. The event will take place at the Hillscourt Conference Centre, near Birmingham.

- Further details from the [UK National Work Stress Network](#). Conference booking form [[word](#)].

### **TUC courses for safety reps**

COURSES FOR SEPTEMBER TO DECEMBER 2008

- [Northern](#), [North West](#), [Southern & Eastern](#), [Yorkshire & Humber](#), [South West](#), [Midlands](#), [Scotland](#), [Wales](#)

### *Useful Links*

- Visit the TUC [www.tuc.org.uk/h\\_and\\_s](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

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