

Risks

issue no 68 – 24 August 2002



HAZARDS
MAGAZINE



Editor: [Rory O'Neill](#) of [Hazards](#) magazine. Comments to [Owen Tudor](#).
EUROPEAN WEEK OF HEALTH AND SAFETY AT WORK: 14-21 OCTOBER
If you have information about what is happening locally or in your branch, send it to tuc@worksafe.org.uk

CONTENTS

- [Union news: union calls for in-house rail maintenance](#) * [workers "cheated out of holidays"](#) * [union member's safety invention](#)
- [Other news: corporate manslaughter charges show increase](#) * [ban looms on mobile phone drivers](#) * [employer liability insurance in trouble](#) * ["air rage" Briton to stand trial](#)
- [International news: Canada: Westray mine disaster bereaved lose latest legal fight](#) * [Global: union transport safety campaigns and smoke at work](#) * [New Zealand: what value is a workers' life?](#) * [Norway: illegal overtime work on the rigs](#) * [Southern Africa: apartheid's continuing work disease legacy](#) * [USA: pain costs employers \\$80 billion annually](#) and [Shell Chemical shells out after work death](#)
- [Resources: TUC launches workSMART: new web help for workers](#)
- [Events](#)

Risks is the TUC's weekly online bulletin for safety reps and others, read each week by over 4,500 subscribers and 1,000 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](#).

UNION NEWS

HSE must call for rail maintenance to be shunted back in-house

The HSE should face up to the inevitable and recommend that rail maintenance be brought back in-house, a rail union has demanded. Responding to the HSE's interim Hatfield recommendations, following the October 2000 Hatfield derailment that killed four and injured 70, RMT general secretary Bob Crow said: "The railway safety culture was sacrificed on the altar of privatisation. The time has come for the HSE to acknowledge that no amount of tinkering with a fundamentally flawed system can make it safe." The HSE report highlights failings in training, communications and management systems resulting from privatisation. Bob Crow added: "We can fiddle with this until the cows come home, but the fundamental weakness remains there are too many agencies working across each other and there is no longer a coherent structure for ensuring that safety is the number-one priority." Representatives of the families of the Hatfield and other recent rail disasters have expressed outrage at the revelation that Balfour Beatty, the company response for managing the stretch of line at Hatfield, and Jarvis, the company at the centre of the Potters Bar rail enquiry, are on the shortlist for a share of a £6m Railtrack safety contract.

- [HSE news release](#) and [RMT news release](#). [BBC News Online](#). [The Guardian](#)
- [Hatfield derailment investigation - interim recommendations of the Investigation Board \[pdf format\]](#)

Workers "cheated out of holidays"

More than 1 million British workers are missing out on holidays, or being cheated out of time off, TUC research has revealed. Analysis of government figures shows that more than 400,000 UK workers were receiving fewer than 12 days paid holiday a year, says TUC. A further 850,000 Britons are missing out on time off because of a loophole in the working time regulations, which means employers can count bank holidays as part of workers' the minimum holiday entitlement. The legal controls on working time were introduced as a result of a European directive designed to protect workers from the dangers of fatigue and overwork. John Monks, general secretary of the TUC, said: "There is no good reason why UK workers should have the lowest paid holiday rights in the EU. We are a prosperous country and can certainly afford to raise our minimum standards. Indeed, there is evidence that more holidays and increased productivity go hand in hand." British

workers already work the longest hours in Europe.

- [BBC News Online](#). TUC news release on the [national position](#) – regional statistics are also available on the TUC website
- [TUC Changing Times website](#)

Brother of invention

Hats off to John Baillie, says the Summer 2002 issue of UCATT's *Building Worker* magazine. The UCATT member has invented and patented a device that attaches to a safety helmet and protects the wearer against sunburn in summer and provides warmth in winter. His website - www.jenca.co.uk - promotes the invention, called Jenca, which he hopes will soon be widely used on sites. Baillie, 57, a carpenter in UCATT's Folkestone branch, has clearly put his many years of experience in the building industry to good use, says *Building Worker*.

- [Jenca](#)

OTHER NEWS

Corporate manslaughter prosecutions up, but not enough

Prosecutions for work-related deaths have increased significantly in the last four years, according to new research. But convictions remain rare, with bigger businesses in particular appearing immune to liability for corporate manslaughter. An analysis by the Centre for Corporate Accountability says the Crown Prosecution Service has completed 10 prosecutions of business owners and company directors for manslaughter since April 1998 – equalling the total for the preceding 50 years. However, only three of the completed 10 cases have resulted in convictions, all involving relatively small businesses. Since early last century, only three companies, six directors, two farm owners and one trader have been convicted for manslaughter for deaths at work. The government says it remains committed to a corporate killing law that would allow companies - and possibly their directors - to be convicted for deaths caused by collective management failure. But the reform appears to have stalled since proposals were published in April 2000. The Home Office says the government was "still committed to legislation when parliamentary time allows," but the TUC has said the government must quit stalling on measures to address corporate safety responsibility ([Risks 30](#)).

- [Corporate Crime Update, No.2, summer 2002 and FT.com](#)

Ban looms on mobile phone drivers

Using a hand-held mobile phone while driving could soon be banned. Prime minister Tony Blair's spokesperson said a consultation on making 'phoning and driving' an offence was to start. The law only prosecutes motorists using mobiles if they fail to keep proper control of their vehicle - there is no current law specifically prohibiting the use of mobiles while driving. Research suggests that people using mobile phones behind the wheel are four times more likely to have an accident than other motorists. The Royal Society for the Prevention of Accidents (RoSPA) is backing efforts to make mobile phone driving a criminal offence. It says mobile phone bans exist in 35 other countries and should be introduced in the UK. The British Medical Association has also called for a ban, citing evidence from Canada that showed a substantial increase in the number of accidents at times when mobile phones were being used, including hands-free phones ([Risks 54](#)).

- [ukonline news item. BBC News Online on the ban consultation and on AA objections](#)

Insurance – there may be trouble ahead

The government says it will review insurance law reform after the industry claimed steep increases in liability premiums were threatening small firms with collapse. Mike Williams, chief executive of the British Insurance Brokers' Association (BIBA), urged senior Treasury officials to impose strict limits on liability awards against employers. He wants insurers to offer liability cover to employers via 'pooling' arrangements, with several large companies spreading the risk between them, and says Treasury officials were 'receptive' to BIBA's overtures.

Compulsory employee liability cover, introduced in 1969, was originally designed to ensure workers who suffered injuries at work could be certain of compensation. But BIBA claims the original legislation does not offer employers enough protection against rising numbers of claims for asbestos, vibration and other work-related health problems, fuelled it says by a growing 'compensation culture'. But TUC's Owen Tudor said: "The real problem is too much work-related ill-health, not too many claims, and insurance premiums which are too low to meet the real costs of work-related injury and illness. The majority of workers suffering work-related injury or ill-health get no compensation at all. Many lose both their jobs and their health." Among BIBA suggestions is a switch to a "no fault" compensation scheme, similar to those that

have proved disastrous in New Zealand, USA and elsewhere.

- [BIBA news release](#), [BBC News Online](#) and [The Guardian](#)

“Air rage” Briton to stand trial

A British man accused of drunkenly attacking two flight attendants has been indicted by a grand jury in the US and will now stand trial. If convicted, Victor Mardell, 57, could face a 20-year prison sentence and a \$250,000 (£163,000) fine. He is said to have tried to open the plane's door on a flight from Manchester to Orlando and threatened to kill a passenger, been abusive, and lunged at two flight attendants. Mr Mardell told reporters that claims he was drunk, aggressive or violent were “absolutely stupid”.

- [BBC News Online](#). Also see the [ITF civil aviation “zero air rage” campaign](#) pages

INTERNATIONAL

Canada: Westray mine bereaved lose latest legal fight

The families of the 26 Westray miners who were killed in a mine disaster a decade ago have lost their final battle against the provincial Nova Scotia government. The Supreme Court of Canada has refused to hear their lawsuit against the province, which means the families cannot sue the provincial government. The miners' relatives went to the supreme court claiming the province failed to ensure the coal mine was safe. The lawyer for the families, Ray Wagner, says the families have two options left: they can sue the federal government and they can seek compensation for other family members not governed by the Compensation Board. Families of the coal miners have received only what they are entitled to under Workers' Compensation Board rules. The Westray case has been a major focus of the Canadian union campaign for greater corporate accountability for workplace injuries and deaths ([Risks 54](#)).

- [CBC News](#). [CLC](#) and [CAW](#) on the Westray disaster and corporate accountability. [USWA Canada Westray campaign page](#)

Global: Union transport safety campaign success

Union transport safety campaigns are “one of the success stories in recent years,” says global transport union federation ITF. ITF general

secretary David Cockroft says: "Co-ordinating and publicising union activities on the same day or week is an effective way to focus public attention on matters of concern to affiliates." Action days in recent years have seen more and more unions in the road transport sector stage demonstrations, go-slows, leafleting and education workshops to highlight the theme 'fatigue kills'. On the railways a "safety first, not profit" theme saw "affiliates demand that safety be made a priority in an industry being ravaged by privatisation and fragmentation." There had also been highly successful "zero air rage campaigns" in civil aviation, and campaigns on dockwork and maritime safety. Hundreds of thousands of workers in over 80 countries have participated in the ITF days of action.

- [ITF news](#). More on ITF and other [union health and safety campaigns](#)

Global: Working to clear the smoke at work

Thailand has stepped up its aggressive campaign against cigarettes by imposing a complete ban on smoking in air-conditioned restaurants and public toilets, officials have said. Public health minister Sudarat Keyuraphun has signed a ministerial regulation to extend the smoking ban in public places. The law, which takes effect on 8 November, will carry a fine of 2,000 baht (£31) for smokers and 20,000 baht for owners of places that violate the provisions, she said. New York continues to edge towards a ban in bars and restaurants. Pushing the proposal, NY mayor Michael Bloomberg says "we are protecting the freedom of the workers in the workplace and the freedom of those who want to go to bars and restaurants and to not be injured by the conduct of others." A new report from the US government's work safety research body NIOSH concludes "employees in blue-collar and service occupations are at higher risk than other types of workers for exposure to tobacco smoke on the job." It says traditional smoking cessation programmes have been a flop, but "better results may come from integrating smoking cessation and other health-promotion programmes with occupational safety and health programmes."

- **Reuters Health on [Thailand](#) and [New York](#)**
- **NIOSH [news release](#) and [full report](#)**
- **Union resources on [smoking, drink and drugs at work](#)**

New Zealand: What value is a workers' life?

New Zealand's top union official has slammed "insignificant" fines that

undervalue workers' lives. New Zealand Council of Trade Unions president Ross Wilson said the NZ\$30,000 (£9,000) fine against Crusader Meats for failing to keep a worker safe earlier this year was woefully inadequate. Petunia Waaka was killed while cleaning an untested revolving door at the Crusader Meats Bennydale factory. "This worker had no training in the operation of the contraption which killed her, and unnecessarily lost her life simply because her workplace was unsafe," said Ross Wilson. He added that new health and safety legislation was urgently required and fines must be increased. "We have heard a lot from politicians and employers' representatives criticising so-called exorbitant fines for employers," he said. "The reality is in this tragic story of a young mother of three who had a right to go to work and return safely home."

- [NZCTU news release](#)

Norway: Illegal overtime work on the rigs

The death of a grossly overworked oil rig worker has led for calls on the Norwegian government for action. Magnhild Meltveit Kleppa, head of the parliamentary committee for municipal affairs, says the minister for industry Victor Normann must report on the use of overtime on oil installations on the Norwegian Shelf. A worker on the Byford Dolphin platform died in April after working 34 hours continuously. This shift length is much longer than the limit set by Norwegian labour laws, and was not disclosed in the first reports submitted after the accident, only just becoming known.

- [Norway Post](#)

Southern Africa: Apartheid's continuing work disease legacy

Tens of thousands of black former mineworkers in South Africa and neighbouring countries may have been sent home to die from occupational lung diseases, after facing apartheid's deadly discrimination in working conditions, in safety law, in compensation and in occupational health cover. As migrant workers the apartheid laws of the period sent them home after about 11 months and required that they reapply for their jobs at the mines. Many did not get their jobs back and when they became ill, they were left to the mercy of whatever local health facilities were available. White employees who suffered disabilities of over 25 per cent received a pension for life, as did dependants of those killed. Black employees or their dependants received no pension, only a lump sum payment. Biannual medical examinations for white and coloured workers were paid for by the

state, while no such requirement existed for black workers. In 1990 the levels of compensation for diseases (other than tuberculosis) were R1,000 (£60) for blacks; R6,000 for coloureds (first degree); R9,000 for coloureds (second degree), R12,000 for whites (first degree); and R18 000 (£1,100) for whites (second degree).

- [Business Report](#)

USA: Pain costs employers \$80 billion annually

America's working wounded are too scared for their jobs to take sick leave, new research shows. Pain from common conditions such as headaches and backache costs US employers about \$80 billion (£53 bn) a year in lost productivity, according to a report presented at the 10th World Congress on Pain. It adds the bulk of the loss, or about \$64 billion (£42 bn), is largely invisible to employers because it occurs as a result of "presenteeism," where workers show up but in too much pain to perform up to par. The researchers conclude that pain is the most prevalent health condition in the US workforce and the most costly in terms of productive work time.

- [Reuters Health. Union-friendly guidance on protection from victimisation](#)

USA: Shell Chemical shells out after work death

A Shell Chemical plant in Louisiana is to pay a six-figure fine after lax safety standards led to the death of a worker. "For its failure to implement standards that protect workers against hazardous chemicals in one of its process units, Shell Chemical, LP, in Geismar, La., has agreed to pay \$135,900 [£89,000] in penalties for citations issued by the Occupational Safety and Health Administration," an OSHA news release says. "In addition to agreeing to the penalties, Shell has worked closely and cooperatively with OSHA to work at improving its overall safety and health procedures," said John Deifer, OSHA's area director. The OSHA office investigated a 12 February fatality at the Geismar facility where a catalyst technician, working with a highly hazardous chemical, was killed as the result of an explosion.

- [OSHA news release](#)

RESOURCES

workSMART, work union

workSMART, brought to you by the TUC, is a new web guide to help

today's working people get the best out of the world of work. workSMART includes: a free guide to your rights at work; free expert advice; and a union finder to help you choose a union. It will cover in particular issues like health and safety at work, employment rights and pensions. TUC says this is only the start. "We aim to be a one-stop shop for everything to do with your working life." You can also register for a workSMART newsletter.

- [workSMART](#)

EVENTS

Hazards 2002, National Hazards Conference, 6-8 September

The National Hazards Conference will be held in Manchester for the second year running. Further details from [Greater Manchester Hazards Centre](#). There is a [financial appeal](#) to keep registration costs down, backed by the TUC.

RSI Association annual conference, 28 September

Speakers at the conference which is on a Saturday at TUC headquarters include: Dr Michael Hutson, consultant physician and president of the International Federation of Musculoskeletal Medicine; Trevor Shaw, head of the musculoskeletal, ergonomics and performance section in HSE's Human Factors Unit; Richard Southorn, Employers' Forum on Disability; and Owen Tudor, TUC health and safety specialist and Health and Safety Commissioner. For more details, see the [RSI Association](#) website.

TUC/UK Work Stress Network Conference, 14 October

The TUC will be holding a joint conference with the UK National Stress Network on Monday, 14 October at TUC headquarters in London, to launch European Week for Health and Safety. Further details and a booking form should be available in next week's issue.

European Week of Health and Safety 2002, 14-21 October

This year's week will take place in Britain from 14 October, on the theme of stress – there is a special [page](#) on the TUC website devoted to the week. Unions and union branches planning Euroweek activities should contact the TUC's stress week co-ordination team at [Worksafe](#), tel. 01535 664462, with details of what they are doing and what support they would like. More background: [European Agency](#) and [HSE](#)

Euroweek webpages.

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](#).

TUC courses for safety reps

COURSES FOR SEPTEMBER TO DECEMBER:

[Midlands](#), [North](#), [North West](#), [Scotland](#), [South East and East Anglia](#), [South West](#), [Wales](#), [Yorkshire and Humberside](#)

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.