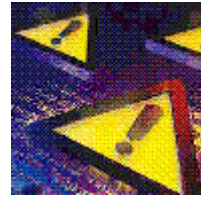


Risks

issue no 105 – 10 May 2003



Editor: [Rory O'Neill](#) of [Hazards](#) magazine. Comments to [Owen Tudor](#) – **Risks** is two years old on Monday!

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Risks is the TUC's weekly online bulletin for safety reps and others, read each week by over 7,000 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](#) [Disclaimer](#) and [Privacy statement](#).

UNION NEWS

Smoking bans are healthy for business and workers, says TUC



Smoking bans in pubs and cafes would protect the health of UK hospitality workers and result in increased profits for landlords and restaurant owners, according to a story in the latest edition of the TUC-backed magazine, *Hazards*. In the light of the findings, TUC and Action on Smoking and Health (ASH) say the government should now act on the independent research on the effects of any smoking bans, not on studies funded by the tobacco lobby

that wrongly imply that any ban would see businesses going to the wall. The *Hazards* article says the most rigorous and independent studies in the UK and worldwide find that bans have had no negative impact on the profits of pubs, clubs, and eateries– in stark contrast to studies linked in some way to the tobacco industry. TUC general secretary elect Brendan Barber said: “The tobacco lobby is desperate to avoid a smoking ban, and is using dubious surveys, full of junk science to try to convince the government of its case. But people who work in pubs, bars, clubs and restaurants need protecting, and the voluntary Charter backed by the tobacco industry will do nothing to save the lives of thousands of workers at risk every day from passive smoking.” Calling for a legally-binding code of practice, he added: “Ministers should not be deterred from acting by the results of misleading surveys promoted by organisations keen to see bars and restaurants remain smoky, hazardous and unhealthy for workers and customers alike.”

- [TUC news release](#). *Hazards* magazine, No.82, [Smoke screen report](#) and [Smoking website](#). [ASH news release](#) and report, [The tobacco Industry, ETS and the hospitality trade \[pdf format\]](#)

Safety training helps Northern business

A TUC survey of safety reps in the North East and Cumbria suggests better training for employers and employees is needed in order to raise awareness and understanding of EU workplace health and safety regulations. The research, launched in the North East *Focus on Europe* week, found majority of respondents (62 per cent) said the implementation of existing safety policies within their workplaces was either average or poor. Recommendations for improving workplace health and safety included: joint training and genuine partnership between management and unions; more training days targeted at

raising understanding of European Union health and safety regulations; intensive training on specialist areas; refresher courses on how EU regulations are transposed into UK law; and all workers to receive initial health and safety training. Peter O'Brien, TUC regional policy officer, said: "While our survey illustrates the important role of the EU in delivering improvements to workplace health and safety in the North East and Cumbria, the findings also reveal the worrying existence of inadequate implementation of workplace health and safety policies across all sectors of the Regional economy. Companies should take a closer look at their health and safety policies. Research has shown that firms working in partnership with unions are twice as likely to provide safe workplace environments for their employees."

- **TUC [news release](#). *Hazards union effect* [webpages](#)**

NHS staff take the rap for speaking out

NHS staff are frightened to raise concerns, particularly about unsafe staffing levels, government targets and waiting lists, risks caused by other staff and a bullying culture, according to a new report. The survey of more than 2,000 health workers was carried out by the charity Public Concern at Work on behalf of UNISON, and found one-third suffered reprisals for speaking out. Nonetheless, most said they were prepared to blow the whistle on bad practice where it may affect patient safety. Karen Jennings, UNISON's head of health, said: "It is simply appalling that staff say they are victimised if they blow the whistle on bad practice in the NHS. It is essential for staff to be able to raise concerns about standards of patient care or staff safety, without the fear of reprisals." She added: "Employers must have clear whistleblowing policies, that are open and easily accessible to everyone." Public Concern canvassed almost the entire health team, other than doctors, quizzing nurses, midwives, cleaners, technicians, paramedics and therapists, to porters, managers and clinical scientists.

- **[UNISON news release](#). [BBC News Online](#). [Ananova](#)**
- **[Public Concern at Work](#). [UNISON Duty of Care campaign](#). [Hazards union guide to victimisation](#)**

Union chief demands answers over Potters Bar rail crash

Train drivers' union ASLEF is demanding to know why it is taking so long to get to the root cause of the Potters Bar rail crash. General secretary Mick Rix said: "Why is it that one year on, we are still waiting for answers on what caused the Potters Bar rail crash? Of course, a thorough investigation is needed, but why are we being

made to wait so long for answers?" He added: "We owe it to the victims of Potters Bar, their relatives, workers on the railways and the travelling public who use the system day in and day out, to find the answers that could help prevent a similar tragedy from happening again." Seven died and dozens were injured in the May 2002 crash ([Risks 53](#)). Rix added: "It is also time for the government to introduce a new law against corporate killing, as promised by the Labour Party in its 2001 election manifesto. Such a law could then be used against bad employers who put the lives of workers and members of the public at risk."

- [ASLEF news release](#). [Ananova](#). [Sky News](#). [TUC/Hazards deadly business campaign](#)

OTHER NEWS

Crown immunity protects the guilty, says widow

The Royal Mint has been blamed for the unlawful killing of a worker, but will escape prosecution because it is owned by the Crown ([Risks 72](#)). Coin maker John Wynne, 50, was crushed to death by the "monstrously dangerous" furnace at the plant, an inquest heard last week. The inquest jury at Merthyr Tydfil returned a verdict of unlawful killing after the Mint was accused of a "reckless disregard" for the safety of its workers. But the company cannot be taken to court because it has Crown immunity. After the hearing, Catrina Wynne, Mr Wynne's widow, said: "It was the right verdict but it is terrible that with Crown immunity the guilty people cannot be brought to justice." John Venmore, acting for Mr Wynne's family, said: "It is a case beyond normal negligence and amounted to reckless disregard. There was a very serious risk of a fatality occurring." A National Audit Office report last month referred to the death and recommended the removal of Crown immunity from the Royal Mint ([Risks 102](#)). Civil service union PCS last week called for Crown immunity to be removed from all safety offences ([Risks 104](#)).

- [The Western Mail](#). [The Independent](#)

Protecting privacy, not bad bosses

The government is consulting on the extent to which public bodies including the HSE should be able to demand the communications records of British telephone and internet users. In a foreword to a Home Office consultation paper, Home Secretary David Blunkett concedes an original proposal made last year, which would have given

organisations including HSE the right to read your email ([Risks 58](#)) and which was withdrawn after a public outcry, "was too permissive and a more restrictive approach is necessary." He now says: "I recognise that striking the right balance between respect for privacy and protecting the public is an issue for all of us, and it is important to get it right. Public authorities should be allowed access to communications data only when it is demonstrably both necessary and proportionate for this to happen." TUC safety specialist Owen Tudor says "there's a case for them to have more powers, not least to raise the profile of workers' safety." He explained: "Breaching safety law is a criminal act, and bad employers should not be protected from a thorough HSE investigation which could unearth crucial evidence of their wrongdoing."

- **Access to communications data - respecting privacy and protecting the public from crime, Home Office consultation paper [[pdf format](#)]. Comments by 3 June to: [Simon Watkin](#), Access to communications data consultation, Home Office, Room 732, 50 Queen Anne's Gate, London SW1H 9AT**

Miners' hands shouldn't be frozen, says court

A High Court judge has ordered the government to re-think the way people suffering from a disabling occupational disease are assessed for disability benefits. He backed a claim by South Wales miners that a test that required workers to plunge their hands into ice cold water for five minutes had no scientific value in the assessment of vibration white finger industrial injuries benefit claims. The ruling may pave the way for more than 20,000 former miners and thousands more in other industries to re-apply for benefits. The union launched the claim under the Human Rights Act, claiming the ex-miners were not given a fair hearing. Mr Justice Pitcher agreed that the Department of Work and Pensions test, known as the Cold Water Provocation Test, had no scientific value. He ordered the Secretary of State for Work and Pensions to modify or revise the existing guidance on the test. He said there was "unequivocal evidence" that some doctors appeared to be wrongly placing reliance on the test when deciding whether or not claimants were suffering from white finger. The condition is triggered by the use at work of vibrating machinery such as chain saws, pneumatic hammers and drills.

- **[BBC News Online](#) and [medical notes on vibration white finger](#)**

Inquiry call after top British journalist is killed in Palestine

Only hours after a new global campaign was launched by media leaders demanding that attempts to kill journalists should be made a war crime, a British journalist was shot dead in controversial circumstances by Israeli forces in Palestine. Cameraman James Miller was filming the demolition of houses for a documentary in the Gaza town of Rafah, when he was shot in the neck. Israeli army statements said he was hit as troops fired in defence, but other witnesses say Miller and two colleagues were simultaneously filming and waving a white flag as they walked toward the tank. Aidan White, general secretary of the International Federation of Journalists, said: "This killing, like other recent deaths in Palestine and Iraq, cries out for a systematic process of independent investigation by respected international authorities." Miller's death brings the number of journalists and media staff killed this year to 37.

- **IFJ news releases on [James Miller's death](#) and on the [International News Safety Institute launch](#). [NUJ "war crimes" news release](#). [Ananova](#). [International News Safety Institute website](#)**

INTERNATIONAL

Europe: EU cracks down on chemicals

The European Commission has proposed tough new controls on thousands of chemicals it believes pose a potential threat to the environment and human health. REACH, the proposed European Union-wide system, would make industry responsible for checking the safety of chemicals used in their products, and streamlines risks assessment and testing rules. "Everyday, we are exposed to chemicals in our environment, at work or in our homes. However, for many of them, we do not know enough about their risks or longer-term effects," said EC environment commissioner Margot Wallström. "Our reform proposal therefore requires industry to provide public information on the chemicals they produce or import and the risks associated with their use. This will allow the users to choose safer alternatives." Under the new system, some 30,000 substances would have to be registered with a new EU chemicals agency. Those that did not pass the tests would be banned. Chemical producers are already lobbying fiercely for exemptions and warning of a significant impact on business. But environmental groups say the legislation would help tackle the worrying rise in cancers, birth defects and other illnesses

that may be caused by exposure to chemicals.

- [European Commission news release](#). [Ananova](#). [BBC News Online](#).
- **European Commission [briefing](#) and [The EU chemical strategy: Working towards a sustainable approach](#), speech by Erkki Liikanen, Member of the European Commission, and [text of the proposals](#) which are under consultation online for eight weeks**

New Zealand: Work with us for safer work, say unions

"The death toll in our workplaces can be dramatically reduced if employers co-operate with unions on the implementation of the new health and safety law," New Zealand Council of Trade Union president Ross Wilson has said. Speaking ahead of the Health and Safety in Employment Amendment Act taking effect on 5 May, he said the country's unions were "calling for employer co-operation with the development of effective employee participation systems in workplaces." Wide-ranging new legal provisions include: Enforceable rights for union safety reps to be involved in all safety matters and to receive training and do their safety functions in work time; stress and fatigue explicitly recognised as "harms" and "hazards"; a right to prosecute safety offenders, where the official safety enforcement agency fails to act; union safety rep-issued hazard notices on employers; and a right to refuse to do work a worker reasonably believes will cause them harm. Ross Wilson said NZCTU was ready to make "worker participation" in workplace health and safety a reality by organising the election and training of up to 10,000 health and safety representatives within the next 12 months.

- [NZCTU news release](#). [EPMU news release](#). [FINSEC news release](#). [PSA news release](#). [Dominion Post](#). [NZ government news release](#)
- [NZCTU handbook on the new law](#). More on [union participation in workplace safety](#)

Thailand: Pain of the Kader fire won't go away

Ten years on, Samphan Tochalarm, 46, who was left paralysed from the waist down and dependent on her family after surviving Thailand's worst industrial blaze, still worries about her future. A report in *The Nation* says Samphan is one of the 469 sweatshop workers who were injured in a 10 May 1993 Kader Industrial Toy Factory fire that claimed

188 lives. Bodies of victims lay in the streets, in the ash and the melted remains of Bart Simpson dolls, some now resident in the Thai Labour Museum as a lasting memorial. Her injuries were sustained when she jumped from the third floor of the burning factory. Now, however, the Bt200,000 (£2,950) in compensation she received is all gone. The monthly Bt2,000 (£30) allowance from a compensation fund she receives will dry up in another 10 years. The Asian Network for the Rights of Occupational Accident Victims is calling for support for the victims and their families and for proper, properly enforced safety laws. Two weeks of campaign events started ahead of Workers' Memorial Day, and will climax on the 10 May anniversary of the fire. Unions in Thailand said last month they intended pursuing the Kader employers through the courts ([Risks 103](#)).

- [Kader fire resources](#) from the Asian Network for the Rights of Occupational Accident Victims (ANROAV). ANROAV newsletter, May 2003 [[pdf format](#)]
- **Background: ICFTU report on the fire - [From the ashes - a toy factory fire in Thailand](#)**

USA: Panel urges total ban asbestos

A panel funded by the US government's Environmental Protection Agency is recommending the government ban the import, production and distribution of products containing asbestos. Asbestos is no longer mined in the US, but government figures show 30 millions pounds are still imported each year. The findings come as a shock to some of those who have long advocated a ban because so many of the panel's members have ties to industries involved with asbestos. That gives the panel's recommendations extraordinary weight, those involved with the asbestos issue say, and could aid efforts already under way in the Senate to outlaw asbestos imports. Democratic senator Patty Murray, behind the Senate ban move, said the report reinforced two points: "First, asbestos is still a serious problem in this country. Second, Congress needs to pass the Ban Asbestos in America Act now." Barry Castleman, an internationally recognised US authority on asbestos who advised the European Commission on the EU ban, said: "The ban in the United States is long overdue." He added: "No longer will American manufacturers have to compete with asbestos products from China and other countries where workers are not protected from the killer fibres."

- [St Louis Post-Dispatch](#). **International Ban Asbestos**

Secretariat webpages on [asbestos bans worldwide](#)

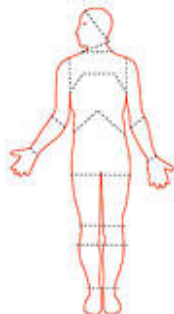
USA: Three strikes and you're out

Borrowing from the controversial punishment for multiple street crimes, opponents of corporate crime in California are trying to create a three-strikes-and-you're-out law for businesses. "If this is good enough for individual felons in California, it's certainly appropriate for the Enrons of the world," says Carmen Balber, a consumer advocate for the Foundation for Taxpayer and Consumer Rights. Together with other consumer groups and organisations representing environmentalists, trade unions and trial lawyers, the foundation is backing a bill that would bar a corporation from doing business in California if it is convicted of three felonies in a 10-year period. The proposed Corporate Three Strikes Act takes its name from the state's three strikes law, which provides sentences of 25 years to life in prison for individuals with two prior violent or serious felonies who are convicted of any third felony. The Bill, which would cover illegal financial dealings, consumer and environmental protection, civil rights, union rights and employment laws, passed its first hurdle this week. Balber says she sees the law functioning mainly as a deterrent that would result in few third strikes. Fines sometimes aren't enough to prevent corporate crimes but public embarrassment and banishment would, she says.

- [WTOP.com. Corporations: Corporate Three Strikes Act, Bill SB335, California State Legislature](#)

RESOURCES

So, you think you know about *Hazards*?



Want to know what the tobacco industry did to make work that bit more dangerous? Or about new tools that can help you work out what hurts at work - and what you can do about it? If you do, and if you what to know what unions are doing to tackle hazards in the UK and worldwide, you should grab a copy of *Hazards* magazine, the best selling TUC-backed health and safety quarterly.

It is out now and is packed with worker-friendly news and reviews, a factsheet on health and safety and the menopause and a photofile on the shocking exploitation of garment workers worldwide. The *Hazards* website is currently LabourStart's website of the week, and was last year's labour website of the year.

- [Hazards 82 contents](#) and [subscription page](#). [Find out more about Hazards](#)

New online guides from UNISON

Public service union UNISON has issued new online health and safety guidance. *Lifting of home care clients* is an information sheet providing details of a High Court judgment in a recent case involving lifting of people in care homes ([Risks 94](#)). It gives guidance on the issue of lifting in care homes and what employers must do to ensure the health and safety of their staff. The water coolers and drinks machines information sheet explains the health risks and what employers must do to ensure the health and safety of workers.

- [Lifting of home care clients](#) and [Water coolers and drinks machines](#). [UNISON safety page](#)

What's in Prospect?

The latest issue of *Safety Notes*, the newsletter of safety inspectors' and professionals' union Prospect, is now available online and includes information on the new European drive by unions to protect workers from passive smoking.

- [Safety Notes \[pdf format\]](#)

Explosive material

The HSE has issued new guidance on the ammonium nitrate, an industrial chemical with the potential for causing devastating explosions. The move was prompted by the September 2001 destruction of the AZF chemical plant near Toulouse, France, in an explosion caused by the chemical, killing 29 people ([Risks 20](#)).

- [Ammonium nitrate materials \(high nitrogen content\) safety regulations 2003 - guidance for applicants for exemption certificates](#)

EVENTS AND COURSES

TUC courses for safety reps

COURSES FOR APRIL TO JULY 2003:

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

Only newly announced events, events next week and very important events will be listed here in future. But there is a comprehensive listing of [health and safety events](#) on the TUC website – bookmark it for easy reference!

Law enforcement and corporate accountability, 7 July

Government ministers, MPs from all main political parties, trade unions, employer organisations, bereaved families and the Health and Safety Executive are all speaking at the TUC-Centre for Corporate Accountability 3rd joint conference on "Law enforcement and corporate accountability." Speakers include: Rt. Hon. Nick Brown MP, minister for work; Brendan Barber, TUC; Janet Asherson, CBI; Anne Jones, Simon Jones Memorial Campaign; Neal Stone, HSE; Lord Falconer; Home Office minister; Patricia Peters, Institute of Directors; Tony Lloyd MP, chair, TU group of Labour MPs; Ross Cranston QC MP, former Solicitor General; and many more...

- [Registration/further details](#) for the **Law enforcement and corporate accountability conference, Monday 7 July, TUC, Congress Centre, Great Russell St, London WC1. Standard fee £25 (£40 for lawyers and businesses). Contact [Sugar Munthali](#) at CCA on 0207 490 4494**

Hazards Conference, 5-7 September

The Hazards Conference will be in London. Margaret Sharkey at the London Hazards Centre is the co-ordinator of the London end of the organisation. You can contact her via e-mail at margaret@lhc.org.uk or on 020 7794 5999.

European Week for Health and Safety at Work, 13-19 October

The theme for the Week in 2003 will be 'dangerous substances' (EU Agency [press release](#)). The TUC will be stressing the hierarchy of control, and especially the need for substitutes and general toxic use reduction strategies. Key hazards dealt with will include asbestos, asthmagens and solvents. [Future years' themes](#) have also now been decided.

USEFUL LINKS

Visit the TUChttp://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](#).

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