

Trade and Industry Committee

Memorandum

submitted by Amicus

Inquiry into UK Employment Regulation

June 2004

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Summary

In this submission, Amicus has concentrated upon the need to define what is meant by flexibility in the labour market, its impact upon investment in the UK economy and the issues which need to be addressed to ensure that UK workers are not disadvantaged by the failure to provide appropriate employment regulation. Amicus has also addressed the qualitative issues which employment regulation impacts upon in terms of job category and earnings. Although the Committee has identified labour market flexibility as its key issue to be considered, Amicus has also taken the opportunity to raise the overall need to tackle the strategic training needs to cope with skill gaps and shortages.

The submission argues:

- Any debate about flexibility must address the positive aspects of employee protection as well as the restrictive approach of employer freedom to hire and fire at will.
- Employers argue consistently for the limiting of employee rights on the false premise that this has a negative impact on productivity.
- The failure of government to recognise social planning as an integral part of the industrial economy has led to a European two-tier workforce with the UK viewed as an easy option for closure and redundancy.
- Functional flexibility introduced with full employee participation can lead to improved productivity and greater competitiveness.
- Evidence illustrates that the UK flexible labour market has failed to bring the real gains in productivity and competitiveness promised.
- It is also apparent that the progression towards full employment has masked the shifts in the labour market reflected in the decline in manufacturing jobs
- Government should adopt a more positive approach to employment regulation where this enhances the working environment or conditions of UK workers and, in particular, should ensure that **all** workers are protected under UK legislation.
- Negative impact of labour market flexibility based on numeric factors rather than functional , will undermine government strategy to create a high-skilled, added value workforce in the UK.

Introduction

1. The Amicus Trade Union welcomes the opportunity to contribute to this inquiry into UK Employment Regulation. As the UK's largest general trade union covering both public and private sector employment, Amicus is well placed to understand the impact of legislative changes on both employers and employees.
2. In this submission to the Trade and Industry Committee, Amicus will address the issue of the flexible labour market and the investment implications that this has for the UK economy. We shall also draw attention to comparative figures for other major European Union countries.
3. Amicus is concerned about the need to establish a level playing field for UK workers in their treatment both at the workplace and at times of employer restructuring and potential job loss.
4. We shall look at the impact of regulation on the quality of jobs and earnings within the UK and refer to the strategic needs for tackling skill gaps and shortages.

Flexibility

5. In recognising that the concept of flexibility can provide opportunities for improved productivity and more effective working, it is important to define what is meant by flexibility. Too often flexibility is a pseudonym for the freedom to hire and fire at will, to avoid regulations introduced to protect workers such as the working time directive and to restrict the ability of trade unions to organise in the workplace.
6. Current flexibility is controlled by the employer rather than employee. Employee rights when introduced are welcome but frequently do not go far enough to allow individuals to take advantage of those rights for economic reasons. Employers cry wolf at each new right, eg family friendly developments, whilst failing to produce any evidence of impact on productivity or effectiveness or competitiveness.
7. The failure of government to address social planning as an integral part of the industrial economy has meant that the employer's flexibility is greatly enhanced to the cost of the employee. Redundancy protection in the UK is minimal and frequently means that lip service is paid to the regulations on consultation. As an increasing proportion of the workforce move into employment in smaller establishments, even the proposed new regulations on Information and Consultation will do little to protect the position of millions of UK workers as it does not apply to them immediately, or in cases of less than 50 employees, ever.
8. The penalties against employers who abuse the existing employment rights of workers are minimal and do not act as a deterrent. For many

workers the extension of the flexible labour market means greater job insecurity and unacceptable workplace practices.

9. Amicus is not opposed to the concept of functional flexibility in the workplace where this is introduced through consultation and the full participation of the workforce. We have been instrumental in working with employers to achieve team working and multi skilling which has both enhanced the individuals' skill levels and resulted in improved productivity and greater competitiveness. However, too often the concept of flexibility from an employers' perspective is about numeric flexibility which is about greater use of temporary and agency labour and knee-jerk reactions to dips in demand for products.

Flexible Working

10. Flexible working for employees provides an opening up of the employment market to many who would otherwise not be able to work and Amicus welcomes recent improvements in legislation in this area. This widening of the labour pool has the potential to help address the skill needs of a number of industries. Progressive employers have embraced these provisions and in some cases enhanced them in an effort to position themselves as employers of choice. This would clearly not be done if they felt that this would damage their competitive position.
11. Equally, we are concerned that without adequate employment regulation, workers who choose to work part-time or are employed by agencies, will be disadvantaged and leave themselves open to unfair employment practices.

Investment

12. Much has been made of the benefits that a flexible labour market brings in terms of attracting investment into the UK. (include comparisons with Germany and France over last 10 years)
13. Although the numbers employed in the UK now are higher than ever the quality of the jobs available and the levels of earnings do little to support the government's stated aim of achieving a high-skilled, added value workforce. There is little evidence to support the contention that the flexibility in the UK labour market has brought long term investment into the country or that indigenous employers are prepared to increase investment other than those in areas where there is a guaranteed, quick return.
14. Our own research has shown that despite statistics showing progress towards full employment this has hidden the serious decline in manufacturing jobs over the past 15 years. The shifts in the labour market in the UK towards the service sectors has brought with it a

diminishing supply of key skills which impacts upon the attractiveness of the UK to inward investors.

Employment Regulation

15. Conversely there is no real evidence to suggest that employment regulation where it has been introduced has a detrimental effect on investment and jobs. This is due, in part, to the extent to which positive rights for workers are integrated into UK employment legislation by the government.
16. Amicus notes that many of the positive developments in employee rights in the UK have originated from European legislation and directives. Amicus would like to see a more positive approach from the UK government when such directives are proposed and consulted upon. We welcome the earlier opportunity for consultation which the DTI now provides to interested parties, but are concerned that the outcomes to date have represented a dilution of the intent of such directives. This is apparent in the Working Time Regulations where the UK has continued to argue for the retention of the opt out clause, and the Information and Consultation Regulations where many employers will be excluded from the requirements.
17. There is no evidence from those countries where existing consultation rights meet the new regulation requirements or where there is no opt out from the working time regulations that investment has been undermined or productivity has suffered.
18. It is important that positive changes that will create the right sort of working environment to encourage the acceptance of change, so necessary to today's economic climate, are introduced with enthusiasm by industry's partners if the UK economy is to meet the aspirations of government in terms of productivity and competitiveness.

A Skilled Workforce

19. There is a general recognition that for the UK to compete in the global economy in manufacturing and commercial services, it needs to create a balanced workforce with the capability to adapt to change through training and re-skilling. Such an approach needs the right sort of workplace and employment environment.
20. If on the basis of the false premise that the UK is over-regulated, government restricts the ability of trade unions to organise or play a full role in business strategy through consultation, it is unlikely to create the environment where change is seen as an opportunity rather than a threat.
21. Amicus argues that the record of the UK employers demonstrates that there is a need for the provision of mandatory training levies where

industries fail to demonstrate that they are investing in the future through a strategic training plan.

22. It is against this scenario that Amicus argues that there is no question that the UK workforce can or should seek to compete with low wage economies on the basis of low wages and less regulation. Such an approach would be disastrous and seriously damage the UK economy in the medium and long term. A programme of sustained investment, innovation and high-skill, added value workplaces is the sustainable approach for UK employment and the proposal for a level playing field by expanding regulations on a par with the rest of Europe, provides no real obstacle to such a strategy, or to flexibility.