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**Ignorance is Bliss, Knowledge is Blight?
Employment Rights and Small Firms**

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Abstract

All enterprises operate in a regulated environment. However, employers' understanding of specific regulations and the effects on enterprise are subject to debate. An area that has provoked controversy over the past 20 years or so, is employment rights, particularly given the raft of new legislation since 1997. Drawing on a telephone survey of over 1000 small employers, plus face-to-face interviews, the paper presents new evidence and thinking on owner-managers' knowledge and perceived effects of employment rights in small firms. Particular attention is paid to maternity and parental leave, working time regulations and the national minimum wage. The paper argues that knowledge of employment rights varies according to a range of factors including enterprise size, sector, workforce composition, relevance of particular rights and employer history of involvement in employment disputes. Awareness and knowledge of rights rises when employers are at risk to having to meet these rights. Owners of micro-enterprises were less likely to display detailed knowledge suggesting a general size threshold in awareness levels.

The paper also analyses the perceived effects of employment rights on small firms. This has attracted a great deal of attention over the past five years. The paper reports on which types of enterprise are more at risk to reporting positive and negative effects and in relation to which particular rights. However, given the ignorance of employers on employment rights, it also questions the validity of other research which report with some precision the cost of employment rights. Instead, it is argued that many business owners have a predisposition to criticise regulations and many of these reported effects are based on perception rather than experiential effects. When put into context, the results show a rise in the importance of employment regulation as a constraint in business performance over the past 20 years. However, the paper also argues that this effect is uneven within the small business population.

Introduction

During the past decade there has been an increase in the volume and complexity of employment legislation on the statute books (DTI, 2000). This legislation covers a variety of individual employment rights including working time, maternity and parental leave, wage rates and discrimination. These rights are enshrined in a number of pieces of legislation, including the Employment Relations Act (1999), the Working Time Directive (1998) and National Minimum Wage (1998). The rise in employment legislation raises a number of questions in relation to small firms. To what extent are owner-managers aware of the new employment regulations? What, if any, are the different awareness levels and effects within the small business population? What have been their adjustments to it? How has it affected their business performance?

Employment legislation has excited a great deal of debate and comment from the media and pressure groups with employers' representatives expressing concern about the effects on their enterprise (see The Daily Telegraph, 2000; Financial Times, 2001; Institute of Directors, 2000). In theory, it has been argued that small firms are disproportionately affected by legislation because of the fixed costs of compliance (Stanworth and Gray, 1991: 44). Complying with employment legislation seems to be no exception, particularly because of the absence of an in-house expert (Better Regulation Task Force, 2000a: 29). Despite these *a priori* assumptions and findings, we argue that the bulk of studies conducted so far should be kept in context and their methodologies and sampling frames given careful consideration. A great deal of the surveys are conducted by small business support groups on their own members and it can be argued that these are not representative of the whole small business population. Also most large-scale surveys fail to include micro enterprises, do not unpack the notion of regulation and few provide a rigorous enough analysis of the effects of specific regulations.

Given the volume of new legislation on employment rights, the extent to which owner-managers understand and respond to employment legislation remains under-researched. Academic research has been particularly scarce. Certainly, there is a case for more research to be undertaken not least because the legislation is relatively new and it will take some time for owner-managers to become aware of the legislation as well as assess the effects on their enterprise. In this paper, we present important new evidence on small employers' awareness of employment rights and the perceived effects of these rights on their business.

The Context: Employment Legislation and Small Firms

Employment legislation is amongst the most commonly applicable aspects of regulation in the workplace. Over the past 10 years or so employment legislation has increased and since coming to power in 1997, the Labour Government has added to the amount of legislation with the aim of providing more protection and rights for individuals in the workplace. This new legislation is broad reaching and complex. Surprisingly, there has been very little research undertaken on owner-managers' awareness and knowledge levels of employment rights. Instead, the bulk of attention has tended to look at the *impact* of employment legislation. What research that does

exist on awareness levels tends to focus on firms employing five or more employees (Callendar et al., 1999; Hogarth et al., 2001). However, the volume of new employment legislation raises the question of the extent to which smaller employers are aware and have detailed knowledge of these new rights. Government has attempted to communicate to employers through various media but little is known about its success in reaching owner-managers. Evidence suggests that owner managers are generally aware of the rise in legislation. Research conducted by MORI, commissioned by the Small Business Service (SBS) on 1500 firms with 0-249 employees, found that over two-fifths of SMEs firms considered that the amount of Government regulations had increased since the Labour Government in 1997 (Small Business Service, 2001).

Whilst research on basic awareness and knowledge levels is scarce, that on the impact of employment legislation is more readily available. A number of small business membership bodies and lobby groups have been vociferous in their criticism of new employment regulations. Studies have shown the new employment legislation to be expensive for employers and constrain the flexibility in their employment practices, ultimately affecting their competitiveness (see British Chambers of Commerce, 1999; Daily Telegraph, 2000). Some surveys (e.g. Forum of Private Business, 2000; NatWest SBRT Quarterly Survey, 2000) have attempted to measure the costs of compliance by asking employers to estimate the time taken to deal with regulations. For example, a survey for the Small Business Service survey reported that of the regulations employers' mentioned, complying with Health and Safety legislation was considered to take the most person hours, followed by the Working Time Directive (8 %) and the National Minimum Wage (6 %) (Small Business Service, 2001: pp61-63). A survey of small business advisers has also provided estimates of the financial costs of compliance with regulations amongst micro and small firms and that government regulation has become a more important factor in employers' perceptions on the constraints on business performance (ICAEW, 2000).

In principle, the compliance costs of legislation are relatively higher in small firms because of their level of resources (Stanworth and Gray, 1991; Horst et al., 2000). These costs include learning the legislation, adjusting administrative procedures to meet the new legislation, paying the relevant taxes or benefits and absorbing the effects within the enterprise. In relation to employment legislation it is likely that small firms are at a relative disadvantage because of the absence of a personnel specialist and the greater proportionate contribution of individual employees to output. What academic research that does exist on the impact of recent employment legislation tends to present a more limited effect, than more popular accounts, which is linked to owner-managers' 'fire fighting' management style (Marlow and Strange, 2000). One of the main effects of the new legislation has been a rise in the search for external advice by employers (Better Regulation Task Force, 2000b; Harris, 2000). However, compared with the amount of legislation it can be argued that the volume of research is disproportionately low.

A research focus on employment regulations and small firms is, however, not new. Over 20 years ago, following the introduction of a series of employment rights, employers' representative groups voiced concerns and research was commissioned by government. The results of the research found that only 2% of small employers cited employment legislation as the single main

difficulty in running business. The biggest perceived constraint was on being unable to sack unsatisfactory workers; and that the expense and time involved in compliance were of secondary importance (Clifton and Tatton Brown, 1979: Ch11; Employment Gazette, 1979; Westrip, 1982). The report concluded that the legislation may have involved expenses to employers and that, as a result, the latter were being more careful about whom they employ.

Table 1
Areas of Recent Legislation on Employment Rights
Working Time (Working Time Directive, 1998) Covers rights on maximum average hours compelled to work; right to four weeks paid leave (after 13 weeks); right to one day off per week; right to Statutory Sick Pay; right to rest periods.
Family Friendly (Employment Relations Act, 1999) Covers rights on: Maternity Leave; Additional Maternity Leave; Parental Leave; Emergency Family Leave
National Minimum Wage (National Minimum Wage Act, 1998) Sets minimum wage rates for workers in the UK. Currently £4.10 per hour (from 1 October 2001); £3.50 per hour for workers aged 18-21 and workers aged 22 and above during their first six months in a new job with a new employer and who are recently accredited training).
Note: For more information see DTI (2000)

In this paper we focus on three main areas of this legislation (Table 1). The Working Time Regulations is one of the major new developments in employment legislation during the past decade. Introduced in 1998, the legislation seeks to regulate employees amount of time at work and provide certain break entitlements whilst at work. It has been argued elsewhere that the Working Time is one of the most major pieces of employment rights' legislation in terms of its range and depth of provisions to workers (IRS, 2000). Certainly the Regulations have received a number of criticisms because it has improved the terms and conditions of workers at a cost to employers in addition to the compliance costs of understanding and administering new regulations (Forum of Private Business: 2000, 22).

A further thrust of Government legislation has been on developing 'family friendly' employment regulations through the extension of maternity leave and pay and parental leave. The rights to reinstatement after childbirth and protection from unfair dismissal on the grounds of pregnancy were introduced in June 1976 and maternity pay in April 1977. Under the 1976 regulations, all pregnant women who met continuous service requirements had the right to return to their previous jobs before the end of 29 weeks after childbirth.¹ These rights were reinforced under the

Trade Union Reform and Employment Rights Act (1993) which introduced the "Pregnant Workers" Directive. Women who were expecting a baby on, or after, October 1994 had the right to take 14 weeks off work, regardless of their hours of work or length of service and those with 2 years service were entitled to 29 weeks leave. More recently, the rights for maternity and parental leave have changed as a result of the Employment Relations Act 1999 and the Maternity and Parental Leave Regulations 1999. Initial reactions from employers' groups to the new rights have been critical and there have been suggestions that small firms should be exempt from some of the provisions (British Chamber of Commerce, 1999). However, there is no reason to assume that this emphasis will lose momentum in the near future.² There has, however, been an absence of comprehensive and reliable evidence of employers' knowledge levels of the existing and new maternity and parental rights.³

A final area of study in this paper is on the National Minimum Wage. This has received a great deal of publicity and has been subject to scrutiny by the Low Pay Commission of Inquiry which reports on the impact on the NMW and makes recommendations on the rate to Government (eg., Low Pay Commission, 2001). Arguably, because of the relative simplicity of the NMW and its high profile this may be one of the most clearly understood areas of legislation. It is also the area where most recently the bulk of research has been conducted. The overall aims of this paper, therefore, is to provide: an analysis of employers' awareness of employment rights; to establish any differences in small employers' awareness of employment rights; and to analyse the effects, real or perceived, of employment rights on their business.

It is likely that some areas of legislation may be better known to employers than others because of the length of time on the statute books, the amount of effort put in the publicity campaign and the perceived relevance by employers to their enterprise. We also expected that knowledge levels of specific rights would be very much influenced by a need to know basis. Size of enterprise was expected to be a strong influence on awareness and knowledge levels because of the increased likelihood of having to understand the range of employment rights with a larger workforce and the ability of employers to devote more time to a personnel specialism. It was also expected that industry sector and the composition of the labour force would be important determinants in awareness and knowledge levels.

Methodology

This paper draws on a telephone survey of 1071 business owners conducted in Autumn 2000. This was a survey stratified by enterprise size, sector and location and then weighted back to reflect their true proportions in the overall GB economy using the Inter Departmental Business Register. This ensured that a sufficient number of firms having certain characteristics were interviewed. Ensuring that a sufficient number of very smaller enterprises in the sample were interviewed was especially important since one of the main weaknesses in other surveys is that they often omit, or simply fail to attract, responses from owners of very small firms. The mean size of firms in the sample was 7.2 employees (median 6 employees), the minimum 2 employees and the maximum 49 employees. The response rate of the survey was 53.8 %, calculated as the

number of successful interviews (1,071) expressed as a percentage of total valid firms contacted (i.e., including refusals and aborted interviews). The results in the following analysis are based on the weighted sample and therefore can be said to reflect the GB business population.

Interviewing business owners about employment legislation posed a range of special problems. For example, who should we address our questions to when there was a division of labour between owners in the enterprise. How could we approach the key informant to discuss our research questions and how detailed could our questioning of their awareness and knowledge of rights go? Prior to the telephone interview 18 face-to-face interviews were conducted in order to help the researchers understand the attitude of business owners and see how they responded to answering questions and discussing employment rights. This helped shape the main fieldwork instruments and design of the telephone questionnaire. In the final questionnaire, on the core questions covering employment rights, we started by asking employers' awareness of a particular right such as maternity leave, and only if they said that they were aware of such a right did we then ask detailed questions. This helped us focus on those rights which employers were able to discuss as well as avoid alienating the employer. This also helps raise the validity of the research when asking the perceived impact of particular employment rights on their enterprise, something which, we would argue, has been weak in other studies.

Results: Awareness of Legislation

Table 2		
Owner-Managers Awareness of Individual Employment Rights		
		Awareness in Sample
Highest  Lowest	National Minimum Wage	98.7
	Maternity Leave	95.6
	Right to Rest Break	94.1
	Right to Paid Holidays	91.1
	Written Statement of Employment Terms	89.7
	Maximum Number of Hours Worked	85.2
	Application of Employee Rights to Part-Timers	83.7
	Right to Maternity Pay	82.7
	Right to a Whole Day Off Per Week	68.4
	Right for Time-Off to Deal with Emergencies	57.7
	Minimum Size of Enterprise for Disability Rights to be Applicable	50.1
	Right to Parental Leave	48.8

Source: SBRC IER Survey (2000)

Although the research sought to target the owner manager responsible for managing personnel matters in the enterprise, less than 1% of our respondents said that this was their only responsibility within the enterprise a finding confirmed elsewhere (Scott et al., 1989).⁴ Overall, interviewees showed a high level of awareness of employment rights (Table 2). The NMW was the most well known right which is most probably a reflection of the high profile media attention and government publicity and that it is a universal right. Respondents showed lowest levels of awareness on a right to parental leave probably because of its relative newness. However, this is a summary of claimed awareness rather than detailed knowledge and owner-managers claiming awareness were then asked more detailed questions in relation to the rights that they knew about.

Rights surrounding maternity leave include some of the longest standing statutory entitlements for workers although this has been introduced over a long time. Almost all of the sample were aware of a right to maternity leave. Analyses by size of firm (Table 3) reveals that awareness levels were marginally lower amongst smaller firms in the sample. Although the bulk of employers were aware of the right to maternity leave over a half of owner-managers did not know whether this was conditioned on length of service. This is surprising given that the entitlement of maternity leave from the day of employment has been a statutory entitlement since 1993. Over two thirds were not aware of the right to additional maternity leave, introduced in 1999. Most owner-managers were aware of the right to maternity pay, introduced in 1977 although there were lower levels of awareness recorded amongst the smaller firms (Table 3). However, few owner-managers were able to discuss the details. Only a third of the sample (three-quarters of which employed more than 25% females) were confident enough to offer actual estimates of the length of service required for an entitlement to maternity pay. These estimates varied greatly from no length of service required through to 6 years mentioned by two employers (in comparison to the 26 weeks service required in law).

Employers' Awareness of Right to Maternity Leave and Maternity Pay				
	Sizeband/Weighted %			
	1 – 9	10 – 19	20 – 49	All
Maternity Leave?				
Yes	95.3	97.7	100	95.6
N=	948	87	35	1070
Additional Maternity Leave?				
Yes	20.3	24.4	28.6	20.9
N=	903	86	35	1024
Maternity Pay?				
Yes	82.4	82.8	91.7	82.8
N=	945	87	36	1068
Note: Percentages weighted as GB.				

Source: SBRC IER Survey (2000)

If employers were aware of certain rights we then explored their depth of knowledge by asking a series of detailed questions on these rights. The results presented illustrate the variation in knowledge levels according to different rights. Estimates of the length of ordinary maternity leave were offered by just over a half of the sample and ranged from six to 52 weeks (Table 4). The most common answer was 13 weeks (20.4 %) followed by 18 weeks (15.9 %). The sub-sample's averages were, however, below the statutory limit of 18 weeks. Less than a third of the sample were prepared to provide an estimate of the maximum amount of leave entitlement, including additional leave. These estimates had a wide range, suggesting that many owner-managers were unaware of the right and had not yet experienced a situation when the maximum length of time has been taken.

		%					
		Min.	Mean	Median	Max.	Don't Know	N
Ordinary	Maternity	6	17.9	16.0	52	46.1	1023
Maximum	Maternity	1	25.7	25.0	91	65.0	358

Note:

Source: SBRC IER Survey (2000)

The provisions surrounding parental leave are relatively new (introduced in December 1999) but received widespread publicity by government and in the press (eg Daily Telegraph, 2000). In the sample parental leave was less well known than other rights and the smaller employers were especially less well aware (Table 5). Of those who said that they were aware of the right to parental leave, only just over a half knew that this was on an unpaid basis. Smaller employers were the most likely to offer incorrect responses or 'don't knows'. What is interesting about these results is that it appears to be the larger small firms which become *au fait* with the new regulations quicker than the micro firms. This may be a reflection of the fact that the larger small firms have to face the legislation sooner. The greater the number of people employed the higher the probability staff requesting parental leave. When it is taken into consideration that Table 5 includes those who said that they were aware of the right, the picture to emerge is one of very low levels of detailed knowledge regarding parental leave entitlements and confusion about whether this is paid or unpaid.

	Sizeband/Weighted %			
	1 – 9	10 – 19	20 – 49	All
Parental Leave?				

Yes	46.8	62.1	72.2	48.9
Don't Know	33.9	19.5	16.7	32.2
N=	948	87	36	1071
Is it Unpaid?				
Yes, Unpaid	54.0	70.4	80.8	57.0
Don't Know	25.7	14.8	7.7	23.7
N=	443	54	26	523

Note: 'Is it unpaid?' only includes those who were aware of each of parental leave.

Source: SBRC IER Survey (2000)

The coverage and depth of provisions in the Working Time Regulations are said have implications for all firms (IRS, 2000). Here we focus on average weekly hours worked per week and holidays. Around nine out of 10 employers were aware of the limits on average hours per week worked (85% aware: first column, last row Table 6) and provisions surrounding paid holiday (88% aware). However, when the details of these entitlements were covered a more inconsistent picture emerges (Table 6). Only just over a third of this sub-sample (36.7%) knew the correct limitation on hours worked per week.⁵ Of those employers who were able to give an estimate (N=658) answers ranged from 16 to 72 hours (Table 6). Despite this range, the sample's average (mean 44 hours and median 45) was below the actual legal limit of 48 hours. Employers appeared more confident in their estimates of the number of weeks paid holiday per year when judged by the percentage of employers who were prepared to make an estimate (Table 6). Over nine out of 10 in the whole sample felt able to answer detailed questions and overall, their answers were in line with the statutory provisions. However, this finding that in two instances of legal provisions, employers were citing estimates of entitlements to be over and above that enshrined in law.

Table 6			
Owner-Managers' Detailed Knowledge of Working Time Regulations			
Estimates of:	Maximum Average No. of Weekly Hours?	No. of Weeks Paid Holiday Per Year?	Maximum No. Hours at Work Without a Rest Break?
Minimum	16	1.0	2.0
Mean	44.4	3.9	4.0
Median	45.0	4.0	4.0
Maximum	72	28.0	12.0
% sub-sample Don't Know	23.7	9.6	35.7
% sub-sample Correct Answer	26.5	56.6	6.4
N answering	911	947	1007
% (of sample answering)	(85.1)	(88.2)	(94.0)
(Unweighted N=)	(928)	(945)	(1025)
Correct Answers	48 hours	4 weeks	6 hours

Note: Includes only those who stated that they were aware of each entitlement.

Source: SBRC IER Survey (2000)

It could be argued that the NMW has received most publicity by both the media and government. In addition, it covers the bulk of enterprises and so we expected the highest levels of awareness and detailed knowledge to be in relation to the NMW. This was borne out in the results: 99% of the sample were aware of the NMW and this was across all sizebands, sectors and locations. However, detailed knowledge of the actual NMW rates was less consistent and only a third of were able to provide an answer when asked the actual rate for those aged 18-21 and these ranged from £1.20 per hour to £4.75 (Table 6). Responses on the adult rate (made by two-thirds of the sample aware of the NMW), ranged from £3.20 to £6.86 per hour. Overall, the averages for those giving an estimate of the youth and adult NMW were accurate (median £3.20 and £3.60 respectively) although the average means were marginally higher (£3.29 and £3.70).

Owner-Managers' Detailed Knowledge of NMW (Sept 2000)						
Responses: <i>Different Rate for Under 22 years old?</i>	Yes	No	Don't know		% sub-sample	N=
	80.5	10.6	8.9			1058
Responses: <i>Current Minimum Hourly Rate 18-21? (Aug Sept 2000)</i>	Min.	Mean	Median	Max.	Don't Know	
	1.20	3.29	3.20	4.75	63.0	852
<i>Current minimum Hourly Rate 22+?</i>	3.20	3.70	3.60	6.86	32.3	852
Note: includes those who stated that they were aware of NMW. Based on GB weighted data.						

Source: SBRC IER Survey (2000)

Given the widespread publicity and universality of the NMW, why were owner-managers providing incorrect answers? We would argue that business owners were not aware of the detail because they operated on a 'need to know' basis and most businesses were already paying above the NMW (see for example Kitching and Blackburn, 2000). However, in those sectors and occupations where the NMW has had an effect, business owners were more conscious of the detailed rates. Thus, one estimate is that the NMW affected 1.5 million workers and these were concentrated in agriculture, forestry and fishing, manufactured textile mill and apparel products; retail; hotels and catering; personal services; cleaning services and residential social care (Low Pay Commission, 2000: Section 3). These patterns are reflected in the sample through knowledge levels. All those employers in Health, Domestic and Personal Services were conscious of difference rates for younger and adult workers. In contrast, only 72.8% in Business and Professional Services were aware of different rates most probably because they were less likely to have to make adjustments. The data therefore suggests that small business employers vary in their awareness levels of employment rights. This variation is according to type of legislation and according to certain enterprise characteristics. The findings also confirm those of other studies that awareness and knowledge levels are raised only when it is necessary to do so (Marlow and Strange, 2000). However, if these knowledge levels are uneven, and in some cases

poor with owner-managers guessing rates etc. of entitlements, we would question the accuracy of some of the estimates of the effects of employment rights reported by some surveys. In the following section of the paper we will be careful to focus on those employers who were aware of certain rights before asking them to evaluate the effects of these rights on their enterprise.

Results: The effects of Employment Legislation

Some of the most high profile studies of employment legislation have been on its constraining effects on businesses (eg Institute of Directors, 2000). Business owners in the survey revealed that despite a rise in legislation, 'competition' and labour markets were considered to be the highest ranked constraints on business performance over the past two years (Table 8). However, government legislation or regulations was mentioned by a third of all respondents as a constraint and it appeared to be cited as the second most important constraint of all the factors mentioned (Table 8). Of course, this can include any legislation, ranging for example from taxation to environmental laws. An examination of the responses found 'employment laws' to be the most commonly cited followed by 'Health and Safety requirements'.

	%/Weighted			
	Any Mention	Main Factor	N	(Unweighted N)
Competition	50.2	33.0	538	(524)
Labour Markets	33.9	11.1	363	(465)
Government Legislation or Regulations	33.3	17.0	357	(418)
Cash Flow/Bad Debt	31.3	10.7	336	(319)
Premises/Rent/Rates	31.0	12.3	332	(318)
Interest Rates/Cost of Finance	21.2	3.3	227	(187)
High Value Sterling	15.5	3.2	166	(194)
Access to Finance	9.6	1.8	103	(95)
Others	5.4	4.2	58	(60)
Don't Know/No Main Constraint	-	3.4	32	(3.2)
Total	-	100.0	961	(977)
N=			961	(977)

Note: 'Any Mention' is based on a multiple response question.

Source: SBRC IER Survey (2000)

In the Department of Employment survey conducted 20 years ago (Clifton and Tatton-Brown, 1979) employment legislation was mentioned by only 2% of respondents as the single most important difficulty in running the business over the past year. Even allowing for any methodological variations between the two surveys, it would be fair to deduce that employers are now more conscious of employment regulations than 20 years ago as 'regulatory capture' becomes more widespread. This 'effect' clearly needs further investigation but we would argue that this is a result of the legislation introduced over this 20 year period and particularly since 1997.

Influence of Employment Rights Legislation On Business Operations by Size of Enterprise						
	Sizeband %/Weighted					Unweighted N
	1 – 9	10 – 19	20 – 49	All	N	
Administration Workload	52.1	70.6	76.5	56.5	239	(381)
Amount of Legal Advice	37.4	50.0	64.7	41.2	237	(380)
Numbers Employed Over Last Two Years	40.6	24.2	31.3	37.7	237	(379)
Overall Business Performance	34.2	38.3	41.2	35.3	237	(380)
Way Employees are Managed	33.2	35.3	41.2	34.0	237	(380)
Changes in Employment Contracts	27.3	38.2	43.8	30.0	237	(380)
Changes in Employees Attitudes or Performance	20.4	24.2	31.3	21.7	236	(379)
Balance Between Full and Part Time	20.9	14.7	12.5	19.4	237	(380)
Use of Agency or Self-employed Workers	15.6	14.7	17.6	15.6	237	(380)
Balance Between Males and Females	8.6	0.0	5.9	7.1	237	(380)

Note: Table and the percentages are based on those respondents who stated that employee rights have had a significant impact on their business as shown in final column.

Source: SBRC IER Survey (2000)

Those business owners who stated that employment rights had significantly affected their business (i.e. a third of the sample) were asked in what way. The biggest single effect was on ‘administrative workload’ followed by the ‘amount of legal advice’ (Table 9). There were also important employment and management effects. Adjustments in the numbers employed, or recruited in the past two years, the ways in which employees are managed and changes in employment contracts were all viewed as important changes in business operations by employers as a result of employment rights. It is also apparent that the effects of employment rights on the amount of administration workload and legal advice seeking are higher in the larger firms (Table 9). This size-effect may be a result of the fact that these firms employ significant numbers of staff and thus their owners are more likely to have to come to terms with effects of employment rights. However, the smaller firms appear more likely to report an impact on the numbers employed and the balance between full and part-time employees. It may be that the perception of employment rights as a constraint on enterprise is deterring some of these micro firms from taking on staff.

This emphasis on a rise in the administrative workload as a result of employment rights should not be surprising. Other surveys have shown this to be the most immediate effect. Similarly, a rise in the amount of legal advice confirms the results of other studies (eg Better Regulation Task Force, 2000b, 7-8; Harris, 2000). Few employers report a shift in the balance between male and

female employees or a rise in the use of agency or self-employed workers. In other words, they are not making strategic shifts in their labour force composition as consciously, or immediately, as some commentators have suggested. One possible explanation for the emphasis on the rise in administration is that in many cases it is the employer who actually deals with these matters and the immediate impact of IERs may be to actually increase their workload. Given that most employers are antithetical to bureaucracy (see Scase and Goffee, 1987) it is not surprising that this effect is recorded as the highest.⁶

Highest Negative Counts on Impact of IERs by Sector					
Employment Right	Sector with Highest Negative Count	(N. with negative score)	% of Sub-Group Stating Negative Effect	Weighted Count	(% of total sub-sample reporting an effect)
NMW	Distribution	(28)	77.8	36	(8.2)
	Basic Terms and Conditions	Distribution	(13)	56.5	23
Maternity Rights	Business & Prof. Services	(17)	60.7	28	(6.4)
Unfair Dismissal	Distribution	(16)	100.0	16	(4.2)
	Rights to Part-Timers	Hotels & Catering	(11)	91.7	12
Limit to Working Week	Distribution	(11)	100.0	11	(2.1)
Regular Time Off	Distribution	(6)	60.0	10	(1.8)
Parental Leave	Distribution	(5)	55.6	9	(1.6)
Minimum Work Breaks	Hotels & Catering	(2)	100.0	2	(0.9)
Disability Rights	Low VA	(2)	100.0	2	(0.4)
	Manufacturing				
Discrimination	Distribution	(1)	100.0	1	(0.1)

Note: The Table shows the highest number of businesses recording negative effects of particular IERs. The final column shows the total number of businesses in the sector saying that this IER will have a negative or positive effect. Highest negative score ranked according to actual counts rather than percentages.

Source: SBRC IER Survey (2000)

It was anticipated that there would be some variation in the effects of different employment rights in the sample. The single most important piece of employment rights legislation having an effect on these businesses was the National Minimum Wage (NMW) (8.1% of the whole sample) followed by basic terms and conditions of employment (7.3%) and then maternity rights (6.3%). However, the numbers of employers experiencing negative effects are low overall, and there was a strong positive relationship between size of firm and perceived impact. Again, this is most probably a result of the greater likelihood of employers in the larger small firms having direct experience of managing individual employment rights. On a size of firm analysis, it appears that the highest negative scores were in the 20-49 size band and especially in relation to maternity rights, NMW and unfair dismissal.⁷

In the research we anticipated strong differences sector and labour force composition effects although hitherto there has been little research exploring such effects. The data confirmed our expectations of an uneven effect as shown in Table 10 when the number of negative responses by employers are classified by business sector. Employers in Distribution were especially negative about the effects of employment rights (Table 10). Those in Hotels and Catering were the most negative about the extension of rights to part-timers, most probably reflecting their high use of a part-time labour force, and minimum work breaks. Employers in Business and Professional Services recorded the highest number of employers being negative about maternity rights. Although the precise reasons for these patterns in the data can only be covered through further qualitative research, these findings do take us away from making blanket statements regarding the effects of employment rights in small firms.

Highest Negative Impact of IERs by Female Orientation of Workforce					
Employment Right	% of females in workforce with highest negative score	(N. with negative score)	% of Sub-Group Stating Negative Effect	N. in sub-group Weighted	(% of total sub-sample reporting negative effect)
NMW	1 – 24	(15)	75.0	20	(6.4)
Basic Terms and Conditions	1 – 24	(11)	45.8	24	(4.4)
Maternity Rights	75+	(14)	60.9	23	(4.7)
Unfair Dismissal	1 – 24	(17)	94.4	18	(4.1)
Rights to Part-Timers	75+	(10)	93.8	16	(2.6)
Limits on Working Week	0	(13)	100.0	13	(1.8)
Regular Time Off	0	(4)	100.0	4	(1.3)
Parental Leave	25 - 49	(6)	50.0	12	(1.1)
Minimum Work Breaks	50 - 74	(2)	100.0	2	(0.2)
Disability Rights	1 – 24	(2)	100.0	2	(0.3)
Discrimination*	1 – 24/75+	(1)	100.0	1	(0.1)

Note: The Table shows the highest number of businesses recording negative effects of particular IERs. The final column shows the total % of businesses in the sub-sample recording a negative effect. 'Highest negative score' ranked according to actual counts rather than percentages. *Equal counts on negative score and combined negative and positive score.

Source: SBRC IER Survey (2000)

In order to explore the uneven effects of employment rights further, an analysis of employment rights according to the proportion of females in the labour force is shown in Table 11. Employers with at least 75% of their labour force being females were most likely to record maternity rights and the extension of rights to part-timers as having a perceived negative effect on business performance (Table 12). However, employers with no female workers were more likely to record perceived negative effects resulting from basic terms and conditions, limits on the working week

and rights to regular time off work: that is IERs with no specific gender target. Again this analysis illuminates the varying effects of employment rights according to enterprise characteristics.

Conclusion

In this paper we have presented new evidence on small employers' awareness and perceived effects of employment rights on their enterprise. The results have shown that awareness and knowledge levels vary considerably within the small firms' population. These are shown to vary according to business size, sector and workforce composition. However, compared with a survey over 20 years ago, the results show a rise in the perceived significance of employment rights on small business performance. However, even in the light of the evidence presented the breadth of effects across the sample remains low. What is more important is the effects on specific types of enterprise, where employment rights apply to a large proportion of the labour force. However, they suggest that for those firms that are being affected these effects have been mainly on administrative workload and that this is creating a diversion for employers from what they view as other mainstream activities. In other words, although the effects are not broad, the data suggests that there may be some deep effects on specific types of enterprise. The results also show that employment rights are having the effect of making employers think more carefully about the type of staff they recruit.

Methodologically the study poses some questions for other surveys of regulation and the small firm. From the results it appears that the greater the knowledge and experience employers have of employment rights, the more likely they are able to make informed assessments of the effects on their enterprise and that these assessments are more likely to be negative. Whilst we would not go so far as to argue that for the less informed employer, 'ignorance is bliss', it appears to be these who record less negative effects. Undoubtedly, this is closely linked to their management style (Marlow and Strange, 2000). However, given the low levels of awareness recorded by employers on some aspects of recent employment legislation, the sweeping statements regarding the negative effects of employment legislation on small firms, as reported in some surveys, are open to question. Instead, it is argued that these responses are often rooted in the negative predisposition employers have on regulation and the constituency of the surveys rather than on direct experiences. Finally, the research presented in the paper plays an important foundation for further quantitative and qualitative research. Subsequent qualitative research, in particular, may need unpack the responses to assessments of the effects of employment rights and focus on the types of adjustments employers are making to their management practices.

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¹ Only women with 2 years service and working for at least 16 hours a week (or 5 years if working less than 16 hours) qualified.

² See for example, the recent Consultation Documents in relation to the Working Time Regulations (DTI, 2001a) and the changes to Parental Leave (DTI, 2001b).

³ Hogarth et al. (2001) reported that only a modest proportion of employers were aware of the changes in maternity leave and parental leave regulations introduced in 1999. However, this survey was in workplaces employing of 5 or more employees. Callender et al (1999) provides a more detailed, though now dated, analysis. The DTI Employers' Survey on Support for Working Parents, recently conducted for the Work and Parents Review, provides more up-to-date material although is unfortunately restricted to firms with 5 or more employees.

⁴ Further details are available from the full report published by the DTI (forthcoming).

⁵ This represents just over one-fifth (22.6) of the whole sample.

⁶ Although the overwhelming bulk of research has reported negative views by employers on the effects of employment rights on their business performance, a minority in our survey perceived some positive effects. One in five employers stated that legislation provided them with guidelines and clarification in setting the conditions for their workers. Almost 10% of employers stated that IERs raised staff morale and engendered a feeling of security.

⁷ The positive relationship between the size of firm and negative effects is confirmed elsewhere (Small Business Service, 2001, pp63-65). These results will be presented elsewhere but in this paper we wish to focus on differences between firms in different sectors.