

Global Workplace Law & Policy

Labour regulation as stimulus for economic growth

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Employment regulation as an economic stimulus draws attention to the connection between aims and actions. The United Kingdom should remain an intriguing study in this regard. As of 2019, the UK moves into the 'Global Britain' or 'British Way' era in which the country rebuffs EU-negotiated trade agreements and instead aims to negotiate similar if not better terms with the same countries as an individual trading partner.

A slowing economy (as forecast by the OECD) coupled with the inherent uncertainty stemming from the 2019 departure indicate that employment regulation will likely continue to be an area with perceived potential for economic stimulus. And so, the following pre-Brexit illustrations offer some texture to the developing landscape (though certainly not the entire terrain).

Labour Regulation to Help SMEs

Whether it is based upon austerity, globalization, or something else, employment regulation has been a malleable tool for government. The Conservative-Liberal Democrat Coalition of 2010-2015 passed a number of employment law reforms. In April 2012, the Coalition passed a new qualification period of two years (from one-year) of consecutive employment with the same employer for unfair dismissal protection, through the [Unfair Dismissal and Statement of Reasons for Dismissal \(Variation of Qualifying Period\) Order 2012](#). In his report commissioned delivered prior to this Order, [Adrian Beecroft](#) wrote of the difficulty employers had in determining within one year whether individuals were appropriate for the workplace. While the proposition may be queried (how much time is needed for such a determination), small-to-medium sized employers (SME) comes to mind. [As recommended by the European Commission](#), SMEs are employing enterprises with between 1 and 249 workers. It may be conjectured that the SME may need a longer period of time in order to determine whether or not a worker 'fits in'. SMEs (which account for [approximately 60% of private sector employment in the UK](#)) are perceived as a particularly fragile cohort, though one of particular economic importance.

In announcing the introduction of fees (including filing and hearing charges) for bringing employment claims, then-Chancellor George Osborne declared an end to 'the one way bet against small businesses'. These reforms, arising within the context of

austerity stemming from the Great Recession of 2008, would stimulate economic growth, and in particular the growth of small to medium-sized businesses. The perceived potential cost to employers was sufficient to compel action: 'The risk is that the fear of being faced with tribunal claims impedes growth because businesses become too cautious to hire people or to address capability issues in the workforce'.

Given the present state of the UK's relationship with the EU, the selected examples should not be read as legislative steps foreshadowing a referendum vote to leave the EU. Rather, these instances underscore that recent efforts, though pre-dating Brexit, have been made to use employment regulation as a basis for economic stimulus.

Shared Concern for SMEs

SMEs must remain a point of continued focus. This would likely entail government prioritizing a positive business environment for an efficient labour market, benefitting this cohort. It should be noted that the UK shares this focus on SMEs with the European Commission (EC) which has devised the [programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises \(SMEs\)](#), running from 2014 to 2020 with a planned budget of €2.3bn.

Belief and Evidence

There is no critique here of regulating in ways that can effectively assist SMEs. Rather, actions should be more nuanced and thoughtful so that these aims may be realistically met. The underlying government concern for SMEs comes out in the two above examples. Seeing this as a broader regulatory focus is instructive: it is a one-size fits all framework, complicated by certain factors. [SMEs prefer an informal work environment](#). Moreover, this cohort as a whole has not necessarily signaled that regulatory change will create the desired effect (increased employment): [the number of workers they employ has been decreasing over time](#). Perhaps most troubling, this cohort seems to be a particular challenge to inform: when the unfair dismissal qualification period was doubled, [a study found that knowledge and understanding of this fact was questionable](#). And so, a framework catering to SMEs may not entirely serve stated goals.

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