



Response from
the Forum of Private Business (FPB)
to The DTI Employment Simplification Review

The cost of compliance

March 2007

Contents

1.0	Introduction	Page 3
2.0	Summary findings	Page 3
3.0	Health and safety – need for proportionality	Page 4-5
4.0	Absence control and sickness – monitor increasing complexity	Page 6
5.0	Dismissals and redundancy – complexity driving costs up	Page 7
6.0	Maternity and paternity – unworkable for small business	Page 8
7.0	PAYE & other tax/NI regulations – a costly burden	Page 9
8.0	Supporting Evidence – SBRT Research	Page 10
	Forum of Private Business	Page 11

1.0 Introduction

The Forum of Private Business (FPB) welcomes the Department of Trade and Industry's (DTI) Employment Simplification Review. This paper has been written to provide an evidence-based response.

In October 2006 an FPB member study found that health and safety, sickness and absence, dismissal and redundancy, maternity and paternity leave and PAYE and other NI tax regulations were the top five most burdensome employment-related regulations. We have developed this theme in a second piece of work which looks at each of the five burdens and asks if businesses find the burden and cost of compliance of the regulations to be disproportionate. The results form this submission which we hope will be taken into account by the Employment Simplification Review Panel. Also included is supplementary evidence from the Small Business Research Trust, FPB research partners.

We would like to emphasise however that the review should not distract from delivering a less is more approach to regulation. We feel therefore that there is limited scope within this review to ultimately ease the burden for small employers but have worked within the demarcated parameters.

In addition, while it is not covered within the remit of this review specifically, the FPB would like to note that the staggering of the implementation is not always helpful to small businesses, as this often doubles the administration and associated costs needed to ensure they do not fall foul of the law. Employers also face specific difficulties when implementation dates are delayed, often resulting in last minute guidance being issued.

2.0 Summary findings

Table 1: The average hours per month small business respondents spend to understand updates to regulation, implementation, action and monitoring

	Average hours per month		Average hours per month
PAYE and other tax NI regulations	15	Dismissals and redundancy	4
Health and safety	14	Maternity and paternity	3
Absence control and sickness	5		

- **Health and safety – the need for proportionality**
Health and safety regulations are extremely time consuming for smaller businesses and are considered totally disproportionate. The regulations suffer from a lack of clarity and increasing complexity which should be addressed. Almost two-thirds of respondents indicated that the administration and complexity of the regulations were prohibitive.
- **Absence control and sickness – monitor increasing complexity**
There is a need to monitor increasing levels of complexity, and any programme of simplification should focus on long-term illness. Over 40% of respondents felt that the regulations were disproportionate.
- **Dismissals and redundancy – complexity driving costs up**
Analysis indicates a large business bias. Those respondents who had experience of this area expressed concern over a highly complex and process-driven set of regulations which resulted in the need for costly expert help.
- **Maternity and paternity – unworkable for small business**
The key concern for small businesses is not necessarily the complexity of these regulations, but the immense cost in terms of pay and resource. Qualitative data indicated that increasing extensions in maternity and paternity leave and pay are having a damaging effect on employers' views of women in the workplace. This area of law needs addressing as a matter of urgency.
- **PAYE and other tax NI regulations – a costly burden**
83% of respondents spend up to 12 hours a month dealing with PAYE and other tax/NI issues. The burden on small businesses is immense and respondents felt that the administrative burden and complexity of the legislation is excessive. This results in the need for outsourcing to experts and software packages often impossible for smaller firms.

3.0 Health and safety – the need for proportionality

Key findings - Smaller businesses:

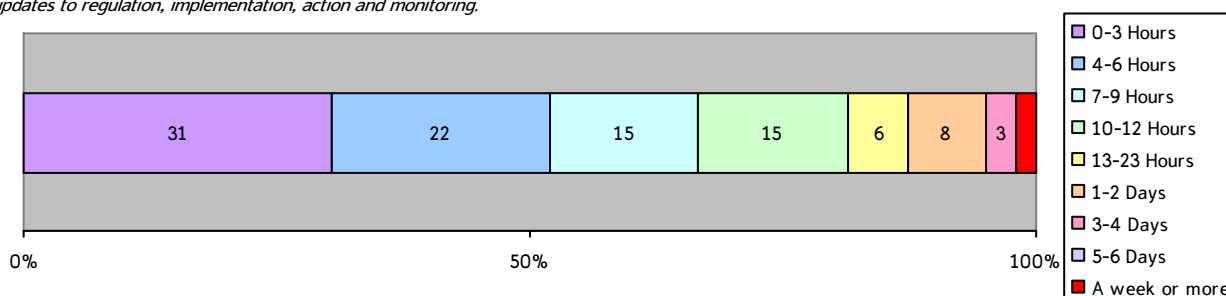
- spend on average **14 hours per month** coping with H&S regulations
- experience a disproportionate burden in relation to the potential benefits

Action - Smaller businesses require:

- simplification
- clarity to allow implementation with confidence
- proportionate compliance costs which do not cost more than the associated training and supervision of relevant staff

The smaller businesses that responded to this survey spend on average **14 hours a month** coping with health and safety regulations. This ranks a close second to PAYE and tax-related issues (15 hours per month) and indicates that this has far-reaching effects.

Fig 1: Length of time small business spend in an average month dealing with health and safety in the workplace. This includes time taken to understand updates to regulation, implementation, action and monitoring.



These findings indicate that small business owner-managers not only feel that the administration involved in meeting health and safety regulations is extremely time-consuming (57%), but also that the time required to keep up to date with changing regulations and achieving an appropriate level of understanding is also prohibitive.

Table 2: How time consuming is health and safety broken down by associated administration and understanding?

	%							
Administration	7	5	7	10	16	30	12	15
Understanding	5	7	8	12	13	22	17	17

LOW —————> HIGH

Table 3: Do respondents feel that the amount of time spent on health and safety is proportionate to the benefits or need?

	%							
Administration	5	3	6	13	14	18	17	25
Understanding	4	6	6	11	11	17	17	30

LOW —————> HIGH

Tellingly, members do not feel that this is in proportion the benefits that they receive, indicating that this area is overly complex for smaller businesses. The qualitative comments accompanying this section reflect this and whilst they acknowledge the importance of health and safety regulation, it is felt that the sheer amount of regulations and the frequency of changes place an unrealistic strain on small business owner-managers. Key themes that emerged were:

Disproportionate burden for small business: The time and costs involved for smaller businesses who do not generally have a dedicated health and safety specialist employed, is considered disproportionate. Small businesses report that they cannot easily keep pace with the volume of regulation and subsequent changes that take place.

“...overbearing, largely often irrelevant and take no account of whether or not they are appropriate to the size, scale or activity of the company in question...”

“The amount of time spent producing the paperwork replaces the time spent on supervision, which would have a greater impact on safety.”

“My PC has about 1,000 pages of documentation all currently relevant, that’s an enormous admin task to just keep the paperwork up to date, let alone all the training that goes with it”

Lack of clarity and increasing complexity: Small business respondents feel that there is a lack of clarity in the wording of the regulations and that they are overly complicated. This generalist approach leaves the regulation open to interpretation, to the extent that the interpretation between inspectors differs let alone between companies.

“It is so complicated that even after employing very expensive consultants I don’t feel confident that we fully comply.”

4.0 Absence control and sickness – a need to monitor increasing complexity

Key findings - Smaller businesses:

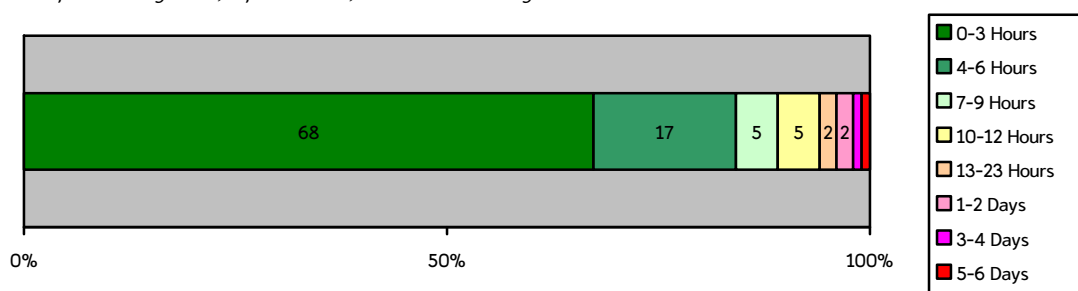
- spend on average 5 hours per month coping with absence control and sickness.
- indicate that long term illness (where experienced) is deemed a complex area.

Action - Smaller businesses require:

- simplification of regulations relating to long term illness.

The small businesses that responded to our survey spend on average 5 hours a month coping with absence control and sickness.

Fig 2: Length of time small business spend in an average month dealing with absence control and sickness in the workplace. This includes time taken to understand updates to regulation, implementation, action and monitoring.



Most smaller businesses that responded to this survey do not have a particular problem with absence control and sickness. This is reflected in the statistics which show that the majority of respondents spend 0–3 hours a month on this aspect of employment. However, it is noteworthy that respondents felt that this area was increasing in complexity. Therefore, although this is not a priority for simplification there is a need to monitor the content to ensure that this does not become overly complex in the future.

Table 4: How time consuming is absence control and sickness, broken down by associated administration and time spent understanding?

	%							
Administration	20	21	15	11	10	12	5	7
Understanding	16	16	13	18	10	11	8	9

LOW —————> HIGH

Table 5: Do respondents feel that the amount of time spent on absence control & sickness is proportionate to the benefits or need?

	%							
Administration	18	14	10	10	8	14	10	16
Understanding	14	14	9	9	11	15	9	19

LOW —————> HIGH

The regulations that accompany long term illness however were thought to be more problematic and where employers had experience of this the regulatory path was described as a ‘minefield’. Consequently this should be the area for focus in any simplification review.

Notably many respondents related the ease of compliance to the ownership of automated payroll systems, thus implying an indirect cost of compliance.

5.0 Dismissals and redundancy – complexity driving costs up

Key findings – Smaller Businesses:

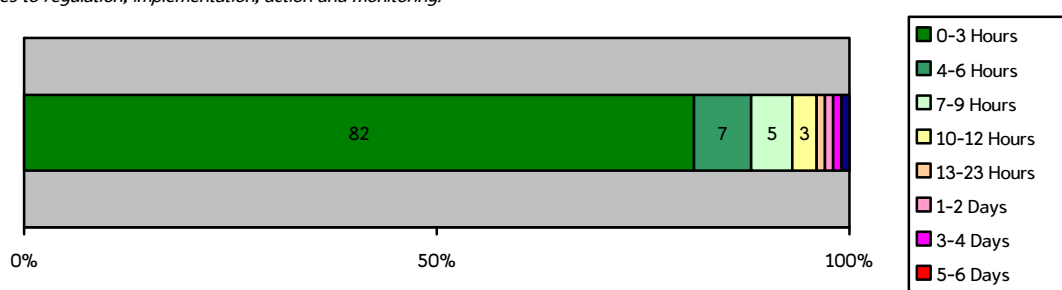
- spend on average **4 hours per month** coping with dismissals & redundancy.
- experience burdens due to badly written regulations which are complex, time consuming and skewed towards large businesses.

Action

- There is a need to address the level of complexity of dismissal and redundancy related regulations.
- There is also a need to consider the support systems available. FPB has made separate proposals to the dispute resolution review.

The smaller businesses that responded to our survey spend on average **4 hours a month** coping with absence control and sickness.

Fig 3: Length of time small business spend in an average month dealing with dismissals & redundancy in the workplace. This includes time taken to understand updates to regulation, implementation, action and monitoring.



Direct experience of this process is rare amongst the respondents, which reflects in the low average hours and the dichotomy displayed in the 'time' tables below. The dichotomy can be explained by the split in those members that have experienced redundancies and dismissals and those that have not. Where there is direct experience the procedure is reported as time consuming and complex.

Table 6: How time consuming is dismissals and redundancy, broken down by associated administration and understanding?

	%							
Administration	29	11	9	11	7	9	6	19
Understanding	18	8	7	11	7	13	10	26

LOW —————> HIGH

Table 7: Do respondents feel the amount of time spent on dismissals and redundancy is proportionate to the benefits or need?

	%							
Administration	25	12	7	9	7	11	10	20
Understanding	19	7	5	9	9	13	11	29

LOW —————> HIGH

Key themes that emerged were:

Bias: It was felt that this regulation is “...geared to the large companies [and is] biased against the small employer”. It was felt that larger companies have the financial clout to stand up in these cases, whereas smaller companies do not have this luxury.

“Most industry guidelines are written for large companies and for wholesale redundancies.”

Complexity: This legislation is felt to be extremely complex and process-driven. This level of complexity is difficult for small business owner-managers to manage and generally results in the need for expert help, or an extremely time consuming process of reading around the subject to allow the required level of understanding.

Support: Many SMEs feel that they do not have the time or experience necessary to successfully navigate this area of regulation without support and this support is very costly to the small business owner-manager.

“This is an area almost impossible to get right without specialist legal help.”

6.0 Maternity and paternity – unworkable for small business

Key findings – Smaller Businesses:

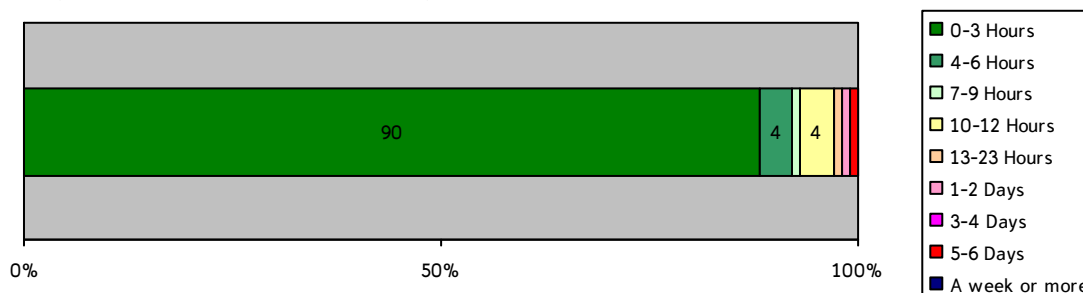
- spend on average **3 hours per month** coping with maternity and paternity.
- suffer due the cost of managing maternity and paternity leave in terms of pay and resource. Qualitative data indicated that the extensions in maternity and paternity leave and pay are having a detrimental effect on employers views of women in the workplace.

Action

This area of law needs addressing as a matter of urgency to ensure that regulation allows smaller firms to effectively manage the process of maternity and paternity leave.

The small businesses that responded to our survey spend on average **3 hours a month** coping with maternity and paternity.

Fig 4: Length of time small business spend in an average month dealing with maternity and paternity in the workplace. This includes time taken to understand updates to regulation, implementation, action and monitoring.



The majority of respondents felt that the associated administration was proportionate to the benefit. However, 37% felt that it was disproportionately complex.

Table 8: How time consuming is maternity and paternity, broken down by associated administration and understanding?

	%							
Administration	40	13	10	8	8	5	5	11
Understanding	25	10	9	11	12	7	8	17

LOW → HIGH

Table 9: Do respondents feel that the amount of time spent on maternity & paternity is proportionate to the benefits or need?

	%							
Administration	36	12	10	11	7	7	5	13
Understanding	27	9	9	13	7	9	9	17

LOW → HIGH

The key concern for SMEs is not necessarily the complexity of these regulations, but the costs in terms of pay and resource. Respondents feel that this is “yet another regulation that has been designed for large companies and is very difficult for a small company to manage”. These regulations are becoming un-workable for SMEs and can be crippling for small business.

What does give cause for concern is the wealth of qualitative data that indicates that the changes in the regulation and the extension in maternity and paternity leave and pay are having a detrimental effect on employers. Little consideration as been given to the impact of maternity leave extension on smaller firms and employers now fear not only the cost of covering the duties of new mothers, but also (particularly in the case of skilled workers) the ability to find suitable cover; if they are unable to do this productivity and profitability will fall.

Maternity and paternity law “desperately needs revising” and “...should be abolished for workplaces employing less than 20 people as the cost is horrendous and the upheaval a nightmare”. This area of law needs addressing as a matter of urgency to ensure that small businesses are not dissuaded from hiring women of child-bearing age in the workplace.

7.0 PAYE and other tax/NI regulations – a costly burden

Key findings – Smaller Businesses:

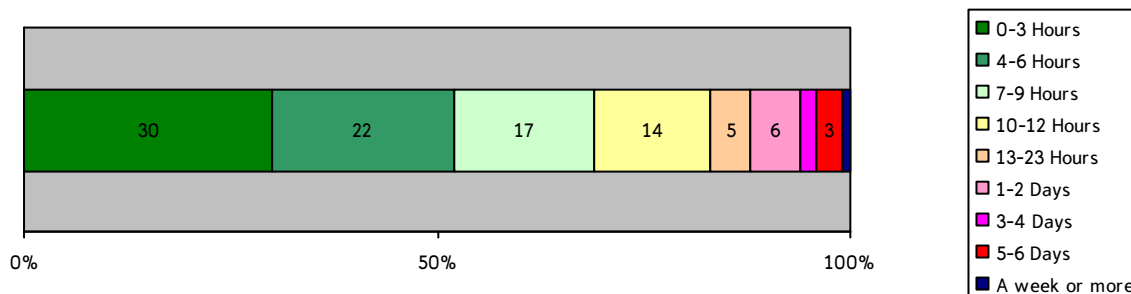
- spend on average **15 hours per month** coping with PAYE & other tax/NI regulations.
- experience immense financial implications. The complexity and administrative burden result in the necessity for outsourcing. Yet, even with the large amount of outsourcing, the time implications remain extremely high.

Action - Smaller businesses require:

- simplification of associated administration and a programme of monetary redress

This area of law has the greatest hourly impact on the small business respondents who spend on average **15 hours a month** coping with PAYE & other Tax NI regulations. 83% of respondents spent up to 12 hours a month dealing with PAYE and other tax issues, the remainder spender longer than this. This is extensive given the qualitative statements which indicate that many small businesses outsource large elements of the administration.

Fig 5: Length of time small business spend in an average month dealing with PAYE & other Tax NI regulations. This includes time taken to understand updates to regulation, implementation, action and monitoring.



40% of respondents feel that the administrative burden is high and 45% feel that this is disproportionate to the benefit. Almost half of the respondents indicated that the complexity of the legislation was equally excessive signifying that there is scope for improvement.

Table 10: Table to show how time consuming PAYE & other Tax/NI regulations, broken down by associated administration and understanding

	%							
Administration	8	14	12	11	18	18	7	14
Understanding	10	11	10	14	17	14	8	17

LOW → HIGH

Table 11: Do respondents feel that the amount of time spent on PAYE & other Tax/NI regulations is proportionate to the benefits or need?

	%							
Administration	8	11	13	15	8	14	8	23
Understanding	9	7	9	14	13	12	13	24

LOW → HIGH

Due to the complexity and time involved many owner-managers outsource this area to experts in the field or use a software package to shoulder some of the burden, both of these routes are costly and therefore carry a high compliance cost for the small business owner. Furthermore there is a feeling that the role of collecting tax in some cases should not be their responsibility and that there is no recompense for carrying out this duty on behalf of HMRC.

8.0 Supporting evidence

FPB are the research partners of the Small Business Research Trust (SBRT) and the SBRT Quarterly survey is one of the largest regular surveys on smaller business in the UK. Volume 22, Q4 2006, included a focus on Employment regulations; an issue that has moved sharply up the agenda for smaller businesses as a constraint on growth.

The findings of this survey support the FPBs research indicating that the complexity of employment regulations are a serious concern for smaller businesses. Furthermore, this complexity acts as a disincentive to employment acting as a barrier to the growth of smaller businesses and consequently has a direct effect on growth of the national economy.

Key findings indicate that:

- More than half of micro businesses and three in five small businesses find interpreting and understanding employment regulations quite or very time-consuming, and say that this is by far the greatest disincentive to employment.
- Typically time spent on employment regulations in a smaller business results in costs of up to £150 per week, this increases to over £200 for nearly 30% of smaller businesses.
- For micro businesses the second most time consuming aspect is inflexible enforcement of regulations. For small businesses, it is time taken to provide reports and proof of compliance.

See appendix: SBRT Quarterly Survey – Employment Regulations

Forum of Private Business (FPB)

The Forum of Private Business (FPB) fights for the fair treatment of private businesses by decision makers and support the profitable growth of members. It was formed in 1977 and represents approximately 25,000 UK-based businesses, which employ in excess of 600,000 people.

FPB Small Business Evidence Base

The FPB provides a wealth of detailed insight on small business concerns through a rigorous research programme involving our members' and the wider small business audience. We proactively source feedback and comments from our members via surveys, by telephone and face-to-face contact. We also collect data electronically, which enables us to source opinions from hundreds of businesses within a matter of hours. With more than 20 years worth of accredited research this is a valued resource. All of the FPB's campaigns are based on the views of our members.

Quarterly Member Ballot

The FPB works to bring businesses together with their own elected representatives. Members vote in a quarterly Referendum, adding comments for us to send to their Members of Parliament (MP), Members of the European Parliament (MEP), Members of the Scottish Parliament (MSPs) and Assembly Members (AM). Referendum is a tool that business owners have been using since 1977 to make their voices heard.

Small Business Growth

We have been using the Quarterly Survey since 1980 to track business growth, and the rise and fall of key issues, working in partnership with the Small Business Research Trust.

Small Business Banking Relationships

This biennial research celebrated its 20th Anniversary in 2006 with the publication of the 10th report: Private Businesses and their Banks. This widely recognised source is considered a reliable measure on the developing relationship between private business and their banks

To find out more about FPB research visit www.fpb.org or email research@fpb.org

FPB contact details

Forum of Private Business
Ruskin Chambers
Drury Lane
Knutsford
Cheshire
WA16 6HA
Telephone 0845 130 1722
Facsimile 0870 241 9570
Email info@fpb.org
Website www.fpb.org

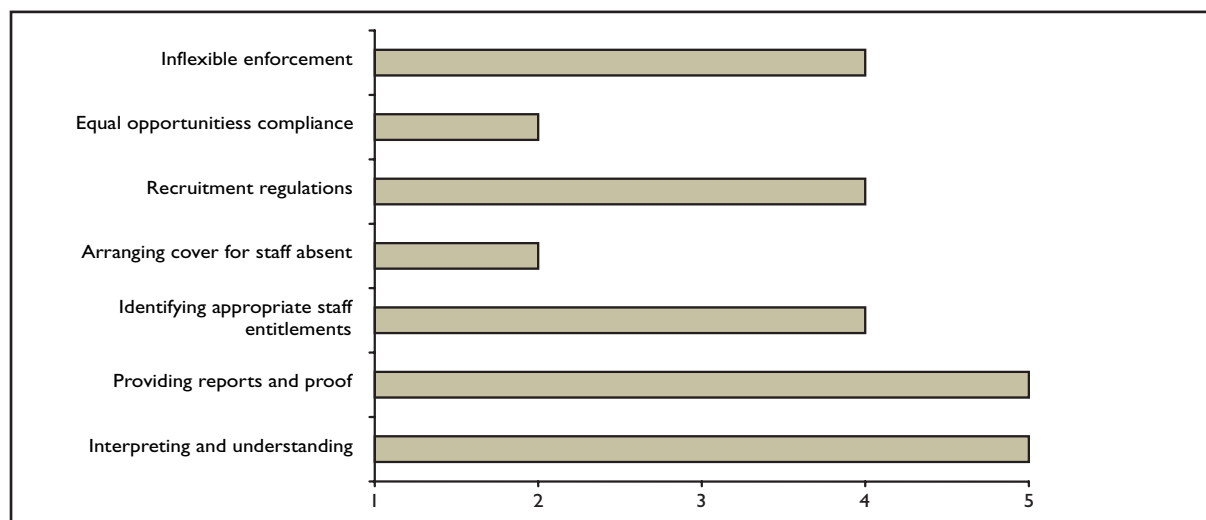
Employment regulations

Summary

The theme for this quarter was the burden of employment regulations on **micro** and **small** businesses; an issue that has moved sharply up the agenda for smaller businesses, as a constraint on growth. Recent research* shows that, apart from health and safety, elements of employment regulations – PAYE, maternity and paternity rules, dismissals and redundancies, and absence control and sickness benefits – topped the list of main regulatory concerns for **small** businesses. This survey shows that smaller businesses are most concerned by the time and cost of employment regulations, particularly in interpreting and understanding, and in proof of compliance. Around a quarter of smaller businesses see recent increases in the National Minimum Wage and holiday entitlements as a disincentive to employ more people.

The analysis is based on the answers of 1,200 **small** and **micro** businesses responding to the Q4 survey. Using a scoring system of 1 to 5, where 5 was 'very time-consuming', the process aspects of 'interpreting and understanding' employment regulations and 'providing reports and proof' of compliance were the most time-consuming for smaller businesses. Inflexible enforcement, recruitment regulations and identifying appropriate staff entitlements also gave concern. Of all the options, 'interpreting and understanding' regulations was by far the greatest disincentive to employment.

Figure 19. Most time-consuming employment regulation



(Mode set: 1 = no problems, 5 = very time-consuming)

* Forum of Private Business Small Firms' Summit, October 2006

“The constant volume of regulation is becoming untenable.”

Comment from respondent

Figure 20. Aspects of employment regulations that act as the greatest disincentives to employment

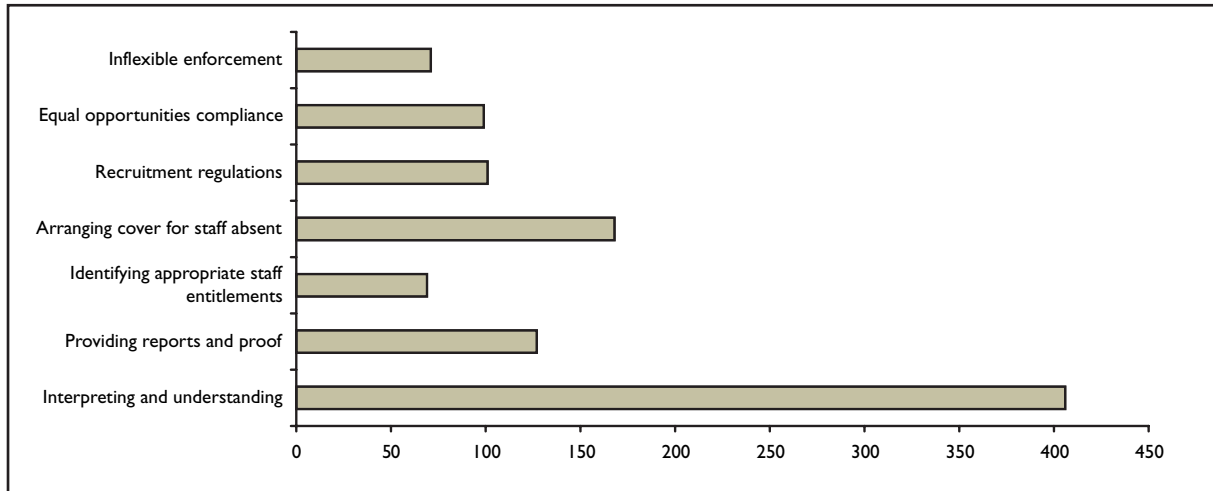
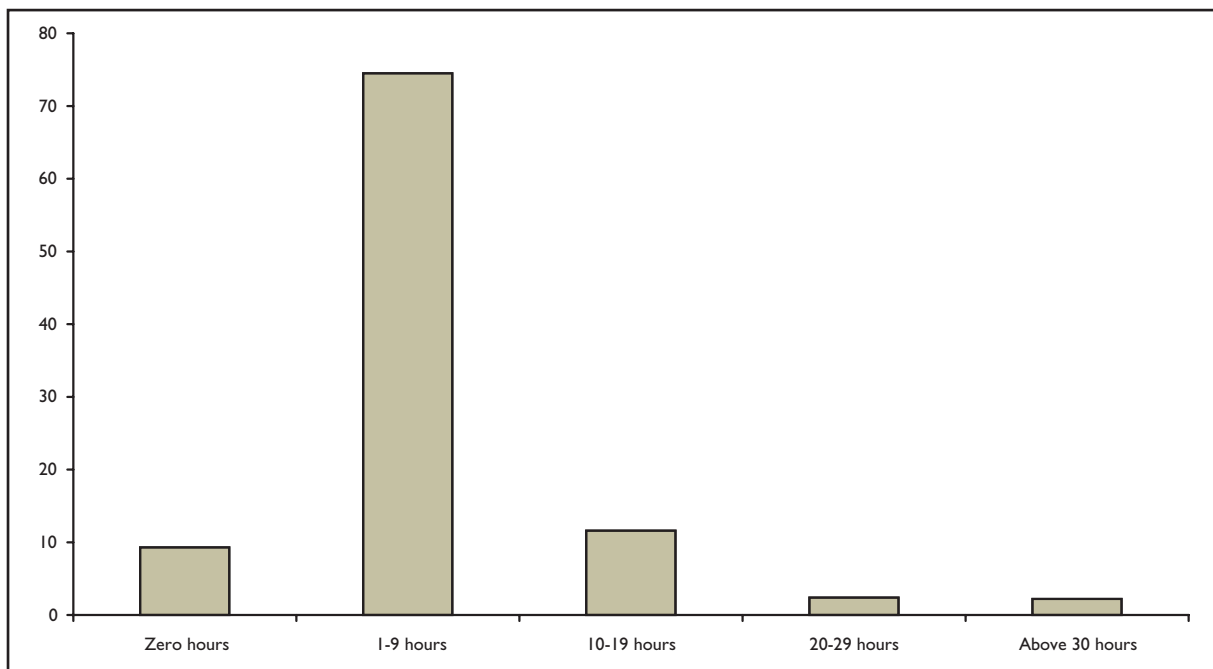


Figure 21. Approximate time spent per week on compliance with employment regulations (%)



The time spent on aspects of employment regulations in smaller businesses is 1 to 9 hours per week, with costs mostly up to £150, but nearly 30% claimed compliance with employment regulations cost their business more than £200 per week.

Figure 22. Approximate cost per week of compliance with employment regulations (%)

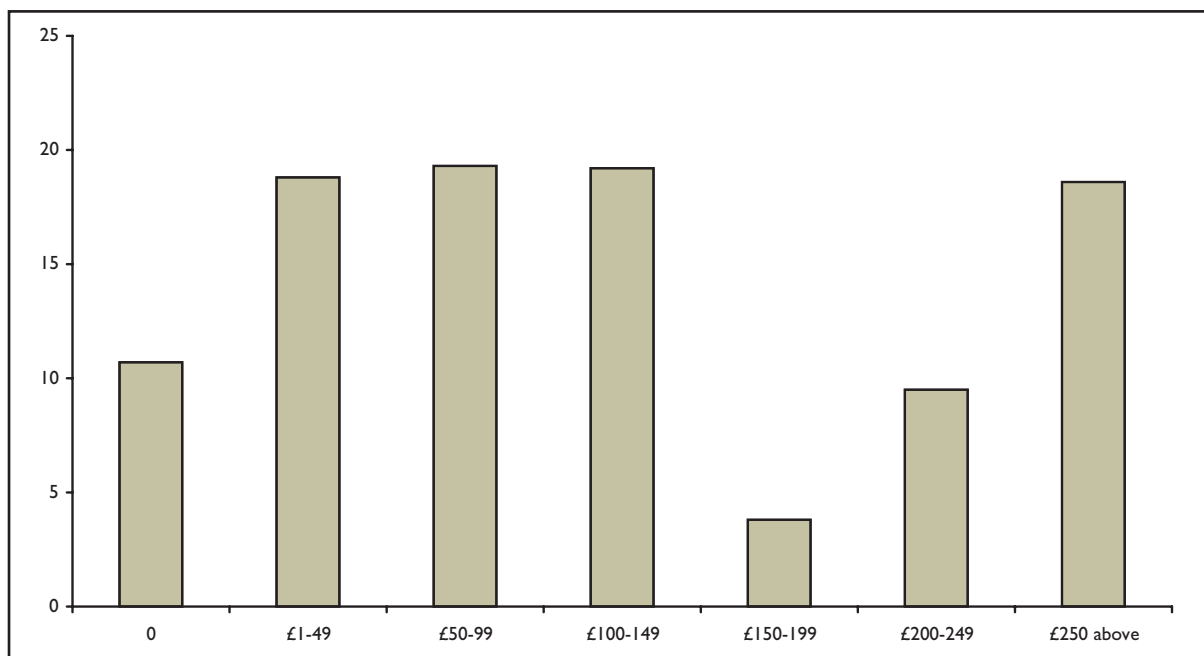
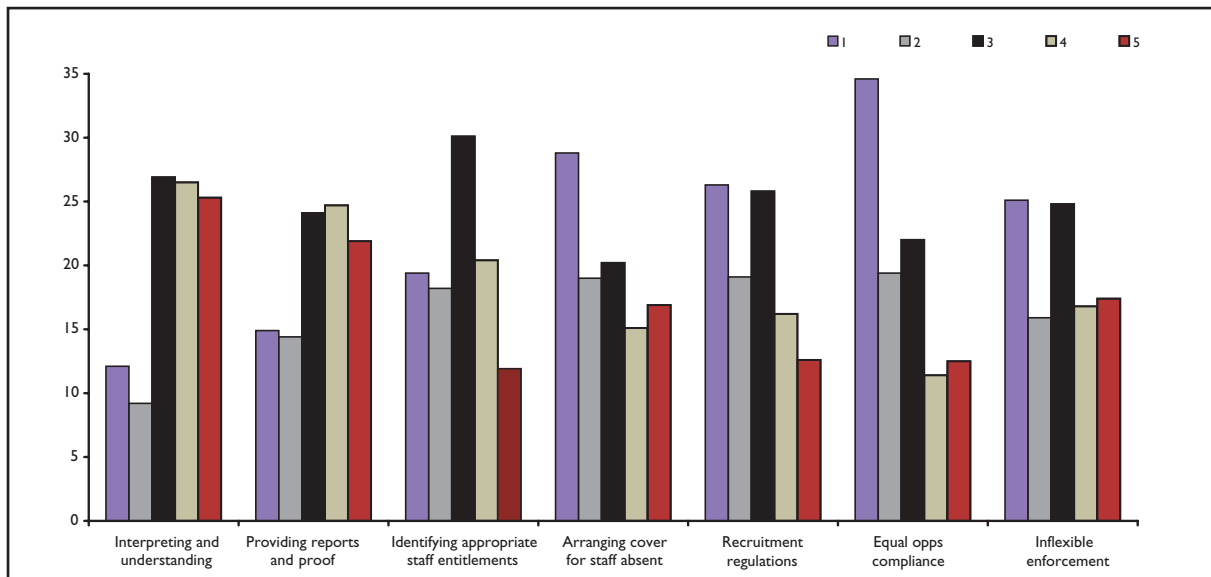


Table 6. Effect of increase in National Minimum Wage (NMW) and holiday entitlement: has reduced the ability of business to employ more people during the last 12 months

	National Minimum Wage	Holiday entitlement
Yes (%)	27	26
No (%)	70	69
Don't know (%)	4	5
Number	1228	1224

The survey shows that more than 25% of smaller companies reported that the increase in the NMW and holiday entitlement restricted their ability to employ more people in the last 12 months, typically by one or two people. Applied to the 1,180,000 small and medium-sized businesses in the UK with employees, it can therefore be suggested that the gross figure of lost potential could represent more than 300,000 jobs, though there could be an offset from jobs created through the increase in the NMW and holiday entitlement.

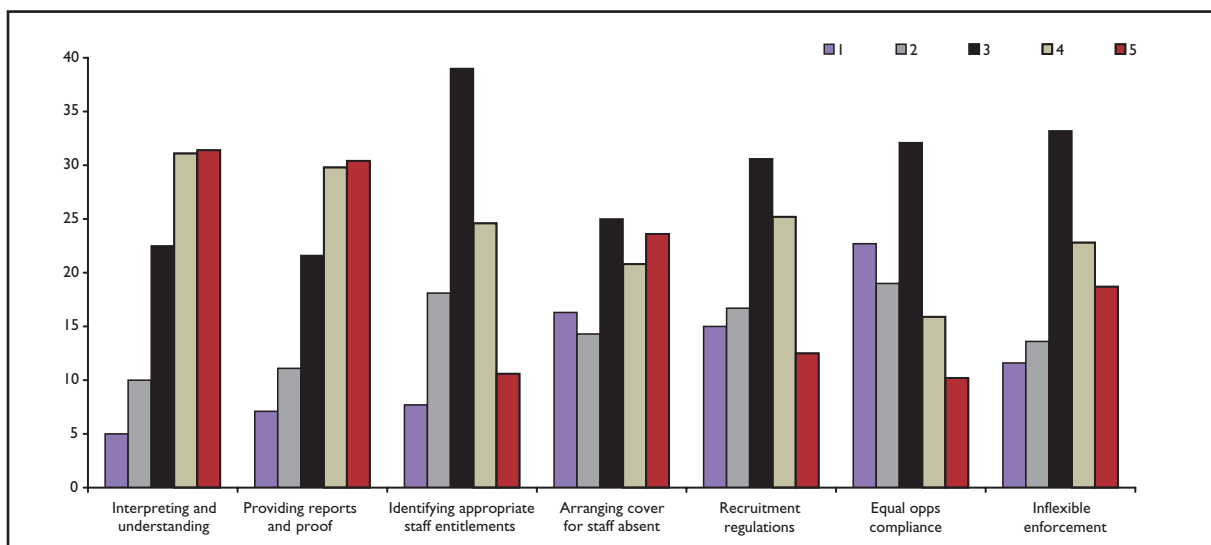
Figure 23. Aspects of employment regulations most time-consuming for micro businesses (%)



(Mode set: 1 = no problems, 5 = very time-consuming)

Taking the two highest ratings together – quite and very time-consuming – more than half of **micro** businesses and over 60% of **small** businesses claimed to find interpreting and understanding employment regulations a serious burden, followed by the time taken to provide reports and proof (47% of **micro** businesses, 60% of **small** businesses). For **micro** businesses, the next most time-consuming aspect is the inflexible enforcement of regulations, and for **small** businesses arranging cover for staff absent. As business size increases from **micro** to **small**, the most noticeable change is the increased perception of time taken to provide reports and proof of compliance. The second change is the added burden of arranging cover for absent staff, followed by more time spent interpreting and understanding employment regulations.

Figure 24. Aspects of employment regulations most time-consuming for small businesses (%)

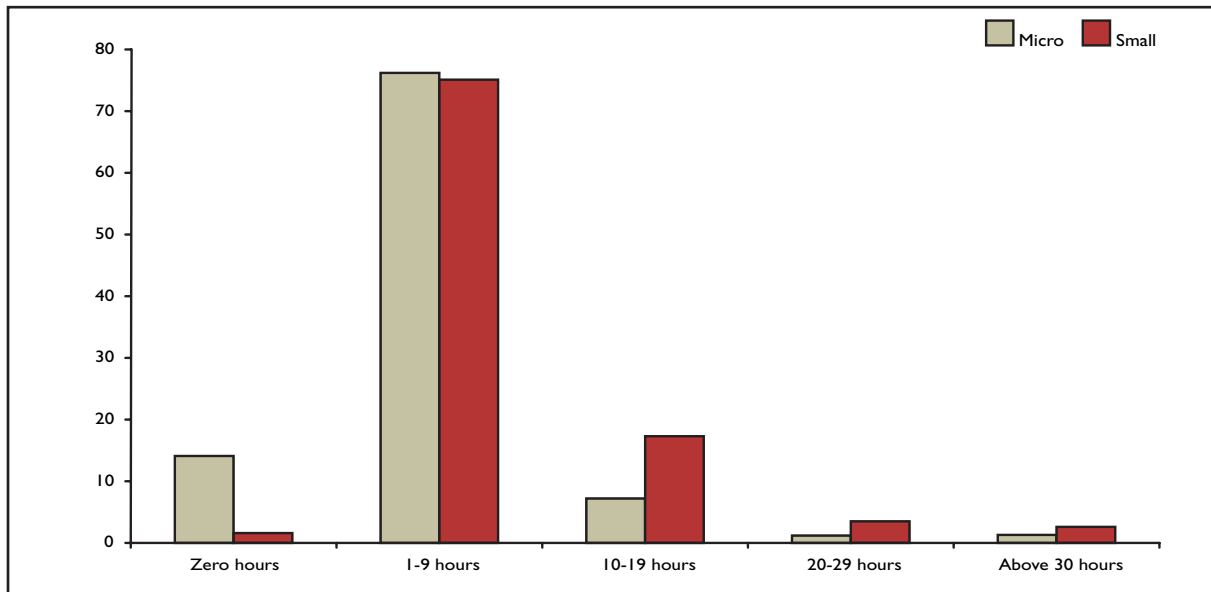


(Mode set: 1 = no problems, 5 = very time-consuming)

“Employment regulations combine to sap one’s energy and do the opposite of encouraging small business.”

Comment from respondent

Figure 25. Time spent on compliance with employment regulations by size of business (per week) (%)



Figures 25 and 26 set out the costs in time and money of compliance for **micro** and **small** businesses. Three-quarters of **micro** and **small** businesses spend between 1 and 9 hours a week on compliance; at the upper end, more than one working day. 17% of **small** businesses devote 10 to 19 hours per week. On the other hand, around one in six of **micro** businesses spend no time or money on employment regulations, which would be expected where employees per business are few. Whilst there is significant agreement on the time taken, costs vary hugely. For a quarter of **micro** businesses, the cost per week is less than £50 (excluding those spending nil time), with costs of £50 to £150 for a further 40%. But for **small** businesses, the costs are considerably higher. Nearly 30% spent more than £250 per week and nearly half between £50 and £150; a disproportionate cost for **small** businesses.

Figure 26. Cost of compliance with employment regulations by size of business (per week) (%)

