Research Executive Summaries Series

The burden of complying with employment and environmental regulation

Vol. 2, No. 7

By
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Thérèse Woodward
and
Ann Hansford
1. Introduction
There is a widely held belief amongst UK businesses that the cost of complying with environmental and employment regulations has increased over the past few years. Evidence suggests that managers in all sizes of firms face on-going constraints on their operations due to the amount of regulations with which they have to comply, with small and medium sized firms (SMEs) suffering disproportionately due to their greater constraints on resources.

This perception has been backed-up in recent years with a number of studies on UK regulation and its impact on business. One of the most recent surveys, commissioned by the Institute of Chartered Accountants of England and Wales (ICAEW, 2003) found that the cost of implementing new legislation is, on average, £11,000 per business per year. For the entire UK economy this would amount to £6 billion in one year, with 68% of the burden falling on small businesses. Clearly, regulation is an important area of concern both in terms of its cost and the impact on competitiveness for the UK economy.

Whilst there has been extensive research into the regulatory burden imposed by taxation in the UK, the area of employment and environmental regulation is relatively under-studied. The research, commissioned by CIMA, aims to fill this gap by assessing UK businesses’ perception of employment and environmental regulation, in terms of:
• compliance costs
• quality of UK regulations and formalities
• quality of UK administration of regulations
• innovation and barriers to trade.

The findings of the UK study were compared alongside the findings from a previous study on employment and environmental regulations carried out by the Organisation for Economic Co-operation and Development (OECD, 2001) to provide an international perspective.

2. Key findings

2.1 Compliance costs
There are a number of costs associated with regulatory compliance, for employment legislation. These include:
• hiring and firing employees
• complying with health and safety standards, workers’ rights.
• consulting with work councils or unions
• statistical reporting of employment-related data
• administering employment-related or payroll taxes, social security and pensions, or other mandatory employee benefits (e.g. maternity leave, sick leave).
The burden of complying with employment and environmental regulation

For environmental regulations these include:
- licences, permits, planning and environmental impact assessments
- complying with emission/discharge and hazardous substance requirements
- process or product quality standards
- pollution control and product regulations
- environmental reporting and testing
- record keeping and day to day administrative requirements related to the environment, such as environmental levies and taxes; eco-labelling of products or processes.

According to the survey, UK businesses believe that the cost of complying with each of these areas has increased over the past few years due to a combination of the introduction of new regulations and the increased complexity of regulations.

Table 2.1 Main reasons for increased compliance costs

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<thead>
<tr>
<th>Reason</th>
<th>Employment %</th>
<th>Environment %</th>
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</thead>
<tbody>
<tr>
<td>Introduction of new regulations</td>
<td>50</td>
<td>35</td>
</tr>
<tr>
<td>Increase in the complexity of regulations</td>
<td>32</td>
<td>34</td>
</tr>
<tr>
<td>Expansion of your company’s activities</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Increase in compliance with regulations</td>
<td>11</td>
<td>23</td>
</tr>
</tbody>
</table>

Whilst the direct costs associated with compliance are usually highly visible and clearly identifiable, there are numerous indirect costs that are not so easily measured. For example, employment costs are often considered to be 'hidden costs' as they are dealt with 'in house' as compared to environmental costs that can require outside expert advice that can be closely monitored.

Compliance costs for employment regulation are generally higher than those for environmental regulations. Costs associated with hiring and firing employees and complying with worker’s rights and health and safety requirements were viewed as costing the most to deal with.

On the environmental side, the cost of understanding and communicating regulation was seen as the most onerous to businesses.

2.2 Quality of UK regulations and formalities

The greatest concerns over UK regulations were that they are inflexible, difficult to understand, inconsistent and fail to meet their objectives.

A staggering 54% of businesses in the employment survey and 63% of the environment study believed that it is not possible to comply fully with all the regulatory requirements, leaving a large number of organisations at risk of penalties for non-compliance. Part of the reason for this is the sheer volume of regulations and the complexity of the requirements imposed, another is the frequency with which the regulations change, making it difficult to keep track.

Employment regulations are generally considered to be better established than environmental regulations, with less frequent changes, but the high level of subjectivity required to assess ‘what is reasonable?’ when reviewing conduct meant that many businesses felt that employment regulations are too vague.

Lack of flexibility in the regulations was also found to be a concern for many businesses. For example, standards set by the authorities, in some cases several years previously, are no longer relevant to how businesses operate, making it harder to comply.

Worryingly, 89% of businesses in the employment survey and 88% in the environment study felt that the regulations did not achieve their objectives. In other words, the regulations are failing to provide the level of environmental and employee performance that they are intended for. Clearly, by making them more user-friendly levels of compliance could be improved alongside protection of the environment and promoting employment prospects.

2.3 Quality of UK administration of regulations

In general, UK businesses were critical of the quality of the administration when they sought information from government offices, with concerns about the consistency of the information provided and the timeliness of it being the main concerns. In some cases businesses were being given contradictory advice from different governmental departments, whilst in others confusion was created by differences in UK and EU legislation.
In a large number of cases, businesses found it difficult to ascertain which government office was responsible for decisions. In the case of environmental regulations this confusion sometimes led to additional or unexpected payments being required, making budgeting and planning of compliance expenditure more problematic.

Nonetheless environmental regulations were considered to be better enforced because they are very specific and thus easier to measure and to comply with than the more subjective nature of many employment-related requirements. The severity of the consequences for non-compliance was considered greater for environment than for employment regulations, which could be a contributory factor to higher levels of compliance.

2.4 Innovation and barriers to trade

The survey found that additional regulation is perceived by many UK businesses as a barrier to trade that can stifle investment in innovation. Often the higher costs of compliance reduce budgets in other areas of the business that could be used for investment. An example of this is where capital expenditure is required to meet new environmental regulations on noise reduction that could be employed for new product development or equipment.

Increasingly complex legislation on hiring and firing employees was also seen as a problematic area. Businesses argue that the long timeframes it takes to dismiss an employee who is not capable of doing their job or is unsuitable results in an extremely inefficient use of resources.

However, the greater focus on regulatory costs has brought about some unexpected benefits. Some businesses have reported that by using environmental experts to assist with regulations they have been able to identify cost savings in areas such as waste disposal that can offset some of the costs of compliance. Other businesses have found the adoption of an ‘environmentally friendly’ label a useful tool in their marketing strategy.

2.5 International comparison

Interestingly, when compared against eleven other countries in the OECD survey on ‘red tape’ in employment and environmental regulation, the UK results scored higher on the scale of ‘dissatisfaction’ than the average of respondents from the OECD countries:

* In assessing overall dissatisfaction with employment/environmental regulations the UK was ranked 4th/3rd out of 12 countries surveyed (Appendix 2).
* In assessing overall dissatisfaction with contacts with government offices in order to obtain decisions and permissions in respect of employment/environmental regulations the UK was ranked 4th/3rd out of 12 countries surveyed (Appendix 3).

Whether this is because UK regulations are intrinsically more complex, more numerous; subject to less efficient administration; or because UK businesses expect more from government offices than is expected elsewhere, is unclear. What is apparent is that UK businesses are clearly registering their strong dissatisfaction with the current state of regulatory affairs.

3. Conclusions

There are a number of areas in which businesses are dissatisfied with the UK regulatory environment. The complexity, quality and lack of flexibility often make it difficult for businesses to comply with regulations and the manner in which they are administered adds to the difficulties encountered by businesses.

The study found that, overall, regulations and their administration are becoming more onerous for businesses, with employment regulations being more intrusive into the business world than environmental regulations. Reporting issues and EU directives on working hours are recent examples of employment regulation that cause concern.

Whilst many of the findings are in line with the OECD study (2001), they do throw up some important recommendations for future improvement:

* Businesses need more specific regulations to remove subjectivity and confusion. For employment regulations in particular, there was a concern that compliance is dependent on judgements of what is ‘reasonable’ and ‘to be expected’ rather than clear, objective guidelines.
* Regulatory bodies should aim to simplify the legislation so that it is easy to interpret, can be clearly understood and can be systematically implemented and enforced.
* Additional help should be provided to businesses with a single-point information source that gives clear, consistent advice in plain English rather than ‘legal’ language.
* Small businesses should be given additional advice and support on what to do – rather than having to take on expensive consultants or making mistakes by having to be a ‘jack of all trades’.
Appendices

Appendix 1 - International dissatisfaction with regulations

The burden of complying with employment and environmental regulation
Appendix 2 - International dissatisfaction when contacting Government offices to obtain information

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<thead>
<tr>
<th>Country</th>
<th>Employment</th>
<th>Environment</th>
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<tr>
<td>Australia</td>
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<td>New Zealand</td>
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<td>Spain</td>
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<td>Iceland</td>
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<td>Mexico</td>
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</table>
Appendix 3 - International dissatisfaction when contacting Government offices to obtain decisions and permissions

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