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**Conservative Party**  
**Economic Competitiveness Review**  
**August 2007**

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## **Conservative Deregulation Proposals**

The Conservative Party's Economic Competitiveness Review is due to be published on Friday August 17, but its proposals have been extensively briefed in advance. This briefing is based on media reports of its probable contents.

### **Key proposals**

Reports suggest that the report will recommend:

- opting out of the EU Social Chapter
- repeal of the Working Time Regulations
- review of the Health and Safety at Work Act

It is claimed that these and other measures will save UK business £14 billion a year.

### **What is the EU Social Chapter?**

The EU Social Chapter allows the EU to introduce measures to improve rights at work by qualified majority voting. EU governments believe that having a floor of minimum rights at work both provides a minimal guaranteed level of social protection across Europe and stops countries competing unfairly by allowing their workers to be exploited.

The previous Conservative government negotiated an opt-out from this, but the Labour government joined the Social Chapter after its election in 1997. It would not be possible for a future UK government to reinstate that opt-out without the agreement of the rest of the EU. This is unlikely to be agreed. Opting out of the Social Chapter will not be possible if the UK remains in the EU.

Many of the Social Chapter's measures are designed to make work more family friendly and to help women. David Cameron has said that he supports flexible working in a speech to the Equal Opportunities Commission <http://www.davidcameronmp.com/articles/viewnews.php?id=4aa87eb3bae5305e29f5a184cd49336f> . Opting out of Social Chapter rights will make it harder for parents to balance work and their caring responsibilities.

Social Chapter measures include:

- The right to take (unpaid) parental leave and time off for urgent family reasons  
Before this right was introduced employers could legally sack a worker who had to suddenly care for a sick child. Cases highlighted by the TUC at the time included a father who was sacked for being at the birth of his child.
- Equal treatment for part time workers  
Most part-time workers are women. The growth of part-time work is an important way of allowing parents to combine caring responsibilities with paid employment.
- Equal treatment for employees on fixed term contracts

Other Social Chapter measures include:

- The right to be informed and consulted on future decisions relating to the company/undertaking (companies employing more than 50 employees) and the right to be consulted via a European Works Council where the company is based in more than two EU member states and employs over 1,000 employees.
- The right not to be discriminated against on grounds of sexuality, religion or belief and age.

### **Repeal of the Working Time Regulations**

The Working Time Regulations have three main provisions:

- They provide all workers with a minimum of four weeks paid holiday (pro rata for part timers)
- They provide all workers with rights to rest breaks during the working day and week
- They put a limit on the average working week of 48 hours (although the UK is the only EU country that allows individuals to sign away this right).

Many seem to think that the Working Time Directive is part of the social chapter, and that opting out of the social chapter would allow the UK to do away with working time rules.

This is not correct. The last Conservative government lost a European Court of Justice case on precisely this point. They argued that they did not have to apply the regulations because the UK had an exemption from the social charter But the Court ruled that the Working Time Directive must apply to the UK because it was a health and safety measure (*Case c-84/94: United Kingdom v Council of the European Union, Council Directive 93/104/EC concerning certain aspects of the organisation of working time - action for annulment. Judgement of the court given 12 November 1996*). The subsequent 1997 election meant that the new Labour government implemented the Working Time Regulations, but a Conservative government would have had no choice but to do so – just as Michael Portillo, when Secretary of State for Employment, had to improve part time workers’ protection against unfair dismissal following an ECJ judgement.

There are only two ways that the UK could repeal the Working Time Regulations:

- The rest of the EU could agree to a specific exemption for the UK. This will not happen – and indeed reform of the Working Time Directive has stalled due to lack of agreement between EU members.
- If Britain left the EU, we would of course be free to repeal all EU requirements.

### **Review of the Health and Safety at Work Act**

The Health and Safety at Work Act was introduced with cross-party support in 1974. A major review of regulation in the early 1990's conducted by Michael Heseltine concluded that there was no case for changing it. Since the Act came into force the number of workplace deaths has fallen by around 75%.

While the Act was introduced before the UK joined the EU, many experts now say that the 1974 Act only barely meets the legal requirements required by the EU. It would not be possible to make substantial changes without breaching EU law. Again this proposal could only be implemented either with the agreement of the rest of the EU (which would not be forthcoming) or by leaving the EU.

### **Red tape or vital protection?**

Of course regulation should be fit for purpose and as simple as possible to apply. Nobody is in favour of sloppy, inefficient or unnecessarily complicated legislation. The TUC is represented on the Government's Better Regulation Commission and supports its important work to identify and improve poorly drafted or unnecessary regulation. But regulation provides vital and popular protection for people at work. There is strong support for measures such as a right to a minimum of paid holiday. Regulation of the workplace started with the Victorians. Opposition to social protection and a belief that the market will provide is a pre-Victorian social attitude and would lead to pre-Victorian social problems, including more deaths at work.

David Cameron has argued forcefully for the benefits of flexible working. This report calls for the repeal of important legal rights that underpin flexible working.

### **Confrontation with the EU**

The measures highlighted in at least the advance briefing of this report almost appear as if they were selected in order to choose maximum conflict with the EU. A Conservative government has already lost an EU court case when it failed to introduce working time protection. It is hard to see how the report could meet its aims without the UK leaving the European Union.

### **Do the figures add up?**

The details of costings have yet to be published. But most estimates of the costs of regulation are flawed as they do not include any estimate of the benefits of

regulation. For example it costs money to provide safety helmets, but it costs more if workers are injured in accidents that a safety helmet would prevent.

Nor would the full savings be realised unless every employer took advantage of the changes and reduced the rights of their staff. No doubt some bad employers, particularly in sectors that employ vulnerable workers, will try to reduce their staff holiday rights, or cut the pay of their part time staff but most employers will be unlikely to want to take advantage of all of this.

Indeed many employers report that flexible working rights help staff morale and retention. The Engineering Employers Federation has already said, "There is no great demand to get rid of existing employment legislation."

<http://www.personneltoday.com/Articles/2007/08/13/41878/conservative-party-plans-to-slash-14bn-per-year-from-legislative-costs-misjudges-employer-feelings.html>. Responsible employers are happy to implement health and safety rules that minimise workplace injury and illness.

The extent of the savings to employers in practice will therefore depend – at least to a large extent - on how much they wish to reduce the rights, rewards and conditions of their own staff, with consequent effects on morale, recruitment and reputation and retention.

### **Undermining good employers**

The EU has minimum standards to stop unfair competition by countries reducing rights for employees and consumers. But this argument also applies within countries. Good employers will be undercut by bad employers in what could turn out to be a race to the bottom, particularly in sectors that employ vulnerable workers such as migrant workers.

### **Is the UK over-regulated?**

In fact, according to the authoritative Organisation for Economic Cooperation and Development, the UK is lightly regulated. "The UK is among the leading economies in the OECD in terms of liberal product market regulation and ranks highly in most aspects of labour market flexibility. Recent OECD work that constructed a composite policy indicator of flexibility ranked the UK the highest among all OECD economies". (OECD Economic Surveys, UK, November 2005). The OECD has developed measures of the administrative burdens on business and whether regulation is more or less strict. The UK ranks lower than virtually any other OECD economy on all the indicators. These include the administrative burden on corporations, on sole proprietors, and on start-ups, and sector specific administrative requirements.