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Statutory Redundancy Pay (Amendment) Bill

Bill 12 of 2008-09

This is a Private Members Bill sponsored by Lindsay Hoyle MP who came third in the ballot.

It is due for Second Reading on 13 March 2009.

The Bill provides for the annual uprating of statutory redundancy entitlements taking into account average weekly earnings. At present these entitlements are uprated in line with the retail prices index.

Vincent Keter

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Summary of main points

The right of an employee to receive a one-off payment from their employer on being made redundant is common and well established, appearing in many individual contracts of employment. The *Redundancy Payments Act 1965* introduced a universal minimum provision which in its current form is contained in the *Employment Rights Act 1996.* This entitles employees to a redundancy payment after they have been employed continuously with the same employer for two years.

This is calculated with reference to how long the employment has lasted; the relevant age bracket into which the employee falls; and their weekly pay. The legislation places a 'cap' or upper limit on the amount of a week's pay to be used in the calculation. In 1965 this was set at £40 and is currently £350 as of 1 February 2009. This cap has been reviewed annually and if necessary uprated. The *Employment Relations Act 1999* introduced a mechanism to link annual uprating to the retail prices index.

The Bill obliges the Secretary of State to introduce regulations within a specific time frame that will establish a link between the annual uprating of the cap and average earnings.

The Trades Union Congress has been campaigning for the value of statutory minimum redundancy pay (SRP) to be increased.

Firstly, unions have campaigned for a one-off increase in the cap to address the historic decline in its real value. At the 2004 Labour National Policy Forum in Warwick the Government agreed to this, incorporating a commitment in the 2005 Labour Party manifesto, and accordingly took a power in the *Work and Families Act 2006* to make a one-off increase. This power has yet to be used and it is not clear what the level of any increase might be.

Secondly, the TUC has been campaigning for an uprating mechanism that would preserve the value of SRP. The Bill carries these proposals forward by linking it to average earnings. It does not provide for the level of any one-off increase.

The Bill can be viewed online here:
http://www.publications.parliament.uk/pa/cm200809/cmbills/012/09012.i-i.html

Links to debates and the progress of the Bill are collated here:
http://services.parliament.uk/bills/2008-09/statutoryredundancypayamendment.html

The following Library research paper covers aspects of redundancy and related areas:

RP08/87 *Small Business, Insolvency and Redundancy,* 25 November 2008

CONTENTS

I The Bill

A. Redundancy pay and average weekly earnings

The substantive provisions of the Bill are all contained in Clause 1:

> **1 Linking of statutory redundancy pay to average weekly earnings**
>
> (1) This section applies to redundancy payments, as specified in section 227(1)(c) of the Employment Rights Act 1996 (c. 18) (maximum amount).
>
> (2) The Secretary of State must, within twelve months of the day on which this Act comes into force, make regulations providing for—
>
> (a) a method of calculation of statutory redundancy pay that links it, in such a manner as the Secretary of State considers appropriate, to average weekly earnings;
> (b) the regulations to take effect from a date within twelve months of the date on which the regulations are made; and
> (c) the link to take account, in subsequent years, of an annual comparison of statutory redundancy pay with average weekly earnings.
>
> (3) Before making regulations under subsection (2) the Secretary of State must—
>
> (a) have regard to the desirability of including in the mechanism an annual comparison between the annual rate of change in—
> (i) average weekly earnings, and
> (ii) the retail prices index;
> (b) consult the Confederation of British Industry and the Trades Union Congress.
>
> (4) Regulations under this section shall be made by statutory instrument.
>
> (5) Regulations under this section are subject to annulment in pursuance of a resolution of either House of Parliament.

Sub-section 2 obliges the Secretary of State to enact regulations within one year of the Bill's provisions coming into effect to create a link between SRP and average weekly earnings data published by the Office for National Statistics. Within a further year these regulations must come into force. It is left to the Secretary of State to decide the precise terms of the linkage, but there is an obligation to consult with the Confederation of British Industry (CBI) and the TUC. Whatever mechanism is chosen it must be reviewed annually. There is also an obligation for the Secretary of State in making the regulations to consider if a comparison of annual rates of change between average weekly earnings and the retail prices index should form a part of the uprating mechanism. Regulations made under clause 1 would be subject to the negative procedure which gives any member the opportunity to pray against them within 40 days:

> **Instruments subject to negative resolution procedure**
>
> Such instruments become law unless there is an objection from the House

> (i) The instrument is laid in draft and cannot be made if the draft is disapproved within 40 days (draft instruments subject to the negative resolution are few and far between).
>
> (ii) The instrument is laid after making, subject to annulment if a motion to annul (known as a 'prayer') is passed within 40 days.[1]

There is no rule that instruments prayed against under the negative procedure are guaranteed a debate. This will be dealt with by the usual channels. However, there is a convention that a debate will be scheduled if the Leader of the Opposition tables a motion against them.

B. Employment Rights Act 1996

The Bill refers to provisions in the *Employment Rights Act 1996*. Part XI of the Act cover Redundancy Payments and related matters. Section 135 sets out the right itself:

> **Right to Redundancy Payment**
>
> **135 The right**
>
> (1) An employer shall pay a redundancy payment to any employee of his if the employee—
>
> (a) is dismissed by the employer by reason of redundancy, or
> (b) is eligible for a redundancy payment by reason of being laid off or kept on short-time.
>
> (2) Subsection (1) has effect subject to the following provisions of this Part (including, in particular, sections 140 to 144, 149 to 152, 155 to 161 and 164).

The Bill refers specifically to section 227 which reads as follows:

> **Maximum amount of week's pay**
>
> 227 Maximum amount
>
> (1) For the purpose of calculating—
>
> [(za) an award of compensation under section 80I(1)(b),]
> (a) a basic award of compensation for unfair dismissal,
> (b) an additional award of compensation for unfair dismissal,
> [(ba) an award under section 112(5), or]
> (c) a redundancy payment,
>
> the amount of a week's pay shall not exceed [£350].

[1] *Statutory Instruments*, House of Commons Information Office Factsheet L7

As can be seen, the maximum amount of a week's pay is used in various calculations other than redundancy payments. The Bill limits its application to subsection (1)(c) and so would not apply to compensation awards.

Of relevance to the level of statutory redundancy entitlements is the impact on the redundancy payments scheme whereby the state covers redundancy payments that have not been made because the employer is insolvent. This is explained in section II(E) below. The relevant provisions are contained in section 166 of the Act.

II Statutory redundancy pay

A. Minimum redundancy pay entitlement

For many employees redundancy pay is set out in their employment contract. However, all employees who qualify are entitled to statutory minimum payments calculated in accordance with Part XI of the *Employment Rights Act 1996* (ERA). Under the Act, employers must pay redundant employees a minimum redundancy payment made up as follows:

(i) for each year's service aged 41- 64 (inclusive).....1.5 weeks' pay
(ii) for each year's service aged 22 - 40 (inclusive).....1 week's pay
(iii) for each year's service aged 18 - 21 (inclusive).....0.5 weeks' pay

However, there is a maximum of 20 years' service which counts and a limit on the amount of a week's pay which counts. This is currently set at £350 for redundancies up and including 31 January 2010. Thus the maximum statutory redundancy payment is currently £10,500.[2] Generally, pay is the level of pay the employee was entitled to at the time notice of redundancy was given. The Business Link website has an online tool for calculating the number of weeks' pay due.[3]

To qualify for any redundancy payment, one must have been continuously employed by the same employer for at least two years.[4] All employees, regardless of hours worked, qualify for payments after two years.

1. Uprating redundancy pay

The limit on a week's pay is increased every year in line with inflation, under provisions contained in section 34 of the *Employment Relations Act 1999*. Subsections (2) and (3) read as follows:

> (2) If the retail prices index for September of a year is higher or lower than the index for the previous September, the Secretary of State shall as soon as

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2 £350 x 1.5 x 20 = £10,500

3 Business Link, *Calculate the statutory redundancy pay due to your employee*

4 Until the House of Lords judgment on 3 March 1994 in the case of *Regina v Secretary of State for Employment ex parte Equal Opportunities Commission and Another*, people who worked between 8 and 16 hours a week had to have worked for the same employer for 5 years to qualify, and those who worked less than 8 hours a week never qualified.

practicable make an order in relation to each sum mentioned in subsection (1)—

(a) increasing each sum, if the new index is higher, or
(b) decreasing each sum, if the new index is lower,

by the same percentage as the amount of the increase or decrease of the index.

(3) In making the calculation required by subsection (2) the Secretary of State shall—

(a) in the case of the sum mentioned in subsection (1)(a), round the result up to the nearest 10 pence,
(b) in the case of the sums mentioned in subsection (1)(b), (c), [(ea),] (f) and (g), round the result up to the nearest £100, and
(c) in the case of the sums mentioned in subsection (1)(d) and (e), round the result up to the nearest £10.

The Bill adopts the definition in subsection (5) of "retail prices index" which is as follows:

(5) In this section "the retail prices index" means—

(a) the general index of retail prices (for all items) published by the [Statistics Board], or
(b) where that index is not published for a month, any substituted index or figures published by [the Board].

Before these provisions came into force, there was no obligation to increase the limit annually, merely an obligation to review it.[5]

2. Tax on redundancy pay

There are two types of redundancy pay - statutory and non-statutory. Statutory redundancy pay is the legal minimum which an employer is obliged to pay an employee.[6] This type of payment is distinct from ex-gratia or non-statutory redundancy payments; that is, those which an employer chooses to make, which are not made under a contractual obligation. Statutory redundancy pay is exempt from income tax,[7] whereas ex-gratia payments are not.[8] However, individuals are eligible to receive the first £30,000 of their **total** redundancy pay tax-free.[9] Although statutory redundancy pay is not assessable for income tax purposes, when applying the £30,000 threshold it is included in the calculation of

5 Section 208 of the *Employment Rights Act 1996* required the Secretary of State, in each calendar year, to undertake a review of various limits and to decide whether limits should be varied.

6 Guidance on the law is given in, Department for Trade and Industry, *Redundancy entitlement: statutory rights: a guide for employees - URN No: 08/640*, 2008. This is available at: http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-guidance/page15686.html

7 Under section 309 of the *Income Tax (Earnings and Pensions) Act (ITEPA) 2003*

8 Under ss 401-416 of *ITEPA 2003*

9 Under section 403 of *ITEPA 2003*.

someone's total redundancy pay.[10] Ex-gratia payments in excess of the £30,000 limit are treated as taxable income. Only the excess over £30,000 is taxed.

HM Revenue & Customs publish a factsheet setting out the tax rules for redundancy payments, which is available from their site.[11] Detailed guidance on the tax treatment of all types of termination payments and benefits is provided in the department's online *Employment Income Manual*.[12]

The £30,000 was last increased by £5,000 to £30,000 in the 1988 Budget, with effect from 6 April 1988.[13] Although there have been calls for this limit to be increased in recent years,[14] the Government has not given any indication that it has plans to do so.[15]

B. Trade Unions

1. Warwick Agreement

The Labour Party National Policy Forum (NFP) met at Warwick University in July 2004.[16] The National Policy Forum is the Labour party's year round policy-making body that feeds into the party's annual conference.[17] Policy in the Labour Party is made through a process called Partnership in Power (PiP) which is designed to "involve all party stakeholders (including members, local parties, trade unions, socialist societies and Labour representatives) as well as the wider community in shaping party policy and support the relationship between the party in the country and the party in government."[18]

A number of "concessions to unions" were reported as having been made at the Warwick meeting in 2004.[19] The "Warwick Agreement" as it has come to be known has been widely heralded in the press and by the unions themselves as representing significant changes in government policy. An article from the Guardian states that "it made peace between discontented elements in the unions and the government. It thereby averted the threat of mass disaffiliation from the party by the unions and helped to secure union support for Labour in the 2005 election."[20] Party officials are also reported to have been "happy" with the outcome: "no government red lines were crossed and that many of the reforms were already on the way, independent of union pressure."[21]

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10 It is worth noting that under current rules the maximum amount of statutory redundancy pay someone can receive is far lower than £30,000.

11 Inland Revenue, *Redundancy factsheet*, March 2005

12 paragraphs EIM12800-13995. The Manual is available online. The issue is also discussed in, "Terminate, terminate…", *Taxation*, 4 September 2008

13 Inland Revenue press release, *Tax relief for redundancy etc payments*, 15 March 1988. This change was made under section 74 of the *Finance Act 1988*.

14 In May 2002 Helen Jones put down an EDM supporting an increase in the threshold which attracted 54 signatures (EDM 1313 of 2001-02, *Tax threshold for redundancy pay*, 15 May 2002).

15 The issue has come up in a number of PQs; for example, HC Deb 17 July 2003 c 462W; HC Deb 10 March 2004 c 1550W; HC Deb 16 March 2005 c 295W.

16 Labour Party, *Britain is Working*, September 2004

17 Unite the Union, *A Guide to Partnership in Power*, undated

18 Labour Party website, *Labour in Government* [on 10 July 2008]

19 Guardian.co.uk website, *Q&A: The 'Warwick agreement'*, 13 September 2005

20 Guardian.co.uk website, *Q&A: The 'Warwick agreement'*, 13 September 2005

21 Guardian.co.uk website, *Q&A: The 'Warwick agreement'*, 13 September 2005

There is no official Warwick agreement text as such. The Labour Party and the Unions have each produced documents setting out their view of the agreement. The official policy document from the Labour Party is: *Britain is Working*, September 2004.[22] The summary of the specific commitments by the Unison is entitled *Full employment and working in modern Britain – TULO Guide to Commitments, National Policy Forum 25 July 2004*.[23]

Some unions are concerned that not enough progress has been made by the Labour government to implement the agreement more fully. The union Unite has undergone a review of progress made under the agreement and has developed a "traffic light" system to show:

> Green: Pledges implemented or current progress to completion satisfactory to government and the affiliated trade unions.
>
> Yellow: Areas of substantial concern amongst affiliated regarding the implementation or delivery of that pledge.
>
> Red: Those policies and priorities where there is a disagreement between affiliates and the government over interpretation or delivery.

Of the 108 policy and priority pledges agreed at Warwick; 70 (65%) have been classified as "Green", 25 (23%) "Yellow" and 13 (12%) "Red".[24]

2. Work and Families Act 2006

As a result of the Warwick Agreement a power has been provided for under section 14 of the *Work and Families Act 2006* which would allow ministers to make a one-off change to the statutory cap on the level of a week's pay used for calculating various statutory entitlements such as redundancy pay.

The new power to make a one-off change has not yet been used and this is one of the Unite "red areas." It has not been clear what the adjustment would be or even whether the power will definitely be used.[25]

3. TUC campaign

The TUC has been calling for an increase the weekly limit on statutory redundancy pay toward restoring the equivalent value of the limit when it was first introduced in 1965:

> When redundancy pay was introduced for the first time in 1965 the limit was set at £40, more than twice the average wage (£19.60). If the limit had been uprated in line with prices it would now be a little over £500, and if increased in line with earnings it would now be in excess of £1,000.

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22 Labour Party, *Britain is Working*, September 2004

23 Unison, *Full employment and working in modern Britain – TULO Guide to Commitments, National Policy Forum 25 July 2004*

24 Unite the Union website, *Warwick Agreement Report to Unite Executive Committee - July 2008*; Full details about which areas fall into each category is available on the union website

25 Michael Millar, "Redundancy time-bomb in Work & Families Bill", *Personnel Today*, 17 January 2006:

> TUC General Secretary Brendan Barber said: 'Now is the right time to start to restore the value of redundancy pay. When it was introduced the big majority of the workforce had all their wages counted when working out their redundancy pay, but now more than half the workforce would lose out.
>
> 'The Government pledged in its manifesto for the last election to boost redundancy and that pledge should be implemented. A one off rise to £500 and a link to earnings rather than prices in future is the minimum we need to see to start to restore some fairness.' [26]

4. Trade unions in the Labour Party

The National Policy Forum (NPF) currently has 184 members (55 elected by constituency delegates at annual conference; 22 elected by regional boards/conferences; 30 from the unions; 9 MPs; 6 MEPs; 8 ministers; 3 from socialist societies; 3 from the Co-op Party; 4 from the Black Socialist Society; 9 from local government; 2 members of the House of Lords; 1 Labour Student; and the 32 members of the National Executive Committee). It meets two or three times a year. Between meetings all work is carried out by six policy commissions.[27]

In a consultation ending in September 2007, "Extending and renewing party democracy" the Prime Minister proposed new rights for Labour Party members to be consulted on policy and a new duty on the National Policy Forum to consult members on policy issues.[28] Essentially it was proposed that trade unions and CLPs should lose their current rights to put "contemporary" motions to Labour Party conference (a device by which policy declarations can be placed on the agenda on the grounds that they are a response to a topical issue/emergency). The *Times* reported the view that the use of these motions has previously been "exploited by trade union leaders, in particular, and the endorsement of these resolutions by delegates has embarrassed ministers periodically."[29] The article goes on to speculate that the effect of this will be "to shift authority away from trade unions and towards the party as a whole."[30] Another article by the BBC confirms that from 2008 these resolutions will no longer be possible, but that the situation will be reviewed in two years time.[31]

C. Labour market flexibility

Arguments against stronger employment rights are often framed in terms of the economic benefits of flexible labour markets. The idea of labour market flexibility is defined in many different ways. A BERR (formerly DTI) publication by the Employment Market Analysis and Research team gave the following explanation:

> **Characteristics of Labour Market Flexibility**

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26 TUC, *Time to restore redundancy pay value*, 28 February 2008
27 www.annblack.com, *Partnership Made Easy – Labour's Policy - Making Process 2006 / 2009*
28 Labour party, *Extending and renewing party democracy*, undated [on 14 July 2008]
29 "Through the Motions: Gordon Brown must press harder on Labour Party reform", *The Times*, 24 September 2007
30 "Through the Motions: Gordon Brown must press harder on Labour Party reform", *The Times*, 24 September 2007
31 Anger over 'union debate limit' *BBC news*, 19 September 2007

> Labour market flexibility derives from the degree to which labour market outcomes are determined by the operation of market forces free from rigidities and/or restrictions imposed by powerful actors such as monopsony employers, trade unions and government. A perfectly flexible labour market would imply the absence of all hindrances to the free operation of market forces. This not only includes examples of labour market regulation (eg. job protection legislation) and institutional arrangements (eg. Systems of sectoral wage bargaining), but also unorganised forms of market imperfection (eg. resulting from insider-outsider power imbalances and/or irrational employment practices arising from labour market segmentation or discrimination). Furthermore, there is a sizeable literature pointing to the existence of labour market inflexibility due to various factors, including implicit contracts, efficiency wages, transaction costs in the renegotiation of contracts and incentives provided due to the principle-agent problem (Bosworth et al, 1996). Clearly, certain types of labour market inflexibility are more easily subject to corrective government policy reforms, whilst others appear more intractable.
>
> The literature on labour market flexibility denotes a range of different factors that, in aggregate, determine the extent to which the labour market is comparatively more or less flexible. At any one moment, it is possible that a number of these characteristics of flexibility are moving towards greater flexibilisation whereas others are indicating increasing rigidities. This can explain why labour markets that are generally considered as exhibiting a high degree of flexibility nevertheless contain features that depart quite significantly from this norm. For example, the fact that US and UK labour markets have a relatively low incidence of temporary workers as a proportion of the total workforce does not necessarily imply labour market rigidity, but rather reflects the fact that employers are relatively unencumbered by labour market regulation and are therefore more able to hire and fire core workers without having to resort to other forms of non-standard employment contract to avoid regulation and pursue the flexibility agenda through a core-periphery split.[32]

An article in the Financial Times explored these ideas in the context of the current deflationary dynamics of the economic downturn:

> The economic paradigm developed during the boom years was based on the idea of flexibility. The economically successful countries were those that allowed flexibility in goods and labour markets. Rapid growth lay ahead of them if they permitted companies to hire and fire without restrictions; if wage contracts made it possible for companies to adjust wages up and down quickly to changing economic conditions.
>
> New growth models were developed by academic economists stressing the need for flexibility. International organisations chastised those countries with rigid labour and goods markets and urged them to introduce "structural reforms". […]
>
> The great role model was the US, which was seen to have a superior economic model thanks to its flexibility. […]

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[32] BERR, (DTI), *Labour Market Flexibility and Foreign Direct Investment*, August 2006, URN 06/1797

> Since the outbreak of the financial crisis the world economy has been increasingly gripped by debt deflation. The dynamics of debt deflation are well-known and was described by Irving Fisher 80 years ago. Households and companies (including banks) faced with excessive debt have to sell assets. Asset prices decline, leading to more intense solvency problems elsewhere in the system. Companies are forced to fire workers and/or to reduce their wages. As a result, more households find it impossible to service their debt. Thus, in a debt deflation, the attempts of some to service their debts makes it more difficult for others to service their debts.
>
> The source of the problem is the fact that the level of debt is a fixed nominal variable. The consumer who has to pay back a mortgage of $400,000 faces this rigid payback threat whatever the value of his assets or the value of his wage. Thus the problem of debt deflation is that there is one rigid variable (the value of the debt) while so much of the rest (asset values, wages, employment) is flexible. The more flexible these variables are, the more hellish are the dynamics of debt deflation and the more difficult it is to pull the economy out of it.
>
> It follows that the most flexible economies will suffer most from this. In countries where companies can easily fire workers, or where they can cut their wages on a whim, these same workers will be hit harder by the debt deflation dynamics. They will have to sell their houses and their other assets more quickly, thereby threatening others (including banks) with bankruptcy.
>
> When economies are hit by debt deflation they need circuit breakers. You guessed it: rigidities in wages, prices and employment contracts are such circuit breakers. They slow down the debt deflation dynamics, allowing for a more orderly retreat. Workers do not immediately lose their jobs; their wages are not cut instantaneously, giving some respite in the orderly winding down of debt levels. […]
>
> The idea that flexibility is good and rigidity is bad continues to influence the minds of policymakers and analysts. Rating agencies, for example, continue to give a more favourable rating to US and UK sovereign debt based on the notion that the greater flexibility of these countries gives them a better capacity to adjust to the crisis than rigid countries such as Spain, Italy and Ireland.
>
> The opposite is true. Today rigidities in wages, employment and social security allow countries to deal better with the great rigidity that the fixed levels of debt impose on households and companies. We should cherish these rigidities.[33]

D. Policy

The Pre-Budget Report in November 2008 announced the following measures to support people facing redundancy:

> • an additional £1.3 billion to continue delivering effective support for the unemployed to find a new job;
> • a National Employment Partnership, bringing together the Government and major employers to tackle rising unemployment; and

[33] Paul De Grauwe, 'Flexibility is out: now we see rigidity's virtues', *Financial Times*, 23 February 2009

> • refocusing Train to Gain to provide support in pre-redundancy situations, expanding the Rapid Response Service to target small and large scale redundancies and extending Local Employment Partnerships to focus on the short-term unemployed.[34]

In terms of opposition policy, a speech given by David Cameron on 10 November 2008 expressed a commitment to combat mass unemployment:

> Britain is facing some very difficult economic circumstances. Banks that people thought were a permanent part of our landscape have gone under, the pound is falling, inflation is rising and so is unemployment.
>
> […]
>
> But the biggest worry for so many people right now is redundancy. Unemployment is rising at its fastest rate for 17 years. Between June and August the number of people without work soared by 164,000 – taking the total to 1.79 million. It's got worse since then, and predictions for next year are grim.
>
> Today I want to speak to you about what our approach to unemployment will be during this recession. Because before people hear your policies, they want to know what values and attitudes you bring to the table, and that's what I'm going to set out.
>
> You don't need a long memory in this country to remember the trauma of mass unemployment. As a recession sets in, hundreds of thousands of people are at risk of losing their jobs, and as recessions go on, long-term unemployment soars.
>
> That is a tragedy for the people involved, and it's a tragedy for us, too – for all of society. There's a certain approach to this which says that however painful this may be, large-scale unemployment is an unavoidable consequence of recession, that because it's the natural movement of the markets, all that government can do is stand by and pick up the pieces.
>
> I am not one of those people. In fact, I wholly disagree.
>
> Today I want to say that the Conservative party will not stand aside and allow unemployment to claim livelihoods and ruin lives on a massive scale. We will not walk on by while people lose their jobs. And there are three reasons for this.[35]

The Liberal Democrats published an advisory note this month setting out their proposals to deal with the possibility of rising unemployment in the near future:

> **Stimulating the economy to ward off increasing unemployment**
>
> We believe that the best way to alleviate rising unemployment in the economy is to stimulate demand. We would do this be reducing the basic rate of income tax by 4p in the pound, giving nearly £1,000 back in income tax to a worker on

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34 Pre-Budget Report 2008, page 83

35 Conservatives, Speech by David Cameron: *We will not walk on by while people lose their jobs*, 10 November 2008

> £30,000 a year. This would be funded by closing tax loopholes enjoyed by the very wealthy and by increasing some green taxes.
>
> We believe that poor families need money in their pockets, right now. Cutting taxes for those on low and middle incomes will encourage increased consumer spending, helping struggling retail and manufacturing industries.[36]

E. Redundancy Payments Scheme

1. Debts owed to employees

Under the *Employment Rights Act 1996* (ERA) the Redundancy Payments Office (RPO) operated by the Insolvency Service must pay certain debts owed by an insolvent employer to his employees.[37] The debts covered are:[38]

1. Arrears of pay up to £330 a week for a maximum of eight weeks. This payment includes: commission, overtime and guarantee payments.

2. Statutory payments for time off work; or suspension on medical or maternity grounds.

3. Any 'protective award' made by an employment tribunal if an employer has failed to inform or consult worker's representative about a collective redundancy.

4. Holiday pay, for unused holidays and for holidays actually taken but not paid, up to a weekly limit of £330 for a maximum of six weeks. Holiday pay may include holiday carried over from the previous year if the contract of employment allows this.

5. A compensatory payment for failure to give proper statutory notice, up to a weekly limit of £330.

6. An unpaid basic award made by an employment tribunal of compensation for unfair dismissal (unfair dismissal awards are usually made up of two components: a basic award calculated according to age, length of service and pay, and a compensatory award determined by the tribunal to take account of the actual loss sustained. These provisions cover only the basic award.)

7. Reasonable reimbursement of apprentices' or articled clerks' fees or premiums. Unlike holiday pay and compensation, the full amounts can be recovered.[39]

8. Statutory redundancy payments. The amount of a statutory redundancy payment is the employee's weekly pay (up to a limit currently set at £350 a week) multiplied by a

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36 Liberal Democrats, Advisory note, *Government unprepared for rising unemployment*, 12 November 2008

37 BERR, Redundancy Payments Offices

38 Sections 166 and 184 of the *Employment Rights Act 1996*

39 An "articled clerk" was someone in work-based training in a firm of solicitors or accountants. For solicitors these professional arrangements have changed and are now referred to as "training contracts" and such individuals are now called "trainee solicitors". The Act does not define this term.

number of 'qualifying weeks' depending on how long the employee has been in the job.[40]

2. Payments by the state

The scheme for redundancy is covered under section166 ERA:

> **Payments by Secretary of State**
>
> 166 Applications for payments
>
> (1) Where an employee claims that his employer is liable to pay to him an employer's payment and either—
>
> > (a) that the employee has taken all reasonable steps, other than legal proceedings, to recover the payment from the employer and the employer has refused or failed to pay it, or has paid part of it and has refused or failed to pay the balance, or
> > (b) that the employer is insolvent and the whole or part of the payment remains unpaid,
>
> the employee may apply to the Secretary of State for a payment under this section.
>
> (2) In this Part "employer's payment", in relation to an employee, means—
>
> > (a) a redundancy payment which his employer is liable to pay to him under this Part,. . .
> > [(aa) a payment which his employer is liable to make to him under an agreement to refrain from instituting or continuing proceedings for a contravention or alleged contravention of section 135 which has effect by virtue of section 203(2)(e) or (f), or]
> > (b) a payment which his employer is, under an agreement in respect of which an order is in force under section 157, liable to make to him on the termination of his contract of employment.
>
> (3) In relation to any case where (in accordance with any provision of this Part) an [employment tribunal] determines that an employer is liable to pay part (but not the whole) of a redundancy payment the reference in subsection (2)(a) to a redundancy payment is to the part of the redundancy payment.
>
> (4) In subsection (1)(a) "legal proceedings"—
>
> > (a) does not include any proceedings before an [employment tribunal], but
> > (b) includes any proceedings to enforce a decision or award of an [employment tribunal].

[40] BERR, *Redundancy entitlement - statutory rights. A guide for employees* URN No: 07/613

3. Definition of insolvency

The remaining sub-sections cover the definition of insolvency:

> (5) An employer is insolvent for the purposes of subsection (1)(b)—
>
> > (a) where the employer is an individual, if (but only if) subsection (6) is satisfied, . . .
> > (b) where the employer is a company, if (but only if) subsection (7) is satisfied[, and
> > (c) where the employer is a limited liability partnership, if (but only if) subsection (8) is satisfied].
>
> (6) This subsection is satisfied in the case of an employer who is an individual—
>
> > (a) in England and Wales if—
> > > (i) he has been adjudged bankrupt or has made a composition or arrangement with his creditors, or
> > > (ii) he has died and his estate falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986, and
> >
> > (b) in Scotland if—
> > > (i) sequestration of his estate has been awarded or he has executed a trust deed for his creditors or has entered into a composition contract, or
> > > (ii) he has died and a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide his insolvent estate among his creditors.
>
> (7) This subsection is satisfied in the case of an employer which is a company—
>
> > (a) if a winding up order . . . has been made, or a resolution for voluntary winding up has been passed, with respect to the company,
> > [(aa) if the company is in administration for the purposes of the Insolvency Act 1986,]
> > (b) if a receiver or (in England and Wales only) a manager of the company's undertaking has been duly appointed, or (in England and Wales only) possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or
> > (c) if a voluntary arrangement proposed in the case of the company for the purposes of Part I of the Insolvency Act 1986 has been approved under that Part of that Act.
>
> [(8) This subsection is satisfied in the case of an employer which is a limited liability partnership—
>
> > (a) if a winding-up order, an administration order or a determination for a voluntary winding-up has been made with respect to the limited liability partnership,
> > (b) if a receiver or (in England and Wales only) a manager of the undertaking of the limited liability partnership has been duly appointed, or (in England and Wales only) possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any

> property of the limited liability partnership comprised in or subject to the charge, or
> (c) if a voluntary arrangement proposed in the case of the limited liability partnership for the purpose of Part I of the Insolvency Act 1986 has been approved under that Part of that Act.]

4. Claims

Complaints about the Department's failure to make such payments are dealt with by employment tribunals.[41] In the case of redundancy payments, (but not arrears of wages etc) the RPO may also assume responsibility where the

> employee has taken all reasonable steps (other than legal proceedings) to recover the payment from the employer and … the employer has refused or failed to pay it.[42]

Ex-employees wishing to make a claim under these provisions should apply to their employer's representative (for example, the receiver, liquidator or trustee) for an application form (RP1). The completed form should be sent to the RPO. Form RP1 together with full details of how to apply are also contained in a leaflet, available on the BERR website.[43]

Employees who have outstanding claims which are not covered by this scheme must submit a claim to the employer's representative who will consider it separately as part of the insolvency proceedings.

F. Statistics[44]

Cost of the Redundancy Scheme

In 2005, the then Department of Trade and Industry estimated the amount of statutory redundancy payments at £950 million.[45] Most redundancy payments are made direct by employers. However, in cases where employers fail to do this, the Insolvency Service (IS) pays employees from the National Insurance Fund. In 2007/08, expenditure by the IS on payments was £213 million.[46] The average payment (for redundancy pay, holiday pay and arrears of pay) by the IS in 2007/08 was £1,370.

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41 Section 188 of the *Employment Rights Act 1996*

42 Section 166(1)(a) of the *Employment Rights Act 1996*

43 The Insolvency Service, *Redundancy and Insolvency - A Guide for Insolvency Practitioners to employees' rights on the insolvency of their employer*, URN 08/550

44 By Bryn Morgan, Economic Policy and Statistics Section

45 DTI, *Statutory Redundancy Pay: Partial Regulatory Impact Assessment*, July 2005, p5. Data are not routinely collected on the cost of the scheme to employers (see: HC Deb 27 January 2009 c368W)

46 BERR, *Annual Report and Accounts: 2007/08*, HC 757 2006-07, July 2008, p172. These are gross payments; around £39 million income was recovered either through sale of assets at the winding-up of a company, or through standing orders from companies that continued to trade.

Redundancy statistics

Chart 1 shows the number of redundancies in the UK for each quarter since 1996.[47] There were 259,000 redundancies in the fourth quarter of 2008, more than double the number in the same quarter of 2007.[48]

Chart 1: Redundancies: United Kingdom: by quarter: 1996-2008
(seasonally adjusted)

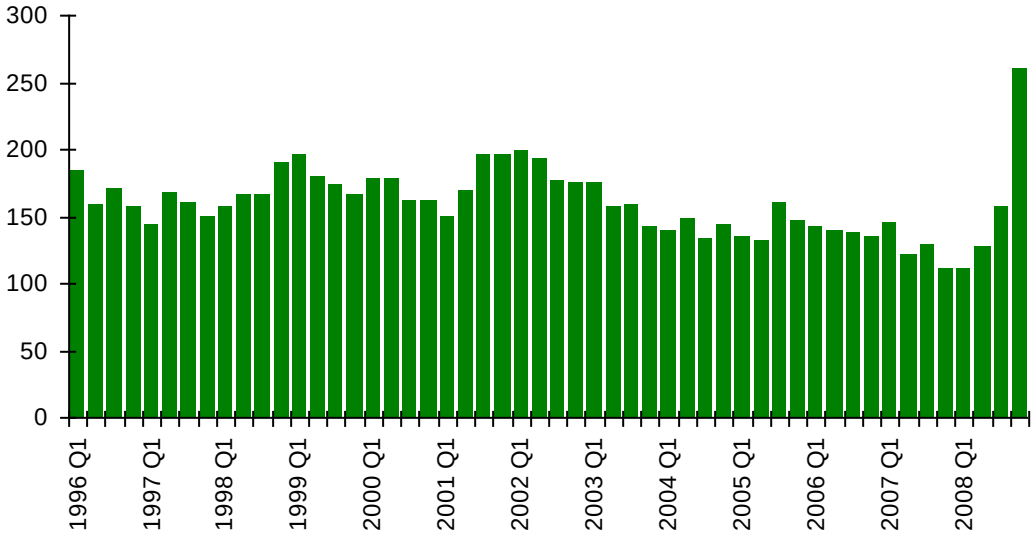
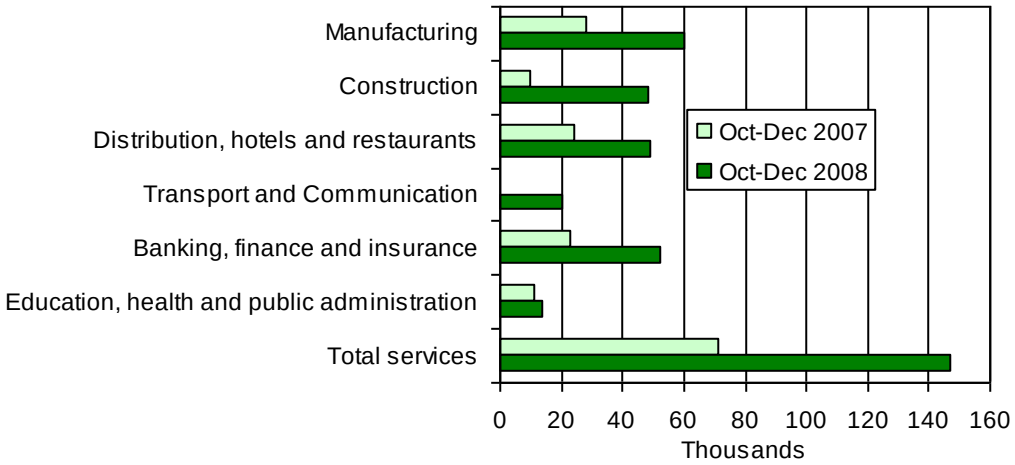


Chart 2 shows redundancies by industry.

Chart 2: Redundancies by industry: Q4 2007 and 2008



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47 People reporting that they had been made redundant in the three months prior to their Labour Force Survey interview. Therefore a redundancy reported in the fourth quarter of 2008 could have taken place in July.

48 ONS, *Labour Market Statistics Historical Supplement*, Table 23

There was a 380% increase in the number of redundancies in construction between the fourth quarters of 2007 and 2008. Construction's share of redundancies increased from 9% to 18%. Of the sectors shown, only in education, health and public administration did redundancies increase by less than 100% between 2007 and 2008.[49]

Payment limit

When the Redundancy Payment system was first introduced in December 1965 the weekly pay limit for redundancy pay was £40. This was more than double average male weekly manual earnings.[50] The limit was last increased on 1 February 2009 to £350. This is significantly lower as a proportion of current average earnings, although the extent will depend on which measure of average earnings is used. The current limit of £350 is around 63% of mean full-time earnings excluding overtime in April 2008. However, it is 77% of median full-time earnings and 94% of median earnings for full and part-time employees combined.[51]

Prior to 2000, there was no automatic formula for increasing the limit. The *Employment Relations Act 1999* provided that the limit would be changed each February according to the annual change in the retail prices index (RPI) in the previous September, rounded up to the nearest £10.[52] The first increase under this formula was for February 2000. On 1 February 2009, it was increased to £350. Had the average earnings index been used to increase the limit from 2000 onwards, the limit would now be £420.[53]

III EU comparisons

A. European Directives

The UK has enacted various statutory provisions, such as those for consultation on collective redundancies which stem from existing EC directives, and are, therefore, similar to minimum provisions in other EC states. The legislation is:

- The *Acquired Rights Directive 77/187/EEC* implemented in the UK by the *Transfer of Undertakings (Protection of Employment) Regulations 1981* (TUPE)

- The *Collective Redundancies Directive* 75/129/EEC, now consolidated in the *Collective Redundancies Directive 98/59/EC*. The UK provisions are in Chapter II of Part IV of the *Trade Union and Labour Relations (Consolidation) Act 1992.*

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49 ONS, *Labour Market Statistics Historical Supplement*, Table 24

50 *British Labour Statistics: Historical Abstract 1886-1968*, Table 42. The April 1965 average for male manual workers was £18.91

51 ONS, *2008 Annual Survey of Hours and Earnings*, November 2008. Median earnings is the more commonly used measure of average earnings as it is not affected by extreme values.

52 Note that the figure is rounded up to the next £10 rather than rounded to the nearest £10; e.g. in 2007, the unrounded limit would have been £300.50, but the limit was set at £310, rather than £300.

53 Using the Average Earnings Index excluding bonus payments from 2002 onwards; figures are only available including bonus payments before July 1999.

- The *European Works Councils Directive 94/45/*EC, extended to the UK by *Directive 97/74/EC,* and implemented in the UK by the *Transnational Information and Consultation of Employees Regulations 1999 SI No 3323.* This covers undertakings or groups of undertakings with at least 1,000 employees located within the European Economic Area (EEA) and at least one establishment employing a minimum of 150 workers in each of two Member States.

- The *Information and Consultation Directive 2002/14/EC,* requires Member States to establish national systems for informing and consulting employees in undertakings with at least 50 employees. The directive came into force on 23 March 2002, and was implemented by the *Information and Consultation of Employees Regulations 2004 SI No. 3426* (ICE).[54] The regulations came into force on 6 April 2005.[55]

B. Redundancy employment rights

It is often alleged that companies with factories in a number of different European countries target their UK plants when they need to make redundancies because "it easier to sack workers" in the UK.[56] It is, of course, difficult to generalise about the rest of Europe as different European countries have widely different employment laws. However, some commentators do believe that UK law provides less protection for workers threatened with redundancy than many other European countries.

In 2005, the European Foundation for the Improvement of Living and Working Conditions' European Industrial Relations Observatory On-line (EIRO) published a thematic feature on *Redundancies and redundancy costs* that gives a useful account of how the different countries' systems compare both in theory and in practice. The section on legal provisions does suggest that the UK's redundancy payments are not among the most generous:

> The amount of severance pay, moreover, varies according to the country. France, Germany, Italy, Luxembourg and the Netherlands are among the countries providing for the highest statutory severance payments. In France, for example, redundancy payment amounts to 20% of a month's pay per year of service. In Germany, in contrast, the maximum payment stipulated by law is equal to 12 months' pay. For employees aged at least 55 years, with at least 20 years' service, compensation can amount to as much as 18 months' pay. In fact, redundancy payment provisions tend to be gradated according to the employee's length of service. In Luxembourg, an employee working for over 20 years in the same company and who is made redundant will be granted severance pay amounting to two months' pay per year of service, instead of one month's pay per year of service. *Belgium, Ireland and the UK, in contrast, provide for much lower statutory redundancy payments.* In Belgium, for example, severance pay amounts to half the difference between a net reference wage and the unemployment benefits. This amount is, however, payable for only four months.

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54 Provision for implementation was contained in the *Employment Relations Act 2004*

55 Full text: http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_080/l_08020020323en00290033.pdf

56 See, eg, *Times*, 2 February 2001, "'Mass sackings are easier in Britain'" ; TUC press release, 3 May 2001, *It is easier, cheaper and quicker to sack staff in the UK*

> In the UK, employees who are made redundant receive a lump-sum redundancy payment limited to a maximum of £7,800. [Emphasis added]
>
> Denmark, Finland, Greece, Norway, Spain and Sweden do not provide for any statutory redundancy payments. At first glance, the costs of redundancy to employers appear to be very low in these countries. In fact, a distinction has to be made between the northern European countries, on the one hand, and those of southern Europe, on the other. Greek or Spanish legislation, for example, does not provide for any compensation in the event of collective redundancies. In the Nordic countries, the picture is quite different. While legislation does not provide for special compensation in the event of redundancy in those countries either, collective agreements, however, may provide for redundancy payments. Moreover, collective agreements often introduce 'redundancy packages'. Thus, the highest costs faced by employers in the Nordic countries are not the severance payment as such, but the costs resulting from the corollary provisions included in the 'redundancy packages'. In fact, employers – with or without support of the state – often have to provide training and assistance in job seeking. An evaluation of redundancy costs in the Nordic countries therefore involves looking beyond redundancy payments alone.
>
> Though compensation usually will be provided by a lump sum, some countries have chosen different forms of payments. In Belgium, for example, as already mentioned, employees made redundant are granted an amount of up to half the difference between a net reference wage and the unemployment benefits. This allowance is payable for four months. In Italy, employees made redundant receive an availability allowance up to 100% of the worker's last pay from the Wages Guarantee Fund (Cassa integrazione guadagni, Cig). This allowance can be received for a maximum of one year. According to the age of the worker, the duration of the payment might be extended up to 36 months. Workers in the southern regions of Italy, moreover, may receive the availability allowance until they have reached retirement age. Alternatively, employees can request their entire allowance in a lump sum. This option is aimed at encouraging self-employment.
>
> Furthermore, the financing of severance payments varies from one country to another. While employers in most countries are responsible by law for the payment of compensation payments, a few countries have set up funds. In order to face the financial burden of severance payments at a time when the solvency of the enterprise may be in doubt, there are employers' funds in Austria and Belgium. Such funds are also found in Norway and Spain. In contrast to Austria and Belgium, however, the Norwegian fund is financed by employers and employees. In the case of Spain, finance is provided by employers and the state.[57]

The EU Directives listed above ensure that all EC countries make basic minimum provision for consultation on redundancies, but some countries impose stricter, more time-consuming requirements than others. For example, regional employment offices must authorise redundancies in both the Netherlands and Spain; and social plans (which may cover both the financial compensation aspects of the redundancies and measures to alleviate their impact) must be drawn up in Germany, France, Austria and

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[57] EIRO thematic feature, *Redundancies and redundancy costs*, 2005

Luxembourg. It is accordingly sometimes argued that the bureaucratic burden of making redundancies is considerably lighter in the UK than in other EC countries.[58] A useful study, compiled in 2000 by Incomes Data Services (IDS), compared the collective dismissal procedures and amount of severance pay in all EC countries.[59] The article commented:

> The Irish and UK systems set no time limits nor detailed specifications about the form of consultation and can be more straightforward and swifter to operate than those of Germany, the Netherlands and France.

The response of the French courts to Marks and Spencer's announcement in March 2001 that it planned to close its continental branches highlighted the differences between the French and the British approaches to redundancy consultation.[60] An article in *People Management* commented:

> The laws come primarily from the same sources: the EU directives on works councils and on information and consultation in collective redundancies. Yet the way in which the directives have been implemented, and the impact of French domestic legislation, mean that employers who breach them are treated differently in the two countries.[61]

IDS drew a similar conclusion:

> Last month's announcements of job losses by food manufacturer Danone and retailer Marks and Spencer (in France) and US electronics giant Motorola in Scotland serve as a reminder that collective dismissals remain a fact of life in the global economy. The events also demonstrate how far national legal regimes governing redundancies continue to differ widely, despite the existence of EU rules (…)
>
> **UK law gives poor protection**
>
> The argument is not just about money although there are many misconceptions about the relative amounts of severance pay UK employees are entitled to compared with their continental peers, the fact being that in some states there is no statutory right to any severance pay. But aside from money, UK employees and their representatives are rarely party to extensive consultations with management before decisions are carried out. More often they face a consultation period so brief that alternatives to redundancy (including retraining) cannot be properly explored. As it stands, UK legislation provides poor safeguards in this respect.[62]

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58 See, for example, "UK workers – the simplest to sack", *Labour Research*, March 1997

59 "Collective dismissals – procedures and pitfalls", *IDS Employment Europe 458*, February 2000

60 "French court rebukes M&S", *Financial Times*, 10 April 2001

61 "Vive la différence", *People Management*, 17 May 2001

62 "Do EU rules on job losses work?", *IDS Employment Europe 473*, May 2001

C. Trade and Industry Committee report, January 2001

The Trade and Industry Select Committee also considered the possible impact of the UK's more relaxed employment laws on multinational companies' decisions on plant closures. In its report on *Vehicle Manufacturing in the UK*, the Committee concluded "the suggestion that it is easier and cheaper to dispose of employees in the UK than elsewhere seems to us to have been shown to be factually correct":[63]

> **87. Our attention was drawn by all the trades unions representing the workforce in the industry to the alleged ease with which employers can shed surplus labour in the UK, in comparison with the situation elsewhere in the EU.** This allegation is not of course peculiar to the situation in the vehicle industry: the unions representing the workforce in the steel industry gave very similar evidence to us in November 2000. It is however particularly salient in vehicle manufacturing because of the stark choice confronting global employers between reductions in the workforce at one large site in one country and another site in another country. The national and local trade unions representatives we met felt that the decision to close Dagenham, rather than Cologne, owed more to the absence of constraints on shedding labour than to nice calculations of returns on capital or the inherent characteristics of the two sites. Workforce representatives at Luton expressed similar views, referring in particular to the lack of prior consultation and the breach of clear agreements entered into in good faith on both sides.
>
> 88. The suggestion that it is easier and cheaper to dispose of employees in the UK than elsewhere seems to us to have been shown to be factually correct.
>
> - The normal notice required of redundancy of 6 or 12 weeks is shorter than in many European countries, where there is a long drawn out process of notification and consultation which may well involve more cost to the employer who is continuing to pay wages;
>
> - the period of notice can also be used to put to the employer alternatives to the steps being proposed and to gather the necessary financial and other means to make a reality of such alternatives;
>
> - legally binding labour agreements may in practice not always make jobs more secure; but the possibility of facing the legal and financial consequences of a breach of contract — as opposed to simply reneging on an undertaking given in good faith — may cause an employer to "stop and think";
>
> - statutory minimum redundancy payments are lower in the UK than in many other EU countries;
>
> - there is no requirement on an employer in the UK to fund a "social plan" in the event of a major redundancy.

63 Third Report, 2000-01, HC 128, 31 January 2001

> 89. It is perhaps misleading that these issues should have been raised in relation to Ford's plans at Dagenham or to Vauxhall's plans at Luton. Both seek to rely on voluntary rather than compulsory redundancy. Both have given long notice of their plans, although Vauxhall's came out of the blue and was first discovered by the workforce from media reports. Ford are paying those likely to lose their jobs substantially the same as, or more than, the sums they would pay equivalent employees in Germany and more than they have paid in similar circumstances in Belgium. They told us that this had been their practice in previous reductions. As we heard on our May 2000 visit to Dagenham, Ford are in addition devoting serious effort and real funds to making good the wider local effects of their decisions. Vauxhall are paying an enhanced package.
>
> 90. Component companies may be less able to afford such expenditure. If a multinational component company suffering from overcapacity or falling demand or insuperable price pressures is obliged to select one of its plants for closure, the perception that it is easier and cheaper to do so in the UK may well weigh heavily in the balance. The terms for the employees made redundant as a result are unlikely to match those which can be offered by a global giant such as Ford or General Motors.
>
> 91. The allegations made to us, not only in this inquiry but also in relation to the UK steel industry as well, that British workers are losing their jobs because it is easier to sack them than their European counterparts is sufficiently grave to justify the devotion of some time and effort to examining it. The EU Council of Ministers is currently considering yet again the proposed Directive on informing and consulting the workforce, which would cover smaller companies and those only operating in one member state. While this would have little or no impact on the global vehicle manufacturers, it might well on the smaller component firms.[64]

D. Government position

Although the Government originally opposed the *Information and Consultation Directive,* Stephen Byers, then Secretary of State for Trade and Industry, did initiate a review of the UK's own laws on collective redundancies. In response to a Parliamentary Question about the proposed EC directive on 18 January 2001, he said:

> The Government remain opposed to the directive which, we believe, contains a number of weaknesses. However, we believe that the time is right to consider our own United Kingdom arrangements in that area. I have therefore written today to the Trades Union Congress and the Confederation of British Industry, inviting them to take part in a review of existing collective redundancy legislation and, in particular, to consider what more should be done to promote effective consultation.[65]

In its response to the Trade and Industry Committee's report on *Vehicle Manufacturing in the UK*, the Government said that this review would examine in some detail whether British workers were losing their jobs because it was easier to sack them than their European counterparts:

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64 Ibid, paras 87-91

65 HC Deb 18 January 2001, c 498

> As part of the Review, the government will examine the view that British workers are losing their jobs because it is said to be easier to sack them than their European counterparts. The Review will identify what the arrangements are in other EU Member States compared with the UK, and what are the effects of the differences. […] In the UK, the direct costs of redundancies are determined principally by the minimum statutory requirements for redundancy payments, whereas in other Member States these costs may have to be negotiated as part of a Social Plan (and which therefore makes them less predictable). The Plan may also contain an agreement for the re-training or redeployment of employees, and it may require the approval of the public authorities. In practice many UK companies offer employees packages which contain re-training elements or help to find new jobs, and also financial compensation above the statutory minimum. These packages may be no less generous than those offered in other Member States.
>
> In recent cases such as Ford and General Motors it is noteworthy that job losses have occurred in other Member States besides the UK. This suggests that any differences in labour law are not a decisive factor in the determination of the location of redundancies when these are being considered on a European-wide scale. The government is also aware of the argument that the perceived flexibility in UK labour law is a factor in attracting investment and jobs to this country which might otherwise go elsewhere. But the government wishes to consider these issues as part of the Review.[66]

The Trade and Industry Committee's *Fourth Report of Session 2000-01* (*Steel*) contained the following:

> **Review of Redundancy Law and Practice**
>
> (11) In our recent Report on Vehicle Manufacturing in the UK, we welcomed the proposed terms of reference of the review of redundancy law and practice announced on 13 December 2000, subject to it going beyond "fine-tuning" of the law and practice of redundancy, and to it ruling nothing out, including primary legislation. We also called for the review to be conducted transparently and swiftly, and for the early publication of a date for the conclusion of the review. The Government's review of redundancy law and practice announced following the Vauxhall decision to bring car manufacture at Luton to an end must also explicitly cover the lessons of the recent Corus announcements.[67]

The nature of this review changed when the Government subsequently withdrew its objections to the *Information and Consultation Directive* which, as outlined above, has since been passed. The Government's response to the above paragraph was as follows:

> The Government announced on 18 January 2001 that it was to review UK arrangements affecting collective redundancies, to consider whether the current

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66 Trade and Industry Committee, Fourth Special Report, 2000-01, *Government Observations on the Third Report from the Trade and Industry Committee (Session 2000-01) on Vehicle Manufacturing in the UK*, 2 May 2001, HC 455 2000/01

67 Trade and Industry Committee, *Fourth Report of Session 2000-01 (Steel),* 9 March 2001, HC 270, paragraph 32

> laws were working and whether more should be done to promote effective consultation with employees. Since the Review was begun, an agreement has been reached in the EU Council of Ministers on the proposed directive establishing a general framework for informing and consulting employees. This has a major bearing on the issues covered by the Review, and the Government now needs to take account of this. The Government will carry out a full consultation on the implementation in the UK of the Information and Consultation directive (which still has to be considered by the European Parliament before it can be adopted in Brussels). The Review will be taken forward through that consultation. The evidence gathered so far during the Review will inform the consultation and the subsequent implementation of the directive.[68]

Following this, a DTI Discussion Paper, *High Performance Workplaces: The Role of Employee Involvement in a Modern Economy* was published on 11 July 2002. A further consultation document: *High Performance Workplaces: Informing and Consulting Employees*, containing initial draft legislative proposals was published on 7 July 2003, followed by the Government Response. These documents did not contain a review or comparison of redundancy legislation across the EU. Following this, the *Information and Consultation of Employees Regulations 2004* came into force on 6 April 2005.[69]

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68 Trade and Industry Committee, First Special Report, 2001-02, *Government Observations on the Fourth, Fifth, Sixth, Eighth, Ninth and Twelfth Reports from the Trade and Industry Committee (Session 2000-01)*, 17 July 2001, HC 197 2001/2002

69 http://web.archive.org/web/20070108175333/http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_080/l_08020020323en00290033.pdf