

# Temporary employment in Great Britain and the Federal Republic of Germany

## An overview

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“Labour market flexibility” has been one of the key themes of the economic and social policy debate at both the national and supranational levels in recent years. This paper is concerned with a particular form of flexible employment – temporary working. In bringing together some of the findings of two country studies (Casey, 1988, for Great Britain; Dragendorf et al., 1988, for the Federal Republic of Germany (FRG)), we attempt to provide more depth than has been achieved in previous international comparisons which have contented themselves largely with compiling rather aggregated statistical data (see for example OECD, 1987).

Part 1 of the paper surveys some of the definitions of temporary employment that are currently in use. Part 2 looks at the provisions of labour law in the two countries in so far as they create a framework regulating temporary employment. Part 3 reviews existing statistical sources, and part 4 presents data on the importance and distribution of temporary employment and the characteristics of the workers involved. Part 5 considers recent trends in temporary working, paying attention also to reasons that may prompt employers to make increasing use of such workers. In this section we draw both on labour force statistics and on interviews we conducted among firms using temporary workers. Part 6 contains our conclusions.

## 1. The definition of temporary employment

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The number of temporary workers is not necessarily equivalent to the number of temporary jobs. Not all persons who regard themselves as temporary workers are in fact occupying temporary jobs. For example, a survey conducted in Britain in the mid-1970s to estimate the extent and nature of temporary employment found that about half of those who

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described themselves as temporary workers were in jobs of unlimited duration. In other words, they saw themselves as temporary workers because they considered themselves only temporarily available for work (Parker and Sirker, 1976). Similarly, about one in three of those who identified themselves as having a temporary job in response to the British Labour Force Survey claimed to have taken it only because no permanent work was available. In other words, they did not readily accept the label of temporary worker. A survey of several hundred British companies (Meager, 1985) sought to estimate the number of temporary jobs in the economy by asking for the number of persons working with the company whose stay was accepted from the beginning by both sides as being of a limited duration. It could not say how many of those occupying temporary jobs with a company that did not employ them had permanent jobs with another company (as many subcontractors might) or were self-employed persons who moved from client to client but did not thereby regard themselves as having temporary jobs (as some consultants might).

The European Commission, in proposing in 1982 a draft directive to regulate temporary working, had to identify the object of its concern. It defined two sorts of temporary working: (i) *employment on fixed-term contracts* "establishing a direct legal relationship between a worker and an employer, whose termination is determined by objective conditions such as a specified date of expiry, completion of a specified task or the occurrence of a specified event"; and (ii) *agency working* involving an organisation "entering into contracts of employment or employment relationships with workers in search of jobs for the purpose of placing these workers temporarily at the disposal of another business for the performance of an assignment" (EEC, 1982).

These definitions follow quite closely those contained in West German labour law, which had already taken an explicit stance on temporary working, prescribing under what circumstances and in what form it was permitted. Such definitions were not so current in Britain, where labour law had little to say about temporary working and was, *prima facie*, considerably more liberal than in the FRG.

## 2. The legal framework

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Protective labour law in both Britain (the 1978 Employment Protection (Consolidation) Act) and the FRG (the relevant paragraphs of the Civil Code (Bürgerliches Gesetzbuch) concerning employment contracts and the 1951 Protection against Dismissal Act (Kündigungsschutzgesetz)) grants a number of rights to workers, many of which are subject to a minimum length of service. In Britain workers with at least four weeks' service are entitled to a minimum period of one week's notice, and those with at least two years' service are entitled to protection against "unfair" dismissal and to compensation in case of redundancy. In the FRG those with at least six

months' service are entitled to a minimum notice of two weeks (if a blue-collar worker) or six weeks (if a white-collar worker). In general these rights apply as much to temporary workers as to any others, although workers on fixed-term contracts and workers hired to perform a particular task do not need to be given any notice of dismissal before the expiry of their contracts, since they are deemed to have received the notice at the start of their employment.

Following a series of judicial interpretations of the Civil Code, employment on open-ended contracts was established as the normal form of employment in the FRG. Temporary employment was considered an exception, permitted only if "acceptable reasons" could be shown. These "acceptable reasons", which were defined by the courts over the years, included the use of probationary contracts not exceeding six months and of temporary contracts to meet exceptional or seasonal workloads, to replace persons who were temporarily absent, or where financing was available for a specified period. However, they excluded resort to temporary contracts when the task or need was recognised as non-permanent but without a foreseeable duration, or where the worker, rather than replacing a specified individual who was absent, was recruited as general cover for absences.

According to most commentators, any temporary contract with a duration of less than six months, the point at which employees become covered by the provisions of dismissal protection legislation, is "acceptable". Another legal form of temporary employment, whereby the worker is hired on a "helping-out contract" (*Aushilfsvertrag*) not exceeding three months, is provided for in the Civil Code. As well as being able to end such contracts without notice, employers are not required to guarantee sick pay to such employees as they are to all others. A separate law (the 1972 Labour Leasing Act (*Arbeitnehmerüberlassungsgesetz*)) governs the use of agency workers. These have to be employed on open-ended contracts by the agencies leasing out their services and, in order to prevent the displacement of regular employees, they may not be hired to the same user firm for more than three months (for further details on agency working see Casey et al., 1988).

Employers' circles felt that the law on temporary contracts was unsatisfactory: since the legality of particular contracts was not always certain, there was a reluctance to conclude temporary contracts at all. This position was embraced by the Government which, in 1984, proposed legislation aimed at increasing labour market flexibility so as to create more jobs. The Employment Promotion Act (*Beschäftigungsförderungsgesetz*) of 1985 permitted employers to recruit workers on temporary contracts with a duration of up to 18 months without having to show that there were "acceptable" reasons for doing so. It also extended to six months the maximum period for which an agency worker could be assigned (Dragendorf et al., 1988).

Unlike West German labour law, British labour law has made no attempt to pronounce either on the appropriateness of temporary employment

relationships or on the form they should take. In fact, it goes so far as to exclude particular temporary workers from the full coverage of protective provisions. Thus, while the non-renewal of a fixed-term contract can (but does not necessarily) constitute an "unfair dismissal", employers are entitled to insert clauses into fixed-term contracts due to last more than a year according to which the worker waives his rights to contest a non-renewal. Similarly, where a fixed-term contract is to last for at least two years, a clause can be inserted whereby the worker waives his rights to compensation for redundancy on termination of his employment. Finally, workers hired to perform a particular task can claim neither unfair dismissal nor redundancy compensation on the expiry of their contracts. The law considers that the purpose of the contract has ceased to exist, not that they have been dismissed.

Sometimes workers employed on a series of short-term contracts can claim continuous service even if there are interruptions between one contract and another. To do so successfully, however, they have to show that the only reason they were not employed was that there was nothing for them to do, and that the "temporary cessations of work" were short relative to the spells of working which surrounded them. On the other hand, certain categories of temporary workers who work intermittently for a single employer, even if the spells of not working are very short and the relationship has persisted over many years, have no rights at all under British labour law.

The most important group so affected are so-called "casual workers". These are people to whom an employer offers work – usually for a few hours or a day, sometimes for several days at a time, occasionally for longer – but to whom he has no obligation to offer work and who for their part have no obligation to accept it. The "absence of mutual obligation" has been held by the courts to be inimical to the existence of a relationship of dependence, and in the absence of such dependence casual workers are considered to be not employees but self-employed. They are linked to their employer not by a contract of employment or a contract *of* service but rather by a contract *for* services, and so are outside the coverage of legislation protecting dependent employees. For similar reasons, agency workers in Britain are regarded as self-employed rather than as employees of the agency leasing out their services and they too have no rights under protective labour law. This is so despite the fact that for tax and social insurance purposes agency workers (and many casual workers) are treated as if they were dependent employees, and that most of them think of themselves as dependent employees (Casey and Creigh, 1988).

In the FRG even workers hired by the day are considered to be employees, while, as we have seen, all agency workers are supposed to be employed on indefinite contracts. Self-employment can coexist with temporary employment, in so far as people may be engaged on a so-called "work contract" (*Werkvertrag*) to undertake a specified task. However, if a relationship governed by a "work contract" has otherwise the characteristics

of dependent employment (e.g. the worker is subject to the employer's control), it is likely to be deemed to be such should the matter ever come before the courts. Nevertheless, the boundary between a "work contract" and illegal or "black" working, where no tax is paid and no social insurance contributions are made, is often unclear. Sometimes the short duration of the task or the low rate of remuneration attached to it means that the worker in any case falls below the threshold at which tax or social insurance contributions become payable. This also applies in Britain, where casual workers are often made responsible for paying tax and social insurance contributions rather than having these deducted at source. Whatever their status in law, these types of worker variously consider themselves self-employed or dependent employees.

### **3. The sensitivity of statistics**

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The problem of who should be considered a temporary worker makes the task of measuring the extent of temporary working difficult. In the FRG interest has focused mainly on quantifying the level of temporary employment among dependent employees, and in particular on the phenomenon of fixed-term (or task-specific) contracts. In Britain interest has usually centred on whether a person considers his job to be temporary or himself to be a temporary worker, and no distinction is made between self-employed and dependent employees. An analysis of the 1984 British Labour Force Survey showed that about 15 per cent of all people who said they were in temporary jobs also claimed to be self-employed, a somewhat higher proportion than for the labour force as a whole (11 per cent). On the other hand, the use of the total as opposed to the dependent labour force in the numerator and the denominator only increased the incidence of temporary employment from 6.1 to 6.4 per cent.

Two other groups also make quantification difficult: trainees and participants in special employment programmes. To some extent these two groups overlap. The relative importance of the apprenticeship system in the FRG is well known. Since an apprenticeship is for a fixed duration (two to three years), and the employer has no legal obligation to offer a job at the end of the period of training, apprentices can be considered a form of temporary worker. Under West German labour law, however, apprentices have their own special "trainee status" and are not regarded as dependent employees. Whether or not apprentices are counted as temporary workers is of major importance for the size of the temporary workforce in the FRG. Thus the 1984 Labour Force Survey showed 41 per cent of those who said they had a time-limited employment contract to be apprentices. If they are included, 11.7 per cent of the dependent labour force were temporary workers; if they are excluded, the proportion falls to only 7.3 per cent (calculated from StaBuA, 1984, table 12). Since the total number of apprentices is largely determined by demographic factors, their inclusion is

likely to detract from the meaningfulness of any comparison of the incidence of temporary working over time. For the same reason, people doing compulsory military service (also for a fixed period) should be excluded. If they are, the proportion of the dependent labour force who were temporary workers in 1984 falls to 6.7 per cent.

The trainees in Britain whose status as temporary workers is problematic are those who are participants in special employment programmes, most importantly the Youth Training Scheme (YTS). The placements in enterprises made under this programme are also time-limited (one or two years), and as a direct result of government policy the number of YTS trainees has increased in recent years. More significant in terms of their influence on any time series showing the incidence of temporary working are participants in special job creation projects for the unemployed, particularly the Community Programme (CP). They too have time-limited contracts, and the CP was expanded dramatically in the years after 1983. According to the 1984 British Labour Force Survey, some 13 per cent of all temporary workers were participants in special employment programmes (9 per cent in YTS and most of the remainder in the CP). Including all these participants in special employment programmes makes a considerable difference to the proportion of the labour force that could be described as temporary; it stood at 6.4 per cent with them and 5.6 per cent without them.

Participants in job creation programmes (*Arbeitsbeschaffungsmassnahmen* (ABM)) in the FRG are also employed on time-limited contracts. That a position is financed from job creation programme money is an "acceptable" reason for recruiting on a temporary basis. Most estimates of the incidence of temporary employment in the FRG take no special account of these workers. Their number (c. 94,000 in 1985) is considerably smaller than in Britain (c. 250,000 in 1986), and has not grown at anything like the same rate. Agency workers in the FRG, since they have to be employed on indefinite contracts, ought not to be counted as temporary workers, although the majority might in fact classify themselves as such (Prognos, 1980; Rudolph, 1987). Agency workers in Britain, however, are not inhibited by a definition relying on the nature of their employment contract or employment status from declaring themselves to be temporary workers. Since in both countries the number of agency workers is very small (the official statistics show that in each case about 50,000 were at work at the time of the survey in 1985), their inclusion or otherwise in the total of temporary workers is of little matter in practice.

#### **4. The extent of temporary working**

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Table 1 presents a number of comparisons of the incidence of temporary working in Britain and the FRG. The first and second columns provide data for Britain, the first relating to wage and salary earners but including

Table 1. Ratio of temporary to total employment, by industry, 1985 (%)

Industry	GB (1) <sup>1</sup>	GB (2) <sup>2</sup>	FRG (1) <sup>3</sup>	FRG (2) <sup>4</sup>
Agriculture, forestry and fishing	10.6	5.8	9.2	9.2
Energy and water	2.0	2.7	} 2.5	} 2.5
Mineral extraction, chemicals	2.1	2.4		
Manufacturing	2.9	3.3	3.8	3.8
Construction	6.2	5.7	4.2	4.2
Distribution, hotels and catering	10.2	7.1	4.4	4.4
Transport and communication	2.2	2.4	2.9	4.0
Finance, insurance, real estate and business services	4.0	4.4	3.3	3.2
Other services	8.9	} 7.9	9.8	9.6
Public administration	5.2		17.4	6.7
<b>All industries and services</b>	<b>5.7</b>	<b>5.6</b>	<b>6.7</b>	<b>5.4</b>

<sup>1</sup> Labour Force Survey data; wage and salary earners only. <sup>2</sup> 1986 Labour Force Survey data; employed and self-employed excluding participants in special employment programmes. <sup>3</sup> Microcensus data; dependent employees excluding trainees and those doing compulsory military service. <sup>4</sup> Microcensus data; dependent employees excluding trainees, those doing compulsory military service, civil servants (Beamte) and members of the armed forces.

Sources: GB (1): OECD, 1987, table 1.8; GB (2): Department of Employment, own calculations; FRG (1): StaBuA, 1985, table 21; Rudolph, 1987, table 3; own calculations; FRG (2): Rudolph, 1987, table 4.

participants in special employment programmes, the second to all workers including the self-employed but excluding participants in special employment programmes. The third and fourth columns provide data for the FRG. Both relate to wage and salary earners only and exclude trainees and people doing compulsory military service; the fourth also excludes civil servants (Beamte) and other members of the armed forces. Some remarkable similarities and two significant differences stand out.

Overall the level of temporary working is very similar. In both the primary and secondary sectors of the economy the proportion of workers who are temporary varies very little between the two countries. The main differences – not to be explained by slight differences in definition – are to be found in two branches of the service sector. In the distribution, hotel and catering industry there are considerably more temporary workers in Britain than in the FRG: expressed as a proportion of the industrial labour force there are twice as many. In public administration there are considerably more temporary workers in the FRG than in Britain: expressed as a proportion of the industrial labour force there are three times as many.

The relatively low level of temporary working in the distribution, hotel and catering industry in the FRG may in part be a result of the fairly strict provisions of labour law. In Britain much temporary employment in this

industry takes the form of casual working, giving the employer a very high degree of discretionary control over the worker (he can call in additional staff as and when he needs them, and he has no commitments to the workers concerned when they are not working for him). Casual working does not exist as an institution under West German labour law. Where workers are hired repeatedly for short periods, the courts are likely to presume the existence of a formal employment relationship conferring associated rights on the workers concerned. There are instances of companies elaborating fairly complicated employment contracts to ensure that they are able to meet irregular and uneven demands for labour. The best-known example, popularised by a department store group, is the KAPOVAZ (capacity-oriented variable working time) system, which sets a minimum and maximum number of hours to be worked but allows the employer to determine when these should fall (Dombois and Osterland, 1987). At the other extreme, it is possible that some employers, in an attempt to avoid any obligations at all, choose to use "clandestine" workers for the kind of jobs for which their British counterparts may tend to use casual workers. Such clandestine workers, who are not registered with the social insurance authorities and for whom no tax deductions are made, might well be unwilling to declare that they are economically active in response to a census or survey. However, we may also look beyond the rigours of labour law for an explanation. The strict controls on shop opening hours in the FRG, so that there are few opportunities to trade into the evenings or at weekends (after Saturday midday), may well be one reason why a much lower proportion of the labour force in distribution, hotels and catering is employed on a part-time rather than a full-time basis (25 per cent in the FRG against 37 per cent in Britain, according to Schoer, 1987). These controls may also be responsible for a much lower use of temporary workers, particularly, as we shall see later, since there is a marked overlap between part-time and temporary working.

The relatively high level of temporary employment in public administration in the FRG can be explained by the existence of a number of special types of employment for public servants. Thus before being "confirmed" or "established" as a civil servant (*Beamte*), many of those selected pass through a probationary and/or training period. On the basis of administrative data, we calculated that well over a third of all temporary workers in the public sector were temporary workers of this sort. In addition, in social services, hospitals and education there are many positions which are designated as temporary, either because the need to fill them is temporary or because they are seen as "training posts" or posts for which it is desirable to have a changeover of personnel to ensure a continual influx of new ideas. Finally, the large majority of non-conscript members of the armed forces are committed to serve for strictly defined periods, and they too count as temporary workers.<sup>1</sup>

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<sup>1</sup> In Britain only about 4 per cent of people serving in the armed forces claimed, in response to the Labour Force Survey, to have temporary jobs.



Table 2. Distribution of temporary workers by age, 1986 (%)

Age	Britain			FRG		
	Temp <sup>1</sup>	All temps	All workers	Temp <sup>1</sup>	All temps	All workers
16-19	16.1	20.3	7.1	35.8	15.5	3.4
20-24	5.8	13.4	12.9	19.2	35.2	14.4
25-34	5.4	22.1	23.0	7.8	25.5	25.7
35-49	4.5	27.8	34.7	4.8	22.2	36.7
50-59	2.9	8.5	16.7	2.8	6.1	17.5
60-64	5.2	3.8	4.1	3.4	0.8	19.5
65+	15.6	4.3	1.5	12.1	0.5	0.3
<b>All ages</b>	<b>5.6</b>	<b>100.0</b>	<b>100.0</b>	<b>7.9</b>	<b>100.0</b>	<b>100.0</b>

<sup>1</sup> Percent of labour force in age group in temporary work.

Sources: Britain: Labour Force Survey data; employees and self-employed excluding participants in special employment programmes; FRG: Microcensus data; dependent employees excluding trainees.

As the fourth column of table 1 shows, if workers who do not have civil servant status and members of the armed forces serving for defined periods are excluded, the proportion of the workforce in public administration that is temporary is not much higher than in Britain. Likewise, the overall level of temporary working in the two countries appears very similar.

There are a number of other similarities and differences that can be noted. In both Britain and, even more so, the FRG the incidence of temporary working is much greater among younger workers than among prime-age or older workers. As table 2 shows, in 1986 over one-third of working teenagers (excluding apprentices) in the FRG and one in six working teenagers (excluding participants in special employment programmes) in Britain had temporary jobs. People under 25 made up half of all temporary workers but less than one-fifth of all workers in the FRG, and in Britain the proportions were one-third and one-fifth. On the other hand, in the FRG temporary working was somewhat more common among men than women, but in Britain it was more common among women than men. Table 3 shows that the female orientation of the temporary labour force in Britain was considerably more pronounced than the male orientation of the temporary labour force in the FRG. If, on the other hand, public servants and members of the armed forces are excluded, we find in the FRG the same overrepresentation of women in the temporary labour force as in Britain. Forty per cent of all workers but 47 per cent of temporary workers were women. Temporary workers in both countries were much more likely than the generality of the workforce to be also part-time workers. However, the extent of the overlap between the two categories of "non-standard" employment was much more pronounced in Britain than in the FRG. Over

Table 3. Distribution of temporary workers by sex, 1986 (%)

Sex	Britain			FRG		
	Temp <sup>1</sup>	All temps	All workers	Temp <sup>1</sup>	All temps	All workers
Male	3.9	39.8	57.8	8.4 (5.2)	65.4 (53.0)	61.6 (60.5)
Female	8.0	60.2	42.2	7.1 (7.1)	34.6 (47.0)	38.4 (39.5)

<sup>1</sup> Percent of male/female labour force in temporary work.

Note: Figures in brackets exclude public administration and services.

Sources: As for table 2.

60 per cent of temporary workers in Britain were part-timers, compared with only 16 per cent in the FRG (see table 4).

The data available did not allow us to assess properly the relative importance of the various reasons given by temporary workers in Britain and the FRG for taking temporary jobs. The only information we had from the FRG related to all temporary workers including apprentices. The European Labour Force Survey divides temporary workers into four groups, those who are on training contracts, those who were unable to find a permanent job, those who did not want a permanent job and those working on a temporary basis for some reason. The inclusion of apprentices (as we have seen, over 40 per cent of temporary workers according to a broad definition of the term), of course, substantially increases the number of temporary workers who give a training contract as their reason for having a temporary job. Despite this it still appears that participation in a training course was a considerably more important reason for having a temporary job in the FRG than in Britain. Thus in 1984 nearly 60 per cent of temporary workers (including apprentices) were on temporary contracts because they were taking a training course,

Table 4. Proportion of part-time and full-time temporary working, 1986 (%)

Part/full-time status	Britain			FRG		
	Temp <sup>1</sup>	All temps	All workers	Temp <sup>1</sup>	All temps	All workers
Part-time	14.6	62.0	23.9	9.3	16.3	13.9
Full-time	2.8	38.0	76.1	7.7	83.7	86.1

<sup>1</sup> Percent of part-time/full-time labour force in temporary work.

Sources: As for table 2.

although (in 1985) only just over 40 per cent were apprentices.<sup>2</sup> By contrast (in 1986) only about 5 per cent of temporary workers (excluding participants in special employment programmes) in Britain had taken their temporary job because they were undergoing a course of training. The predominance of training in the reasons for taking a temporary job in the FRG, and the fact that in both countries over 30 per cent of temporary workers gave "some other" reason for working on this basis, meant that it was not really possible to tell whether there were relatively more "involuntary" temporary workers (those who had been unable to find permanent jobs) or relatively more "voluntary" temporary workers (those who did not want permanent jobs) in one country than the other.

## 5. Recent trends in temporary working

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Current interest in temporary employment has stemmed from a concern for labour market "flexibility", on the one hand, and about "marginal" groups on the labour market, on the other. Temporary workers are seen as providing employers with a source of "flexibility". At the same time they are seen as potentially disadvantaged workers, lacking employment security, subject to recurrent unemployment or having only a tenuous attachment to the labour force. Attempts to promote greater "flexibility" in the interests of greater "efficiency" have been seen as threatening to increase the proportion of the labour force in "marginal" or "precarious" employment, as testified to by both the debate in the FRG concerning the Employment Promotion Act and the discussion in Britain about steps taken in recent years to relax certain of the provisions of the Employment Protection Act – especially the gradual extension of the minimum service required before those governing "unfair dismissal" can be invoked (Deakin, 1986). It is thus pertinent to ask whether there has in fact been any growth in the size of the temporary workforce in either country, and if so whether the Employment Promotion Act in the FRG has had any substantial impact and whether there have been any major changes in practice with respect to the use of temporary workers in Britain.

Cross-sectional data from the Labour Force Survey were consistent with the expectations that the incidence of temporary working in Britain was highest in those sectors of the economy where demand for products or services was subject to the greatest variation, and/or in those occupations where either very little training was required or the skills needed were very general ones. Much of the recourse to temporary workers appeared to be for very "traditional" reasons: to carry out one-off tasks, to meet exceptional demands for labour, or to replace workers who were temporarily absent. In

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<sup>2</sup> The question about reasons for taking a temporary job was asked only in the 1984 Labour Force Survey and not in the subsequent Microcensuses. However, the 1984 Survey, unlike the subsequent Microcensuses, did not distinguish trainees from other persons on fixed-term contracts.

general, the same appeared to be true for the FRG as well. A number of commentators in Britain, however, claimed to have identified a "new" reason for using temporary workers, the need to manage a climate of increased "economic uncertainty" (Meager, 1985). Faced with greater fluctuations in demand for output and increased pressure to reduce labour costs to a minimum, employers are seeking to build into their workforces an element of "external numerical flexibility",<sup>3</sup> i.e. workers who can be brought in and let go as the need arises or, where unions are present, without having to enter into negotiations about redundancy, to give the workers more than the statutory minimum notice of dismissal, or to pay them more than the statutory minimum compensation for job loss.

The discussion of the "new" temporary working is implicitly, or often even explicitly, one that centres on manufacturing. Much of the early literature on the subject (Atkinson, 1984; Meager, 1985; NEDO, 1986) took a rather equivocal stance: it was difficult to say whether it was descriptive, predictive or prescriptive. We conducted interviews among manufacturing companies in Britain which confirmed the existence of the phenomenon of a new form of temporary working. However, it became clear from our research that many of those commenting on the phenomenon were referring to the same small number of examples, examples moreover in which the number of temporary workers employed was often very low. Our scepticism was confirmed when we looked at consistent time series data on temporary working. Data from the Workplace Industrial Relations Survey show that there was no statistically significant growth between 1980 and 1984 in the proportion of establishments, either in manufacturing alone or in the economy as a whole, that were making use of fixed-term contract workers. Likewise, aggregate data from the Labour Force Survey show that there was almost no real growth at all between 1983 and 1986 and, at best, a very small growth between 1986 and 1987 in the proportion of the labour force having temporary jobs. These findings are reported in tables 5 and 6.

As its name implies, the FRG's Employment Promotion Act sought to encourage a greater willingness among employers faced with an upturn in demand for their output or services, the durability of which was uncertain, to recruit additional labour rather than to forgo orders or rely upon overtime working. Its objective was to increase the scope for "external numerical flexibility", and the assumption was that the incentives it provided for would have the greatest impact in manufacturing where the use of

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<sup>3</sup> Atkinson (1984) distinguished "numerical flexibility", relating to the numbers of workers employed, the ease with which their numbers could be increased or decreased or their hours of work adjusted upwards or downwards, from "functional flexibility", relating to the skills of workers and the range of activities on which they could be utilised. Dragendorff and Heering (1987) proposed dividing "numerical flexibility" into "external", relating to the number of workers employed, and "internal", relating to the number of hours a given number of workers work. Similarly they split "functional flexibility" into "external", relating to the buying in of skills through the use of subcontractors, and "internal", relating to the use of multiskilled workers. Their terminology is used here.

**Table 5. Proportion (%) and number of establishments in Britain using fixed-term contract (ftc) workers, 1980 and 1984**

Sector	User of ftc		High <sup>1</sup> user of ftc		No.	
	1980	1984	1980	1984	1980	1984
All industries	19	20	7	7	1 976	1 985
Manufacturing	9	11	2	3	508	427
Services	23	24	9	9	1 311	1 429

<sup>1</sup> Number of fixed-term contract workers equals at least 5 per cent of the workforce.

Source: Workplace Industrial Relations Surveys, 1980 and 1984 (Casey, 1988, table 3.3).

**Table 6. Temporary employment <sup>1</sup> in Britain, 1983-87 ('000 and %)**

Category	1983	1984	1985	1986	1987
Temporary workers	1 253	1 299	1 314	1 320	1 382
Total employment	22 589	23 072	23 343	23 433	23 759
Temporary employment as proportion of total employment	5.5	5.6	5.6	5.6	5.8

<sup>1</sup> Excluding participants in special employment programmes.

Source: 1983-87 Labour Force Surveys.

temporary working had traditionally been very limited. Yet the interviews we carried out in manufacturing companies in the FRG showed that where recruitments were being made according to the provisions of the Act, it was not only in order to create a pool of workers who could be discharged easily if there was a downturn in demand. Equally important in some cases was the use of temporary contracts to extend the period of probationary employment. Employers were aware that they could remain competitive only if they had a production workforce capable of taking on a variety of tasks and of responding easily to changes in working practices entailed by new machinery or new product lines. In other words, what they sought was greater "internal functional flexibility", and they needed time to assess whether the workers they were recruiting would be able to provide them with this.

Once again, however, it is important to see what the quantitative significance of such practices has been. Unfortunately, consistent time series data on temporary working are more limited in the FRG than they are in Britain. Table 7 presents data from the 1984 Labour Force Survey on approximately the same basis as the 1985 Microcensus, together with data on a slightly different basis from the 1985, 1986 and 1987 Microcensuses. There

**Table 7. Temporary employment in the FRG, 1984-87 ('000 and %)**

Category	1984	1985 (1)	1985 (2)	1986	1987
All employees	21 595	21 706	21 945	22 358	22 311
Permanent contract	20 272	19 953	20 034	20 225	20 438
Temporary contract	1 140	1 445	1 604	1 765	1 615
Nature of contract unknown	183	308	307	368	258
Temporary employment as proportion of all employment	5.3	6.7	7.3	7.9	7.2
Participants in job creation programmes	79	94	94	107	121
Agency workers	33	49	49	70	73
Conscripts			226	225	223
Compulsory non-military service			43	55	65
Members of armed forces serving for a fixed period			194	194	196

Notes: 1984: Labour Force Survey; dependent employees excluding apprentices and persons doing compulsory military service (conscripts); 1985 (1): Microcensus, base as for 1984; 1985 (2): Microcensus, base as above but including persons doing compulsory military service; 1986 and 1987: Microcensus, base as for 1985 (2).

Sources: 1984 and 1985 (1): Rudolph, 1987, table 3; 1985 (2), 1986 and 1987: StaBuA, various years. Data on participants in job creation programmes and agency workers from Rudolph, 1987, tables 1 and 3, and Federal Employment Institute; data on conscripts, compulsory non-military service and members of armed forces serving for a fixed period from Federal Ministry of Defence and Office for Non-military Service.

appears to have been quite a substantial growth in the overall incidence of temporary working between 1984 and 1985, of which only a small amount can be ascribed to an expansion of government job creation schemes or of agency working. On the other hand, unless it is argued that employers were adjusting their recruitment practices in anticipation of the legislation, it is also difficult to ascribe much or any of the growth to the Employment Promotion Act, since its provisions took effect only in May 1985, one month or so before the survey date for the Microcensus (June). Moreover, there are reasons to be suspicious of the exact comparability of the 1984 and 1985 surveys.<sup>4</sup>

The second set of 1985 data and the 1986 and 1987 data, which are consistent and cover the period of the Employment Promotion Act's operation, suggest a further small increase in the proportion of the dependent labour force working on a temporary basis between 1985 and 1986. Very little of that increase occurred in the manufacturing sector where the Act was supposed to have had its greatest impact. The incidence of temporary working there rose only from 3.8 to 4.0 per cent. The largest

<sup>4</sup> The increase in the number of temporary workers implied in table 7 is associated with a fall in the number of regular workers. This fall is not supported by any other survey findings (Rudolph, 1987).

increases were those recorded in distribution, hotels and catering – from 4.4 to 5.2 per cent – and commercial and professional services – from 9.8 to 11.0 per cent. Both of these are sectors that traditionally use large numbers of temporary workers. Between 1986 and 1987, however, there appears to have been a fall in both the absolute number of temporary workers and the proportion of the workforce employed on a temporary basis, with the latter reverting to its 1985 level.<sup>5</sup> This could be taken as indicating that the impact of the Employment Promotion Act was one-off rather than continuing.

In both Britain and the FRG a number of surveys of companies or establishments have been conducted in recent years to assess whether or not greater use has been made of temporary workers (Meager, 1985, and LRD, 1987, for Britain; BDA, 1986, and IG-Metall, 1986, for the FRG). All have found that temporary working is on the increase. Such surveys, however, in so far as they compare current practice with respondents' recollections of previous practice, suffer from a methodological weakness.<sup>6</sup> This weakness is compounded when the subject of the inquiry is a sensitive one on which respondents have strong views (employers are likely to argue that they have been achieving greater "flexibility", unions that employment security is being undermined). Longitudinal data sets, based on consistent questions to a consistent population, are much more reliable. Evidence from such data sets for both Britain and, although there they are less satisfactory, the FRG showing a restructuring of employment in favour of a greater dependence on temporary workers is at best slight.

## Conclusions

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Labour law and labour market policy in the FRG have taken a much more active stance with respect to temporary working than they have in Britain. Until recently West German policy sought to discourage temporary working except in special cases; in 1985 steps were taken to encourage it as part of a strategy to stimulate employment. It is not clear, however, that the previously more restrictive policy stance in the FRG led to significantly less temporary working than in Britain. The best comparison we were able to make showed the proportion of the labour force holding temporary jobs to be very similar in the two countries. At its extreme, this suggests that there might be some equilibrium level of temporary employment to which broadly similar economies will gravitate irrespective of differences in the regulatory

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<sup>5</sup> One explanation for this might be that the Microcensus survey date moved forward each year, from June in 1985 to April in 1986 and March in 1987, offsetting seasonal changes in employment which were particularly likely to affect the level of temporary working (IAB, 1988).

<sup>6</sup> For example, a study by the Confederation of British Industry (CBI, 1983) showed that a significant proportion of firms actually experiencing fairly large changes in their total workforces report, in response to a question asking them to compare current employment with employment one or two years previously, that their workforces have "stayed the same".

framework of law and policy. Alternatively, it suggests that the restrictions contained in West German law were no more onerous than the requirement imposed on British employers to maintain good industrial relations. In fact the "acceptable reasons" for recruiting on the basis of time-limited rather than indefinite contracts which are laid down by FRG labour courts are very similar to the reasons employers adduce for resorting to temporary workers virtually everywhere in Western Europe. As a consequence, the practical effect of the law was less to constrain practice than to codify it. If this is so, it is not surprising that "deregulation" has had as little impact as "regulation". Despite the declared objectives of the Employment Promotion Act, there is little sign so far that the level of temporary working in the FRG is increasing to any substantial extent.

There do appear to be some differences between the two countries with respect to employers' reasons for recruiting on a temporary basis, at least where the recruitments were made for supposedly "new" reasons. "Innovative" British employers in manufacturing industry appeared to be striving for more "external numerical flexibility". They wanted to have at their disposal a source of labour to whom they need make no commitments, workers who could be hired and fired as demand required. In so far as their use of temporary workers did entail commitments, these were not to the temporary workers themselves but to the regular members of the workforce to whom, because they had established a "buffer stock" of temporary workers, they were able to offer a greater degree of employment security. "Innovative" West German employers, on the other hand, appeared to be striving for greater "internal functional flexibility". They were willing to make commitments to the workers they hired on temporary contracts, once, that is, they were certain such workers had acquired or were capable of acquiring the range of technical and social skills they needed to form part of a competitive workforce.

In Britain a pool of temporary workers may provide a source from which permanent workers can be recruited, thus affording the employer the advantage of familiarity with the recruits' capabilities; but this is a minor advantage compared with the opportunities it offers for adjusting labour inputs upwards or downwards. In the FRG the reverse seems to hold, at least for some employers in the manufacturing sector. Employing a proportion of their workforce on a temporary basis may allow employers to make the necessary workforce adjustments more easily when demand falls, but their main reason for resorting to time-limited contracts is to ensure they have sufficient opportunity to assess their recruits' capabilities in full.

It may well be that these differences in practice are deep-rooted. Although they may be explained partly by differences in the overall industrial, labour market and social structure, we have seen that a relatively greater proportion of the West German temporary labour force consists of male workers and full-time workers – categories with a stronger attachment to the labour force and to which employers are more inclined to make



commitments, while a relatively greater proportion of the British temporary labour force consists of female workers and part-time workers – categories with a weaker attachment to the labour force and to which employers are less inclined to make commitments. The greater commitment of West German employers to temporary workers is also borne out by the fact that they offer on-the-job training to such workers more frequently than do their British counterparts.

Nevertheless, it is the similarities rather than the differences that ultimately need to be stressed. Most temporary working in both countries is undertaken for very traditional reasons, there is little evidence of any important change in employers' recruitment practices, and there has been little or no substantial growth of temporary employment in recent years, either in the FRG or in Britain.

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