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GENERAL COMMITTEES

Public Bill Committee

ENTERPRISE AND REGULATORY REFORM BILL

Sixth Sitting

Thursday 28 June 2012

(Morning)

CONTENTS

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Monday 2 July 2012

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Hugh Bayley, † Mr Graham Brady

Anderson, Mr David *(Blaydon)* (Lab)
† Bingham, Andrew *(High Peak)* (Con)
† Bridgen, Andrew *(North West Leicestershire)* (Con)
† Burt, Lorely *(Solihull)* (LD)
† Carmichael, Neil *(Stroud)* (Con)
† Cryer, John *(Leyton and Wanstead)* (Lab)
† Danczuk, Simon *(Rochdale)* (Lab)
† Davies, Geraint *(Swansea West)* (Lab/Co-op)
† Evans, Graham *(Weaver Vale)* (Con)
† Johnson, Joseph *(Orpington)* (Con)
† Lamb, Norman *(Parliamentary Under-Secretary of State for Business, Innovation and Skills)*
† Morris, Anne Marie *(Newton Abbot)* (Con)
† Mowat, David *(Warrington South)* (Con)
† Murray, Ian *(Edinburgh South)* (Lab)
O'Donnell, Fiona *(East Lothian)* (Lab)
† Ollerenshaw, Eric *(Lancaster and Fleetwood)* (Con)
† Onwurah, Chi *(Newcastle upon Tyne Central)* (Lab)
† Prisk, Mr Mark *(Minister of State, Department for Business, Innovation and Skills)*
† Ruane, Chris *(Vale of Clwyd)* (Lab)
Simpson, David *(Upper Bann)* (DUP)
† Smith, Julian *(Skipton and Ripon)* (Con)
† Wright, Mr Iain *(Hartlepool)* (Lab)
† Wright, Jeremy *(Lord Commissioner of Her Majesty's Treasury)*

James Rhys, Steven Mark, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 28 June 2012

(Morning)

[Mr Graham Brady *in the Chair*]

Enterprise and Regulatory Reform Bill

Written evidence to be reported to the House

ERR 15 Citizens Advice
ERR 16 EEF
ERR 17 Hambleton District Council, North Yorkshire Association of Business Recovery
ERR 18 Professionals (R3), Association of Business Recovery
ERR 18A Professionals (R3) ANNEX B
ERR 19 British Institute of Organ Studies, Public Concern at Work (PCaW)
ERR 20 Supplementary
ERR 21 EEF [Parts 1 & 5]
ERR 22 Alliance against IP Theft
ERR 23 British Retail Consortium

Clause 7

Conciliation before institution of proceedings

9 am

Ian Murray (Edinburgh South) (Lab): I beg to move amendment 9, in clause 7, page 4, line 15, at end insert—

'(1A) A "prospective claimant" may seek support from ACAS for any necessary assistance to comply with the requirements in subsection (1).'.

The Chair: With this it will be convenient to discuss amendment 11, in clause 7, page 5, leave out lines 31 and 32.

Ian Murray: Good morning, everyone. It is a pleasure to see you back in the Chair for this sitting, Mr Brady. I hope that the breakneck speed with which we went through clauses on Tuesday will be repeated this morning. I pay tribute to my hon. Friend the Member for Hartlepool the former Minister. I am sure we will see a significant amount more of him as the Bill progresses through the House, and that he is thoroughly looking forward to the Stone Roses concert, which he has been—boring would be too strong a word—incessantly chatting about with everyone over the last few days. We wish him well for that.

I thank the Minister, who, since being appointed to his ministerial role, has been kind, supportive and good-humoured. I hope that will continue. I was rather unkind to him on his first appearance as Minister when I wished him a modicum of success. Since he has had that modicum of success, I am sure he will stop there and not continue with that theme.

I promised myself and my staff that I would not mention the B-word at this sitting. I am talking not about Beecroft, but about B for book. The Minister's wonderful book on how to maximise compensation at employment tribunals is available at all really bad bookshops at only £14.99, and claimable on IPSA, given that it is work-related. In the last few months, I have single-handedly increased sales of the book to probably about one.

The Parliamentary Under-Secretary of State for Business, Innovation and Skills (Norman Lamb): You borrowed it!

Ian Murray: I have borrowed it, yes. I did not buy it.

There is a serious issue regarding the book. Its depth and complicated nature shows how complex the employment tribunal system is, and I think we will go on and talk about that this morning. The purpose of our amendments is to make employment tribunals less complicated. We would welcome that, and we will help the Government in any way we can to ensure that that happens. Business is demanding that, the trade unions are demanding a simpler and more effective procedure, employers are demanding that, and employees are also demanding it. We must make sure we get clause 7 right. That is why we have made a genuine attempt in the amendments to ensure that the process is better, and we will be interested to hear the Minister's comments.

There is no doubt that the Government are keen to change the employment tribunal system, but Opposition Members are slightly disappointed that many of the changes so far have arisen from anecdote and not from empirical evidence. Last Thursday, when we questioned Mr Beecroft, there was not much in the way of evidence to suggest the changes, but that is not to say that the anecdotal—

Julian Smith (Skipton and Ripon) (Con): Will the hon. Gentleman clarify what he means by evidence? When looking through all the evidence sessions, there is clear evidence that employment law is a burden on business. The recent MORI polling of micro-businesses shows that more than 60% of very small businesses find employment law a burden, and say that it stops them taking on staff. Various submissions to the all-party group on micro businesses also showed that it is a burden. What evidence is the hon. Gentleman looking for? Does he have other sources that he has not told the House about?

Ian Murray: You would have thought, Mr Brady, that I set that intervention up, because the hon. Gentleman, who was present in the Committee's evidence sessions last week, will have heard clearly that there is evidence out there that flies in the face of much of the evidence that the Minister has been talking about over the past few months. I shall provide some of that evidence. The Department for Business, Innovation and Skills' own small business index evidence showed that only 6% of small businesses see regulation as a burden, and only 3% see employment regulation as a burden. As the OECD reports, it is a fact that the UK already has the third most liberal employment laws in the world.

The evidence is stacked up, and it was quite stark when Mr Beecroft said last Thursday that he was not even aware of the Donovan commission that set up the employment tribunal system in the first place. The evidence is out there to suggest that, yes, we need to make the system better, but it really is not a hamper on

growth. Indeed, as the hon. Gentleman knows, the only hamper on growth in this country at the moment is the Government and No. 10.

Julian Smith: I just totally disagree with what the hon. Gentleman is saying. He was a successful business person himself. In fact, he is, I believe, one of the only business people on the Opposition Benches in this Committee. Most of the employment in my constituency comes from very small businesses, and they say in surgery that the biggest reason why they are not taking on new employees is the burden of the onerous employment law. He knows that that is the case, so why is he pushing this dodgy argument?

Ian Murray: Have we not just heard anecdote No. 1? We should perhaps have anecdote bingo today. The hon. Gentleman has met someone at his surgery who has said that it is the employment law that is stopping him taking on people. I do not doubt that and I wish that we could share, even in private, the details of that particular business so that we can see all the information behind what he is saying. That would probably take away some of our suspicions about anecdotes.

Chi Onwurah (Newcastle upon Tyne Central) (Lab): On the point of anecdotes, the hon. Member for Skipton and Ripon said that my hon. Friend was the only business man on this side of the Committee. I do not know whether he was deliberately being gender-specific, but I can say that he is certainly not the only business person.

Ian Murray: I am grateful for that intervention. Indeed, the hon. Member for Skipton and Ripon has twice in previous Committees accused me of having run my own business, which puts the record straight. I am delighted that this is the third time that it has sunk into the hon. Gentleman. There are business people on the Labour Front Bench in the Business, Innovation and Skills team. My hon. Friend the Member for Chesterfield (Toby Perkins) ran his own business in the area of rugby and sports. We also have people with other experience. The former Minister, my hon. Friend the Member for Hartlepool, was a former accountant. The shadow Secretary of State is a former employment lawyer, who brings a great deal of experience to his role.

Geraint Davies (Swansea West) (Lab/Co-op): My hon. Friend may know that I was in charge of global brands in various multinational companies as well as starting and running a series of my own businesses. The level of ignorance of the hon. Member for Skipton and Ripon is amazing. He himself was a head-hunter, which is not a proper business anyway.

Ian Murray: I give way to my hon. Friend the Member for Rochdale.

Simon Danczuk (Rochdale) (Lab): I just want to put it on the record that I set up a business in Manchester in 1999 and ran it successfully for 13 years. I was involved in social research surveys, opinion polls and gathering the sort of information that has not been called on by the Government to substantiate the proposals that they are putting forward in this legislation.

The Chair: Now that we have all of that on the record, we can hopefully return to the detail of the Bill.

Ian Murray: I give way to my hon. Friend the Member for Vale of Clwyd.

Chris Ruane (Vale of Clwyd) (Lab): I think that my hon. Friend may have misled the Committee on an important issue, and that is the price of the aforementioned book on employment tribunals. I googled it on Amazon and found that it is not £14.50 but £13.50. One review says:

"There really is nothing more thorough or useful as an aide-memoire for experienced practitioners, or better as an introduction for more junior employment lawyers. This book is still frequently on my desk nearly three years after publication. I can only hope that the author and publishers are willing to bring out a second edition"—

signed, Norman Lamb.

Ian Murray: That says it all. Indeed, that book will probably be on my desk for three years as well. It is certainly well thumbed. The Minister should take to heart his own review on the Amazon website. When we have gone through this Bill and it is on the statute book, he may have to rewrite the book. Indeed, I will be queuing up in my tent outside Waterstones when the book is launched so that I can get one of the first copies. To be fair, the Minister has been offering to sign this book. *[Interruption.]* Yes, desperate. Given that it comes from the university of Liverpool, I have been reluctant to allow him to do that. Indeed, I hope that the £13.50 value holds up, but signing it may mean that the price will dip somewhat.

Geraint Davies: Does my hon. Friend agree that the more amendments that go through, the more changes there will have to be to the subsequent edition and the more money the Minister will make? *[Interruption.]*

Chris Ruane: He will have to declare an interest.

Geraint Davies: Indeed, Lamb to the slaughter.

Ian Murray: It has only taken until 9.9 am for someone to use the expression, "Lamb to the slaughter". I am surprised that it has taken that long, given the track record in really bad one-liners and puns of my right hon. and hon. Friends.

Mr Iain Wright (Hartlepool) (Lab): Where is the evidence?

Ian Murray: I think the evidence is self-fulfilling.

To return to the Bill, there is no doubt that the Government are keen anecdotally to alter the rights of workers as a panacea to the economic growth problems in this country. However, we genuinely welcome the provisions in the Bill for claimants to go to ACAS before entering the employment tribunal system. That should provide for faster resolution of disputes, keep claims out of the tribunal system, which is what we are trying to achieve, and save time and money for employers and, importantly, employees. Of course, there is the underlying issue of its saving money for the Treasury. That is something to which we all aspire.

[Ian Murray]

However, the Bill does not provide details of how early conciliation will work in practice. That is one of our main concerns. Much of the detail will be provided in future regulations. I understand that the Department plans to consult on the scheme in the near future, but it would be useful to hear the Minister's thoughts on how he sees it operating. I hope that this debate and the amendments that we have placed before the Committee will assist in the process.

It is strange for the Government to bring such a large and fundamental change to the employment tribunal system to this Committee without bringing any of the finer detail, and to consult on it later. I know that that is something that Governments do and it is happening with many other clauses of the Bill, but something as fundamental as this should be taken forward with the people and the professionals giving ideas on how to make it work, because if we do not get it right, it could make the system worse and mean that it does not work for employees or employers. That would be a missed opportunity.

As I said, we think that pre-action conciliation is a good idea, but the method proposed in the Bill is unnecessarily complicated and there is a view that it may lead to more satellite litigation, resulting in more costs, more uncertainty and more management time for employers. With all due respect to the Minister in his previous profession, we do not want this scheme just to be another excuse for lawyers to print money. We know that the employment tribunal system was set up originally to try to take the legal system out of the process, but as time has gone on and the guidebooks for employment tribunals have become bigger and more complex, the legal system has had to intervene, quite rightly, in the system to guide people through the potential pitfalls.

If the scheme is taken forward in its current form, it is essential that individuals are not subsequently barred from making an employment tribunal claim because they did not provide sufficient or full information to ACAS during early conciliation. That is the crux of our first two amendments.

The Federation of Small Businesses, in its written submission to the Committee, has welcomed the principle of the new role for ACAS in receiving all claims. However, it has said that

"compulsory ACAS 'Early Conciliation' poses some concerns despite its initial attraction. We would not support this unless satisfied that the process will not require the business to be legally represented and that it is a genuine streamlining of the existing process rather than an additional administrative layer".

The FSB is clearly saying that it welcomes the measure very much, as Opposition Members do, but it has the same concerns that others have—not just Opposition Members—about the unintended consequences that might flow from badly drafted legislation. It shares the concerns of Citizens Advice and the TUC but from the perspective of the business community. Citizens Advice and the TUC are very concerned about employees being wrapped up in legally challengeable unintended consequences, and the FSB has exactly the same concerns but from the business perspective. Both sides of the employment tribunal process have real concerns that this measure may create additional burdens.

That only emphasises the fact that the claimant and the employer must have confidence in the process, but that can be achieved only where support is given to both the applicant and the business to ensure that they are in order when going through the process. Conciliation can be an off-putting process. It often comes down to trying to persuade one side or the other to give in—to concede—without regard to the merits of the case. In practice, the experience and work load of the ACAS representative involved in a case can be a challenge. The Bill places the onus well and truly at the door of the employee. We heard during our evidence sessions last week that the profile of those seeking redress through the tribunal system is that they are often the most vulnerable, low-paid workers, often with literacy and numeracy skill deficiencies.

As has been mentioned, some people have described the new process as a potential additional hurdle to accessing the justice system, and many people have bandied around the word "vexatious". That is not to say that there are no vexatious claims in the system, but it is clear that, in trying to find a faster and more efficient system, we should not put in place an additional hurdle for legitimate claims that can be dealt with on their merits, and which should perhaps progress to an employment tribunal so that justice is seen to be done.

9.15 am

John Cryer (Leyton and Wanstead) (Lab): A lot of what my hon. Friend is saying is absolutely right. Has he, however, thought about going down the path of judicial mediation? That comparatively recent phenomenon, which was introduced only in the past two or three years, means that the two sides meet in an informal atmosphere but with a judge with training in industrial relations. Under those circumstances, a dispute can often be resolved.

Ian Murray: I am grateful to my hon. Friend for his intervention; judicial mediation is not something that I had considered. The clauses about rapid resolution are perhaps an attempt to look at such more streamlined ways of dealing with disputes. Early conciliation with ACAS is almost the same, although without the presence of a formal legal representative to arbitrate. We do not want to slip into a situation in which we are turning conciliation—and ACAS—into an arbitration service, because we would lose the intended ethos of conciliation. However, I am sure that the Minister has heard and will respond to that point.

On the potential hurdles for employees, and indeed for employers, Citizens Advice has said it hopes that the new process will "not become a logjam" in the system. It does not want gates and hurdles that would stop people from, quite rightly, exercising their rights and having some redress in the exercise of their rights. That is why it is key that employees receive as much support as possible in submitting forms and complying with the legislative arrangements. We do not want yet another legalistic insertion into the redress process, which would particularly affect those who do not have representation or those who have the literacy or language issues that I have mentioned.

People will have to lodge two forms within two different time limits, and I want to explain how the proposals correspond with the current system. The legal profession

has told us that it is concerned about that twin-track approach, and about how it might be simplified. The amendment is important, because it would give people the comfort that they can seek advice from the professionals who can provide it. The first time limit is for lodging the form for early conciliation with ACAS, and there clearly has to be such a time limit to ensure that people implement the process at the appropriate time. There is then a further time limit of one month for submitting the employment tribunal form—the ET1 form—following receipt of the ACAS certificate, which is issued when conciliation has not been successful or when the prescribed period has lapsed.

Proposed new section 18A(1) of the Employment Tribunals Act 1996 states that the prescribed form has to be presented to ACAS "in the prescribed manner" with the prescribed information. That sounds to me very bureaucratic indeed. Once the form, the manner and the information are prescribed, the claimant then has to ensure that everything in that ACAS process is done properly. Once the form, the manner and the information have been prescribed in secondary legislation, the lawyers involved will immediately ensure that all the i's are dotted and all the t's are crossed; otherwise, there might be satellite litigation in the background to the conciliation process, which could undermine the whole system.

Proposed new section 18A(2) of the 1996 Act states:

"On receiving the prescribed information in the prescribed manner, ACAS shall send a copy of it to a conciliation officer."

I will return to that, but the key point is that once the form goes to ACAS it will be sent to a conciliation officer, so the first contact with ACAS will not necessarily be with the conciliation officer dealing with the case. We could argue that the Bill or subsequent regulations should not prescribe any types of information that workers should be required to provide ACAS with when accessing early conciliation. We are in a process whereby ACAS will look at the merits of the case and try to come to some arrangement—there will be jockeying for position, a bit of give and take on both sides and a hearing of the facts of the case. There might be an argument to suggest that the information provided to ACAS does not need to be in a prescribed format or to be prescribed information, although obviously the key facts are necessary, but ACAS should be able to probe those a little more.

If the information has to be prescribed, claimants and employers need to access expert advice; otherwise, we will be creating an unjustifiable barrier to people accessing the employment tribunal system, especially to those who do not have access to legal or trade union advice. The trade union advice thing is important, because as we heard from the witnesses last week—the GMB, Unite and the TUC—that is, essentially, what they do. The unions are the barrier against vexatious claims to the employment tribunal system, because it costs them money to take claims to the tribunals, and they do not take claims for the sake of it. It is important that individuals who do not have access to such services are given some support.

Let us not forget that many of the claimants who go through the employment tribunal system are migrant workers, because they are exploited by unscrupulous employers. Most of the employers in this country are well-meaning and contribute so much to our economy—when I ran my own business, the first call on my business was to ensure that the staff were well looked after and well protected—but that is not to say that all employers have such an attitude, and with migrant workers that is particularly evident.

Proposed new section 18B makes it clear that ACAS will be able to offer conciliation if an individual has not provided the requisite information, but also that such individuals will not be able to proceed to an employment tribunal if conciliation is not successful. That seems to be a barrier to justice. We could have a situation in which a vulnerable, low-paid worker wants to seek legitimate redress, goes to ACAS for conciliation but makes a minor mistake in the prescribed form, the prescribed manner or prescribed time; satellite litigation is deciding whether that is something that should be challenged and, while all that is going on, the employer can say, "Well, I'm not going to come to a conclusion or settlement here, because the form filled out is incorrect, the information provided to ACAS is incorrect, so the claimant has no recourse to the employment tribunal process."

I ask the Minister to clarify that point, because it is important: the people who will get such forms wrong or who will not provide the appropriate information are the people who need most support and, in such circumstances, they are always the most vulnerable. It would be a real barrier to natural justice if people who had legitimate claims and a legitimate right to redress were not able to go on to the tribunal system just because they did not get the form correct in the first place.

We do not need to look too far to see where that has happened before: with the statutory dispute resolution procedures, which were repealed not so long ago. The well-meaning procedure that was put in place essentially ground the entire employment tribunal system to a halt, and the Government had to step in and repeal the legislation, because it provided not only a barrier to the employment tribunal process but a whole raft of satellite litigation that was going on in the background because people had not filled out forms properly and there was a real problem with procedure. We cannot allow that to happen. The only winners, if it does happen as an unintended consequence, would be the legal profession, and the very reason that early conciliation is being considered as a proposal is to suck some of the legal profession out of the system and to get back to the principles and spirit of the legislation and of how the system was meant to be put together.

If the requirement to provide information in a prescribed form is retained, it is essential for ACAS to have the powers and the proper resources to provide advice and support to individuals, to ensure that they are not subsequently barred from an employment tribunal. In proposed new section 18B(2), it seems that the initial contact with ACAS—as I mentioned—is by someone who is not a conciliation officer. That should allow for flexibility in assistance for the claimant. ACAS should not accept any formal early conciliation process until such time as it is satisfied that the information provided is correct and in the correct format. If that is ensured, there will be confidence in the system for both employees and employers, and it will negate the potential for satellite litigation. It should not be complicated to do. Of course, there are resourcing issues for ACAS. We will

[Ian Murray]

come on to some of those issues when we debate later clauses and perhaps in the stand part debate later this month, Mr Brady.

It is clear that ACAS needs flexibility built into the system. I have spent time at ACAS sitting with one of their experts, listening to the calls that come in. Their experts are hugely experienced and hugely professional. They are a wonderful resource to have. The depth and breadth of calls that I heard when I was there for a few hours was extraordinary, and the ACAS personnel on the helpline were very helpful in directing people in the right way. That is the right thing to do. If the compulsory process is to work properly, there is no reason why ACAS representatives should not receive information in the first instance. They can make sure that it is in the prescribed format on the prescribed form and in the prescribed time.

Once the process is complete and the advice has been given to both the employer and employee on both sides of the problem, it should progress to the conciliation officer. That is when the time scale should start in the conciliation process. That would ensure fairness in the system. It is similar to going to the post office and using the passport checking service. We send the prescribed forms in the prescribed format with the prescribed information to the correct place to ensure that the system is as efficient as possible.

The Bill should include provision for the employee to seek advice from ACAS on how to complete and submit their forms. That is why we have tabled two important amendments. They would limit the problem of satellite litigation around incomplete forms and confusion with the process and give the claimant the ability to seek proper redress. The early conciliation scheme should not be undermined by the prescribed information forms required and the risk of the claimant not getting such forms accurate.

The financing of ACAS, which the Law Society has highlighted, will be an issue for a future debate in Committee, but it is clear that people support, with caveats, the early conciliation process. I urge the Minister to look closely at the issues to ensure that we get it right. If the Government get it right, they will have the opportunity not just to free up the employment tribunal system, but in a small way take away the perception, particularly of small businesses, of fear of the employment tribunal system. Having the support of a well-respected organisation such as ACAS to ensure there is a first filter to the employment tribunal system should certainly help.

I would ask the Minister to consider the amendments and ensure that in all his deliberations on the Bill he puts fairness, equity and access to justice at the heart of the early conciliation process.

Norman Lamb: It is a pleasure to serve under your chairmanship, Mr Brady, for the first time in this role. I hope that I will comply as much as possible with the proper process and not make too many mistakes. As always, I am sure you will keep good order.

I thank the shadow Minister for his positive comments on the principle of—

Mr Iain Wright: The book.

Norman Lamb: I was going to come on to that. I am grateful to the hon. Member for Edinburgh South for his determination to persist with promoting the book. I am disappointed he was not around 15 years ago when we were trying to market it. We would have sold more copies had he been there to assist me with all his experience in business.

Ian Murray: I am delighted that the Minister has given way so early in his contribution. The problem now, which I hope he will dispel, is that we have marketed a book that is out of date. I hope this is not a ploy by the Minister for legal firms to get more work when people take advice from a book that is clearly out of date.

9.30 am

Norman Lamb: In his somewhat light-hearted comment, the hon. Gentleman raises an incredibly important point. The fact that there is such a substantial book that deals with compensation and employment tribunals makes the point that the system's complexity, which has grown up over many years, serves no one but lawyers. It is absolutely not in the interests of either employer or employee. As I appreciate he readily acknowledges, that complex system involves extra cost, which we need to reduce if at all possible, not only, self-evidently, for employers, but for employees. Any employee who brings a claim to a tribunal with legal help must pay fees: whether on a no win, no fee basis or in any other way, that is a cost to the employee. The more complex the system, the higher the fee. Anything that reduces cost in the system, as the Government are seeking to do, is good for both employer and employee.

There is a seductive view that we must ensure, at all costs, that an employee can go through to an employment tribunal. Currently, however, the average wait to get a case heard in an employment tribunal is 24 weeks, at enormous cost in terms of legal fees and anxiety for the employee. That is in the interests of no employee. Steps that we take to help both parties settle cases, both through the clause under discussion and the settlement agreement clause later, must be in the interests of employer and employee.

Julian Smith: Can the Minister confirm that the reforms in the Bill, together with a host of other employment law reforms that the Government are making, are designed to ensure that those without a job have the best chance of getting a job, because employers will be more confident to take them on?

Norman Lamb: I am grateful to my hon. Friend for making that point. He is absolutely right. In the past, there has often been an exclusive focus on protecting the interests of those in work, sometimes at the expense of those with no job at all. If we stop and think about it, we should try to ensure that we have a system that gives employers confidence to take on workers. The hon. Member for Edinburgh South conceded that there were perceptions of complexity, but they are the reality, not perceptions. He himself described the system as having become very complex and therefore costly, which amounts to a disincentive to employers to take on new workers. We must take that very seriously.

Simon Danczuk: How many jobs does the Minister think the proposals will create?

Norman Lamb: It is impossible to say how many—it would be facile to try to put a figure on it.

Simon Danczuk: Ten?

Norman Lamb: I appreciate the hon. Gentleman asking the question—it is a reasonable question to ask—but if he thinks about it, I am sure he will accept that one cannot put a number on it. Although we might have different views about how to do it, we both want to create an environment in which companies feel free, able and confident to take on new staff. That is what the proposals are all about.

Andrew Bingham (High Peak) (Con): Does the Minister agree that the proposal will help smaller businesses, which do not have the HR departments that the large companies have, and particularly micro-businesses, whose perceptions of the complications and deterrents to employment will be washed away?

Norman Lamb: I am fearful of saying anything about what I know from my experience because I will be accused of anecdote. None the less, I have experienced small businesses that find themselves in a tribunal having to pay my fees—very good value for money, I hasten to add, but a significant cost to their business. If a system is introduced under the clause that reduces the number of cases that get to that point, it will help small businesses very much.

Interestingly, the system builds on reforms made by the previous Government, who introduced a voluntary system of early conciliation, which permitted—but did not require—claimants to go to ACAS first, and something like 75% of people who used that system ended up not issuing a claim to the tribunal. That tells us something. It is impossible to know how many of the claimants would have done that anyway, had they not used the system—some of them might have just given up—but the voluntary system resulted in some people who would otherwise have issued a claim not doing so, because they received, not advice—ACAS is not there to give advice—but guidance about the law. We can learn lessons from that voluntary system, but we recognise that we can do so much more for both claimants and employers by requiring claimants to go through the process.

Ian Murray: I am grateful to the Minister for being so generous with his time. We are in danger of conflating two issues. Yes, we should try to make the employment tribunal system simpler and more effective for both employees and employers, so as to uphold the rights of both groups—the vast majority of employers are good—but we are conflating that with an attempt to get rid of some of the perceptions out there about employment.

Joy Drummond said in her evidence to the Committee:

"Isn't it more responsible for a Government to educate small employers and publicise the traps and how they should behave, rather than to legislate on the basis of a myth which, in itself, will, through implementation in such a way, cause more problems for everybody?"—[*Official Report, Enterprise and Regulatory Reform Public Bill Committee,* 21 June 2012; c. 97, Q212.]

Will the Minister comment on that? He must be careful not to legislate for the sake of perception.

Norman Lamb: The hon. Gentleman conceded two things in his opening speech: that there were "perceptions of complexity", and that the system actually was complex. That lawyer clearly spoke from a lawyer's perspective—I shall say no more—and I do not think that she told the whole story by talking about just perceptions. I think we can all agree that the system is complex, and favours only lawyers. I do agree with her, however, that it is also the task of Government, and indeed of ACAS, to improve the level of knowledge out there.

Geraint Davies: Will the Minister give way?

Norman Lamb: Let me finish the point. Incidentally, I have not yet got to the opening paragraph of my speech because there have been so many interventions. I want to make some progress. It is the task of Government to simplify the process, but also to educate. Through the guidance that we and ACAS can offer, we can do a lot to improve employers', and indeed employees', confidence in the system.

Before I make some progress, I want, however, to make one other point. The hon. Member for Edinburgh South made three references to satellite litigation. That is an unreal concern. I understand why he makes the point, but the measure is designed so as to take lawyers out of the system and to reduce, not increase, legal costs, and I am sure that that will be the effect.

John Cryer: The Minister will remember that the statutory disciplinary and grievance procedures were abolished exactly because of satellite litigation. That was pointed out earlier by my hon. Friend the Member for Edinburgh South. I might be wrong, but so far I can see no evidence that that situation would not be repeated in the new system; nothing in the Bill says to me that satellite litigation would be prevented.

Norman Lamb: We can never legislate for the odd individual who seeks, through their own mindset, a basis on which to challenge the system, but we know from the voluntary system that the majority of people who go to ACAS choose, in the end, not to pursue a claim to the tribunal, because they either agree a settlement or decide that they do not have a claim. The main effect of the new system, as has been acknowledged by the Opposition Front-Bench team, will be to help settle claims.

I am grateful to the Opposition for their amendments and understand their concern to ensure that claimants can comply with the new obligations arising from the introduction of early conciliation. I want to reassure them that the aim of early conciliation is greater settlement of claims without the need for the intervention of the employment tribunal, not to impose additional burdens on claimants. That is important.

We are currently considering the detail of how early conciliation will work, and are, incidentally, working closely with ACAS to do that. We are mindful of the need to ensure that the detail that claimants are required to supply to ACAS is kept to a minimum—it would be ludicrous to do otherwise—and that the system is straightforward. The shadow Minister will, I think, concede that the chair of ACAS, who gave evidence last week, spoke with a lot of confidence about its capacity to make the system work effectively, and not to cause anxiety for employees or claimants.

[Norman Lamb]

We will consult on the detail of the new process later this year. The hon. Member for Edinburgh South made the point about the need to ensure that stakeholders—those interested in the system—should have the chance to contribute their views on the proposals. That will happen. We intend to make sure that the information sought from claimants is no more than is necessary to enable ACAS to begin the process of conciliation.

The form needs to be very simple, with the minimum information requirement. Obviously, name and address and employer are necessary. The hon. Gentleman conceded that the basic facts would have to be given. However, beyond some indication of the problem, we want to keep that to a minimum, with no extra burden on claimants or extra bureaucracy.

We think that ACAS can play a role in assisting prospective claimants to comply with their obligations, but we do not believe that such assistance should extend, for example, to providing support with the completion of the form. A vulnerable claimant might perhaps seek support from the citizens advice bureau; but of course such a claimant would need help from someone in issuing a claim to the tribunal. Given that the information required would be the absolute minimum, I do not see that the burden would in any way compromise or prejudice such vulnerable claimants. Rather, we see ACAS's role as advising the prospective claimant on what information needs to be provided, or contacting the claimant where there are substantive gaps in the information submitted. Such an approach is in the interests of claimants. It means that those who need it will have reassurance about what information is required, while errors or gaps in the information can be addressed, thereby protecting ACAS's ability to achieve settlement.

We will, as I have said, endeavour to make the system as simple and accessible as possible and will consult specifically on the issue of vulnerable claimants. That is why it is, in a sense, appropriate to deal with the matter by secondary legislation; it is possible to go into the detail of how to assist a vulnerable claimant in the conciliation process, which could never be done in primary legislation. That obviously makes sense.

Julian Smith: Having visited ACAS this week, I concur with the shadow Minister that it is professional, and fields calls in a very high-quality way. I urge the Minister not to be too prescriptive about the regulations. ACAS seems to be in a position to put many of the rules in place and keep things as informal as possible. I urge the Minister not to prescribe too much in the next phase of the regulation process.

Norman Lamb: I thank my hon. Friend for that helpful intervention. I intend to keep the prescription to a bare minimum—only what is required to facilitate the process. There is no point in anything more. We shall be mindful of that as we draft the regulations and consult on them.

9.45 am

Ian Murray: The issue then becomes the fact that the Bill states that if the prescribed form, timing or information are not correct, while the early conciliation process can be followed through, a claimant will be prevented from going to the employment tribunal system. That claimant may have a perfectly legitimate case for which they seek redress. Not all employment tribunal claims are vexatious, despite what the Government tell us. I appreciate that the Minister is committed to keeping things as simple as possible, but a proper claimant, with a claim that is proper on its merits, who needs to seek redress at an employment tribunal can no longer do so if they do not fill out the form properly, even though, in this system, a separate ET1 form would have to be completed for the process to commence.

Norman Lamb: I suspect that the hon. Gentleman is trying to find problems where there are none. I do not think that filling in a form with one's name and address, something about the problem that has led to the dismissal and the name of the employer is too onerous. As he says, the claimant would have to complete an ET1 anyway, and the ACAS officer can talk to the claimant if information is missing from the form. It can be easily resolved. There are of course CAB officers around the country to assist claimants if necessary. May I move on to amendment 9?

Amendment 9 does no more than provide a right that individuals already have. They can already ask ACAS officials for assistance with their employment dispute. There is no evidence anywhere that anyone is ever turned away from ACAS. Giving individuals the right to go to ACAS when they already have that right, adds little value. What is more important is that, where they exercise that right, ACAS is required to provide the necessary assistance. New section 18A(12)(b), introduced by the clause, requires just that, by providing an appropriate power so that we can impose a duty on ACAS to assist prospective claimants with the early conciliation process. A right already exists for anyone to go to ACAS, and we propose to introduce, through secondary legislation, a duty for ACAS to help that individual.

Amendment 11 would delete the power that we are introducing to impose a duty on ACAS to provide support. It would be rather self-defeating and to the disadvantage of claimants. I am sure that that is not the intention of the hon. Gentleman, but that is the amendment's effect.

Mr Iain Wright: I am following closely what the Minister says, and I agree with a lot of it. To what extent will the Government work with ACAS to promote the new duty to employees, to ensure that it is widely recognised and avoid the risks of perception and the anecdotes we have already heard?

Norman Lamb: Absolutely. When it is introduced, it will be important for everyone to spread awareness of the fact that there is a new system in place. It will take a while for people to understand that, so to start I am sure that claimants will go straight to the employment tribunal. They will be told, "You have to contact ACAS first. Here's the address." It is also important to spread awareness of the fact that ACAS has the duty to assist claimants. It will want to ensure that people are aware that it is there to help and to assist in achieving a settlement—it is its purpose and raison d'être.

Julian Smith: If claimants refuse conciliation, is there an argument for making that clear on the certificate that goes to the employment tribunal?

Norman Lamb: We will consult, and it will be dealt with through secondary legislation. The purpose of the measure is to settle claims without any pressure from either side. There is simply a requirement to go to ACAS, which gives it the opportunity to have the conversation and introduce the possibility of settling the matter. Given that one has to wait four months to even get a claim heard at a tribunal, once claimants recognise that, the prospect of getting the matter sorted so that they can move on with their lives will become attractive. It will be a minority of people who say to ACAS, "I don't want to have anything to do with it." We will have to wait and see. Imposing an implied pressure on claimants is not necessarily the right thing to do. I note my hon. Friend's concern to ensure that people engage in the process and we will do everything we can to encourage that.

Mr Iain Wright: The Minister mentioned the four-month period and possible bottlenecks in the tribunal process. We might come on to this at a later stage, but regarding resources for ACAS, is the Minister not concerned that there might be a logjam when people go to ACAS, because the resources will not be there? Will there be a bottleneck when trying to help ACAS in the early conciliation process?

Norman Lamb: I think the hon. Gentleman last week heard the chair of ACAS express confidence that the system will work. ACAS has a duty and role later on in the process. It contacts all applicants during a tribunal process in that long four-month period of waiting for the claim to be heard. We are bringing the whole thing forward. We are not adding a lot of new people for ACAS to contact; it just has to contact them earlier. ACAS is confident it can make the system work well. The Government have made it clear that they will ensure that it has the resources to perform the role. ACAS, of course, has to ensure it is operating as efficiently as possible. The default option should not be to throw more money at it. We should ensure that it is robust in the use of public money. It expresses confidence that the system can work.

Mr Iain Wright: The Minister has been extraordinarily gracious. The Government's response to the consultation "Resolving Workplace Disputes" says:

> "The Government recognises that there will be an increased burden on Acas that will require sufficient resourcing. This requirement will be met through the savings that will accrue to the Exchequer as a result of fewer cases requiring determination at ET."

I do not want to jump the gun on future amendments and consideration, but the Government have recognised that ACAS requires more money than is proposed in the Bill to do its task. Is that not the case?

Norman Lamb: I think I have already provided reassurance that the Government will ensure that ACAS has the resources it needs to perform its task. The Government's new clause on settlement agreements has emerged since that document was produced. If that becomes law, that will also reduce the number of contested claims through the tribunal system. That is another way that through settlement of issues we can reduce the burden both on ACAS and on the employment tribunal system. The overall effect will be that claimants have to wait a shorter time to have their case heard at tribunal, because we will have taken cases out of the system through earlier settlement.

Simon Danczuk: Will the Minister give way?

Norman Lamb: Let me move on. I have tried to be generous with interventions but I should make some progress.

We do not consider that the issue of what and how assistance should be provided is a matter that should be dealt with in the Bill. It is properly a matter for procedural regulations, and the order-making power in new section 18A(12)(b) will provide for such regulations to be made. On that basis, I hope hon. Members will be prepared to withdraw amendment 9 and not to press amendment 11.

Ian Murray: I am grateful to the Minister for his considered response to our amendments. I would like to pick up on some of the issues he has raised. He is right that we welcome early conciliation. However, I intervened on the Minister to make it clear that we have heard a lot of anecdote, not just from the Government but also their advisers, including Mr Beecroft who kindly appeared as a witness at the hearings last week. I concede there are perceptions, but I think Joy Drummond from Simpson Millar got it right. It is surely the job of Government to deal with the perceptions, rather than change the law to deal with the perceptions. That is not to say that we should not put all our efforts into making the employment tribunal system more efficient. We should, and I have said consistently that we welcome early conciliation. However, we need to ensure that it is done properly and that is designed for those who need to seek redress. The Government seem to come at this from the viewpoint that there are so many vexatious claims that the system is grinding to a halt and people have decided that, rather than get up in the morning and do a good day's work and earn a good rate of pay and support their families, lifestyle and friends, they seek some way to undermine their employer and take them to a tribunal. That is not the way that it works. The number of employment tribunals is a tiny fraction of the number of people who work in the UK every single day.

I take slight exception to the hon. Member for Skipton and Ripon saying that these systems are designed to get people out of work into a job. This goes back to my earlier point about conflating the two issues. No one, anecdotally or otherwise, is saying that the greatest barrier to a business employing staff is the rights bestowed on people becoming an employee. Instead it is access to finance and the general state of the economy, and to be fair to the Minister, before he was appointed to his post he was very clear that any undermining of job security could undermine consumer confidence. Consumer confidence is already historically low and we have to make sure that we do not undermine people's job security.

Julian Smith: Could the hon. Gentleman clarify that Labour's view is that employment law burdens are not a barrier for business taking on new staff? Is that the Labour party's view?

Ian Murray: The hon. Gentleman asks for the Labour party's view. It is not the Labour party's view that matters; it is businesses' view, given that the analysis was done by a business. It may be business's view—the chief executive of anecdotes r us has been telling us that it is their view—but it is not according to business's own impact analysis in their small business index. The Federation of Small Businesses has also said in its surveys that it is not one of the main reasons why employers are not taking on staff. It is the general state of the economy, the double-dip recession, the issues around the eurozone, the inability to access finance and the inability of large companies who are sitting on large resources to invest them in the economy. Those are the real reasons why people are not taking on staff. Look at one last piece of evidence. The Government, by statutory instrument, have already increased the qualification period for unfair dismissal from one year to two. When that went down from two years to one in 1999, there were 1.75 million jobs created in more than a million small businesses. So it is the general state of the economy.

In the witness sessions last week, many people made the point that if you said to an employer, "You will have to take on three members of staff in order to make a million pounds more profit," the business owner is not going to say, "Hold on. I do not think I will do that for fear and perception of the employment tribunal system". That is not to say it is not a real perception or real fear, but let us deal with that particular point, rather than anecdotal evidence.

Geraint Davies: Can my hon. Friend confirm that research by the OECD across a number of countries, using a vast quantity of data, shows that there is no significant association between employment levels and the level of employment law? That being said, it is still evident that, other things being equal, no small business wants more rather than less regulation. All Beecroft pointed to was out-of-date opinion data from 2008, where only 13% of small businesses mentioned regulation. If you said to a small business, "Do you want some more regulation or would you prefer less?" it would say no. Obviously there is no association. Nobody wants more regulation, but let us be serious about this.

Ian Murray: I am grateful for that intervention. The OECD, in another piece of empirical evidence, shows that this is not a barrier to people taking employment. Indeed, the OECD concluded that the UK already had one of the most lightly regulated labour markets among developed countries, with only the US and Canada with lighter overall regulations. Again, we heard from some of the questioning of the witnesses last week that we should be following a German model. That would be delightful. The Germans are somewhere around 32 out of 36 developed countries in terms of the employment regulation regime and if that is what the hon. Member for Skipton and Ripon aspires to, he will certainly get support from this side of the room.

Geraint Davies: The accepted wisdom in Germany is that because it is difficult to get rid of workers, they invest in their training and productivity. If you can just get rid of people, why spend money on training and productivity? That is part of the key. In many instances, employment protection provides human capital assets that provide productivity. The proof is in the pudding and Germany is growing.

10 am

Ian Murray: I do not want to stray from the amendments, but I invite hon. and right hon. Members on this Committee and across the House to reread what my hon. Friend has just said in *Hansard*, because that is the crux of the issue. Pretty much all employers, with the exception of a very small number, invest in human capital, because they see that as being about productivity and profitability. People in small businesses, particularly in this country, will take people on if they feel that doing so is good for the business and for the economy. We have seen the Government's borrowing go up this week for two reasons: more benefits and less growth. That is the equation. More benefits and fewer people in work equals higher deficit. I wish the Government would realise that.

David Mowat (Warrington South) (Con) *rose—*

The Chair: The shadow Minister has helpfully indicated his reluctance to be drawn from the substance of the amendments, and I hope Mr Mowat will not seek to make that more difficult for him.

David Mowat: I hope not, Mr Brady, although I am not sure whether I understood the shadow Minister's point.

The shadow Minister says that having German-style regulation would be delightful. I agree that the German regulatory burden is probably a little higher than ours in some respects, so is it the position of Labour's Front-Bench team that we should, along German lines, impose further regulation on the UK's model?

Ian Murray: I was merely drawing a comparison between the OECD, as raised by my hon. Friend the Member for Swansea West, which said that we have the third most liberal employment regime in the world, and Government Members, who have called for a German-style employment regime in some of their witness statements. The witness statements are all here for the hon. Member for Warrington South to read and review. Many people use the German example, but as he has rightly conceded, the German economy has far more workers' rights. Germany has the right balance.

Neil Carmichael (Stroud) (Con): We should have had a German expert among our witnesses, because, ironically—I hope the shadow Minister accepts this—Germany has reduced the burdens on small businesses for prime contracts. That is not too different from some of the measures in the Bill, which is well worth noting.

The Chair: Mr Murray, I hope we can get back to ACAS.

Ian Murray: Certainly. I will quickly answer the point raised by the hon. Member for Stroud, if I may.

I have consistently said on these amendments that we accept and support early conciliation. The amendments seek to help with that. We welcome anything that produces jobs in this country while, on the one hand, protecting

workers' rights and, on the other hand, generating growth. Indeed, we will be jumping for joy as soon as the Government come forward with any proposals to create growth in this country. I am sure we would support such proposals. I am happy to circulate by e-mail, or perhaps through the Clerks, Labour's five-point plan, which the hon. Gentleman may wish to read and which would provide growth and jobs in this country.

So back to the amendments, Mr Brady, before people test me on the five-point plan. We are considering the detail of early conciliation through ACAS, which is important. The Minister said that I am trying to create issues where there are none, but the Bill clearly states that if the prescribed information on the prescribed form is not submitted within the prescribed timetable, that could bar people from going to an employment tribunal. That gives me grave concerns, because this is about access to justice. As a former employment lawyer, I believe that access to justice is hugely important. New section 18B states:

"This section applies where…ACAS has not received information from the prospective claimant under section 18A(1)."

New section 18A(1) addresses the prescribed form, the prescribed time scales and the prescribed information. Will the Minister consider the ET1 form? There is one form for one purpose being submitted straight to ACAS that people are already aware of without having to run a parallel two-form system.

The Minister also said that the difficulty of completing the form would not prevent people from entering the employment tribunal system because they could use Citizens Advice for support. I do not know whether the Minister has sent any constituents to Citizens Advice recently, or whether the organisation has referred any constituents to him, but it is under a significant amount of pressure. An individual, who may be in a highly stressful situation because they have just lost their job, will find it difficult to get a quick meeting with Citizens Advice to talk about the issues. It is unfair and unkind of the Government simply to pass the responsibility for the legislation on to Citizens Advice.

Norman Lamb: On that point, I am sure the hon. Gentleman would agree that although we all accept that citizens advice bureaux are under pressure, we would all encourage those who need support and help, and who cannot afford to pay for it, to go to their local CAB. Members on both sides of the Committee support local citizens advice bureaux.

On the hon. Gentleman's earlier point about the additional requirement to submit a claim, there is nothing about when it has to be submitted. Of course, most claims must be submitted within the three-month period; if an ex-employee does not bring a claim to the employment tribunal within that time, they lose their right to do so. That is self-evident and it has been the law for a long time, under the previous Labour Government as well as under ours. The measure simply requires the prospective claimant to contact ACAS during that three-month period. If the claimant is unaware of that new right and contacts the tribunal straight away, all the tribunal will do is to give them ACAS's address and telephone number. It is not complicated.

I understand why the hon. Gentleman is questioning and challenging the matter but if he thinks about it, I genuinely think he will see that it is not a problem. The information required is simple. Instead of being required to fill out a whole ET1 form at an early stage—perhaps a week after dismissal, when an applicant will not have thought, or sought advice, about the complex information that has to go into that form—an applicant will simply be required to provide their name and address, the name of the employer and the basic problem that led to their dismissal. That does not seem too onerous to me, and ACAS did not view it as such.

Ian Murray: I am comforted by the fact that the Minister is aware of some of the problems and the time scales involved. If the proposed form is so simple, however, why will the Government not accept amendment 9, which would stipulate that ACAS will provide the support that people need to complete the form?

Norman Lamb: As I tried to explain in my response to the hon. Gentleman's opening speech, amendments 9 and 11 take away the Government's power to impose a duty on ACAS to help claimants, which is why we do not want to accept them. I am sure that that was not his intention, but it is the effect of the amendments. Do the Opposition really want to remove a duty on ACAS to provide support to claimants? I do not think so. It would be largely pointless to introduce a right for the claimant to seek help from ACAS when such a right already exists.

Ian Murray: The Opposition merely seek to ensure that the most vulnerable workers are supported. *[Interruption.]* I accept what the Minister has said about the duties. If he feels that the Opposition have a point about trying to protect vulnerable workers, I hope that on Report he will provide us with some evidence and comfort that vulnerable workers who are unable to complete the processes will be given as much support as possible.

John Cryer: Is my hon. Friend aware that during 2010-11, 218,100 claims went to the tribunal service, although only 20% of those went to a full hearing? That means, because of various exceptions, that ACAS could find itself dealing with 200,000 claims a year. I am not convinced that it will have the resources to deal with such a massively increased volume.

Ian Murray: That is slightly off the amendments that we are looking at.

Regarding one of the critical points of the entire debate about ACAS, which I am sure we will come on to later, I asked a parliamentary question to the Minister's predecessor about the funding for ACAS. In 2009-10, when the Government's impact assessment starts assessing how much employment tribunals have increased, ACAS had a total budget allocation of almost £56 million. In 2011-12, it had a total budget allocation of under £48 million, and we are putting more responsibilities on it. I appreciate that the chair of ACAS has said quite clearly that it will cope and remodel the service, but I am not sure that that is what we want to achieve for it to be successful.

Norman Lamb: I will respond to the hon. Gentleman's concern by way of an intervention.

[Norman Lamb]

The vast majority of claims before the tribunal are multiple claims. Single claims amount to about 60,000. The clause makes it clear that for multiple claims—let us say that there is a group of people who have been dismissed from one workplace—if one in that group of employees asks ACAS to intervene, there will not be a requirement on the whole group to do so. An awful lot of the claims before the tribunal in the year mentioned by the hon. Gentleman are part of those multiple claims, and there would not have been a burden on ACAS.

I made this point earlier: ACAS is contacting claimants anyway during the wait before the tribunal hearing to see whether it can assist. The clause will bring the process forward.

Ian Murray: I am sure that there was a question mark at the end of that intervention.

Norman Lamb: There was, absolutely. Does the hon. Gentleman agree?

Ian Murray: I agree. I am sure that we will come on to the issues regarding the Government's evidence base for employment tribunals in the clause stand part debate. The Government have said that the number of employment tribunals is increasing by a vast number, but that is not the case, and the Minister has quite helpfully just explained why.

Mr Iain Wright: Following on from what my hon. Friend is saying, and in response to the Minister's intervention, the Government's own impact assessment quite rightly says that there were 218,100 employment tribunal claims, of which about 60,000 were single claims. However, it concludes:

"Recent spikes have involved large numbers of multiple claims in specific industries so it is not clear whether recent increases will be sustained over the longer term."

Does my hon. Friend agree that there are two conclusions from that? First, the Government are leaping in the dark and have no evidence whatever regarding future claims. Secondly, it puts to rest the myth that the reason why the British economy is in recession is the large number of employment tribunal cases.

Ian Murray: I could not have put it any better myself. The Ministry of Justice's own figures, which my hon. Friend has read out, show that the number of claims went up by a considerable amount, but that was multiple claims. If my figures are correct, the number of multiple claims went from around 7,000 to 7,400, while the number of individual claimants within those claims went up by some 158,000 or so. Perhaps we will come on to those figures a bit later.

The crux of my hon. Friend's comments is echoed by the chief economic adviser of the Chartered Institute of Personnel and Development, who said:

"If you look at the evidence on unfair dismissal, I mean there isn't actually anything to suggest that watering down those rights would create any more jobs and indeed the job insecurity it would create would actually be bad for the economy and businesses."

People in the CIPD, who are professionals in the area, are saying that the watering down of rights could have the opposite effect on the economy and on business.

I want to challenge the hon. Member for Skipton and Ripon. When he intervened on the Minister during his contribution, he suggested that if claimants did not accept conciliation or were objectionable or obstructive, perhaps that should be put on to the ACAS certificates, so that the employment tribunal could see whether the employee—

Andrew Bridgen (North West Leicestershire) (Con): The hon. Gentleman may be misquoting my hon. Friend the hon. Member for Skipton and Ripon, who I think was indicating that either the applicant or the respondent could be unwilling to take part in conciliation. Either action could be of interest to the tribunal when awarding costs at the end.

10.15 am

Ian Murray: I am absolutely delighted by that intervention, because it is exactly the point that I am coming to. While the hon. Gentleman was enthralled by my contribution, he did not see that the hon. Member for Skipton and Ripon was nodding in agreement at what I said. He said earlier that if claimants refuse, it should be made clear on the form what the refusal was in order for that to be able to proceed to an employment tribunal. However, on the other side, that is actually true, and I shall explain why.

I raised a point of order last week with you, Mr Brady, about dealing with the Bill's provisions without seeing the impact of the employment tribunal fees that are being brought in. We could have a situation in which a claimant, in all good faith, goes to ACAS for early conciliation, as does the employer. It might be a low-paid, vulnerable worker, who has just lost their job and has no income. The employer might say, "I can either come to a settlement, or I can play hardball on the basis that they will not be able to raise the money for the employment tribunal fee", which is the next stage.

Julian Smith: The hon. Gentleman knows that he is going down the most ludicrous track with that argument. The Underhill review on employment tribunal rules will allow low-income workers to go to an employment tribunal at no cost. He is aware that that is the case, so why is he prattling down that useless path?

Ian Murray: Prattling down a useless path is something that I often feel I do as a member of such Committees.

The Minister responded to the hon. Member for Skipton and Ripon using the words "implied pressure". Let us take away the semantics of whether somebody would be eligible not to pay fees. With that on one side, there is an implied pressure if the employer of somebody who has lost their job—that person might be asset-rich and cash-poor, who knows?—does not want to come to a settlement at ACAS early conciliation. That is key: the implied pressure is actually in the employer's hands, not the employee.

I point out to the hon. Member for Skipton and Ripon that if an employee has been unfairly dismissed—and an employment tribunal finds that to be the case—and that employee does not want to settle at early

conciliation, perhaps they should not. Perhaps the employee wants their day in court in order to expose what has happened to them in the workplace. It is important to give people that ability without the implied pressure of fees that they are potentially unable to afford.

I conclude by returning to where I started. In order for the system to work effectively, this must be done absolutely properly. It is disappointing that the proposals were not consulted on before the legislation was introduced, that we are now determining clauses that are not specified, and that the consultation will happen afterwards. We have proposed the amendment in all good faith to say that ACAS needs resources to enable it to support workers who approach it for help with filling out forms, in the prescribed manner, to the prescribed time scale, and with the required information, as set out in the Bill.

Norman Lamb: I will resist the temptation to respond to the hon. Gentleman's rather expansive speech on matters that seem wholly unrelated to the amendments that he proposed.

I shall make a few brief points. I am left completely confused, because on one hand, the Opposition say that they support the new concept in principle, but on the other, the shadow Minister accused the Government of leaping in the dark. We seem to agree that the proposals are a good thing, and they are widely supported by parties outside this place. Let us focus on what we are actually doing. This is not about taking away any rights; this is about helping the parties to conciliate and reach agreement to avoid unnecessary tribunal claims that are to the disadvantage of both employees and employers.

The hon. Member for Edinburgh South talked about perception and referred again to the lawyer who gave evidence last week. He conceded in his opening speech that it is not only about perception; the system is complex. We are seeking ways to avoid claimants having to use a complex system and want to ensure that they can settle their claims simply, allowing them to move on in their lives and avoid extra cost.

I come back to the specific purpose of the amendments. Again, I invite the hon. Gentleman to consider withdrawing them, because their effect would be to take away the duty on ACAS that we will introduce by way of secondary legislation to help claimants. Do they really want to remove the duty on ACAS in these circumstances to help claimants? If they vote for the amendment, that is what they will be doing. All the other amendment would introduce is a right for employees to go to ACAS, which they already have. So the provision would add nothing, but would take away an important duty imposed on ACAS to help claimants.

The hon. Gentleman made one specific point about vulnerable claimants. I absolutely give him the reassurance that the whole purpose of the measure is to ensure that the system is as light-touch as possible and that no unnecessary burden will be imposed on claimants, so that they provide the bare minimum of information to allow conciliation to proceed. Secondary legislation will specifically help vulnerable claimants put their case to ACAS. On the basis that if hon. Members vote for the amendments, they would be removing the ability to impose a duty on ACAS to help claimants allow the system to work, I invite him to withdraw them.

Ian Murray: Mr Brady, may I seek your advice? I accept what the Minister has said about the wording of the legislation. Would it be possible to test the Committee's view on the first amendment?

The Chair: Yes indeed.

Ian Murray: I would like to press amendment 9.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 13.

Division No. 7]

AYES

Cryer, John	Onwurah, Chi
Danczuk, Simon	Ruane, Chris
Davies, Geraint	Wright, Mr Iain
Murray, Ian	

NOES

Bingham, Andrew	Morris, Anne Marie
Bridgen, Andrew	Mowat, David
Burt, Lorely	Ollerenshaw, Eric
Carmichael, Neil	Prisk, Mr Mark
Evans, Graham	Smith, Julian
Johnson, Joseph	Wright, Jeremy
Lamb, Norman	

Question accordingly negatived.

Ian Murray: I beg to move amendment 10, in clause 7, page 4, leave out lines 26 and 27 and insert

'the conciliation officer may extend the prescribed period if the conciliation officer deems it necessary to reach a settlement between the persons who would be parties to the proceedings, with the consent of both parties.'.

We lost that vote so spectacularly I almost feel like the Minister's party in terms of disappointment—I am surely misunderstood. What we are trying to achieve with amendment 10 is fairly self-explanatory. An important aspect of early conciliation must be to give every opportunity to allow settlement between the parties to be reached.

I will explain why we feel that that is an important matter to consider: as with the previous amendments, it relates to the fact that clause 7 has the potential for significant unintended consequences. The idea of early conciliation has cross-party support, and I emphasise again to the Minister that we will do all we can to ensure that it is supported and, indeed, improved. We welcome the input of ACAS, which, as we have already said, is to all intents and purposes the household name on these issues.

10.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at One o'clock.