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HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

EMPLOYMENT RIGHTS BILL

Twentieth Sitting

Tuesday 14 January 2025

(Afternoon)

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Saturday 18 January 2025

The Committee consisted of the following Members:

Chairs: Sir Christopher Chope, Graham Stringer, † Valerie Vaz, David Mundell

† Bedford, Mr Peter *(Mid Leicestershire)* (Con)
† Darling, Steve *(Torbay)* (LD)
† Fox, Sir Ashley *(Bridgwater)* (Con)
Gibson, Sarah *(Chippenham)* (LD)
† Gill, Preet Kaur *(Birmingham Edgbaston)* (Lab/Co-op)
† Griffith, Dame Nia *(Minister for Equalities)*
† Hume, Alison *(Scarborough and Whitby)* (Lab)
† Kumaran, Uma *(Stratford and Bow)* (Lab)
† Law, Chris *(Dundee Central)* (SNP)
† McIntyre, Alex *(Gloucester)* (Lab)
† McMorrin, Anna *(Cardiff North)* (Lab)
† Madders, Justin *(Parliamentary Under-Secretary of State for Business and Trade)*
† Midgley, Anneliese *(Knowsley)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Pearce, Jon *(High Peak)* (Lab)
† Smith, Greg *(Mid Buckinghamshire)* (Con)
† Tidball, Dr Marie *(Penistone and Stocksbridge)* (Lab)
† Timothy, Nick *(West Suffolk)* (Con)
† Turner, Laurence *(Birmingham Northfield)* (Lab)
† Wheeler, Michael *(Worsley and Eccles)* (Lab)

Kevin Maddison, Harriet Deane, Aaron Kulakiewicz, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 14 January 2025

(Afternoon)

[Valerie Vaz *in the Chair*]

Employment Rights Bill

2 pm

The Chair: Welcome back, and happy new year. The debate on Government amendment 204 to schedule 7 has already commenced.

Schedule 7

Transitional and saving provision relating to Part 5

Amendment proposed (this day): 204, in schedule 7, page 148, line 28, at end insert—

"10A (1) Where—

(a) a slavery and trafficking prevention order requires a person to notify the Gangmasters and Labour Abuse Authority in accordance with section 19 of the Modern Slavery Act 2015 ('the 2015 Act'), and

(b) immediately before the day on which paragraph 53 of Schedule 6 comes into force, that requirement has not been complied with,

that requirement has effect, on and after that day, as a requirement to notify the Secretary of State.

(2) On and after the coming into force of paragraph 54 of Schedule 6, the reference in section 20(2)(g) of the 2015 Act (as amended by that paragraph) to a slavery and trafficking prevention order made on an application under section 15 of that Act by the Secretary of State includes a reference to such an order made on an application under that section by the Gangmasters and Labour Abuse Authority.

(3) In this paragraph 'slavery and trafficking prevention order' has the same meaning as in the 2015 Act.

10B (1) Where—

(a) a slavery and trafficking risk order requires a person to notify the Gangmasters and Labour Abuse Authority in accordance with section 26 of the Modern Slavery Act 2015 ('the 2015 Act'), and

(b) immediately before the day on which paragraph 56 of Schedule 6 comes into force, that requirement has not been complied with,

that requirement has effect, on and after that day, as a requirement to notify the Secretary of State.

(2) On and after the coming into force of paragraph 57 of Schedule 6, the reference in section 27(2)(g) of the 2015 Act (as amended by that paragraph) to a slavery and trafficking risk order made on an application under section 23 of that Act by the Secretary of State includes a reference to such an order made on an application under that section by the Gangmasters and Labour Abuse Authority.

(3) In this paragraph 'slavery and trafficking risk order' has the same meaning as in the 2015 Act."—*(Justin Madders.)*

This amendment contains transitional provision to ensure that, once the functions of the Gangmasters and Labour Abuse Authority under the Modern Slavery Act 2015 have been transferred to the Secretary of State, that Act continues to operate as intended.

Question again proposed, That the amendment be made.

Sir Ashley Fox (Bridgwater) (Con): It is a pleasure to serve under your chairmanship, Ms Vaz. Government amendment 204 is crucial to ensuring that functions currently performed by the Gangmasters and Labour Abuse Authority under the Modern Slavery Act 2015 continue seamlessly after the powers are transferred to the Secretary of State. As part of the broader restructuring outlined in the Bill, those functions will be absorbed into the newly established fair work agency, which will take on the role of overseeing labour rights and enforcement activities.

It is essential that the transfer of these powers does not lead to any gaps in the enforcement of laws relating to modern slavery, human trafficking and labour exploitation. The GLAA has played a pivotal role in investigating and combating labour abuse, particularly in high-risk sectors such as agriculture, horticulture and construction. By ensuring the smooth continuation of these functions under the fair work agency, we are reinforcing our commitment to protecting vulnerable workers and ensuring that modern slavery offences are actively pursued.

Moreover, the amendment will guarantee that the dedicated focus on tackling labour exploitation is preserved even as responsibilities shift. The fair work agency will now serve as the central body for enforcing these laws, and it is critical that its operations are fully equipped to carry forward the work done by the Gangmasters and Labour Abuse Authority, particularly in investigating and preventing cases of modern slavery.

I would like to take this opportunity to ask the Minister for a more detailed assessment of how the creation of the fair work agency will enhance our ability to identify and prevent modern slavery offences. Given the increasing complexity of labour exploitation and the fact that modern slavery offences often take place in hidden, clandestine environments, the need for a robust, dedicated enforcement body is more pressing than ever.

The Parliamentary Under-Secretary of State for Business and Trade (Justin Madders): It is a pleasure to see you in the Chair, Ms Vaz, and I wish you a happy new year too. I refer Members to my entry in the Register of Members' Financial Interests.

I will not detain the Committee long, as I think the support from Opposition Members for the amendment is clear. Before lunch, the hon. Member for Mid Buckinghamshire asked how this measure will make things more effective. I refer him to the evidence given by a number of stakeholders, including the Director of Labour Market Enforcement, Margaret Beels, who explained that the current fragmented system makes it difficult to ensure that intelligence is shared correctly. The hon. Member for Bridgwater used the word "clandestine". A lot of the people engaged in labour market abuses are operating under the radar, and therefore anything we can do to ensure that intelligence is shared and resources are combined has to be a good thing, so that these abuses are stamped out.

Amendment 204 agreed to.

Question proposed, That the schedule, as amended, be the Seventh schedule to the Bill.

Justin Madders: I will not detain the Committee long, as we have debated schedule 7 and the amendments to it at length.

Part 5 of the Bill lays the groundwork for the creation of the fair work agency. As a result, it will abolish the Gangmasters and Labour Abuse Authority and the

Director of Labour Market Enforcement. Schedule 7 sets out transitional and savings provisions that we need in place to set up the new body. Part 1 of schedule 7 gives powers to the Secretary of State to make transfer schemes to move staff, property, rights and liabilities of the GLAA and the DLME to the Secretary of State, and part 2 provides for other necessary transitional provisions, such as to ensure that smooth sharing of information can continue and to retain provisions that devolved legislation relies on.

Greg Smith (Mid Buckinghamshire) (Con): It is a pleasure to see you in the Chair, Ms Vaz. I wish you a happy new year, too. As the Minister said, we have debated schedule 7 in some depth through the various amendments to it, so I have nothing further to add.

Question put and agreed to.

Schedule 7, as amended, accordingly agreed to.

Clause 111

MEANING OF "NON-COMPLIANCE WITH RELEVANT LABOUR MARKET LEGISLATION"

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 112 stand part.

Justin Madders: These clauses set out a single set of investigatory and enforcement powers that inspectors will have to carry out their job of enforcing the list of labour market legislation in part 1 of schedule 4.

Clause 111 defines what constitutes non-compliance with relevant labour market legislation. It provides a clear definition of non-compliance, ensuring consistency and transparency in enforcement actions. It therefore underpins the enforcement purposes of the Bill.

Clause 112 defines the key terms used throughout part 5 of the Bill relating to the governance of the fair work agency, including the concepts of the advisory board, the enforcement function and the role of an enforcement officer under clauses 75, 73 and 72, respectively. Other key terms defined by the clause include labour market enforcement undertakings and orders, "non-compliance with relevant labour market legislation" and "labour market offence". It does not introduce any additional policy, but it is a necessary and normal part of the Bill to ensure that it is functional.

Greg Smith: The clauses give some rare clarity to the Bill. Clause 112, in particular, goes into significant detail, which His Majesty's loyal Opposition of course welcome.

Question put and agreed to.

Clause 111 accordingly ordered to stand part of the Bill.

Clause 112

INTERPRETATION: GENERAL

Amendment made: 205, in clause 112, page 102, line 7, at end insert—

"'GCHQ' has the same meaning as in the Intelligence Services Act 1994;

'intelligence service' means—

(a) the Security Service;

(b) the Secret Intelligence Service;

(c) GCHQ;".—*(Justin Madders.)*

This amendment defines "GCHQ" and "intelligence service" for the purposes of Part 5 of the Bill.

Clause 112, as amended, ordered to stand part of the Bill.

New Clause 5

STATUTORY SICK PAY IN NORTHERN IRELAND: REMOVAL OF WAITING PERIOD

"(1) Part 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (statutory sick pay) is amended as follows.

(2) In section 147(1) (employer's liability), for 'sections 148 to 150' substitute 'sections 149 and 150'.

(3) In section 148 (period of incapacity for work)—

(a) omit subsection (1);

(b) in subsection (2), for the words from 'any' to 'is' substitute 'a period of one day which is, or of two or more consecutive days each of which is,'.

(4) In section 149(1) (period of entitlement), for 'second' substitute 'first'.

(5) In section 150(1) (qualifying days), for 'third' substitute 'second'.

(6) In section 151 (limitations on entitlement), omit subsection (1).

(7) In section 152(2) (notification of incapacity for work), omit paragraph (b) (and the 'or' at the end of paragraph (a)).".—*(Justin Madders.)*

This new clause makes the same provision for Northern Ireland as is made by clause 8 of the Bill for Great Britain. It is intended that this new clause and NC6 be inserted after clause 9.

Brought up, read the First and Second time, and added to the Bill.

New Clause 6

STATUTORY SICK PAY IN NORTHERN IRELAND: LOWER EARNINGS LIMIT ETC

"(1) Part 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (statutory sick pay) is amended as follows.

(2) In section 153 (rate of payment)—

(a) for subsection (1) substitute—

'(1) The weekly rate of statutory sick pay that an employer must pay to an employee is the lower of—

(a) £116.75, and

(b) the prescribed percentage of the employee's normal weekly earnings.';

(b) in subsection (2)—

(i) omit the 'and' at the end of paragraph (a);

(ii) after paragraph (a) insert—

'(aa) prescribe a percentage, or percentages, for the purposes of subsection (1)(b);'.

(3) In Schedule 11 (circumstances in which periods of entitlement to statutory sick pay do not arise), in paragraph 2, omit paragraph (c) (lower earnings limit).".—*(Justin Madders.)*

This new clause makes the same provision for Northern Ireland as is made by clause 9 of the Bill for Great Britain.

Brought up, read the First and Second time, and added to the Bill.

New Clause 7

EMPLOYMENT OUTSIDE GREAT BRITAIN

"In section 285 of the Trade Union and Labour Relations (Consolidation) Act 1992 (employment outside Great Britain)—

(a) in subsection (1), before 'works' insert 'ordinarily';

(b) in subsection (1A), before 'works' insert 'ordinarily'."

—(Justin Madders.)

This new clause would correct omissions of the word "ordinarily" in provisions of section 285 of the Trade Union and Labour Relations (Consolidation) Act 1992.

Brought up, and read the First time.

Justin Madders: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government amendment 110.

Justin Madders: New clause 7 and amendment 110 have been tabled to fix an apparent drafting error in the Trade Union and Labour Relations (Consolidation) Act 1992. The Committee has already debated a Government amendment to section 285(1B) of that Act, which will close a loophole in the requirement to notify the UK Government of collective redundancies for foreign-flagged ships.

New clause 7 and amendment 110 concern subsections (1) and (1A) of the same section. Section 285(1) currently disapplies the collective redundancy notification requirements and certain other requirements for employees who are "working"—as opposed to "ordinarily working"—outside Great Britain, and section 285(1A) disapplies the requirements of sections 145A to 151 of the 1992 Act,

"where under his contract personally to do work or perform services a worker who is not an employee works outside Great Britain."

This, unfortunately, could have the effect of excluding employees who spend any of their working time outside the UK from the requirements of the legislation. I apologise, as that appears to have been a drafting oversight.

New clause 7 will introduce the word "ordinarily" ahead of the words "works outside Great Britain", which will ensure that employees who spend some of their working time outside the UK or its territorial workers will not be excluded from the legislation. I hope that Members can see that this is an important and necessary change.

Greg Smith: New clause 7, as the Minister outlined, will correct omissions of the word "ordinarily" in provisions of section 285 of the Trade Union and Labour Relations (Consolidation) Act 1992. Amendment 110 would bring new clause 7 into force two months after Royal Assent. The only real question that follows that is: could the Minister clarify why it is necessary to commence this measure earlier than the usual three months?

Justin Madders: The shadow Minister has been eagle-eyed and spotted the difference there. I am not aware of whether there is any specific reason, other than that, although this measure is quite important in its scope, it will not actually have too much of a practical day-to-day effect. As always, I will write to him if there is any more information that I can give him about the difference.

Question put and agreed to.

New clause 7 accordingly read a Second time, and added to the Bill.

New Clause 8

POWER TO ENTER DWELLING SUBJECT TO WARRANT

"(1) An enforcement officer may not by virtue of section 79 enter any dwelling unless a justice has issued a warrant authorising the officer to enter the dwelling.

(2) A justice may issue a warrant under this section only if, on an application by the officer, the justice is satisfied—

(a) that the officer has reasonable grounds to believe that—

(i) there are documents in the dwelling which for any enforcement purpose the officer wishes to inspect, examine or seize, or

(ii) there is computer or other equipment in the dwelling to which the officer wishes to have access for any enforcement purpose, and

(b) that any of the conditions in subsection (3) is satisfied.

(3) The conditions are—

(a) that it is not practicable to communicate with any person entitled to grant entry to the dwelling;

(b) that it is not practicable to communicate with any person entitled to grant access to the documents or equipment;

(c) that entry to the dwelling is unlikely to be granted unless a warrant is produced;

(d) that the purpose of entry may be frustrated or seriously prejudiced unless an enforcement officer arriving at the dwelling can secure immediate entry to it.

(4) In this section—

'enforcement purpose' has the same meaning as in section 79;

'justice' means—

(a) in relation to England and Wales, a justice of the peace;

(b) in relation to Scotland, a sheriff or summary sheriff;

(c) in relation to Northern Ireland, a lay magistrate.

(5) For further provision about warrants under this section, see section (*Warrants*) and Schedule (*Warrants under Part 5: further provision*)."*—(Justin Madders.)*

This new clause provides that an enforcement officer may not exercise the power conferred by clause 79 to enter premises that are a dwelling without first obtaining a warrant.

Brought up, read the First and Second time, and added to the Bill.

New Clause 9

WARRANTS

"(1) A warrant under section (*Power to enter dwelling subject to warrant*) or 83 may be executed by any enforcement officer.

(2) A warrant under section (*Power to enter dwelling subject to warrant*) or 83 may authorise persons to accompany any enforcement officer who is executing it.

(3) A person authorised under subsection (2) to accompany an enforcement officer may exercise any power conferred by this Part which the officer may exercise as a result of the warrant.

(4) But the person may exercise such a power only in the company of, and under the supervision of, an enforcement officer.

(5) Schedule (*Warrants under Part 5: further provision*) contains further provision about—

(a) applications for warrants under section (*Power to enter dwelling subject to warrant*) or 83, and

(b) warrants issued under section (*Power to enter dwelling subject to warrant*) or 83.

(6) The entry of premises under a warrant issued under section (*Power to enter dwelling subject to warrant*) or 83 is unlawful unless it complies with the provisions of Part 3 of that Schedule (execution of warrants)."*—(Justin Madders.)*

This new clause makes further provision about warrants under Part 5. It enables warrants to authorise people to accompany the enforcement officer executing the warrant. It also provides that entry under a warrant is unlawful unless it complies with provisions of NS1 relating to the execution of warrants.

Brought up, read the First and Second time, and added to the Bill.

New Clause 10

INCREASE IN TIME LIMITS FOR MAKING CLAIMS

"Schedule (*Increase in time limits for making claims*) makes amendments for the purpose of increasing time limits for making claims in employment tribunals in Great Britain (and, in certain cases, industrial tribunals in Northern Ireland) from three months to six months."—*(Justin Madders.)*

This new clause would introduce NS2.

Brought up, read the First and Second time, and added to the Bill.

New Clause 11

ORDERS AND REGULATIONS UNDER EMPLOYMENT RIGHTS ACT 1996: PROCEDURE

"In section 236 of the Employment Rights Act 1996 (orders and regulations), after subsection (4) insert—

'(4A) A statutory instrument containing an order or regulations under this Act to which subsection (3) applies may include an order or regulations under this Act to which subsection (3) would not otherwise apply.

(4B) In such a case, the statutory instrument is to be proceeded with as if all of the orders and regulations contained in it were orders or regulations to which subsection (3) applies.'"—*(Justin Madders.)*

This new clause, to be inserted into Part 6 of the Bill, would enable the combination of orders or regulations under the Employment Rights Act 1996 that would otherwise be subject to different Parliamentary procedures (or no Parliamentary procedure) in a statutory instrument subject to the affirmative procedure.

Brought up, read the First and Second time, and added to the Bill.

New Clause 48

SEAFARERS' WAGES AND WORKING CONDITIONS

"Schedule (*Seafarers' wages and working conditions*) amends the Seafarers' Wages Act 2023."—(Justin Madders.)

This new clause introduces the Schedule proposed to be inserted by NS3.

Brought up, and read the First time.

2.15 pm

Justin Madders: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

Government new clause 52—*International agreements relating to maritime employment*.

Government new schedule 3—*Seafarers' wages and working conditions.*

Government amendments 206 to 209.

Justin Madders: This group concerns the mandatory seafarers' charter and amendments to international maritime convention measures. New schedule 3, and consequential amendments new clause 48 and Government amendments 206 to 208, deliver on our commitment to introduce a legally binding seafarers' charter. The actions of P&O Ferries in 2022, when it sacked almost 800 seafarers in order to replace them with agency workers on much worse terms and conditions, highlighted the lack of protections for those working on the frequent international services that keep our country moving.

We are expanding the scope of the Seafarers Wages Act 2023, which will become the Seafarers (Wages and Working Conditions) Act 2023. The Act currently makes payment of the national minimum wage equivalent for work in UK waters a condition of port access for international services that call at a UK port at least 120 times a year. It does that by requiring harbour authorities to request declarations from operators to confirm that they are paying the national minimum wage equivalent, or they will impose surcharges each time a vessel enters the port. Non-payment of surcharges will result in access to the port being refused.

The new schedule introduces provisions that, once the necessary regulations have been made, will require harbour authorities to also request safe working declarations and remuneration declarations from operators in scope. Operators will be required to confirm that they are meeting the requirements of those declarations, which will be set out in regulations. We will consult on the requirements and the services they will apply to in due course.

Safe working regulations can specify conditions relating to working patterns and rest requirements, including maximum periods of work and minimum periods of rest. They can also require operators to produce fatigue management plans, and make provision relating to safety training of seafarers. Remuneration regulations may specify requirements relating to the remuneration of seafarers, whether in UK waters or outside them. Where we are able to make agreements with other countries about pay on routes between us and them, this provision will allow us to enforce those agreements. Operators that provide false or misleading declarations, or act inconsistently with declarations, will be guilty of an offence under the Seafarers Wages Act. The Maritime and Coastguard Agency will be responsible for enforcing those offences, as it is for the existing provisions of the Act.

The new schedule represents a proportionate and necessary approach to ensuring that the seafarers who serve our country are not subject to dangerous or unfair working conditions. It will level the playing field by setting an appropriate minimum standard for seafarers, which will ensure that good employers are not undercut by those willing to exploit their workers.

I turn to new clause 52. The UK has a proud and long-standing reputation as a maritime nation, and is a leader on the global stage in matters of international maritime employment law. To maintain that position, it is crucial that we are able to keep pace with the international conventions that we have ratified and meet our future obligations. The new clause will fix a powers gap that was left following Brexit. It will give us the powers to make regulations under the negative procedure giving effect to the maritime labour convention and the work in fishing convention, and to make regulations giving effect to any other international agreements ratified in the UK relating to maritime employment. The first time that regulations are made in relation to a particular agreement, they will be subject to the affirmative procedure, and subsequent regulations relating to that agreement will be subject to the negative procedure.

[Justin Madders]

The new clause allows for regulations to make the necessary provisions to give effect to the conventions in question. For example, it allows for regulations to make provision relating to monitoring compliance, and to criminal offences and detention of ships for contravention of provisions in the regulations. It may not represent any changes in Government policy, but it will allow us to uphold our existing obligations and any future obligations under conventions that the UK may choose to ratify.

Greg Smith: New clause 48 introduces the schedule to be inserted by new schedule 3, which in turn amends the Seafarers Wages Act 2023 to give the Secretary of State power to make regulations specifying conditions relating to the wages and working conditions of seafarers who work on ships providing the services currently covered by that Act. Those conditions are enforceable in the same way as existing provisions of the Act. Amendment 208 is consequential on new schedule 3. Amendment 207 states the extent of the new chapter to be formed by new clause 48 and new schedule 3, extending it United Kingdom-wide. Amendment 206 is consequential.

New clause 52 inserts into the Merchant Shipping Act 1995 powers for the Secretary of State to make regulations to give effect to the maritime labour convention, adopted on 23 February 2006, to the work in fishing convention, adopted on 14 June 2007, and to future international agreements that relate to the employment of masters and seamen.

Let me turn to the substance. As I said, the maritime labour convention was adopted on 23 February 2006, and the work in fishing convention on 14 June 2007, so the first question is why the then Labour Government did not see fit to introduce provision in legislation in the first place? Will the Minister explain why it is necessary to legislate to give the Secretary of State sweeping powers to

"by regulations make such provision as the Secretary of State considers appropriate for the purpose of giving effect"

to those two conventions? Precisely what regulations are needed?

Will the Minister give the Committee specific examples of the regulations that the Government intend to make under this power, and justify them? I do not think it is good enough for us to be in this position. Notwithstanding the usual comments the Minister makes about not predetermining consultations and about talking to stakeholders at a later point, this is one of those areas where we need concrete examples of where he expects to go.

A key reason for my asking is that article IV of the maritime labour convention, on seafarers' employment and social rights, states:

"1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.

2. Every seafarer has a right to fair terms of employment.

3. Every seafarer has a right to decent working and living conditions on board ship.

4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection."

Will the Minister explain which of the rights I just outlined are not already enforceable under United Kingdom law? Is there difficulty with implementing any of the implementation and enforcement responsibilities in article V?

Will the Minister further explain whether any of the provisions of the work in fishing convention are currently unenforceable under United Kingdom law—I seek just one example—and if so, what specific changes would be needed to enforce them? I ask because I do not think that is clear from any of the new clauses, the new schedule or the amendments that we are considering in this group.

New clause 52 also takes sweeping powers for the Secretary of State, who can make regulations that

"may make provision in respect of the checking or monitoring of compliance with any provision of the regulations, including (among other things) provision for—

(a) the making and keeping of records and the keeping of documents;

(b) the issue of certificates;

(c) the furnishing of information."

What on earth is encompassed by "the furnishing of information"? That seems like a very vague term to be put on to the statute book. To what intrusive or burdensome use is the Secretary of State planning to put this power? Precisely what does the Minister mean by it?

To convince the Committee that these powers are necessary, can the Minister name one occasion on which the Government's ability to enforce the provisions of the maritime labour convention has been found wanting, and in what respect? If such an example exists, could the Government better target the powers in proposed new section 84B(4) of the Merchant Shipping Act 1995 to actually solve the problem, rather than allow a Government free-for-all?

This is not a trivial matter, as proposed new section 84B(5) allows the Government to

"provide for the detention of a ship in respect of which a contravention of the regulations is suspected to have occurred".

Will the Minister explain how long such a detention might last? How great an infraction would need to have been committed for a ship to be detained?

As if the Government had not hoarded enough power through this new clause, proposed new section 84B(8) contains the real kicker, stating that regulations may

"make different provision for different purposes".

Will the Minister explain the limits on this power? That language is far too woolly and loose to be contained in any piece of primary legislation in this country.

I also do not think it is appropriate that regulations to

"make such provision as the Secretary of State considers appropriate for the purpose of giving effect to an international agreement that has been ratified by the United Kingdom, so far as the agreement relates to maritime employment"

should be subject to the negative procedure. The regulations apply to international agreements that have not yet been entered into. Parliament should at least be guaranteed the ability to debate regulations that implementing such agreements. Otherwise, proposed new section 84B(13) is the very definition of a blank cheque.

The Government tabled new clause 52 just in time for debate today; we have been given very little opportunity to scrutinise it. Given the powers it takes for Ministers, I gently suggest that that is discourteous to the House. The least the Minister can do is provide answers to each of the questions I have posed, so that we are able to

understand a little better whether the new clause is even necessary and to what use Ministers actually intend to put the powers.

Sir Ashley Fox: The maritime labour convention, which was adopted on 23 February 2006, and the work in fishing convention, adopted on 14 June 2007, represent significant international agreements aimed at improving the working conditions and rights of seafarers and those working in the fishing industry. However, despite their adoption many years ago, the provisions in those conventions have not yet been fully legislated for within the UK framework.

One must ask why the previous Labour Government did not introduce this crucial provision into UK law during their time in office. The conventions were in existence long before the current Government came to power, and it is concerning that they were not prioritised earlier. What led to that omission, and why has it taken so long to bring them into the scope of our legislation? Given the importance of these rights, we must understand why it has taken so long for the Government to act on these matters.

New clause 52, which grants the Secretary of State broad and sweeping powers to, by regulations,

"make such provision as the Secretary of State considers appropriate for the purpose of giving effect"

to the maritime labour convention and the work in fishing convention, raises several questions. I would like to understand more about why it is deemed necessary to grant such wide-reaching power to the Secretary of State. Specifically, why does this provision allow for the creation of regulations that give the Secretary of State the authority to determine what should be done without offering a clear, predefined set of actions? It is important to explore whether such overreach is truly necessary and what specific circumstances justify such broad powers.

2.30 pm

A fundamental part of this debate revolves around the question: what regulations are actually required to implement the two conventions? Although the Government claim that the regulations are necessary to meet the commitments set out in the conventions, the Minister should provide specific examples of the types of regulations that the Government intend to create under this broad power. If he did so, the Committee would be better able to assess the scope and impact of the regulations and determine whether they are necessary.

Furthermore, the Government must be transparent in justifying the regulations they propose. It is essential for Parliament to know the precise nature of the regulations and how they will directly benefit seafarers and those working in the fishing industry. Article VI of the maritime labour convention outlines a series of fundamental rights for seafarers, including

"the right to a safe and secure workplace…fair terms of employment…decent working and living conditions on board ship"

and

"health protection, medical care, welfare measures and other forms of social protection."

Given that those rights are clearly outlined and vital to the protection of seafarers, I ask the Minister: which of them are not already enforceable under UK law? Are there specific gaps in current legislation that prevent their effective enforcement? If so, will the Government provide clarity as to why those gaps have persisted for so long, and what specific measures are now being introduced to address them?

Additionally, I would appreciate clarification on whether there are any difficulties in implementing the responsibilities outlined in article V of the maritime labour convention. This article focuses on the implementation and enforcement of the convention's provisions, which are essential for protecting workers in the maritime sector. Have the Government encountered challenges in enforcing the responsibilities under current law? If so, what specific issues have arisen, and how do the Government plan to resolve them? Providing these details will help us to better understand the need for the proposed legislative changes.

Will the Minister clarify whether any of the provisions of the work in fishing convention are currently unenforceable under UK law? If so, what specific provisions are problematic, and what changes will be required to ensure that they can be effectively enforced? Given the significant risks faced by workers in the fishing industry, it is crucial that the provisions are enforced, so Ministers should provide a clear outline of the steps the Government intend to take to close any gaps in enforcement.

New clause 52 also grants the Secretary of State the power to make regulations regarding

"the checking or monitoring of compliance"

with the provisions. That includes, among other things,

"provision for—

(a) the making and keeping of records and the keeping of documents;

(b) the issue of certificates;

(c) the furnishing of information."

The language used in the new clause is vague, and I am particularly concerned about the phrase "furnishing of information". What exactly does that entail? What types of information is the Secretary of State planning to collect, and how will it be used? Could this lead to unnecessary or intrusive burdens on businesses, workers or even individuals involved in maritime employment? The Minister must clarify what the power entails and provide reassurance that it will not lead to overreach or misuse.

To emphasise my concern further, I ask the Minister to point to any specific occasions when the Government's ability to enforce the provisions of the maritime labour convention has been found lacking. Can the Minister cite an example of where existing mechanisms were insufficient to uphold the conventions? If such an example exists, I suggest that we focus on targeting solutions directly at the root of the problem, rather than resorting to broad, unchecked powers, as provided for in proposed new section 84B(4). This warrants focused action, not a sweeping Government mandate.

The provision in proposed new section 84B(5), which allows the Government to

"provide for the detention of a ship in respect of which a contravention of the regulations is suspected",

raises serious concerns. Will the Minister explain in greater detail how such detention would work? Specifically, how long could a ship be detained under such a provision, and what types of infractions would trigger that action?

Detaining a vessel can have significant financial and operational consequences, so it is critical to understand the scope and limits of the power.

Furthermore, proposed new section 84B(8) states that the regulations may make

"different provision for different purposes."

What limits are in place to ensure that this power is not used in an arbitrary or disproportionate way? It is essential for Parliament to understand the boundaries of the power and to ensure that it cannot be misused in the future. This is not so much a Henry VIII clause as a Louis XIV clause, allowing the Government to do precisely what they like without any restriction of any description whatsoever.

I have serious concerns about the fact that regulations to implement international agreements, including those relating to maritime employment, are subject to the negative procedure. That means that Parliament could be denied the opportunity to debate the regulations in detail. Given the significant impact of the regulations on workers and employers alike, Parliament should be guaranteed the ability to discuss and scrutinise them thoroughly. The current approach of granting Ministers unchecked power is concerning and, as I have outlined, leaves little room for proper oversight.

Moreover, the Government have introduced new clause 52 with very little opportunity for us to scrutinise its content. This rushed approach to legislation is discourteous to the House and undermines the democratic process. With so many critical powers being handed to Ministers, we should have been given ample time to examine the proposal and assess its implications fully. We as lawmakers need to be able to better understand the necessity and potential consequences of the new clause.

Justin Madders: We have heard two similar speeches from the Opposition that have raised a number of similar questions. The first question is: why do we need this? The whole suite of amendments and new clauses are in response to concerns that were rightly highlighted by all parties in condemning the P&O debacle and its underlying motives to undercut existing UK workers and employment laws by transferring people to lower terms and conditions. It is about stopping that race to the bottom. Members will recall the evidence from representatives of the sector in Committee sittings in November. They welcomed the provisions and were keen to see them introduced, because they wanted a level playing field. They did not want to be undercut by people who would seek to pay their staff the minimum necessary. It is about creating a level playing field and putting safeguards in place.

I point out to Opposition Members that the conventions are already UK law. The measures in this group seek to ensure that when they are amended in future, there will be an opportunity to update our own laws to reflect any changes in the conventions. It was a fair question from the shadow Minister to ask what the conventions cover, and they obviously look at it important issues such as maximum hours of work, medical care, accommodation and access to food and drinking water. The maritime labour convention has been amended several times, with new requirements coming in only last month for seafarers to be provided with food and drinking water free of charge during their engagement, as well as provisions in relation to personal protective equipment and ensuring that they have access to social connectivity while at sea.

The new measures are important to improve the working conditions of seafarers, and we currently do not have a mechanism to update our own laws to reflect them. Previously, when we were a member of the EU, the treaties were considered to be community treaties, which meant they were dealt with through regulations. We now need powers in our own legislation to ensure that we can keep up to date with developments in maritime law and protections.

The shadow Minister asked how the powers might be used. Several amendments have been proposed to the convention, including to strengthen seafarers' access to shore leave and improving protections against bullying and sexual harassment. We need to ensure that the powers in the legislation enable us to keep up with those important protections.

Both Opposition Members mentioned the phrase

"different provision for different purposes".

My understanding is that the power relates to the implementation of changes to the conventions rather than a broader power, as was suggested.

The point about the negative procedure was noted. The drafting indicates that the initial implementation of regulations will be done by the affirmative procedure and thereafter changes to the law will be made by the negative procedure on the basis that those will be much more modest. The hon. Member for Mid Buckinghamshire is welcome to table an amendment on Report if he thinks that the affirmative procedure should apply to all those issues.

There was a question about furnishing records. If we are going to ensure compliance with international obligations, it is important that those subject to them can document their compliance with the regulations. There is therefore a power to ensure that those records are produced to demonstrate compliance. That is not a departure from the existing arrangements.

There was a general question about the detention of ships. Existing regulations and implementation of the conventions allow for detention to continue or to be introduced where there is concern about compliance or about the health, safety and welfare of those on board the ships. I cannot give any examples of when that has been used, but I recall back in the depths of time a number of occasions when ships were stuck in port for a considerable time. I would have to check whether that was under this regulation, but I can send the hon. Member for Bridgwater further details.

The powers that we seek to introduce are important to make sure that we keep up to date with the latest developments in international maritime law. It is important that there is a level playing field and that people doing this difficult and important work are protected. We must ensure that we never have a situation where employers such as P&O attempt a race to the bottom and we must ensure that standards are maintained across the board. On that basis, I commend these amendments to the Committee.

Question put and agreed to.

New clause 48 accordingly read a Second time, and added to the Bill.

New Clause 49

INFORMATION RELATING TO THE INTELLIGENCE SERVICES, ETC

"(1) A power conferred by section 78 or 79 may not be exercised in relation to a person serving in an intelligence service unless the Secretary of State certifies that the condition in subsection (3) is met in relation to the power.

(2) A power of entry conferred by this Part may not be exercised in relation to any premises (or any part of premises) used for the purposes of an intelligence service unless the Secretary of State certifies that the condition in subsection (3) is met in relation to the power.

(3) The condition in this subsection is met in relation to a power if the Secretary of State is satisfied that the exercise of the power will not be contrary to the public interest or prejudicial to—

(a) national security,

(b) the prevention or detection of serious crime, or

(c) the economic well-being of the United Kingdom.

(4) A certificate issued under this section in relation to a power may impose conditions on the exercise of the power.

(5) Except as provided for by subsection (1), nothing in this Part requires any person to—

(a) produce any document containing intelligence service information, or

(b) provide any information that is intelligence service information.

(6) For the purposes of this section—

(a) 'crime' means conduct which—

(i) constitutes a criminal offence, or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute a criminal offence;

(b) crime is 'serious' if—

(i) the offence which is or would be constituted by the conduct is an offence for which the maximum sentence (in any part of the United Kingdom) is imprisonment for three years or more, or

(ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose;

(c) 'intelligence service information' means information obtained directly or indirectly from, or that relates to, an intelligence service or a person acting on behalf of an intelligence service.".—*(Justin Madders.)*

This new clause would restrict the ability of the Secretary of State to exercise enforcement powers in relation to people serving in the intelligence services unless it had been certified that there was no risk to national security, etc. It would also restrict the ability of the Secretary of State to require others to provide documents or information relating to the work of the intelligence services.

Brought up, read the First and Second time, and added to the Bill.

New Clause 50

PROVIDING FALSE INFORMATION OR DOCUMENTS: NATIONAL SECURITY ETC DEFENCE

"(1) A person in relation to whom a certificate is issued by the Secretary of State for the purposes of this section is not liable for the commission of an offence under section 103 (offence of providing false information or documents).

(2) The Secretary of State may issue a certificate in relation to a person for the purposes of this section only if satisfied that it is necessary for the person to engage in conduct amounting to such an offence—

(a) in the interests of national security,

(b) for the purposes of preventing or detecting serious crime, or

(c) in the interests of the economic well-being of the United Kingdom.

(3) A certificate under this section may be revoked by the Secretary of State at any time.

(4) For the purposes of subsection (2)(b)—

(a) 'crime' means conduct which—

(i) constitutes a criminal offence, or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute a criminal offence, and

(b) crime is 'serious' if—

(i) the offence which is or would be constituted by the conduct is an offence for which the maximum sentence (in any part of the United Kingdom) is imprisonment for three years or more, or

(ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.".—*(Justin Madders.)*

This new clause would provide a defence to the offence in Clause 103 of providing false information or documents in response to a requirement imposed by the Secretary of State under Part 5 of the Bill. The defence would apply if the Secretary of State certified that the conduct in question was necessary in the interests of national security or for certain other limited reasons.

Brought up, read the First and Second time, and added to the Bill.

New Clause 52

INTERNATIONAL AGREEMENTS RELATING TO MARITIME EMPLOYMENT

"(1) The Merchant Shipping Act 1995 is amended as follows.

(2) After section 84 insert—

'PART 3A

INTERNATIONAL AGREEMENTS RELATING TO MARITIME EMPLOYMENT

84A International agreements relating to maritime employment

(1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for the purpose of giving effect to—

(a) the Maritime Labour Convention, adopted on 23 February 2006 by the International Labour Organisation, as it has effect from time to time;

(b) the Work in Fishing Convention, adopted on 14 June 2007 by the International Labour Organisation, as it has effect from time to time.

(2) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for the purpose of giving effect to an international agreement that has been ratified by the United Kingdom, so far as the agreement relates to maritime employment.

(3) The power in subsection (2) to give effect to an agreement so far as it relates to maritime employment includes power to give effect to any amendments of the agreement that relate to maritime employment.

(4) For the purposes of this section, a provision relates to maritime employment if it relates to the terms and conditions of employment or engagement, or working conditions, of masters or seamen.

(5) Section 84B makes further provision with respect to the regulations that may be made under this section.

84B Regulations under section 84A: supplementary

(1) In subsections (2) to (9) "regulations" means regulations under section 84A.

(2) Regulations—

(a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or that other person considers relevant;

(b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval;

(c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.

(3) Regulations may make provision for—

(a) the granting by the Secretary of State or another person of exemptions from specified provisions of the regulations for classes of case or individual cases, on such terms (if any) as the Secretary of State or that other person may specify, and

(b) for the alteration or cancellation of such exemptions.

(4) Regulations may make provision in respect of the checking or monitoring of compliance with any provision of the regulations, including (among other things) provision for—

(a) the making and keeping of records and the keeping of documents;

(b) the issue of certificates;

(c) the furnishing of information.

(5) Regulations may—

(a) provide for the detention of a ship in respect of which a contravention of the regulations is suspected to have occurred;

(b) apply section 284 with or without modifications in relation to such detentions.

(6) Regulations may provide for the contravention of any provision of the regulations to be a criminal offence, but may not provide—

(a) for an offence under the regulations to be punishable on summary conviction with imprisonment;

(b) in relation to Scotland or Northern Ireland—

(i) for an offence under the regulations that is triable only summarily to be punishable by a fine exceeding level 5 on the standard scale;

(ii) for an offence under the regulations that is triable summarily or on indictment to be punishable on summary conviction by a fine exceeding the statutory maximum;

(c) for an offence under the regulations to be punishable on conviction on indictment with imprisonment for a term exceeding two years.

(7) Regulations may provide that, in specified cases, specified persons each commit an offence created by regulations in reliance on subsection (6).

(8) Regulations may—

(a) make different provision for different purposes;

(b) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;

(c) provide for the delegation of functions exercisable by virtue of the regulations.

(9) The power to make regulations includes power to make consequential, supplementary, incidental or transitional provision.

(10) The powers conferred by section 84A to make provision for the purpose of giving effect to an agreement or an amendment of an agreement include power to provide for the provision to come into force although the agreement or amendment has not come into force.

(11) Nothing in this section is to be construed as restricting the generality of the powers conferred by section 84A.

(12) A statutory instrument which—

(a) contains (whether alone or with other provision) regulations under section 84A(2), and

(b) is the first exercise of the power in respect of a particular agreement,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(13) A statutory instrument which—

(a) contains regulations under section 84A(2), and

(b) is a subsequent exercise of the power in respect of a particular agreement,

is subject to annulment in pursuance of a resolution of either House of Parliament.'

(3) In section 306 (regulations etc), in subsection (2A)(a), after 'section' insert '84A(2),'."—*(Justin Madders.)*

This new clause inserts into the Merchant Shipping Act 1995 powers for the Secretary of State to make regulations to give effect to two named international maritime Conventions, and to future international agreements that relate to the employment of masters and seamen.

Brought up, read the First and Second time, and added to the Bill.

New Clause 2

PRISON OFFICERS: INDUCEMENTS TO WITHHOLD SERVICES

"In section 127 of the Criminal Justice and Public Order Act 1994 (Inducements to withhold services or to indiscipline)—

(a) in subsection (1), omit paragraph (a);

(b) omit subsection (1A);

(c) omit subsection (7)."—*(Mr Bedford.)*

This new clause would repeal provisions in the Criminal Justice and Public Order Act 1994 that prohibit inducing a prison officer to take (or continue to take) any industrial action.

Brought up, and read the First time.

2.45 pm

Mr Peter Bedford (Mid Leicestershire) (Con): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 3—*Inducement of prison officers: exempted persons*—

"After section 127A of the Criminal Justice and Public Order Act 1994 (inducements to withhold services or to indiscipline), insert—

'*Section 127B: Prison officers and trade unions: exempted persons*

Section 127 (inducements to withhold services or to indiscipline) does not apply to—

(a) Any listed trade union representing prison officers, or

(b) any person acting on behalf of a listed trade union representing prison officers.'"

This new clause would repeal, with respect to trade unions representing prison officers, provisions that prohibit the inducement of industrial action or indiscipline by a prison officer.

Amendment 2, in clause 118, page 104, line 32, at end insert—

"(aa) section [*Prison officers: inducements to withhold services*];".

This is a consequential amendment to NC2 to ensure the implementation of the repeal of relevant provisions in the Criminal Justice and Public Order Act 1994.

Amendment 3, in clause 118, page 104, line 32, at end insert—

"(aa) section [*Inducement of prison officers: exempted persons*];".

This is a consequential amendment to NC3, to ensure its implementation.

Mr Bedford: It is a pleasure to serve under your chairmanship, Ms Vaz. Why am I moving a new clause tabled in the name of the right hon. Member for Hayes and Harlington (John McDonnell)? I asked myself that question. I believe that it is important that the Committee hear and debate in full every proposed amendment to this truly awful Bill. Indeed, this is why my constituents in Mid Leicestershire sent me to this place. They likely knew what the make-up of the House of Commons, and therefore the composition of this Committee, would be after the election. I believe they would want me to hold the Government to account, particularly on legislation such as this.

Even though I find the views of the right hon. Member for Hayes and Harlington completely unagreeable, he has been sent to this place to put on record what he believes is right. It will be interesting to see how many on the Government side agree with his new clauses. In layman's terms, new clauses 2 and 3 relate to allowing prison officers the right to strike. I am sure their instinct is to support these new clauses. I will take the time to outline why I believe this would be a step in the wrong direction.

Prisons are essential for every functioning society. They serve out punishment, act as a deterrent and reform offenders. The prison guard—or screw, to use the colloquial vernacular—plays a crucial role in maintaining these key purposes. In 2024, there were more than 23,614 prison guards in England and Wales. This increased by 5,000 during the term of the last Conservative Government. I am sure that everyone on the Committee will be thankful for the work of Conservative colleagues in increasing that total.

Anecdotally, when I speak to residents in my Mid Leicestershire constituency, a large majority believe that prison officers do a great job and should be commended for all they do to keep us safe. Although my constituency does not have an active prison within its boundaries, there are three nearby in the county of Leicestershire. First, there is HMP Gartree, which is located to the south-east of Leicester city, a short drive from Mid Leicestershire. It is a category B prison and has had some notable inmates over the last 60 years. There is also HMP Fosse Way, which is a category C prison located to the south of the city. Finally, there is HMP Leicester, a category B prison in the city centre that hosts more than 400 inmates. In fact, the strange castle design of the prison leads to many tourists visiting it and taking photos.

The prisons offer three incredible employment opportunities for my constituents in Mid Leicestershire, but I fundamentally believe that they would be deeply concerned about the provisions in these new clauses. What would happen in these prisons on strike day? Would prisoners be able to do as they pleased? Would they be left in their cells? Who would be there to care for them if something terrible—

Justin Madders: On a point of order, Ms Vaz. Is it in order for a Member to move a new clause and then speak against it?

The Chair: I am waiting to hear what the hon. Member says when he gets to the end of his remarks.

Mr Bedford: Thank you, Ms Vaz. Who would be there to care for them if something terrible were to happen? Most importantly, for my constituents, who is there to stop these prisoners getting out of the prison grounds? We could have a situation whereby, within a short journey of Mid Leicestershire, hundreds of inmates are on the run. Furthermore, with the funding settlement that the Government have announced for rural areas such as Mid Leicestershire, it is questionable whether the police would be able to catch those who have escaped.

It appears that my opinion is not unique. YouGov has been polling the UK public on the matter since August 2019, when 52% of the public thought that prison guards should not be able to strike. Incredibly, even through tough times, that figure has increased to 54%.

I believe that the public would be particularly sceptical about new clauses 2 and 3 because of the riots that they have seen on prison grounds, which unfortunately have happened even when prison officers have been on the premises. For example, many remember the riots at Strangeways in 1990, which were caused by poor officer-prisoner relations and poor conditions on prison grounds.

I am also concerned about the two-tier impact on police and prison officers. The policing profession is intrinsically linked to that of prison officers. Police officers are at the heart of keeping the public safe. Police officers throughout the UK join the profession willingly and, because of their professionalism, accept that they will never be able to strike. Police officers throughout the UK know how important it is to keep the public safe. In fact, many police officers I talk to express their annoyance at how little they can do to fight real crime when a lot of their time is taken up by other issues, such as non-crime hate incidents and investigating dubious posts on social media.

However, the crux of the argument against new clauses 2 and 3 is public safety and the lack of supervision should they be accepted. I therefore hope that they are not added to the Bill.

Steve Darling (Torbay) (LD): I am sure that my residents would be horrified that these proposals are seeing the light of day in the Committee. I am shocked that Conservative Members are putting them out there. I expected us just to pass on by them, but I want to make sure that it is on the record that the Liberal Democrats do not support these rather peculiar proposals, which have only seen the light of day thanks to a Conservative Member.

Justin Madders: There are approximately 170,000 words in the "Oxford English Dictionary", but I am struggling to find one to adequately encapsulate the speech by the

[Justin Madders]

hon. Member for Mid Leicestershire. It is clearly a novel approach to a Bill Committee to move an amendment and then speak against it. I do not think anything he said would have persuaded me the other way had I not already been minded to oppose the new clauses, although he did his best.

It is important that we put on the record our appreciation for the work of prison officers. They work in difficult environments every day, dealing with very challenging people, and we recognise that they are critical to keeping the public safe. Under the current legislation, prison officers are prevented from taking industrial action, and their pay is governed by the independent Prison Service Pay Review Body, which acts as a compensatory mechanism for that restriction. Indeed, one of the first actions of this Government was to accept the pay review body recommendations for 2024-25, and we delivered on our commitment to launch the 2025-26 pay review body process in September, three months earlier than the previous Government did. Our written evidence to the body for the next pay round was published on 10 December, paving the way for a timely pay round. We are well positioned for that process to conclude. We need to ensure that everyone who works in a prison has the right to decent conditions and a fair reward for their hard work. The Government are committed to achieving that, but I believe that we can do so without the need for legislative change.

Prison officers are essential to maintaining order and control in prisons. A withdrawal of their services, as we have heard, even if only partial, would create a risk to order and to the life and limb of individuals. There are limited contingency plans in place to deal with strike action and, during such incidents, reliance on a narrow pool of operational managers and support from the police would create risks. I am sure that Members do not need that spelling out. This would also result in significant disruption to the operation of the courts and the police, representing a significant risk to public safety.

I know that the POA is very keen, understandably, to have this proposal enacted. Its representatives have met the Justice Secretary recently, and they continue to do so, and I have spoken to them. I understand their view, but we cannot agree to this at this point. I do not know whether the amendment will be pushed to a vote—I suspect that it will not be, from what the hon. Member for Mid Leicestershire said—but we will not support it.

The Chair: I just say that the Clerks have checked, and it is in order to move an amendment and then speak against it.

Mr Bedford: Held by my arguments and the arguments put forward by hon. Members, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 4

NON-DISCLOSURE AGREEMENTS: HARASSMENT

"(1) Any provision in an agreement to which this section applies is void insofar as it purports to preclude the worker from making a relevant disclosure.

(2) This section applies to any agreement between a worker and the worker's employer (whether a worker's contractor not), including any proceedings for breach of contract.

(3) In this section, a 'relevant disclosure' means any disclosure of information which, in the reasonable belief of the worker making the disclosure, shows that harassment has been committed, is being committed or is likely to be committed, by a fellow worker or a client of the employer.

(4) In this section, 'harassment' means any act of harassment as defined by section 26 of the Equality Act 2010."—*(Steve Darling.)*

This new clause would render void any non-disclosure agreement insofar as it prevents the worker from making a disclosure about harassment (including sexual harassment).

Brought up, and read the First time.

Steve Darling: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss amendment 4, in clause 118, page 104, line 32, at end insert—

"(aa) section [*Non-disclosure agreements: harassment*];"

This is a consequential amendment to NC4, to ensure its implementation.

Steve Darling: It is a pleasure to serve under your chairmanship, Ms Vaz. When I became an MP, I never thought that I would be standing before a Committee talking about clause 4. However, this is not about public ownership but is actually about non-disclosure agreements. Non-disclosure agreements were originally about keeping trade secrets but, over recent years, they have proliferated and, sadly, have kept shameful secrets away from the public eye in situations where light needs to be cast to make sure that things are tackled. Sadly, I personally have been signed up to one of these agreements. I reassure the Committee that it was not a business in my constituency, but another one where I suffered a level of discrimination, and I had to sign an NDA. That did not allow me to cry foul on a certain issue that myself and my family suffered.

As for the bigger picture of where NDAs have been used at an industrial level, one only has to look at Harrods and the stories that have come up around sexual harassment. Part of the Bill is about trying to tackle harassment and sexual harassment. New clause 4 strengthens the Bill by making sure that NDAs are exempt from this area. As I alluded to with Mohamed al-Fayed, these were used at an industrial level when people were at a very confused stage, and were very vulnerable. I ask the Minister to give serious consideration to incorporating the new clause in our proposals.

This is a golden opportunity. We have already seen Ireland take this step. I encourage the Minister to embrace new clause 4.

Greg Smith: I shall speak briefly to new clause 4, tabled by the Liberal Democrats. Of course, His Majesty's loyal Opposition support all practical measures to combat harassment and sexual harassment wherever it occurs. Our challenge to the proposal put forward by the hon. Member for Torbay on behalf of the third party is about understanding where the shortfalls are in existing whistleblower legislation that make the amendment necessary. I heard what he said about his personal experience, but our analysis of the provisions of legislation that is active and live now, as we consider the new clause in Committee, shows that whistleblowing legislation already covers what he is trying to achieve. We are not certain why it is necessary, on a practical level, to add the new clause to the Bill.

3 pm

Justin Madders: First, I thank the Liberal Democrat spokesperson for moving the new clause. This is his clause 4 moment—the road to socialism is often a long one, but I am glad to see he is taking steps towards it. He raises an important topic on behalf of the hon. Member for Oxford West and Abingdon (Layla Moran); indeed, a number of Members of the House have discussed it with me over a period of time, because the use of non-disclosure agreements presents challenges.

As has been said, NDAs can be used quite legitimately in different contexts and contracts. As the responsible Department for the use of NDAs in employment relationships, we recognise that they can have a legitimate role, such as to protect trade secrets, intellectual property and commercially sensitive information. Of course their most common use is in allowing workers and employers to reach a settlement on a dispute or a claim. It goes without saying that a worker may want to settle a dispute and receive the confidentiality protections associated with a settlement agreement to avoid going through an employment tribunal, which can be a distressing experience in itself. Having a non-disclosure agreement can also increase the value of such an agreement, depending how negotiations go.

There are existing legal limits to the use of NDAs in the employment context. For example, any clauses of an NDA that sought to stop a worker blowing the whistle to a lawyer or a prescribed person under the legislation would not be enforceable. The use of an NDA by an employer may amount to a criminal offence if it is an attempt by the employer to pervert the course of justice or conceal a criminal offence. A settlement agreement under the Employment Rights Act 1996 and any confidentiality clauses it contains is void if the worker did not receive independent advice on the terms and effect of the agreement. Speaking as one who has given such advice on countless occasions, I can assure the Committee that this a matter the legal profession takes very seriously. None the less, workers may not be aware of their rights.

Both the Equality and Human Rights Commission and ACAS have published guidance on NDAs, but reports continue of improper use of NDAs, as the hon. Member for Torbay mentioned, particularly in relation to sexual harassment, discrimination and bullying in the workplace. Last year, the Women and Equalities Committee inquiry into misogyny in music and the Treasury Committee inquiry into sexism in the City reported on the misuse of NDAs in specific sectors and industries. Their reports highlighted how NDAs can have a silencing effect on some victims, who come under pressure to sign an NDA and are not aware of their existing rights, and how NDAs may be a part of wider organisational cultures and practices for some employers. We have heard a clear example of that today. The Solicitors Regulation Authority and the Legal Services Board have also recently conducted a call for evidence and a thematic review into the use of NDAs among the legal profession. Overall, those reports highlight that, while we have seen some progress and some positive developments, the issues in this space are multiple and persistent. The Government are live to the concerns about the misuse of NDAs to intimidate and silence victims of crime and other types of misconduct, particularly harassment, discrimination, and bullying.

The Victims and Prisoners Act 2024 contains a measure that, when commenced, will ensure that victims can report a crime, co-operate with regulators and access confidential advice and support without fear of legal action. It does so by providing that any clauses in NDAs seeking to prevent those actions cannot legally be enforced. The Ministry of Justice is carefully considering plans to bring the relevant section of that Act into force and will be working closely with the victim support and business sectors to ensure that the new measure is implemented and deployed effectively. We continue to listen carefully to representations on further action needed to curb the misuse of NDAs.

The specific wording that is proposed today would make any provision in an agreement precluding a worker from making a relevant disclosure that relates to harassment carried out by a fellow worker, or client of their employer, unenforceable. Under the consequential amendment, the measure would come into force on the day that this legislation is passed. I have some reservations about the amendment as drafted, as it would make a significant change from the current position and there might be unintended consequences.

To render provisions related to disclosures on harassment unenforceable could have negative effects on both workers and employers. A worker may want to settle a dispute over harassment and receive the confidentiality protections associated with a settlement agreement. The proposal may also impact on their ability to reach a settlement and avoid going to an employment tribunal, or may indeed reduce the value of such an agreement. The amendment may also lead to uncertainty for both employers and workers who have entered into NDAs previously.

The Government are looking into this. There is obviously some evidence, and there was a Government consultation, but that was some time ago, so we intend to look more closely at what we can do in this area. I have met some of the interested parties and there are other proposals to deal with this issue that might be slightly more workable than those in the new clause proposed by the Liberal Democrat spokesperson. I say to him that although we are aware of this issue and know it needs attention, we are not able to support the new clause.

Steve Darling: I welcome the Minister's reassurances and I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 12

SUBSTITUTION CLAUSES

"(1) Any agreement, whether a contract or otherwise, between—

(a) an employer or a contractor of services, and

(b) an employee, worker or dependent contractor

must not include provision for the employee, worker or dependent contractor to appoint a substitute to supply services or undertake work on their behalf.

(2) For the purposes of subsection (1)(a), "contractor of services" means an organisation that—

(a) enters into an agreement, whether a contract or otherwise, with a supplier or dependent contractor to supply services,

(b) does not require the supplier or dependent contractor to supply services, and

(c) pays the supplier or dependent contractor according to tasks performed rather than hours of work.

(3) For the purposes of subsection (1)(b), "dependent contractor" means an individual who—

(a) is appointed to perform work or services for an employer or contractor of services,

(b) is paid according to tasks performed rather than hours of work,

(c) depends partially or primarily on the employer or contractor of services for employment and income,

(d) is not required to perform services for the employer or contractor of services, and

(e) is not specified as an employee or worker within a statement of employment particulars or a contract of employment."—*(Nick Timothy.)*

This new clause would prohibit the use of "substitution clauses", which allow companies to permit their suppliers – including some delivery couriers – to appoint a substitute to supply services on their behalf.

Brought up, and read the First time.

Nick Timothy (West Suffolk) (Con): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to consider amendment 111, in clause 118, page 104, line 32, at end insert—

"(aa) section [Substitution clauses];"

This is a consequential amendment to NC12, to ensure its implementation.

Nick Timothy: Despite the differences of opinion expressed during these weeks in Committee, we all believe that the rights of workers are essential. In that spirit, I hope that Members across the political divide can see the merit in what I am proposing today.

The labour abuse that the new clause seeks to address is the use of substitution clauses to flout labour laws and fuel the employment of illegal workers. Transparency is essential to guarantee fairness and justice in the labour market, and the unlawful labour of undocumented migrants and others who might be paid less than the minimum wage or be given no legal protections is obviously not good for the workers themselves, for our society, for taxpayers, or for anyone who wants a law-abiding society.

It is my understanding that Ministers will be consulting on employment status, and that they are considering moving to a two-part legal framework that identifies people who are genuinely self-employed as part of their work in the gig economy. That is obviously worth doing, but the new clause addresses a narrower issue that is clearly causing significant abuse and exploitation right now. I want us to take the opportunity to act swiftly and decisively.

There are 4.7 million gig economy workers in the UK, including 120,000 official riders—and many more non-official riders—at Uber Eats and Deliveroo, two of the largest delivery companies in the country. For years now we have heard stories of the rampant abuse and fraud committed under the auspices of these companies. In late 2018 to early 2019, there were 14,000 fraudulent Uber car journeys, according to Transport for London. In addition to Uber and Deliveroo, Amazon and Just Eat have been caught up in accusations of related labour market abuses. Some of these examples have related to the legal loopholes created by substitution clauses.

With its substitution clauses, Amazon tells couriers that it is their

"responsibility to pay your substitute…at any rate you agree with them",

and

"you must ensure that any substitute…has the right to work in the UK".

It is a dereliction of duty on the part of these big employers to pass the responsibility for compliance with criminal and right-to-work checks on to their workers. They clearly have an interest in maintaining the status quo where undocumented migrants are taking the lowest fees in the delivery apps. Data from the Rodeo app shows the impact of this abuse on riders' order fees. Just Eat riders saw their fees drop by 14.4%, from £6.53 in 2021 to £5.59 in 2023. There was a 3.4% drop for Uber Eats order fees during the same period, and Deliveroo has blocked its order fee data from being published. Although those numbers are not adjusted for inflation, it is clear to see how pay and conditions have worsened for riders. By undercutting domestic workers and exploiting those with no legal right to be here, companies are privatising profits and socialising costs. Promises from the companies to introduce tougher security checks have not made this problem go away, and nobody should be above the law.

Action is sometimes taken by the authorities, but progress has been too slow. In 2021, the Supreme Court ruled that Uber drivers are employees and entitled to statutory rights. As a result, VAT was added to Uber journeys that year, but Uber accounts are still being used for journeys by unauthorised drivers, despite a temporary licence removal in London. In 2023, the Supreme Court ruled that Deliveroo drivers are independent freelancers, not employees entitled to certain labour rights. My argument is that we cannot wait for judges to act; it is our job as parliamentarians to legislate when there are clear abuses of power and clear social problems caused by behaviour that the law currently allows.

The evidence of a serious crisis in our labour market is there and growing. The Home Office found that two in five delivery riders stopped during random checks in April 2023 were working illegally. That same month, 60 riders at Uber Eats, Deliveroo and Just Eat were arrested in London for immigration offences, including working illegally and holding false documentation. Insurance companies have also encountered problems with unauthorised riders involved in motor and personal injury cases. This is happening because undocumented migrants are renting rider accounts for between £70 and £100 per week. In some instances profiles have been bought for fees as high as £5,000. *The i Paper* found that over 100,000 people were in Facebook groups in which identities have been traded over the past three years. One group gained around 28,000 members in less than 18 months. This is clearly a significant problem.

There is plenty of evidence that this is acting as a magnet for illegal migrants, and obviously it has an incredibly negative effect on the illegal migrants themselves. *The Observer* has reported that 30 migrants, mostly from Brazil, had been working for Uber Eats and Deliveroo while living in caravans in central Bristol. Working for less than the minimum wage, they were unable to rent a proper home. The Home Office raided the encampment in October. The undocumented migrants who find

themselves in these situations are being exploited for profit by some of the country's biggest and richest companies.

People working legally have reported problems to the police and the Home Office, but this has helped to fuel tensions as riders compete for orders. It sometimes even leads to violent clashes between those working legally and those working illegally in places such as Brighton and London, including physical beatings and damage to some riders' bikes. It is shameful that riders who are working legally and following the rules are being intimidated for reporting on illegal working. They should not be punished for helping to tackle a problem that Parliament itself has been negligent in failing to address.

A spokesman for the App Drivers & Couriers Union—we like to listen to unions in this Committee—has said publicly

"there is this loophole that allows some bad people to come through. They are not vetted so they could do anything."

For example, undocumented workers have been found to commit sexual harassment and violence against women, but they cannot be tracked by the authorities because they have been using other riders' accounts. Riders are getting away with very serious crimes. We have been aware of this problem for a number of years now, and it has been growing.

In May 2024, it was reported that a delivery driver forced his way into a young woman's home where he sexually assaulted her. Last June, ITV reported on a woman being sexually assaulted by a Deliveroo rider who lured her out of her home by claiming to be lost. ITV has found further examples of inappropriate texting, verbal abuse, indecent exposure and even rape involving Uber Eats and Deliveroo drivers. A freedom of information request discovered that, between 2020 and 2023, 12 cases of sexual harassment in the west midlands and seven cases of indecent exposure in Devon and Cornwall involved delivery riders. Sadly, most of the forces did not record this data, so they were unable to give the researchers a national picture. I appreciate that the new clause will not solve the problem completely, but it can surely act as an important part of the solution in helping the police to catch criminals by creating a documentary chain for them to investigate and by stopping these criminals from hiding behind anonymity.

I will now talk about the practicalities of enacting the new clause, which proposes the abolition of substitution clauses from workers' contracts outright. Amazon, Uber, Deliveroo and the rest would have to do their due diligence just like any other company, and ensure that all their riders are who they say they are and have the right to work in this country. Introducing such a change would reduce labour abuse, protect our communities, and deliver a fairer system. It also fits within the internal logic of the Bill.

3.15 pm

Matthew Taylor's 2017 report on the gig economy stated:

"Ultimately, if it looks and feels like employment, it should have the status and protection of employment."

When the Committee first met, which we might all agree feels like several years ago, we heard evidence from Professor Deakin, who said that

"unless a way is found to include workers like the Deliveroo workers within the scope of protective labour law, the proposals to improve collective bargaining rights and many other rights will just fall away. Large businesses like Deliveroo, I would say, need workers; and if our labour law system cannot describe those workers as protected by one means or another, there is a clear defect in it… Many of the measures contained in the Bill would not be effective, unfortunately, if this issue was not grappled with."

We also heard from Professor Bogg, who said,

"In a situation where a large company is relying on wilful blindness to avoid responsibilities under migration rules or under health and safety legislation, there is a very simple response, which is to impose criminal liability on large corporations that try to rely on wilful blindness to avoid obligations in primary legislation. That is a very straightforward way of tackling an abusive avoidance of rules that are very important to enforce."——[*Official Report, Employment Rights Public Bill Committee,* 28 November 2024; c. 142-143, Q146.]

Substitution clauses enable a culture of maximising profit at the expense of workers and without any regard for the law or the wider community. They have created an illegal workforce without access to the rights that should underpin the labour market. That is why I urge Labour Members here today to look at the new clause with an open mind and consider how it could help to tip the scales against those in positions of power who are willing to see the misery endure. It is the right thing to do.

Greg Smith: I commend my hon. Friend for proposing new clause 12 and amendment 111. He has just outlined a very serious and live concern in our economy today. I cannot believe that any Government Member, having heard the evidence that my hon. Friend has outlined, would want those practices to continue in our economy, not least given the grave and worrying evidence presented about sexual harassment, sexual offences and rape. Those facts cannot be ignored. Even if the Government will not take action off the back of my hon. Friend's new clause, I call on the Minister to take very seriously the evidence that he has outlined and come up with another vehicle in which to get protections into legislation.

My hon. Friend has explained the situation at some length, so I will conclude by saying that the Government have a clear choice here. They can go down the political route and, having heard compelling evidence, still say, "We do not want to do this because it has come from a Conservative Member," or find some language to say that in a different way. Alternatively, we can do something all too rare in this place: we can take a real and live problem identified by my hon. Friend and reach cross-party consensus on the need to tackle it, and acknowledge that tackling it fits very neatly with the aims and objectives of the Bill we have been considering for some weeks in Committee. We all make political choices in this place. It is now incumbent on the Minister to give us the political choice that he and the Government wish to make on this: stand with the victims whom my hon. Friend's new clause aims to protect, or go down the political route.

Justin Madders: I am genuinely grateful to the hon. Member for West Suffolk for raising this matter, because I take it extremely seriously. I am pleased to see that he and the shadow Minister do too. It has clearly become more and more of an issue in recent years. It is based on exploitation of vulnerable individuals. It is about a race to the bottom and about a labour market that is, as Matthew Taylor identified all those years ago, fundamentally not working.

[Justin Madders]

That said, we are not able to accept the new clause, and I will explain why. That does not mean I am not sympathetic to it. We have been doing a number of things. I recently met the Director of Labour Market Enforcement, Margaret Beels, and the Home Office to discuss this matter. In fact, we have now met the Home Office twice on this issue, because we are aware that there are concerns about how substitution clauses in the gig economy, in particular, are operating. I have recently written to Deliveroo, Just Eat and Uber, because their substitution clauses—certainly some of them—do not appear to have any cognisance of whether the substitute has the right to work in the UK. I would not say that applies to all gig economy companies—I could say "employers", but of course they would say that they are not employers. They do not all take that view of substitution, but it is clear from what we have heard that this is not being policed properly at the moment, so we want these companies to step up and make sure that those who are working for them are entitled to do so legally, that they know who they are and that they are who they say they are, and that all the checks that we would expect any responsible employer to make have been made.

The challenge is that there is a broad definition of self-employment and substitution clauses are used far more widely than the gig economy. There have been cases going back decades on whether someone has employment rights, and that often centres on the use of a substitution clause. In recent years, that has been turbocharged by gig economy companies to create this new network of workers, but there would be a number of unintended consequences in the wider economy if we accepted the new clause, because of its broadness. It would make people such as IT contractors or plumbers—indeed, there was a case involving a gym instructor who had a substitution clause—unable to provide a substitute. There are all sorts of jobs out there—many thousands and possibly millions—where substitution clauses are used perfectly well, and unfortunately, because of the way the new clause is drafted, it would mean that none of those people could continue to use them. Clearly, we would not want to see that, because it is an important part of self-employment for someone to be able to provide a substitute for their services if they are unavailable, but we recognise that the law needs modernising in this area. We have committed to consulting on a simpler, two-part framework for employment status. We think that is really important to drive out the many abuses that we have heard about.

I agree with the hon. Member for West Suffolk that it should not be left to the courts to determine whether someone has particular rights. That should be set down by Parliament, and it should be clear and make sure that there is no room for loopholes. It is important that we get that right. I think that the new clause would create a whole range of unintended consequences and exclude people from carrying out their legitimate business, but I assure hon. Members that I take this matter very seriously and I am doing what I can, before we have the review, to make sure that those companies that are employing people in this way are doing so safely and responsibly.

Nick Timothy: I thank the Minister for his constructive reply. If he is willing to have further conversations with me about what solutions we might be able to bring to bear on this problem, I will be happy to withdraw the new clause now. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 13

RATES OF STATUTORY MATERNITY PAY, ETC

"(1) In regulation 6 of the Statutory Maternity Pay (General) Regulations 1986 (prescribed rate of statutory maternity pay) for '£184.03' substitute '£368.06'.

(2) In the Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002—

(a) in regulation 2(a) (weekly rate of payment of statutory paternity pay) for '£184.03' substitute '£368.06'; and

(b) in regulation 3(a) (weekly rate of payment of statutory adoption pay) for '£184.03' substitute '£368.06'.

(3) In regulation 40(1)(a) of the Statutory Shared Parental Pay (General) Regulations 2014 (weekly rate of payment of statutory shared parental pay) for '£184.03' substitute '£368.06'.

(4) In regulation 20(1)(a) of the Statutory Parental Bereavement Pay (General) Regulations 2020 (weekly rate of payment) for '£184.03' substitute '£368.06'."—*(Steve Darling.)*

This new clause sets out rates of Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay.

Brought up, and read the First time.

Steve Darling: I beg to move, That the clause be read a Second time.

I thank my hon. Friend the Member for Twickenham (Munira Wilson) for assisting in tabling the new clause, which is about ensuring that we put the family at the heart of our society by doubling the rates of maternity, paternity, adoption, shared paternity and parental bereavement pay, which are really important when people are on leave. Sadly, a lot of men choose not to take up these opportunities. We will discuss later our proposals on kinship care and fostering, and this is all part of that bigger picture. By supporting families with these four proposals in the three key areas that they cover, we are putting family at the heart of our world. One only has to reflect on social care and children's social care, and the significant cost where there is family breakdown, to see that the more the state can do to support families, the better.

I would like to move on to kinship care, where there are real opportunities. I know that the all-party parliamentary group on kinship care has discussed these measures and sees this as a real opportunity for the Government to move positively to support kinship carers.

The Chair: Order. Can I just interrupt the hon. Gentleman? That is the next new clause. We are on rates of statutory maternity pay, etc.

Steve Darling: That is fine. As I said, the new clause is about supporting the family, and I hope the Minister will give serious consideration to our proposals. Apologies for misunderstanding, Ms Vaz.

The Chair: That is fine—don't worry.

Greg Smith: The new clause would create new rates of statutory maternity pay, paternity pay, adoption pay, shared parental pay and parental bereavement pay. That all sounds very good, and I do not necessarily oppose it—everybody would love to see those rates increase.

Without making any comments on the merits or otherwise of this policy choice, I would be grateful if the hon. Member for Torbay could comment on why the Liberal Democrats have alighted on these specific rates of pay. Why not more? How did they come to this conclusion? What research have they done to ascertain whether these rates are affordable for employers? I am sure that we would all like to see these rates offered, but we always need to be able to pay for them. It is incumbent on anyone proposing a new clause such as this to be certain that the rates are affordable for employers. Let us not forget that the rates proposed are effectively double the current rates.

On maternity, paternity and shared parental pay specifically, what engagement have the Liberal Democrats undertaken with businesses on whether the proposed rates would make them more hesitant about hiring candidates at the stage of life when they might be thinking about having children? It is very important that nothing stops any employer considering people at that stage of their life. It is also very important that we understand, when considering such a new clause, which on the face of it has great merit—I do not intend to distract from that point—what work the Liberal Democrats have done on its potential unintended consequences. I repeat that, on the face of it, this proposal has strong merit, but I just do not see any evidence that the research has been done to substantiate its affordability or effectiveness, no matter how much we might all want to see it.

3.30 pm

The Minister for Equalities (Dame Nia Griffith): It is a pleasure to see you in the Chair, Ms Vaz. I thank the hon. Member for Torbay for introducing the new clause, and for his absolute sincerity in wanting to support families.

The Government are committed to ensuring that employed parents receive the best level of support to balance their work and family lives. Our plan to make work pay will ensure that employees are supported to work while balancing their essential family responsibilities. We understand that parental leave and pay entitlements are a key part of that, and that is why the Bill will already make changes to parental leave.

The new clause would double the existing rate of statutory parental payments from £184.03 to £368.06. When considering calls to increase the level of parental pay generally, we need to consider the impact on limited resources and the burden on employers. Changes to parental pay would require careful consideration alongside tax reform and consideration in the wider context of benefits and employment rights over the longer term, and they would need to be made in consultation with businesses and stakeholders.

The Secretary of State for Work and Pensions is required by law to undertake an annual review of benefits and state pensions, including statutory payments. That is based on a review of trends in prices and earnings growth in the preceding year. Parental payments are generally increased in line with the consumer prices index. For example, in April, all statutory parental pay provisions, including statutory maternity pay, statutory paternity pay and statutory adoption pay, were increased by 6.7%. That is in line with other benefits.

It is worth noting that statutory parental pay is only one element of the support available to parents. Depending on individual circumstances, additional financial support, such as universal credit, child benefit and the Sure Start maternity grant—a lump sum payment of £500—may also be available. I therefore ask the hon. Member for Torbay to withdraw the motion.

Steve Darling: I will just share with colleagues that this measure was part of the commitments in the Liberal Democrats' fully costed manifesto. I thank the Minister for their reassurances. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 14

KINSHIP CARE LEAVE

"(1) The Employment Rights Act 1996 is amended as follows.

(2) After section 80EE insert—

'CHAPTER 5

KINSHIP CARE LEAVE

80EF Kinship care leave

(1) The Secretary of State must make regulations entitling an employee to be absent from work on leave under this section if the employee satisfies conditions specified in the regulations as to an eligible kinship care arrangement with a child.

(2) The regulations must include provision for determining—

(a) the extent of an employee's entitlement to leave under this section in respect of a child;

(b) when leave under this section may be taken.

(3) Provision under subsection (2)(a) must secure that—

(a) where only one employee is entitled to leave under this section in respect of a given child, the employee is entitled to at least 52 weeks' leave;

(b) where more than one employee is entitled to leave under this section in respect of the same child, those employees are entitled to share at least 52 weeks' leave between them.

(4) An employee is entitled to leave under this section only if the eligible kinship care arrangement is intended to last—

(a) at least one year, and

(b) until the child being cared for attains the age of 18.

(5) For the purposes of this Chapter, 'eligible kinship care arrangement' means—

(a) special guardianship,

(b) a kinship child arrangement,

(c) a private fostering arrangement, or

(d) a private family arrangement,

within the meaning given by section (Meaning of 'kinship care') of the Employment Rights Act 2024.

(6) The regulations may make provision about how leave under this section is to be taken.

(7) In this section—

(a) "special guardianship", "kinship child arrangement", "private fostering arrangement" and "private family arrangement" have the same meanings as in section (Meaning of "kinship care") of the Employment Rights Act 2024.

(b) "week" means any period of seven days.

80EG Rights during and after kinship care leave

(1) Regulations under section 80EF must provide—

(a) that an employee who is absent on leave under that section is entitled, for such purposes and to such extent as the regulations may prescribe, to the benefit of the terms and conditions of employment which would have applied but for the absence,

(b) that an employee who is absent on leave under that section is bound, for such purposes and to such extent as the regulations may prescribe, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1) of that section), and

(c) that an employee who is absent on leave under that section is entitled to return from leave to a job of a kind prescribed by regulations, subject to section 80EH.

(2) The reference in subsection (1)(c) to absence on leave under section 80EF includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that section and partly to any one or more of the following—

(a) maternity leave,

(b) paternity leave,

(c) adoption leave,

(d) shared parental leave,

(e) parental leave,

(f) parental bereavement leave.

(3) In subsection (1)(a), "terms and conditions of employment"—

(a) includes matters connected with an employee's employment whether or not they arise under the contract of employment, but

(b) does not include terms and conditions about remuneration.

(4) Regulations under section 80EF may specify matters which are, or are not, to be treated as remuneration for the purposes of this section.

(5) Regulations under section 80EF may make provision, in relation to the right to return mentioned in subsection (1)(c), about—

(a) seniority, pension rights and similar rights;

(b) terms and conditions of employment on return.

80EH Special cases

(1) Regulations under section 80EF may make provision about—

(a) redundancy during or after a period of leave under that section, or

(b) dismissal (other than by reason of redundancy) during a period of leave under that section.

(2) Provision by virtue of subsection (1) may include—

(a) provision requiring an employer to offer alternative employment;

(b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 10).

80EI Chapter 5: supplemental

(1) Regulations under section 80EF may—

(a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;

(b) make provision requiring employers or employees to keep records;

(c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;

(d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);

(e) make special provision for cases where an employee has a right which corresponds to a right under section 80EF and which arises under the person's contract of employment or otherwise;

(f) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under section 80EF;

(g) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions which may be specified, in relation to a person entitled to take leave under section 80EF;

(h) make different provision for different cases or circumstances;

(i) make consequential provision.

(2) The cases or circumstances mentioned in subsection (1)(h) include—

(a) more than one child being subject to the same eligible kinship care arrangement, and

(b) a child being subject to an eligible kinship care arrangement on two or more separate occasions,

and regulations may, in particular, make special provision regarding the applicability and extent of the entitlement to leave in such circumstances.

(3) The Secretary of State may by regulations make provision for some or all of a period of kinship care leave to be paid.'"—*(Steve Darling.)*

This new clause sets out an entitlement to kinship care leave.

Brought up, and read the First time.

Steve Darling: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 15—*Meaning of "kinship care"*—

"(1) This section defines 'kinship care' for the purposes of sections 80EF to 80EI of the Employment Rights Act 1996 (inserted by section (Kinship care leave) of this Act).

(2) Kinship care describes an arrangement where a child is raised by a friend, relative or extended family member other than a parent.

(3) Subsections (3) to (8) set out the arrangements that are recognised as being types of kinship care.

(4) An arrangement where a child is adopted (within the meaning of Chapter 4 of the Adoption and Children Act 2002) by a friend, relative or extended family member ('kinship adoption').

(5) An arrangement where—

(a) a child is looked after by a local authority (within the meaning of section 22 of the Children Act 1989), and

(b) a friend, relative or extended family member of that child is approved by the local authority to be a foster carer for that child ('kinship foster care').

(6) An arrangement created by a special guardianship order pursuant to section 14A of the Children Act 1989 ('special guardianship').

(7) An arrangement created by a child arrangements order pursuant to section 8 of the Children Act 1989 where the court orders that a child is to live predominantly with a friend, relative or extended family member of that child ('kinship child arrangement').

(8) An arrangement where a child is fostered privately (within the meaning of section 66 of the Children Act 1989) by a friend or extended family member ('private fostering arrangement').

(9) Any other arrangement where a child is cared for, and provided with accommodation in their own home—

(a) by a relative of the child, other than—

(i) a parent of the child; or

(ii) a person who is not a parent of the child but who has parental responsibility for the child; and

(b) where the arrangement has lasted, or is intended to last, for at least 28 days ('private family arrangement')."

This new clause is linked to the new clause about kinship care leave.

New clause 45—*Foster carer's leave*—

"(1) The Employment Rights Act 1996 is amended as follows.

(2) In the title of Part 8B, for 'CARER'S LEAVE' substitute 'CARER'S LEAVE AND FOSTER CARER'S LEAVE'.

(3) After section 80J (Carer's leave) insert—

'80JA Foster carer's leave

(1) The Secretary of State must make regulations entitling an employee to be absent from work on leave under this section in order to undertake activities as a result of being a local authority foster parent.

(2) For the purposes of subsection (1), "local authority foster parent" is defined in accordance with section 105 of The Children's Act 1989.

(3) The regulations must include provision for determining—

(a) the extent of an employee's entitlement to leave under this section;

(b) when leave under this section may be taken.

(4) Provision under subsection (3)(a) must secure that where an employee is entitled to leave under this section the employee is entitled to at least a week's leave during any period of 12 months.

(5) The regulations may make provision about how leave under this section is to be taken (including by providing for it to be taken non-continuously).

(6) The regulations may provide that particular activities are, or are not, to be treated as providing or arranging care for the purposes of this Part.'

(4) In section 80K—

(a) in subsection (1), after '80J' insert 'and 80JA';

(b) in subsection (2), after '80J' in both places it occurs insert 'and 80JA';

(c) in subsection (4), after '80J' insert 'and 80JA'; and

(d) in subsection (5), after '80J' insert 'and 80JA'.

(5) In subsection (1) of section 80L, after '80J' insert 'and 80JA'.

(6) In section 80M—

(a) In subsection (1)—

(i) in the opening words, after '80J' insert '80JA',

(ii) in paragraph (e), after '80J' insert 'and 80JA'

(iii) in paragraph (f), after '80J' insert 'and 80JA'

(iv) in paragraph (g), after '80J' insert 'and 80JA'

(v) in paragraph (h), after '80J' insert 'and 80JA;'

(b) In subsection (2), after '80J' insert 'and 80JA'; and

(c) In subsection (3), after '80J(4)' insert 'and 80JA(4)'."

This new clause ensures local authority foster parents are entitled to at least one extra week's leave every 12 months.

Steve Darling: Apologies, Ms Vaz; I was somewhat premature on the previous item. I pay tribute to my hon. Friend the Member for Twickenham, who has highlighted this matter and proposed this new clause on kinship care. The kinship care APPG discussed this proposal and was mostly in favour of it.

The number of children in our United Kingdom who benefit from kinship care is 130,000—equivalent to the population of Colchester or Watford. That is three times more than the number of youngsters who benefit from fostering, which is where one imagines, and one would hope, most youngsters in need of support would get it. The new clause, by allowing additional leave, would allow greater flexibility to get those youngsters into the family, and would help families come to terms with, and settle into, kinship care.

There are eye-watering costs in the care system. Some companies are making outrageous profits from family breakdown. I encourage Members to think about how we can reshape society to give more support. As somebody who has adopted myself, adoption and fostering are matters very close to my heart, and I would strongly welcome more opportunities for kinship care.

Equally, new clause 45, which would provide for an additional week of unpaid leave for foster carers, is extremely important. We need to change the workplace so that it supports foster families and kinship care families, making sure that, the vast majority of the time, the best place for a child is within a loving family home—whatever shape or form that takes—rather than in a care home or similar place miles away from home.

This collection of proposals would help to drive the agenda to change our culture in the UK and support young people in loving homes, with families.

Greg Smith: I preface my comments by saying that I welcome anything that supports kinship carers. I had an inspirational meeting with a constituent who is a kinship carer over the summer, which certainly opened my eyes to many of the challenges faced by those who take on the heroic and wonderful mission in life of looking after those young people.

New clause 14 sets out an entitlement to kinship care leave. That in its own right seems to me a very good, sensible and noble proposal. Where the clause falls a little short is that it appears to be very trusting of the Government. Some on the Committee might think that is equally a very sensible and good thing, but obviously Governments come and go. Anything set out in any legislation that leaves things open also leaves them open to misinterpretation and the risk that they will not necessarily deliver that which was intended.

The entire eventual policy that new clause 14 would enable would be left up to Ministers, including the extent of an employee's entitlement to leave, when leave may be taken and much more. I wonder whether the Liberal Democrats have a policy position on those matters; if they do, it seems rather trusting to just leave it up to the Government to determine, rather than setting it out in the new clause.

New clause 15 defines what is meant by kinship care. There is some confusion here, because the Government have set out their definition of kinship care in the Children's Wellbeing and Schools Bill, which specifies that a child is in kinship care if

[Greg Smith]

"the child lives with a relative, friend or other person connected with the child for all or part of the time",

or if the child lives with that person

"for all of the time, or for more time than the child lives with a parent",

and that person provides

"all of the care and support provided for the child, or more of that care and support than is provided for the child by a parent."

A child is also in kinship care if the child lives with two or more relatives, friends or other persons

"all or most of the time (whether or not the child lives with those persons at the same time)",

and

"those persons, taken together, provide all or most of the care and support provided for the child."

That definition was introduced after new clause 15 was tabled, so it would be interesting to know whether there are aspects of the Government's definition that the Liberal Democrats support, or whether they prefer their own, and why. It seems to me that, now there is live Government legislation in this area providing a perfectly good and well-meaning definition of kinship care, we do not need the new clause.

New clause 45, on additional leave for foster carers, would ensure that local authority foster parents are entitled to at least one extra week's leave every 12 months. I would be interested to know whether the Liberal Democrats have undertaken any assessment of how businesses would be able to absorb the additional cost. That is not to say that we necessarily oppose the principle, but again, like with new clause 13, it would be important to know, before we could formally support any such change—well-meaning as it might be—whether that research has been done to understand the cost to business.

Dame Nia Griffith: New clause 14 aims to establish a new kinship care leave entitlement for employed kinship carers, with a minimum of 52 weeks of leave being available for eligible employees. New clause 15 then seeks to create a legal definition of "kinship care" to be used to establish eligibility for kinship care leave.

I start by emphasising how much I value kinship carers, who provide loving homes for children who cannot live with their parents. This Government are committed to ensuring that all employed parents and carers receive the best possible support to balance their work and family lives. We are also aware that the existing system of leave for parents and carers needs improvement.

Some of the improvements to that system will be made through this Bill, while others will be delivered separately. As the hon. Member for Mid Buckinghamshire has mentioned, for the first time, this Government's Children's Wellbeing and Schools Bill will create a legal definition of kinship care for the purposes of measures within that Bill, including the duty to provide information to children and their kinship carers by local authorities, and extending the role of a virtual school head to promote the educational achievement of children in kinship care. That is a vital part of our commitment to keeping families together and supporting children to achieve and thrive.

That Bill defines kinship care as a situation in which a child lives with, and is cared for by, a relative, friend or someone else connected to them, instead of their parents, and that person provides all or most of the care and support to the child. By defining kinship care in law, the legislation will ensure that local authorities have a clear and consistent understanding of what constitutes kinship care.

I am also pleased to say that the Government recently announced a £40 million package to trial a new kinship allowance, which is the single biggest investment made by Government on kinship care to date. That investment could transform the lives of vulnerable children who can no longer live at home. It could allow children to grow up within their extended families and communities, reducing disruption to their early years so that they can focus on schooling and building friendships.

Employed kinship carers may already benefit from a number of workplace employment rights that are designed to support employees in balancing work alongside caring responsibilities. Those rights include: a day one right to time off for dependants, which provides a reasonable amount of unpaid time off work to deal with an unexpected or sudden emergency involving a child or dependant and to put care arrangements in place; the right to request flexible working; and the right to unpaid parental leave, which, through this Bill, we are making a day one right.

An employee may not automatically have parental responsibility as a result of being a kinship carer, but they may acquire parental responsibility through, for example, a legal guardianship order. We have also committed to a review of the parental leave system to ensure that it best supports all working families. That review will be conducted separately from the Employment Rights Bill, and work is already under way on planning for its delivery.

New clause 45 proposes to introduce an entitlement to a week of leave for local authority foster parents. Foster parents offer crucial support to some of the most vulnerable children in our society. They provide love, stability and compassion to children and young people when they need it most.

3.45 pm

It may be helpful to explain the support that is already available to employees who are foster parents. Employees in these circumstances are entitled to a day one right to time off for dependants, which provides for a reasonable amount of unpaid time off work to deal with an unexpected or sudden emergency involving a child or a dependant and to make arrangements for care. If they are looking after a child who is disabled or who lives with a long-term health condition, they would also be entitled to carer's leave. That allows them to take up to a week's leave in a 12-month period and can be particularly helpful in navigating medical appointments.

If employees are fostering to adopt, they are entitled to adoption leave and pay or paternity leave and pay, subject to meeting eligibility rules. All employees have a right to request flexible working from day one of employment. The Government are going to make flexibility the default, except where it is not feasible, through measures in the Bill, which will help people to balance

their professional and personal lives. That will apply to employees who are also foster parents, and help them to navigate childcare and fostering responsibilities around work.

Local authorities and fostering agencies should understand the importance of maintaining a balance between professional responsibilities and the rewarding role of fostering. Broadly speaking, no foster carer should be financially disadvantaged because of their fostering role. We expect all foster parents to receive at least the weekly national minimum allowance, in addition to any agreed expenses to cover the full cost of caring for each child placed with them.

Fostering service providers can choose to pay above the minimum allowance or pay additional fees. Qualifying care relief is a tax relief also available to support foster carers. We encourage fostering service providers to adhere to the foster carers' charter, which sets out clear principles for how foster carers should be treated and recognises their invaluable work. Given that existing range of entitlements and support, it would not be appropriate to amend the legislation at this time.

The Government pay tribute to the vital efforts of foster carers, which is why we are investing £15 million to boost the number of foster carers next year. That will help to recruit more foster parents by starting the work to ensure that every local authority has access to a regional recruitment hub. We expect that to generate hundreds of new foster placements, reduce local authorities' reliance on the expensive residential care market and offer children a stable environment to grow up in.

I thank the hon. Member for Torbay for his continued important advocacy for all families, including foster and kinship families. The Government remain committed to supporting all working families. On that basis, I ask the hon. Member not to press new clauses 14, 15 and 45 to a vote.

Steve Darling: I thank the Minister for that reassurance. In the light of that, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 19

CONSULTATION ON TRADE UNION LEGISLATION

"(1) The Secretary of State must initiate a consultation on—

(a) the operation of the Trade Union and Labour Relations (Consolidation) Act 1992; and

(b) the effects on that operation of provisions contained in Part 4 of this Act.

(2) The Secretary of State must lay before each House of Parliament, no sooner than eighteen weeks after the initiation referred to in subsection (1), a report on—

(a) the outcome of that consultation, and

(b) the Government's proposals for changes to the legislation referred to in subsection (1)."—*(Greg Smith.)*

This new clause requires the Secretary of State to undertake a consultation on the operation of trade union legislation, and see also Amendment 116.

Brought up, and read the First time.

Greg Smith: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss amendment 116, in clause 118, page 104, line 34, leave out subsection (2) and insert—

"(2) No provision of Part 4 of this Act may be brought into force in accordance with subsection (3) until the report referred to in section [*Consultation on trade union legislation*] has been published."

This amendment removes provisions to bring much of Part 4 of the Bill into force two months after the passing of the Act and makes commencement of Part 4 conditional upon the publication of a report arising from consultation carried out in accordance with NC19.

Greg Smith: This is probably one of the meatier amendments that the official Opposition has tabled—*[Interruption.]* As bits of the Palace fall down around us, it may be symbolic of the Bill. *[Interruption.]* I am glad I missed whatever the quip back on that was.

New clause 19 and amendment 116 would require the Secretary of State to consult on the operation of trade union legislation. We have heard a lot during this Committee about the need to consult, but we are missing the crucial bit about consulting on the actual operation of the trade union legislation.

New clause 19 would require the Secretary of State to consult precisely on the operation of the Trade Union and Labour Relations (Consolidation) Act 1992 and the effects of provisions in part 4 of the Bill on that operation. The second limb of new clause 19 is for the Secretary of State to lay before Parliament the outcome of that consultation and the Government's proposals for changes to the legislation. We would like to ensure that part 4 cannot come into force until that has been done.

Why are new clause 19 and amendment 116 needed? We have seen pages of Government amendments tabled in Committee because the Bill was introduced to the House before it was ready and before the Government had done the necessary policy work to determine what should be in it—all in a rush to meet the arbitrary 100-day deadline rashly proposed by the Deputy Prime Minister. It is not often that I agree with the Prime Minister's former chief of staff, but there were reports before the election that even she thought that was an unrealistic deadline, and events have proven her correct. It may embarrass the Minister or make him a little awkward every time I raise this point, but that will not stop me from stating the facts.

Part 4 of the Bill is an enormous expansion of the power of trade unions. These measures have not been consulted on and will have an enormous impact on not just businesses, but the efficiency of private and public sector employers, with all the associated costs. There is a strange doublespeak between the Government's stated aims for the Bill and its likely consequences. The Government's impact assessment says:

"The objectives of the Bill are to…Improve industrial relations and reducing the number of days lost to strike action by allowing working people to organise collectively through trade unions and improving the legislative framework in which they operate."

How can the Government believe that the Bill will reduce the days lost to strike action when part 4 specifically takes measures to make strike action easier? For example, it makes it easier for unions to be recognised by removing the requirement for a union to demonstrate that the proposed bargaining unit is 10% of its membership on application to the Central Arbitration Committee and replaces it with references to the "required percentage test", which will surely make strike action more likely.

[Greg Smith]

Part 4 also requires the Central Arbitration Committee to declare a trade union as recognised for collective bargaining purposes where the result of the ballot shows that a majority of those voting were in favour of union recognition. The additional requirement for the union to have at least 40% support in the bargaining unit has been deleted. That is why this consultation needs to be laid before part 4 can come into force.

We then come to the changes to ballot thresholds, which seem specifically designed to make it more, not less, likely that more days will be lost to industrial action.

Sir Ashley Fox: Surely not.

Greg Smith: From a sedentary position, my hon. Friend makes a very good point. The Bill removes the requirement for at least 50% of trade union members entitled to vote to do so for an industrial action ballot to be valid. It also removes the requirement for trade unions in important public services to obtain the support of at least 40% of members entitled to vote in the ballot for industrial action to be successful and replaces that with a simple majority of those voting, with no requirements for any level of turnout. Can the Minister explain how that will make industrial action less likely?

Surely making it easier for trade unions to gain a mandate for strike action by removing sensible thresholds imposed by the previous Conservative Government will make strike action more likely, which is contrary to the Government's stated aims for the Bill. That is why it is so important for the consultation in new clause 19 to be laid before the House. That contradiction between the Government's stated intentions for part 4 and the result of the Bill, which is likely to be the opposite, is the first reason we believe the Government need to enact a proper consultation to prove that the Bill will work, which they should have done before introducing the Bill in the first place.

Laurence Turner (Birmingham Northfield) (Lab): Will the shadow Minister give way?

Greg Smith: I would be delighted to give way. The Government Back Benchers have been so quiet today. It would be wonderful to hear from the hon. Gentleman.

Laurence Turner: It is a pleasure to serve under your chairship, Ms Vaz; I am glad to make the shadow Minister so happy and to see the smile on his face. I draw the Committee's attention to my entry in the Register of Members' Financial Interests: I am a member of the GMB and Unite trade unions.

I have two points about the new clause. First, the Trade Union and Labour Relations (Consolidation) Act was a monumental undertaking; as the name implies, it consolidated all previous industrial relations legislation. One of the effects of the new clause would be to cast a pall of doubt over every measure in that legislation, including measures that I am sure the hon. Gentleman supports, including the building blocks of our industrial relations system, such as the immunity of trade unions from tort claims when they act in pursuit of legitimate industrial action. That has underpinned our system since 1906.

Secondly, the 1992 Act is an enormous piece of legislation—some three times the length of the Bill—but the hon. Gentleman's new clause allows only three months for the exercise. Would the exercise not therefore be unduly onerous to undertake or, in practice, perfunctory? It will have the effect only of delaying a number of very important measures, including some that the hon. Gentleman has welcomed in Committee.

The Chair: May I just say that interventions should be short, not speech length?

Greg Smith: Government Members have been quiet all day, Ms Vaz, and the hon. Gentleman has got that off his chest. On the timeframe, if he wants the consultation to take longer, we are open to negotiation; we would certainly be pleased to have a longer timeframe for this important consultation.

The hon. Gentleman is right about the size of the 1992 Act; it was a monumental undertaking. Of course, there are many things in it that my party supports: we were in government—or just about; we had a majority of something like 21—in that Parliament. The question is, how is it working out in practice, some decades on? Are the laws that were consolidated on our statute book in 1992 fully relevant in 2025, and how are they working? Until we can answer that rather tricky exam question, it is important that we do not make the leaps forward contained in the Bill that we have debated over the past few weeks.

The next reason why a consultation is necessary before part 4 is commenced is the burden on employers, which is laced throughout part 4. Leaving aside the likely burden and cost of additional days of strike action, I want to ask for the Minister's assessment of the burden that the measures will place on employers. The requirement on an employer to provide an employee with a written statement of the worker's rights to join a trade union means more red tape, as do the trade unions' rights of access to workplaces. There is also the requirement to provide a response notice and the fact that trade unions can request access to workplaces for the extremely wide purposes of meeting, representing, recruiting or organising workers, whether or not they are members of a trade union, or facilitating collective bargaining.

How much time will those take out of employees' working days? The employer will not be compensated for that, but will have to bear the cost. How burdensome will it be for an employer to defend at tribunal the reasons for not granting access, and can the system even cope with that? Reversing the effect of section 8 of the Trade Union Act 2016 will reduce the notice that a trade union must give the employer of industrial action after it has secured a ballot mandate and before any such action is taken from 14 to seven days.

Can the Minister explain how any of the above measures will enable employers to increase productivity, reduce costs or reduce red tape? Perhaps they are just another set of anti-growth measures from this Government, in contrast to their stated foundational mission of growth. Is it a first step, or a milestone? It is hard to keep track of the labels. Growth is important, and the measures that I have just mentioned from part 4 make that harder. That is why the consultation for which the new clause calls is so important.

We come to the third reason that a consultation is necessary. The Government have not done any evidence-based work—at least not publicly—on how effectively existing trade union legislation, in particular the balanced approach we introduced with the Trade Union Act 2016, is working and on how the proposals in part 4 of the Bill would change that. That basic level of due diligence is needed before part 4 can be commenced.

4 pm

Finally, the Government are asking for a rather sizeable blank cheque in part 4 of the Bill. The required test for the percentage of the workforce that needs to support trade union recognition is to be determined by regulations. The definition of detriment that cannot be suffered as a result of taking industrial action is to be determined by regulations. A worker's right to have their employer provide them with a written statement of their right to join a trade union at the same time as they provide them with a statement of their employment particulars, and at further prescribed times, as specified under section 1 of the Employment Rights Act 1996, is to be set out in regulations. That is just a small snapshot of the issues that are left unresolved in part 4, and that the Government hope to push through in statutory instruments, with much less scrutiny. We think that more and better information should be provided to Parliament before part 4 is commenced.

We know who is pulling the Government's strings here: the trade unions have been clear about their aims. As Mick Lynch said, they are pushing for the

"complete organisation of the UK economy by trade unions".

That statement seems directly contradictory to the Government's aim to achieve growth, and such a move is designed to take us back to the 1970s. We would like part 4 to have considerably more scrutiny and justification before it can be commenced, and that is what our new clause and amendment are designed to achieve.

Justin Madders: The shadow Minister seeks through the new clause and amendment to relitigate a number of the issues we debated last week, and he will not be surprised to hear that I will pick up on just one or two of his comments. He said that the 100-day deadline was unrealistic, but it was not, because we achieved it. All involved made a fantastic effort to ensure that we had a Bill published within that 100-day deadline. There have been some minor technical amendments to the Bill as we have moved along, and there are important issues of principle that we continue to engage and consult on.

As the shadow Minister said, the new clause would require a consultation on the operation of the Trade Union and Labour Relations (Consolidation) Act 1992, as amended by part 4 of the Bill. I was not entirely clear whether he was referring just to the amendments to the 1992 Act by virtue of part 4 of this Bill or to the entire Act; in any event, there is some overlap between the two. We are pretty clear that the intention behind the new clause is to delay the Bill as much as possible. It would impinge on our desire and our manifesto commitment to improve workers' rights and the ability of workers to have a meaningful voice through collective bargaining to secure pay and conditions.

The shadow Minister will be aware that the Government have already undertaken a number of consultations, with four over the Christmas period, including one on modernising the framework for industrial relations, which would cover many of the provisions of the 1992 Act. As we move forward, get the Bill through Parliament and lay secondary legislation, there will be ongoing consultations and discussions about the provisions in the Bill, the application of codes of practice, and some of the matters that have been left for regulation. I do not believe that there is criticism about the level of consultation. We have engaged extensively with all stakeholders on a number of matters, and we will continue to do that almost weekly.

The shadow Minister challenged me about how we can push the Bill forward, without there being questions as to whether it would lead to increased industrial action. The evidence we have is that legislation introduced by the Conservative Government led to increased industrial action in the last two years, and saw the highest levels of industrial action in decades. That shows that not putting industrial relations on a sensible footing and a collegiate basis is detrimental to them. The impact assessment for the Strikes (Minimum Service Levels) Act 2023 made it clear it would worsen industrial relations, and so it proved.

The shadow Minister talked about the burden and the red tape. A number of measures in the Bill will actually reduce burdens on employers' organisations and trade unions in terms of notification and reporting requirements. He also challenged us on what the impact of some of this stuff will be. We can never say for sure that the Strikes (Minimum Service Levels) Act 2023 will have any impact, because it has never been used. One of the fundamental weaknesses with that legislation was that it was so unworkable and so damaging to industrial relations that no one ever thought it was a sensible idea to implement it. There were also powers in the Trade Union Act 2016 that were never used. Where powers were used—for example, on facility time and the requirement to report that in the public sector—the figures at the start of the period for reporting were exactly the same as they were at the end. So there was a lot of hot air and posturing in that previous legislation, and it was not conducive to good industrial relations. We are more than happy to see the back of it, but of course we will continue to consult and engage with all stakeholders as we move forward on implementing our clear manifesto commitments. On that note, I would oppose these proposals.

Greg Smith: It is a shame that the Minister has taken that attitude towards proper consultation before commencement of part 4. We still think it should happen, but we will, in good faith, give the Minister time to reflect ahead of Report. For now, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 21

Right to switch off in relation to trade union representatives

"(1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsection (2).

(2) After section 69 (right to terminate membership of trade union), insert—

'Right to switch off in relation to trade union representatives

69A Right to switch off in relation to trade union representatives

In every contract of membership of a trade union, whether made before or after the coming into force of this section, a term conferring a right on the member to refuse to monitor, read or respond to contact (or attempted contact) by a trade union representative outside their working hours shall be implied.'." —*(Greg Smith.)*

This new clause confers a right to switch off on trade union members in relation to contact from trade union representatives.

Brought up, and read the First time.

Greg Smith: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss amendment 120, in clause 118, page 105, line 20, at end insert—

"(3A) But if the provisions of section [*Right to switch off in relation to trade union representatives*] have not been fully brought into force before the end of the period of 12 months beginning with the day on which this Act is passed, that section (so far as not already in force) comes into force at the end of that period."

This amendment is consequential on NC21 and provides that the provision must have effect within a year of the passing of this Act.

Greg Smith: I rise to speak to new clause 21 and amendment 20, standing in my name and those of my hon. Friends. The new clause would confer a right on trade union members to switch off from contact by their union representatives. Amendment 120 provides that new clause 21 must have effect within one year of the passing of this Act.

We know that the Government would like to give employees the legal entitlement to disconnect from work-related communications during non-working hours, to ensure a healthier work-life balance. My understanding, and I would be grateful for the Minister's confirmation, is that this would apply to all forms of communication, including emails, phone calls and instant messaging. That is a burdensome requirement for employers. To ensure that they are complying with the eventual law, they are likely to need to establish clear boundaries for out-of-hours communication to protect employees' rights and avoid legal risks. In other words, they need another policy and then to enforce it.

I accept that I am speculating a little, because we do not know whether the Government will impose a code of practice or legislation and exactly what that would contain, but I have made an educated guess, allowing for the Government's pronouncements so far. We think that any requirement placed on employers that restricts the contact that can be made with their employees should also apply to trade unions. Surely, it is damaging for employees' mental health to be contacted by their trade union reps around the clock. We have adopted our own definition of the right to switch off, in the absence of any clear definition yet from the Government. It amounts to this:

"In every contract of membership of a trade union, whether made before or after the coming into force of this section, a term conferring a right on the member to refuse to monitor, read or respond to contact (or attempted contact) by a trade union representative outside their working hours shall be implied."

It is only fair to secure a balance between the requirements on employers and trade unions to respect mental health and wellbeing, and to allow employees and trade union members alike to secure a healthy work-life balance.

Laurence Turner: Will the hon. Gentleman give way?

Greg Smith: I had not sat down, so I will be generous.

Laurence Turner: I am very grateful. Having listened to what the hon. Gentleman has had to say, I am still unclear what problem in the real world he is seeking to solve. From experience of working in trade unions, it is clear that the new clause would block a trade union member who was negotiating to save a company or reach an agreement, say over a weekend, from checking communications during that time. Someone might also be a delegate to a conference, and there may be serious safeguarding concerns about their behaviour. In that circumstance, it is for the trade union to take them out of that environment. The hon. Gentleman is making a didactic point, but does he accept that there would be very perverse consequences if the new clause were implemented?

Greg Smith: I am grateful to the hon. Gentleman for his intervention, but the points he makes could equally be applied to employers needing, in those special circumstances, to make contact with an employee or a representative of an employee, but the Government are not making those exemptions on that side of the fence. They would seem—we are yet to hear from the Minister, but what the hon. Member for Birmingham Northfield has said is indicative—to be resisting those same provisions applying to trade unions. It seems to be a bit of a double standard, and it is one that the amendment and the new clause seek to address. There cannot be one rule for employers and another rule for the trade unions. It is a matter of fairness that we are proposing the new clause and the amendment, and I look forward to hearing what the Minister has to say in response.

Justin Madders: The first thing to say is that it is pretty obvious that the shadow Minister has never been a member of a trade union.

Greg Smith: Just so that I can formally get it on the record, I can assure the Minister that I have never been a member of a trade union.

Justin Madders: I am sorry to say this, but the shadow Minister seemed almost proud of that fact.

Michael Wheeler (Worsley and Eccles) (Lab): Does the Minister agree that the new clause seems to have no relation to the world of work, and that Opposition Members might actually be living out the fantasy that they can switch off from us on the Government Benches?

Justin Madders: If we start getting into the right to switch off from people we might not want to hear from, we could end up in a very dark place.

The shadow Minister will see from the reaction on the Government Benches that we have never had any issue with nuisance calls or pestering from trade unions when we have been in the workplace—it is really not like that at all. These proposals are indicative of the rather

outdated idea that some Opposition Members have about how trade unions operate. Were they passed, one of the unintended consequences would undoubtedly be increased demand on facility time—something I am sure the shadow Minister would not be too pleased about.

Put bluntly, there is no demand for this requirement. I do not think anyone has suggested it to officials—certainly not trade unions or, indeed, employers. There is nothing to stop a union member ignoring communication from their union. There is no obligation on them to respond to messages at any time.

The employment relationship is, of course, very different to membership of a trade union, because there is a division between home and working lives, and a recognition that that has to be respected. Unfortunately, there is also an expectation that people should be constantly contactable outside of work hours. We will not be legislating to ban all communication outside of working hours; what we are looking to do is implement the statutory code of practice, which will set out clear expectations and obligations to get the balance right between allowing flexibility and making it clear that people's home lives should be respected. There will be a consultation on that in due course, and I am sure the shadow Minister can submit something about trade unions contacting people if he wants to do so, but I suspect he will be the only one who does. But I am afraid I cannot support this new clause—or indeed take it seriously—so I reject it on that basis.

4.15 pm

Greg Smith: I am deeply hurt that the Minister will not take our new clause seriously. It is part of debate in this place, and our job as the Opposition, to test the boundaries of Government legislation. The new clause has exposed a double standard within the Labour Government's approach to working practices, in that they seek to exempt trade unions but not employers. I invite the Minister to reflect on that point in the coming weeks, before we get to Report. Perhaps we can debate it on Report, when he has had more time to consider it. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 22

ASSESSMENT OF THE COSTS OF ESTABLISHING A SINGLE LABOUR MARKET ENFORCEMENT BODY

"(1) The Secretary of State must lay before Parliament a report containing an assessment of the costs of establishing a single labour market enforcement body.

(2) A report under subsection (1) must be published no earlier than a year and no later than 18 months after the passing of this Act."—*(Greg Smith.)*

This new clause would require the Secretary of State to conduct a review of the costs of establishing a single labour market enforcement body and to report its findings to Parliament.

Brought up, and read the First time.

Greg Smith: I beg to move, That the clause be read a Second time.

I rise to speak to new clause 22, although from the mutterings of my hon. Friend the Member for Bridgwater, I am sure all Government Members will now have their phones on display, just in case they ring. The new clause would require the Secretary of State to lay before Parliament a report containing an assessment of the costs of establishing a single labour market enforcement body or, as we now refer to it, the fair work agency. The report must be published no earlier than a year, and no later than 18 months, after the Bill becomes an Act.

We tabled the new clause because we want to understand the cost-benefit analysis the Government have undertaken in relation to establishing the labour market enforcement body. Will the Minister inform the Committee about that work? Specifically, whenever there is a reorganisation of the responsibilities between the Government and non-departmental public bodies, there are always logistical difficulties to manage, such as the transfer of staff and so on.

The Government's own impact assessment of the establishment of the fair work agency is fairly damning:

"Limited evidence and an incomplete design of the operational and organisational structure of the FWA mean that it has not been possible to quantity the impact of benefits arising from its introduction nor the majority of associated costs. Where costs have been calculated they are limited to the one-off costs faced by businesses in order to familiarise themselves with changes to the enforcement system. We estimate that these costs would be £33m."

That is not my estimate, but the estimate in the Government's own impact assessment. In other words, our new clause is needed. The Government have not been able to assess the costs of bringing together enforcement in this way and whether it represents value for money.

As for the cost to business, the impact assessment is, again, not exactly glowing:

"It is unclear what the total impact on business will be as a result of the creation of the FWA, this uncertainty is due to:…The operational and organisational design of the FWA not being finalised…Uncertain evidence on the number of employers and employees in scope of changes to labour market enforcement…Undetermined behavioural responses by both employers and employees as a result of the creation of the FWA."

On the direct cost to businesses, it says:

"Businesses will face one off familiarisation costs due to the introduction of the FWA. We estimate that the costs of these changes would be £33m. Additionally, businesses who are subject to investigation will face costs even if they are later found to be compliant with relevant regulation. It is not possible to state the total number of affected businesses, but we estimate that an investigation would cost each investigated business £770."

That is not an inconsiderable sum just for the investigation, before anything else is found, particularly for our small and medium-sized enterprises.

All of that shows that the Government's policy thinking is at such an early stage that it is difficult to make any reliable judgments about it. We may all agree that the fair work agency is a nice idea in principle, but the Government are introducing it, and it is their job to make sure they can demonstrate that it will work in practice and provide a better deal for taxpayers, employers and workers than they are getting now. At the moment, the jury is straightforwardly still out.

There are several strands to this issue. For example, on the enforcement system for labour market legislation, the impact assessment states that

"the Bill could increase the volume of cases in the 'individual enforcement'…system by around 15%, albeit this would be offset to some degree by the implementation of the Fair Work Agency (FWA). The exact impact on the enforcement system is difficult to

[Greg Smith]

predict because the number of cases that enter the system each year fluctuates, and it will ultimately depend on behavioural factors like employers' willingness and ability to comply with regulation, and employees' willingness to bring forward a dispute."

In other words, the Government are really not sure about the impact that the Bill will have on the number of enforcement claims being brought to tribunal and the ability of the tribunal system to cope.

For all those reasons, we have tabled new clause 22, which would require the Secretary of State to lay before Parliament a report containing an assessment of the costs of establishing a single labour market enforcement body. Given the level of detail available so far, that would seem to be a reasonable and moderate requirement to enable Parliament to scrutinise the new agency and the value for money that it provides. It might even enable the Government to provide the House with a good news story. The only reason to resist the new clause would be if the Government thought that the new agency was not going to be such good news after all.

Justin Madders: Let me start by explaining once again why we believe the fair work agency is so important.

As we know, the current landscape for employment rights is, as was actually recognised by the previous Government, fragmented and in need of reform. I believe there is widespread agreement about that. As a Committee, we heard evidence from Margaret Beels, the Director of Labour Market Enforcement, that the current fragmentation creates a barrier to providing effective sector-wide enforcement. She noted that bringing powers together in the fair work agency would allow for better information sharing and a more flexible and adaptive approach to enforcement, enabling resources to be directed where they are most needed.

Other witnesses agreed with that assessment; indeed, I recall that a huge range of witnesses at the evidence sessions spoke in favour of a single enforcement body. The CBI, the British Chambers of Commerce, the British Retail Consortium, the Chartered Institute of Personnel and Development, the Recruitment and Employment Confederation, the Food and Drink Federation, the Co-operative or Co-op, the Women's Budget Group and the Work Foundation all spoke in favour of a single enforcement body.

The shadow Minister mentioned the impact assessment, but the Bill was in fact green-rated by the Regulatory Policy Committee. There is a commitment to keep the performance and cost of the fair work agency under review. There will be a review three years after implementation of the agency. As would be expected, merging different structures together is a complex task, so costings are still being developed at this stage. Nevertheless, securing value for money is clearly a key consideration in that process.

The shadow Minister made an interesting point about behavioural change. Clearly, such change is very difficult to model in, but we hope that by establishing the fair work agency we will send a very clear signal that we expect employers to comply with the law, that the best standards should be adhered to, and that the race to the bottom should end. As a result of all that, we will see far better employment practices across the country.

The fair work agency will be part of the Department for Business and Trade, so its costs will be in the Department's accounts, which Parliament can scrutinise in the normal way. Once the agency is fully established, it will produce its own accounts as part of its reports, and those accounts will be consolidated into the Department's annual accounts, which, of course, will also be subject to parliamentary scrutiny.

Consequently, I do not believe that new clause 22 would add anything to the multiple channels that are already available for parliamentarians to establish and identify the costs and benefits of the agency.

Greg Smith: I heard what the Minister said. The cost is important because it is ultimately both cost to the taxpayer and cost to our businesses which create all the wealth in the first place, which then gets taxed and pays for our public services. I invite the Minister to reflect on that, going forward. It is absolutely vital that the Government understand what things will cost before we make them happen, whether that is a Labour, Conservative or coalition Government—or whatever it might be. Once more, in a developing theme with the earlier new clauses that we proposed, I invite the Minister to reflect on that point ahead of Report, and we certainly intend to return to that on a future occasion, but for now, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 24

IMPACT ASSESSMENT: SECTIONS 1 TO 6

"(1) The Secretary of State must conduct a review of—

(a) the impact of those sections on the operation of employment tribunals, and

(b) the ability of employment tribunals to manage any increase in applications resulting from those sections.

(2) The Secretary of State must lay the review made under subsection (1) and the Government's response to the review before Parliament."—*(Greg Smith.)*

This new clause would require the Secretary of State to conduct a review of the impact on the employment tribunals of the Bill's provisions on zero hours workers.

Brought up, and read the First time.

Greg Smith: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 25—*Impact assessment: sections 19 to 22 and Schedule 2*—

"(1) The Secretary of State must conduct a review of—

(a) the impact of section 19 to 22 and Schedule 2 on the operation of employment tribunals, and

(b) the ability of employment tribunals to manage any increase in applications resulting from those provisions.

(2) The Secretary of State must lay the review made under subsection (1) and the Government's response to the review before Parliament."

This new clause would require the Secretary of State to conduct a review of the impact on the employment tribunals of the Bill's provisions on dismissal.

Amendment 128, in clause 118, page 105, line 20, at end insert—

"(3A) But the provisions of sections 1 to 6 of this Act may not be brought into force before the review conducted under section [impact assessment: sections 1 to 6] has been laid before Parliament."

This amendment, paired with NC24, would require the Secretary of State to conduct a review of the impact of the provisions on zero hours workers before those clauses can be commenced.

Amendment 129, in clause 118, page 105, line 20, at end insert—

"(3A) But the provisions of sections 19 to 22 and Schedule 2 of this Act may not be brought into force before the review conducted under section [impact assessment: sections 19 to 22 and Schedule 2] has been laid before Parliament."

This amendment, paired with NC25, would require the Secretary of State to conduct a review of the impact of the provisions on dismissal before these clauses can be commenced.

Greg Smith: This is quite a meaty grouping of proposals so, once more, I will get through my comments as quickly as I can. Amendment 128 paired with new clause 24 would require the Secretary of State to conduct a review of the impact of the provisions on zero-hours workers before these clauses can be commenced. The Government's impact assessment suggests that the provisions in the Bill on the right to guaranteed hours will cost businesses around £160 million a year in administration needed for compliance—that is something, but not much, in terms of business costs. The Government also say:

"The extent to which the policy will provide a net positive impact for total welfare will depend on (i) how well targeted the policy is at those facing detriment whilst retaining flexibility for those that value it, and (ii) the extent that wellbeing impacts of the policy feed through to productivity improvements for employers. As such, at this stage of policy development we deem the net impact on society as uncertain."

In terms of the impact on employment tribunals, the Government estimate a "slight increase" of:

"300 additional ET1 claims and 55 additional cases which require judicial time".

The justification for that assessment is:

"The changes to Zero-Hour Contracts are expected to impact 2.4 million workers. The assessed impact of right to regular contract on the enforcement system is based on the frequency of cases within the jurisdictions of Part time worker regulations and written statement of terms and conditions. These jurisdictions represented 2.5% of all complaints to ETs in 22/23 and therefore an additional 2.4 million workers with the right to make a claim is expected to lead to a slight increase in cases."

I would like to question some of the assumptions underlying the Government's analysis. What analysis has been undertaken of the increased likelihood of claims, now that the Bill is giving employees both more enforceable rights and a longer period of up to six months to make a claim? Given the importance to employers of claims brought to tribunal being quickly resolved, I would appreciate further reassurance from the Minister on that point. That is also why we have tabled new clause 24, because we wish to make sure—given the uncertainty about the costs and benefits of the provisions on guaranteed hours because, as the Department acknowledges, much is being left to regulations—that the Government are confident the tribunal system can cope before the legal changes are commenced.

Amendment 129 paired with new clause 25 would require the Secretary of State to conduct a review of the impact of the provisions on unfair dismissal before these clauses can be commenced. The Government admitted that they do not have robust data on the incidence of dismissal for those with under two years of employment. In other words, we do not know whether there is even the problem with unfair dismissal that the Bill seeks to solve.

4.30 pm

As discussed in Committee, we have concerns about the unfair dismissal provisions in the Bill, and those are shared by businesses. The Regulatory Policy Committee has said that the provisions on unfair dismissal rights are estimated to cost businesses around £43.2 million a year, although that is probably a rather wide estimate, as we do not know what policy decision the Government will make about the regulations. For example, despite discussions in Committee, we still do not know what might count as the "initial period of employment".

Parliament is being asked to hand this incompetent Government a blank cheque to make regulations that will implement the unfair dismissal provisions in the Bill. The Government admit that the day one unfair dismissal rights could have negative impacts on employment and hiring, which could include incentivising employers to turn to temporary or fixed-term workers. The unfair dismissal rights could make it more difficult for the unemployed or economically inactive to access jobs, either through overall negative impacts on employment and/or a strengthening of insider power.

Alex Hall-Chen from the Institute of Directors warned the Committee that

"under the current system, employers are very likely to take a risk on hiring a borderline candidate who may not have quite the right experience or qualifications, but they will now be much less likely to take that risk because the cost of getting it wrong will be considerably higher."—[*Official Report, Employment Rights Public Bill Committee,* 26 November 2024; c. 8, Q2.]

I remind the Minister of what Jane Gratton of the British Chambers of Commerce said in evidence:

"Members say that there would be a reduced hiring appetite were this legislation to come in, and that they would be less likely to recruit new employees due to the risk and difficulty, particularly under the day one rights, unless there were at least a nine-month probation period with a light-touch approach."—[*Official Report, Employment Rights Public Bill Committee,* 26 November 2024; c. 8, Q2.]

The Government's own impact assessment is also relatively candid about this question. It states that

"risks to employment will be highest for workers with the weakest attachment to the labour market, including: (1) the low-paid, who are already most likely to be let go from work in a downturn; (2) disabled workers, who face a large 'employment gap'; and (3) the youngest workers, since they are still gaining experience and skills."

In other words, the Government quietly agree with businesses that a lot could go wrong here.

In the Employment Act 2002, Labour created the procedures for statutory dispute resolution, which meant that a dismissal was automatically unfair unless the employer had followed the steps set out in the regulations—namely, sending the employee a written invitation to a meeting, conducting a meeting to decide whether or not to take the action in question, and allowing the employee to appeal. Those were then repealed by the Employment Act 2008, under the same Government, because there was a deluge of cases before the employment tribunals and the Employment Appeal Tribunal concerning the procedures and their application. The Labour Government commissioned the Gibbons review, which recommended that the statutory procedures be abolished.

I am afraid we are likely to see a similar explosion in employment tribunal cases. Those cases will be expensive to defend, particularly for small and medium-sized enterprises, and may take a long time to resolve if the tribunal is not appropriately resourced. What assessment have the Government made of the likely increase in cases that will need to be dealt with by tribunal because of the unfair dismissal proceedings in the Bill? The impact assessment says that the policy is expected to lead to additional early conciliation and employment tribunal cases, which carry additional costs to the employer. The impact assessment estimates that the unfair dismissal policy could lead to thousands of additional employment tribunal cases. Are the Government confident that the system can cope?

The Minister will understand that I am sceptical of any assurance he can give now, because we do not know what regulations the Government are planning to make using the powers in the Bill, and the Government have said that much of the impact of this policy will depend on the design of the final regulations. We therefore think that once the policy work has been done and we know whether the Business Secretary or the Deputy Prime Minister has won the argument, and the Government know what they are doing, it is only right that the Government can reassure this House of the tribunal's ability to cope with additional claims.

That is what new clause 25 and amendment 129 seek to achieve: that the Secretary of State must prove that the employment tribunal can cope with the additional cases before the clauses of the Bill on unfair dismissal can be commenced. To do anything short of that would be a dereliction of duty to both employees and employers.

Justin Madders: I thank the shadow Minister for moving the new clause, and for tabling new clause 25 and amendments 128 and 129. In new clause 24 and amendment 128 he seeks, first, to insert into the Bill a new clause requiring the Secretary of State to conduct a review of the impact on employment tribunals of the Bill's zero-hours measures in clauses 1 to 6; and secondly, to provide that those measures cannot be commenced until that review has been conducted and laid before Parliament.

The Government have already produced a comprehensive set of impact assessments. Our analysis included illustrative analysis of the impact on employment tribunal cases, which we intend to refine over time by working closely with the Ministry of Justice, His Majesty's Courts and Tribunals Service, ACAS and wider stakeholders. The quantifiable impact of the measures on zero-hours contracts is estimated to be an annual increase of about 1,000 additional cases for employment tribunals per year. That assessment was published at Second Reading and was based on the best available evidence for the potential impact on business, workers and the wider economy.

We will also publish an enactment impact assessment once the Bill reaches Royal Assent, in line with the requirements of the better regulation framework. That will account for ways in which the Bill has been amended in its passage through Parliament in such a way as to change significantly the impacts of the policy on employment tribunals. That impact assessment will then be published alongside the enacted legislation. I therefore reassure the shadow Minister that there is no need for the Government to be required to bring new impact assessments before Parliament, as we intend to publish further analysis alongside future consultations, ahead of secondary legislation, in accordance with the better regulation requirements.

The shadow Minister also seeks to insert new clause 25, which would include an assessment of the impact on employment tribunals of changes to protections against some kinds of dismissal in the Bill. Amendment 129 then seeks, again, to delay commencement of those changes until the review has been laid before Parliament. As I said, we have already produced a comprehensive set of impact assessments, which were published at Second Reading and based on the best available evidence for the potential impact. Our analysis includes illustrative assessment of the impact on employment tribunal cases, which we intend to refine over time by working closely with the Ministry of Justice, His Majesty's Courts and Tribunals Service, ACAS and wider stakeholders.

The shadow Minister mentioned the concerns about unfair dismissal, especially for those on the margins of employment. Such concerns are, of course, one reason why a statutory probationary period has been proposed. He also mentioned the experience of the statutory dismissal and grievance procedures in the early 2000s. I assure him, having lived through that, that we do not wish to repeat those mistakes. We will look to ensure as much clarity and certainty as possible in the legislation before it is enacted.

We will publish an enactment impact assessment once the Bill reaches Royal Assent, in line with the requirements of the better regulation framework. That will account, in those areas, for any ways in which the Bill has been amended in Parliament that change significantly the policy impact on the enforcement system. That will be published alongside the enacted legislation. I therefore assure the Committee that there is no need for the Bill to require the Government to undertake further assessment of the impact on tribunals before commencement, because we will do that as we go along.

Impacts will be considered, and I am also looking at ways to ensure that the tribunals system is able to deal with any additional claims that may arise as a result of the Bill, and how it can work more efficiently with the significant backlogs that it already has. As the Committee will appreciate, that is within the purview of the Ministry of Justice, but clearly it is something that we intend to work closely with it on. I therefore invite the shadow Minister to withdraw his new clauses and amendments.

Greg Smith: I hear what the Minister says. I am grateful for his comments about his desire not to repeat the mistakes of the early 2000s. I still think that the new clauses and amendments that we tabled would be important for business and for employees. We will seek to return to them on Report, as with the other new clauses. For the time being, however, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 31

SECTIONS 1 TO 6: IMPACT ASSESSMENT

"The Secretary of State must, within six months of the day on which this Act is passed, publish and lay before Parliament an assessment of the expected impact of sections 1 to 6 on—

(a) the hospitality sector,

(b) the retail sector, and

(c) the health and social care sector."—*(Greg Smith.)*

This new clause requires the Government to publish an impact assessment on the impact of sections 1-6.

Brought up, and read the First time.

Greg Smith: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

Amendment 153, in clause 118, page 104, line 33, at end insert—

"(ba) section [*sections 1 to 6: impact assessment*];"

This amendment is consequential on NC31.

Amendment 154, in clause 118, page 105, line 20, at end insert—

"(3A) No provision of the following sections of this Act may be brought into force in accordance with subsection (3) until the Government has published the impact assessment specified in section [*sections 1 to 6: impact assessment*]—

(a) section 1 (Right to guaranteed hours);

(b) section 2 (Shifts: rights to reasonable notice);

(c) section 3 (Right to payment for cancelled, moved and curtailed shifts);

(d) section 4 (Amendments relating to sections 1 to 3);

(e) section 5 (Repeal of Workers (Predictable Terms and Conditions) Act 2023);

(f) section 6 (Exclusivity terms in zero hours arrangements)."

This amendment is consequential on NC31 and requires the Government to publish an impact assessment on the impact of sections 1-6 on the hospitality, retail, and health and social care sectors.

Greg Smith: Amendment 154, which is consequential on new clause 31, would require the Government to publish an impact assessment on the impact of clauses 1 to 6 on the hospitality, retail and health and social care sectors. The Government's impact assessment states that zero-hours contracts are most frequently used in the hospitality, retail and health and social care sectors, which is why new clause 31 would require the Government to conduct an impact assessment to understand how well those sectors are able to cope with the provisions before they come into force. In the social care sector, given the workforce challenges that we all know about, that is particularly acute, especially if the provisions are also extended to agency workers, as it is not clear how that would be workable.

The impact assessment provided by the Government is for the guaranteed hours provisions across the economy as a whole, but we know that the impact will be more severe in particular sectors. The Government estimate that the administrative costs of facilitating the right to guaranteed hours will be around £160 million. Since healthcare and education are large employers of zero-hours contracts and agency workers, some of the impact will fall on His Majesty's Treasury. Has that been accounted for in the departmental headroom left after the Chancellor's disastrous 2024 Budget?

On the provision of reasonable notice of shifts, the Government estimate that business behaviour will change so that fewer shifts are cancelled, but the value of unavoidable cancellations could still be as high as £120 million a year, although that will depend on the detail of the policy further down the line. That is a fairly cavalier attitude to take towards business costs, particularly, as we discussed earlier, given the requirements of some shift work in the sectors mentioned in new clause 31.

Our new clause therefore attempts to encourage the Government to do the job properly and set out the costs to hospitality, retail and health and care sectors from clause 1 on the right to guaranteed hours; clause 2 on rights to reasonable notice for shifts; clause 3 on the right to payment for cancelled, moved and curtailed shifts; clause 4 on amendments relating to sections 1 to 3; clause 5 on the repeal of the Workers (Predictable Terms and Conditions) Act 2023; and clause 6 on exclusivity terms in zero-hours arrangements. Given that so much of this policy is still to be determined by regulations, we do not think it unreasonable that this assessment should take place before the relevant clauses of the Bill can be commenced.

Justin Madders: As the shadow Minister has identified, his new clause 31 seeks to require the Government to publish an assessment of the impact on specific sectors of the economy of the Bill's provisions on zero-hours workers in clauses 1 to 6, and to lay the assessment before Parliament within six months of the passage of the Bill. Amendments 153 and 154 seek to ensure that the proposed new impact assessment requirement comes into force on the day that the Bill is passed, and that the provisions in clauses 1 to 6 cannot be commenced until the impact assessment has been published.

I point out to the shadow Minister that we produced a set of impact assessments at Second Reading, which included analysis of the best available evidence on the specific sectors that he referred to. We recognise the importance of ensuring that the impacts of these policies on workers, businesses and the economy are considered, and that the analysis considers those potential impacts. We will refine our analysis of the impact over time, working closely with businesses, trade unions, academics and think-tanks, and continue to engage with the relevant sectors and Government Departments on these issues. We will publish enactment impact assessments in line with the requirements of the better regulation framework, which will account for ways in which the Bill has been amended in its passage through Parliament so as to change the impacts of the policy on businesses significantly. These will be published alongside the enacted legislation.

In addition, we are committed to consulting with businesses and workers ahead of setting out secondary legislation, which will be necessary to implement the provisions, and we will work with the sectors listed in the proposed new clause as part of that. We will publish further analysis alongside those consultations to meet our better regulation requirements. There is no need for the new clause—there will be many opportunities for further analysis and refinement before the commencement of the regulations—and I therefore urge the shadow Minister to withdraw it.

Greg Smith: I am grateful to the Minister for that response. I do not fully share his view of the world but, as he rightly says and similarly to the previous new clauses that we have proposed, we can come back to this on Report. For the time being, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Ordered, That further consideration be now adjourned. —*(Anna McMorrin.)*

4.45 pm

Adjourned till Thursday 16 January at half-past Eleven o'clock.

Written evidence reported to the House

ERB 81 Scottish Council for Voluntary Organisations (SCVO)