

*These notes relate to the Lords amendments to the Defence Reform Bill,
as brought from the House of Lords on 2 April 2014*

DEFENCE REFORM BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

INTRODUCTION

1. These Explanatory Notes relate to the Lords amendments to the Defence Reform Bill, as brought from the House of Lords on 2 April 2014. They have been prepared by the Ministry of Defence in order to assist the reader of the Bill and the Lords amendments and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These Notes, like the Lords amendments themselves, refer to HL Bill 60, the Bill as first printed for the Lords.
3. These Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords amendments.
4. All the Lords amendments were in the name of the Minister.

COMMENTARY ON LORDS AMENDMENTS

Lords Amendments 1 to 5

5. The Delegated Powers and Regulatory Reform Committee (DPRRC), in its report of 20 December 2013, made a number of recommendations about the Parliamentary procedure that should apply to some of the powers under Part 2 of the Bill to make regulations.
6. Lords Amendment 5 would implement those recommendations by making certain delegated powers in Part 2 subject to the affirmative procedure. Lords Amendments 1 to 4 would be largely consequential on Lords Amendment 5, as explained below.
7. Lords Amendment 5 would address the DPRRC's recommendations relating to the Parliamentary procedure applying to single source contract regulations. It would remove the current provision (clause 42(4)) that provides for an instrument containing single source contract regulations to be subject to the negative procedure in all cases, and would replace it with a provision to the effect that:

*These notes relate to the Lords amendments to the Defence Reform Bill,
as brought from the House of Lords on 2 April 2014*

- a statutory instrument containing the first single source contract regulations is subject to affirmative procedure;
- provision made in single source contract regulations by virtue of clause 14(2), (6) or (8) (relating to the basic definition of a qualifying defence contract) is always subject to the affirmative procedure;
- provision made in single source contract regulations by virtue of clause 33 (relating to the amount of a penalty where a person is given a penalty notice under clause 32) is always subject to the affirmative procedure.

8. Lords Amendment 5 would also make it clear that any other statutory instrument containing single source contract regulations is subject to the negative procedure.

9. Lords Amendment 1 would remove provision for the maximum amount of a penalty in relation to a contravention of clause 31 to be specified in a separate set of regulations subject to the affirmative procedure, and instead would require the maximum amount to be included in single source contract regulations, along with all other provision to be made by regulations under Part 2. Provision setting maximum penalty amounts would, as a result of Lords Amendment 5, be subject to the affirmative procedure.

10. Lords Amendments 2 to 4 would be consequential on Lords Amendment 1. In particular:

- Lords Amendment 2 would clarify that the power under clause 42(2) for single source contract regulations to make different provision for different purposes includes power for provision under clause 33 to specify penalties of different amounts according to the value of the particular contract to which a contravention of clause 31 relates;
- Lords Amendment 3 would remove clause 33(7), which would no longer be needed as a result of Lords Amendments 1 and 5;
- Lords Amendment 4 would replace the reference in clause 39(1)(b) to regulations under Part 2 with a reference to single source contract regulations, as the latter description would catch all regulations under Part 2.

Lords Amendment 6

11. Lords Amendment 6 would insert a new clause, before clause 47. The new clause would insert new section 113A into Part 11 of the Reserve Forces Act 1996, containing requirements for reserve associations to report annually to the Secretary of State on the state of the volunteer reserve forces and for the Secretary of State, on receiving such a report, to lay a copy of it before Parliament. Reserve associations are regional civilian bodies which give advice and assistance to the Defence Council in relation to the reserve forces, generate support for the reserve forces from

*These notes relate to the Lords amendments to the Defence Reform Bill,
as brought from the House of Lords on 2 April 2014*

communities and support the reserve forces by managing and maintaining land and buildings used by those forces.

12. Subsection (1) of new section 113A would require each reserve association to prepare an annual report on the state of the reserve forces so far as concerns the area for which the association is established. Such a report would need to include:

- the association's assessment of the capabilities of the volunteer reserve forces (with particular reference to the matters listed in subsection (3)), and
- its assessment of provision made regarding the mental welfare of members and former members of those forces.

13. Reserve associations would be required to send a report before the deadline set out in subsection (5) of new section 113A. The intention is that the reporting process would replace the existing non-statutory arrangement under which the External Scrutiny Group on the Future Reserves 2020 programme reports annually to the Secretary of State on that programme and the overall health of the reserve forces.

14. Section 116 of the 1996 Act makes provision so that two or more reserve associations may join in appointing from among their respective members a joint committee for any purpose in respect of which they are jointly interested. The effect of subsections (7) and (8) of new section 113A would be to ensure that this joint committee mechanism may be used by reserve associations for the purpose of performing the duties under new section 113A. Accordingly, the duties under new section 113A may, for example, be performed by a joint committee appointed under section 116 by all of the reserve associations in relation to the whole of the United Kingdom.

Lords Amendment 7

15. Lords Amendment 7 would have the effect of requiring a draft of any commencement order relating to Part 1 of the Bill to be laid before, and approved by a resolution of, each House of Parliament, before a statutory instrument containing the order could be made.

16. It would also require the Secretary of State to prepare and publish a report on the options for carrying out defence procurement before laying a draft statutory instrument to commence Part 1 of the Bill.

17. The report would need to cover the arrangements, of a kind mentioned in clause 1, that the Secretary of State proposes to make, as well as any alternative options the Secretary of State had considered. The report must also include any other information that the Secretary of State considers appropriate in order to make a comparison between the proposed arrangements and any alternatives that have been considered.

*These notes relate to the Lords amendments to the Defence Reform Bill,
as brought from the House of Lords on 2 April 2014*

18. The alternative options covered by the report would need, at the least, to deal with the carrying out of defence procurement by the Secretary of State in the way in which defence procurement is carried out at the time of the report. This is to ensure that the option of carrying on defence procurement under the existing arrangements is considered.

FINANCIAL EFFECTS

19. The financial effects as set out in the Explanatory Notes to HL Bill 60 would be affected by Lords Amendment 6. The preparation by reserve associations of reports on the state of the volunteer reserve forces may result in some small additional costs, including travel and subsistence costs incurred by members of associations preparing reports and costs incurred in relation to the requirement for reports to cover mental welfare provision. Monetised costs are not yet known but will be met from within existing MOD budgets.

20. The financial effects set out in the Explanatory Notes to HL Bill 60 would also be affected by Lords Amendment 7. There would be a small cost associated with the preparation and publication of a report on the options for carrying out defence procurement. These one off costs are estimated to be less than £20k and would be met from within the MOD operating costs budget.

DEFENCE REFORM BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

These notes refer to the Lords Amendments to the Defence Reform Bill as brought from the House of Lords on 2 April 2014 [Bill 197]

*Ordered, by The House of Commons,
to be Printed, 2 April 2014.*

© Parliamentary copyright 2014

This publication may be reproduced under the terms of the Open Parliament Licence, which is published at www.parliament.uk/site-information/copyright.

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON — THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by The Stationery Office Limited
£x.xx