

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DEFENCE REFORM BILL

Sixth Sitting

Tuesday 8 October 2013

(Afternoon)

CONTENTS

CLAUSES 1 to 4 agreed to.

SCHEDULE 1 agreed to.

CLAUSE 5 agreed to.

Adjourned till Thursday 10 October at half-past Eleven o'clock.

Written evidence reported to the House.

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The Committee consisted of the following Members:

Chairs: MR GRAHAM BRADY, †ALBERT OWEN

- | | |
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| † Brazier, Mr Julian (<i>Canterbury</i>) (Con) | † Jones, Mr Kevan (<i>North Durham</i>) (Lab) |
| † Brown, Mr Russell (<i>Dumfries and Galloway</i>) (Lab) | † Lancaster, Mark (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Colvile, Oliver (<i>Plymouth, Sutton and Devonport</i>) (Con) | † Mordaunt, Penny (<i>Portsmouth North</i>) (Con) |
| † Docherty, Thomas (<i>Dunfermline and West Fife</i>) (Lab) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Donaldson, Mr Jeffrey M. (<i>Lagan Valley</i>) (DUP) | Phillipson, Bridget (<i>Houghton and Sunderland South</i>) (Lab) |
| † Dunne, Mr Philip (<i>Parliamentary Under-Secretary of State for Defence</i>) | † Seabeck, Alison (<i>Plymouth, Moor View</i>) (Lab) |
| † Ellwood, Mr Tobias (<i>Bournemouth East</i>) (Con) | † Wheeler, Heather (<i>South Derbyshire</i>) (Con) |
| † Gilbert, Stephen (<i>St Austell and Newquay</i>) (LD) | † Woodcock, John (<i>Barrow and Furness</i>) (Lab/Co-op) |
| † Hamilton, Mr David (<i>Midlothian</i>) (Lab) | Georgina Holmes-Skelton, <i>Committee Clerk</i> |
| † Harvey, Sir Nick (<i>North Devon</i>) (LD) | |
| † Hinds, Damian (<i>East Hampshire</i>) (Con) | † attended the Committee |

Public Bill Committee

Tuesday 8 October 2013

(Afternoon)

[ALBERT OWEN *in the Chair*]

Defence Reform Bill

Clause 1

ARRANGEMENTS FOR PROVIDING DEFENCE PROCUREMENT SERVICES

Amendment proposed (this day): 1, in clause 1, page 1, leave out lines 9 to 10.—(*Alison Seabek.*)

4 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 2, in clause 1, page 1, line 10, after ‘DE&S’, insert

‘subject to conditions on maintenance and upkeep set by the Secretary of State.’

Amendment 3, in clause 1, page 2, line 42, at end insert—

‘(7A) Arrangements mentioned in this section must include provision for contractual obligations to be placed on the company operating the contract for defence procurement services under subsection (2), specifically including provision to—

- (a) require non-UK companies to establish special security arrangements for the operation of the contract;
- (b) disqualify from the directorship of the company any individual who holds a directorship over any other company whose main business is in the manufacturing or provision of equipment, works or services for defence purposes and;
- (c) disqualify from the directorship of the company any individual who holds financial securities in any other company whose main business is in the manufacturing or provision of equipment, works or services for defence purposes.’

Amendment 5, in clause 1, page 2, line 42, at end insert—

‘(7A) Arrangements mentioned in this section may not be brought into force until the Secretary of State has published guidance on the operation of the contract, specifically including—

- (a) the system by which available defence contracts shall be advertised to potential bidders, and;
- (b) the responsibility of the company operating the contract under subsection (2) to produce and report annually against progress on an export strategy’.

Amendment 10, in clause 1, page 2, line 42, at end add—

‘(7A) Arrangements mentioned in this section must include provision for contractual obligations to be placed on the company operating the contract for defence procurement services under subsection (2); specifically including provision to prohibit the sale of financial securities in any publicly-listed company appointed under subsection (2) where such sale would result in a change of majority ownership.’

Amendment 4, in clause 1, page 3, line 31, at end add—

“‘special security arrangements’ means a proxy board or Special Security agreement set up to prevent foreign influence over British defence interests.’.

Clause stand part.

Mr Kevan Jones (North Durham) (Lab): Welcome to the Chair, Mr Owen. It is a pleasure to serve under your chairmanship.

Before the break, I was talking about Mr Bernard Gray, whose report concerns how we have got to where we are today with the GoCo. The two options are clearly the GoCo or DE&S-plus, although it is clear that the Government have put all their efforts into the GoCo not only as their preferred option, but in relation to the support given by Ministers and the Ministry of Defence. One does question the extent to which there will be a level playing field in assessing the two options.

We have to ask why the proposed GoCo is needed. Opposition Members agree that there is no question but that the procurement of defence equipment needs reform, but is such a radical and ill-conceived proposal as that of the GoCo necessary to achieve what we all want, which is that the equipment that our nation and, more importantly, our men and women on the front line rely on is not only procured efficiently and on time, but is of a quality that supports them in the work we ask them to do on our behalf?

The proposal will outsource about 40% of the MOD’s budget, with some £16 billion being put in areas taken under the GoCo’s control. This morning’s sitting made it quite clear that we do not know the detail of exactly how the GoCo will work in practice—even the Minister and his team are still working on that—but those details are very important. The proposal involves a large amount of taxpayers’ money and, if we get it wrong, our nation’s security might be put in jeopardy, as might be the lives of the men and women whom we ask to fight on our behalf. The Minister said that clause 1 is enabling legislation, but from the mood music up until today and this morning’s sitting, it is clear that the MOD wishes to continue in that direction of travel.

I need some convincing that the proposal will not only be a better way of procuring defence equipment for our armed forces, but give value for money to the taxpayer and provide a suitable and necessary degree of accountability for the taxpayer and Parliament. Having looked at Mr Bernard Gray’s evidence to the Committee, I must say that his case is quite weak. His main point seems to be that the real issue is about being able to attract the right people to the defence procurement process in relation to expertise and remuneration. It is going a bit far to go through all this radical change, which this is, to get to such a point, if we could do so without necessarily dismantling the present system and outsourcing a very important part of the MOD’s and this nation’s work.

As regards relationships with other countries and what they do, which was touched on this morning, the proposal is pretty unique in that no other country is going down this route. When we make decisions on the enabling clause and the proposal, we need to take into account the fact that the procurement of defence equipment is a global enterprise. It relies on close partnerships and,

as the Minister said this morning, not only on good co-operation in terms of technology, but also on intelligence sharing in terms of security. Given the support that we need for some of those projects—[*Interruption.*] My hon. Friend the Member for Barrow and Furness has just walked in, which is good timing. Certain contracts, including the nuclear deterrent, not only are vital to our national security, but in their delivery need close co-operation with our American allies.

One therefore asks why no one else is embarking on the same process. Looking at the American response, I was a little concerned this morning when the Minister informed us about ongoing discussions with the Americans around, for example, the nuclear deterrent, and said that issues could be worked through. As a Committee and as Parliament, we need to know what those issues are before the Bill has been enacted, because it could be a showstopper if we get to a point where the Americans, certainly on the nuclear deterrent, are not happy or will not accept the interference in that process by what would be a private contractor.

On the interface with Government, there is a basic position taken by many other nations take, which is that certain things that have to be procured on behalf of our nation not only should be sovereign-delivered within our borders, but delivered by the state. That is clearly the American position. If we look at the Americans' review, they clearly take a view on outsourcing, and they use the phrase "inherently governmental functions". According to the letter of President Obama to the Office of the Federal Procurement Policy:

"Inherently governmental functions: described in the Federal Activities Inventory Reform Act of 1998 as 'a function that is so intimately related to the public interest as to mandate performance by public employees'

Functions 'closely associated' with the inherently governmental: mainly concerned with information-provision and advice roles

Critical functions: roles and associated capabilities necessary for an agency (ministry) to perform effectively and maintain control of its mission and operations."

One thing that clearly came out of this morning's debate is the relationship between the private company that runs the GoCo and the decision making in the MOD, at the ministerial level and, as the budgets have been devolved, in the single services. That interface will be important. I accept what the Minister said this morning about some sharing of work, profit or savings, but how will those savings be accrued from the process? The argument so far has been that the civil servants or military personnel doing this job have, basically, not been good at negotiating contracts with suppliers—some of the major primes, in particular. There are two issues there, however, the first around looking at DE&S in terms of comparators to other projects, both in the private sector and the public sector. We have all seen examples of that, such as in the delivery of major infrastructure projects or IT projects in the Department of Health and other areas.

Are they inherently bad at what they do? Can they improve? Yes, they can. In terms of international comparators, we always look to the United States as an exemplar of a free-market way of doing things. However, anyone who actually looks at the US system very closely can see that it is one of the most inefficient procurement systems that one could envisage. The difference is that in many cases money is thrown at problems rather than

problems being worked through. One of the key things in the American system is that ministerial control and—even more importantly—the control of expenditure by politicians is still there.

One of the problems that DE&S has faced in procurement—this is not a party political point, but it is a point that will face the new GoCo—is how you offset—

The Parliamentary Under-Secretary of State for Defence (Mr Philip Dunne):

I am grateful to the hon. Gentleman for letting me try to correct him on a misconception that he has just referred to. He suggested that, under the US procurement system, ministerial responsibility remains and that, under what we are proposing, it will cease to remain. That is simply not the way it works. The GoCo—if we go down that route—will be an agent of the MOD, acting under the instruction of the capability-setters within the MOD, responsible to Ministers and accountable to Parliament through an accounting officer.

Mr Jones: I did not quite say that. What I am trying to find out is how that relationship will work in practice? That is because if we look at projects procured by the last Labour Government and the previous Conservative Government we see that many of the cost over-runs of those projects are basically for two or three reasons. First, are they long and complex programmes? Yes they are, so they are inherently very difficult to manage. Does specification and demands on those projects change over time? Yes it does, and sometimes the primes are possibly trying to second-guess what the MOD requires. Also, the fact of the matter is that there is a situation whereby, because technology changes, things change. That is a cost driver, whether we like it or not, and it will not go away in terms of the system of GoCo.

The other point about what the relationship between the Minister and the GoCo will be is interesting. This present Government and the last Government, which I was a member of, delayed programmes, not because of a wish to do so but to meet the envelope, in terms of the financial constraints on the budget. The present Government and Bernard Gray have argued that we now have this cash cushion within DE&S, in terms of underspends. However, if we look at the National Audit Office report in terms of existing projects, let alone the projects that have not yet gone through to procurement phase, it is questionable whether that cash cushion will be big enough to cover any increase in costs, because there are increasing costs that are—frankly—unavoidable, in terms of inflation and the costs of currency exchanges, certainly when we are dealing with procuring equipment from abroad, for example.

However, I am also not clear how the GoCo will react to a change in demand, as the contract is quite a long one and over that period of time—as I said this morning—if we had looked in 2001 and said that by 2006 we would need an entire new suite of armoured vehicles that were needed in Afghanistan, that was perhaps not the priority at that stage. So, if the actual programme is changed by ministerial direction, either for new capability wanted to come on-stream, or by the fact that budgets will be finely balanced between different programmes, that will lead to problems for the GoCo in delivering what is trying to be delivered, which is equipment delivered on time and in an efficient manner.

4.15 pm

Mr Dunne: The hon. Gentleman has just used the example of protected vehicles in Afghanistan, which, of course, were procured through the urgent operational requirements procurement system, the funding for which does not come out of the MOD budget, but from the Treasury contingency. However, that example does not apply in his case.

Mr Jones: It does. Having been there at the time, the Minister will know about the weekly arguments the MOD had with the Treasury about what was an urgent operational requirement. Although he is correct to say that some vehicles were procured under that system, many things were not and those had to be funded from the main equipment budget. *[Interruption.]* It is painful, as the Minister says.

I never experienced the Treasury's being sympathetic or understanding that process. Although on occasions, possibly, some sections of the armed forces tried to push things through as urgent operational requirements, although they were not, the Treasury fought back quite hard. These pressures will be felt increasingly by a future procurement Minister or the MOD. Such an arrangement will skew whatever the GoCo does.

It is not clear to me how the efficiency targets would be achieved. The GoCo could act in good faith and we could find that, because of those pressures—for budgetary or other reasons—it will not be its fault that things are pushed in terms of being able to meet budgets. Again, it is a bit naive, to say the least, to suggest that the GoCo will somehow be immune from political, or Treasury, interference.

In terms of the Bernard Gray report, a lot of things would be fine in a perfect world, but we are not dealing with a perfect world, as the Minister knows. He would have to deal with the Treasury, even in these straitened times. I cannot imagine some of the rows he must have, trying to get money out of the Treasury at the moment.

Those will be some of the issues with GoCo. The other thing that is not clear is how existing contracts will be managed. The F-35 and the C-17—this Government have procured extra aircraft, as we did when in power—are procured under Government-to-Government contracts. Will the GoCo be inbetween somehow, negotiating those? The problem there relates to what the hon. Member for North Devon said this morning: why would a GoCo be needed in the middle of that process? That is another issue that makes difficulties where they should not be.

Issues and concerns have been raised by the industry, rightly, about the F-35. This is a collaborative programme and it is hoped that it will be a good aircraft, when procured. One driver of that programme that will be good for UK business is exports. It will be difficult to ensure that that process is conducted properly.

It will be interesting to see how the GoCo fits with another two contracts: the Typhoon and the A400M, which are Government-to-Government collaborations. Will it add anything in terms of trying to get that project in place?

We have seen similar reorganisations in other organisations, such as the health service. There will be huge upheaval when people move from MOD contracts to the new GoCos. That will affect terms and conditions—

TUPE will apply—and pensions, and there will be the issue of who will pick up pension liability. I wonder whether the change over the next few years will hinder the proper process that we should have to deliver the equipment that we need.

Mr Dunne: I want to try to help the hon. Gentleman out, as regards his concern about Government-to-Government contracting relationships. We do on occasion acquire substantial equipment programmes from the United States—for example, through the foreign military sales regime. Some of those programmes are relatively short—for instance, we add an extra C-17 to an order, as we have done this year and last—while some endure for many years, such as the joint strike fighter programme, the F-35. The attractions of using a GoCo to manage that process on behalf of the MOD are not just the extra professional management skills deployed, but the ability within a GoCo to retain that skill base for longer than under the current construction, whereby civil servants and military personnel tend to be revolved much more rapidly within the organisation. A project manager for the joint strike fighter, for example, would be expected to stick with a project for perhaps a decade or more, rather than a few years, as at present. That should introduce greater skill and efficiency into the programme.

Mr Jones: That is if the people stay; there is a question mark there.

Alison Seabeck (Plymouth, Moor View) (Lab): The Minister makes an interesting point: surely, if we are looking for flexibilities that could be offered within DE&S, the retention of staff over a longer period would be one of those issues. The CDM has already acknowledged that and is starting to roll some of that out, albeit over a shorter period.

Mr Jones: There is that point. That is why we need to explore further with DE&S-plus whether we can incentivise people—whether by offering more expertise, remuneration or other things—so that we get that stability. I think the Government have made up their mind that GoCo is the way forward. It would be interesting to know how contracts such as the al-Yamamah one with Saudi Arabia would be managed. There are sensitivities around that, and it has been very controversial since its inception in the 1980s. It would be interesting to know where the GoCo would fit in with that. That is a Government-to-Government contract, but over a longer period than perhaps even the period for which a GoCo could exist.

The other issue about the GoCo is that it exists for a relatively short time—in some cases, for a shorter time than some of the programmes it will manage. As a result of the restrictions regarding conflict of interest that have rightly been imposed, quite a few companies have chosen not to bid. The numbers we will be quite small. The idea that this will be a competitive process is limited.

My other concern is about what will happen as regards re-tendering when the GoCo contract is finished. Will there honestly be a proper competition at the end of the nine-year contract? By that stage, there will be one organisation that has built up the expertise and information and has run the contract. It will be a brave

organisation or consortium that bids against it when it has that type of knowledge. The problem is that if a consortium is there right at the beginning, it will continue. It is difficult to envisage others coming in, questioning that and competing for the contract.

I accept what the Minister said about payment from Treasury reserves for urgent operational requirements in some cases, but I am not clear how that process will be managed. That is something that we introduced in Government that was universally accepted to work well, in terms of delivering kit and capability to the front line quickly and efficiently. No one else in the world is doing this. Is that a reason why we should not? No, but it prompts the question: why are other major defence nations not going down this route? I heard what the Minister said this morning about the controls and ministerial oversight of the GoCo—

Mr Dunne: I will resist the temptation to rise to correct every single one of the hon. Gentleman's misconceptions, because that would try the Committee's patience, but I will try to reassure him on the point about whether there is likely to be competition at the end of the first contract. It is correct that we are the first nation to consider introducing private sector expertise into our military procurement, but now that we have taken this innovative approach, several other countries are observing what we are doing with considerable interest, and we are meeting them periodically and regularly. If this is successful, it would not surprise me if in nine years' time we find that other countries have gone down the same path. They may go with the same consortium that is looking after the interest in the UK; other countries might see a market developing and seek to enter it themselves. I think that it would be wrong to suggest that the consortium would be in a monopoly supplier position; I think that others will enter the marketplace.

Secondly, as I said earlier, other companies have joined the AWE consortium during the course of a contract or on contract renewal. It is not right to suggest that once we have established one consortium, it will be fixed in stone in a market-dominant position forever.

Mr Jones: I have to say that the Minister is incredibly naive if he thinks that, if a contract ends with the GoCo in a dominant position, others will come in to compete against it. The GoCo will have a huge advantage, in terms of the expertise that it has built up and its relationships with the MOD. I imagine that competing for a contract like that would be a very expensive process for anyone freshly come to it. It is okay to say that others are considering the model, but possibly they are considering it warily to see which way we are going. During my last discussions in Washington and with the French, they asked, as many people do, why we are considering doing this.

Alison Seabeck: I thank my hon. Friend for giving way again. On the issue of other countries looking into the possibility of having a GoCo, given the small number of companies that could lead a consortium-type bid, is there not a risk that a number of them would want to run similar organisations in different countries? That would be a conflict of interest.

Mr Jones: My hon. Friend makes a good point about the scale and nature of the contract. She is correct: only a certain number of companies could do this. We mentioned one of them this morning, Serco. It was interesting to listen to the Minister discussing what would happen if Serco were debarred due to its ineffectiveness in delivering on other Government contracts, and what that would do to the consortium. We are not talking about a short-term basis; this is a long-term contract with some important outcomes. If the French or others were barmy enough to go down this path, what would stop a company that runs a GoCo in this country bidding for their procurement? Where would the Chinese walls—I think we called them that this morning—or firewalls lie between those countries? That is a great risk to the security that we need to maintain in this area.

4.30 pm

I turn to some of the projects covered by GoCos, in particular the nuclear deterrent. This morning, we did not get a great deal of detail about the ongoing further negotiations. I asked the Minister whether he would indicate the areas under negotiation. The Committee needs to know what they are in order to make a judgment on whether GoCos are possible for a nuclear deterrent, which will be a major investment for the nation over the next few years, and we need to know whether any red lines that the Americans come forward with could result in that being taken out of the GoCo contract, as I think the Minister said this morning. If that happened, what would that do to the existing GoCo's pool, in terms of not only the relationship with the Americans, but the overall contract that the GoCo thought it was bidding for before that was taken out?

Just before lunch, we found ourselves in a strange situation: the Minister admitted—I did not realise this—that the GoCo will not have exclusivity when contracts are organised; the front line and others could bid outside that process. That was raised by the hon. Member for North Devon. If that is the case as regards the contract let to the GoCo, it will be interesting to see how big the cake will be, because I cannot see anyone wanting to invest in a GoCo project if, having thought that they were bidding for the entire cake, they find that two thirds is taken away, or could be taken away at any point in the process. If a contract is not exclusive, I would have thought it would be difficult for some of those investors to work out their profit levels.

This morning we also discussed the dual role, possibly, of Crown civil servants and others who work for the GoCo. They will have two masters: the MOD and the GoCo. I have never been in an organisation that has two masters like that, and this organisation will be set up with competition at its heart to ensure that efficiency is brought forward. It will be interesting to see how those individuals will be responsible and accountable. As a result of those two factors—the nuclear deterrent being taken out, and the unexclusive contracts that mean that part of the cake is nibbled away throughout the contract—whichever bids will be unclear about what size market they are going into.

The other important area—I know that it will be covered later—is the existing single-source contracts. Quite a number of my constituents worked at the old Royal Ordnance factory in Birtley and moved recently to the new munitions plant at Washington in Tyne and

Wear. I am not sure whether the Minister has visited it, but he will be aware of it. It is a state-of-the-art munitions plant.

Mr Russell Brown (Dumfries and Galloway) (Lab): Absolutely.

Mr Jones: My hon. Friend agrees, because he visited it. The reason for that investment was the long-term munitions single-source contract, entered into with the MOD, which gave certainty. That is just one of a number of similar single-source contracts. Will they be brought under the GoCo, and what will the relationship be? Clearly, the managers and the investors in BAE Systems have worked on the basis that their contract—I think it is for 15 years—is in place and that it cannot be renegotiated. They have obviously borrowed money to build a brand new state-of-the-art facility for that contract. If that will come under the GoCo, how do we prise out any added value? If we are talking about trying to renegotiate that contract in any way, where does that leave a company such as BAE Systems, which has invested several millions of pounds in building a brand new facility to deliver that contract? That is a question about single-source contracts that needs answering. Some contracts are longer than the one that is in place, including the air tanker contract that comes under the private finance initiative arrangements. Will that be part of this process?

Mr Tobias Ellwood (Bournemouth East) (Con): The hon. Gentleman has mentioned the air tanker twice now. I just wondered whether he, as the Minister involved with that project, is proud of that particular agreement, bearing in mind its £13 billion price tag and the length of the agreement. There is one example that I hope the advent of GoCo will be able to prevent. We created an air tanker, the Voyager, which is designed to refuel aircraft in the sky—so far so good. At the same time, similar companies were involved in the Airbus A400M, which he also mentioned. Unfortunately, under the contractual arrangements, the A400M is not allowed to refuel our aircraft. It seems madness to purchase an aircraft that is useful for transporting and that has the capability to refuel, but is not allowed contractually to be used by our armed forces to refuel.

Mr Jones: On Voyager, I have spoken with the RAF and it is happy with the contract that has been put forward. There was a lot of nonsense at the time—I know that I may be digressing here—about how we could buy the aircraft off the shelf at a fraction of the cost over the period of the contract, but that naive approach is one of the problems with defence procurement. The former Secretary of State took that approach, as does the hon. Member for Bournemouth East. They seem to think that procuring defence equipment is a bit like buying a new car—a person walks into a showroom and says that they will have one in blue, one in yellow and one in pink, and they will have them by next Thursday. It does not work like that. *[Interruption.]* I cannot quite see the hon. Gentleman in a pink car. It is not as simple as that. It is about not just the availability of those aircraft, but things such as defensive aid suites. That is an example of how what seems to be a simple piece of kit involves quite a difficult and complex procurement process.

Mr Ellwood: I am grateful to the hon. Gentleman for giving way; he has been very generous in doing so. My concern is that he has been scarred by his experience in government. We must not forget that responsibility for finances was taken away from the MOD and given to the Treasury under special measures brought in by the previous Government because things got so bad during their tenure. Yes, the contract is there now; it is being honoured by this Government. The hon. Gentleman is right that I raised concerns about it. It seems curious that nine aircraft were bought at a total price of £13 billion when an A330 can be bought off the shelf for £60 million. That suggests that we could have fought for a better deal. The question is whether the GoCo process will avoid that and allow better scrutiny before a deal is actually struck.

Mr Jones: Again, the hon. Gentleman is saying, rather simplistically, that the aircraft could be bought at that point. The Voyager contract, which is over 29 years, includes all the service, the full package of spares, and the through-life costs of those aircraft. Although it has been said that a second-hand Boeing 767 could be bought and then somehow converted, we have seen the problem of converting existing aircraft with the Nimrod contract, which again, was ordered by the last Conservative Government, and, frankly, we should have cancelled it. If people read the Select Committee report—[HON. MEMBERS: “That’s a first.”] Well, it is not actually. The Select Committee report, I think, from 2004, includes the amendment that I moved to cancel it.

Mr Ellwood: But you did not cancel it.

Mr Jones: The fact of the matter is that it was a bad contract, but I shall not go down that route.

The Chair: Order. I am sure the hon. Gentleman will deal with the clause rather than the previous contract under the previous Government.

Mr Jones: I do not understand how the GoCo will make any difference. One of the issues, as I said earlier, is about the specification of equipment, and the drivers on that are cost and requirement. That requirement will change over a period of time, in terms of when people want technological or capability changes. Therefore, that will not change with the GoCo in relation to driving costs out. What it will mean is that there is a sales agent between the Minister and the primes and others in delivering those contracts. The problem is whether we need to have a major reorganisation. I would argue that no, we do not. The existing vehicle could be changed, in terms of trying to get what we all want to get, which is, as the Minister said earlier—I do not disagree with him on this point—the equipment being delivered on time and in an efficient way.

Mr Dunne: It is unfortunate that the hon. Gentleman was not present during the oral evidence session, when Bernard Gray addressed precisely that point, which was about how, by introducing a GoCo with a hard, contractual relationship with the MOD, with an incentive to get costs down, that will fundamentally change the nature of the procurement animal between the MOD and

DE&S. At present, there is no hard boundary and there are no consequences in the event of overruns, which we have just been talking about in some of the historic projects that the hon. Gentleman helped to oversee.

Mr Jones: I am sorry, but I disagree. I do not think that a hard contract will help the process. We can use that type of phrase—a “hard contract”—but things that the GoCo will have no control over are going to determine these projects. They are ministerial decisions. They involve fluctuations in such things as currency charges and, because such projects take a long time, a need for the capability to change. That falls outside whatever terminology we use about a watertight or tough contract, because the GoCo will have to do what Ministers tell them to do in that respect.

Oliver Colvile (Plymouth, Sutton and Devonport) (Con): Thank you, Mr Owen, for allowing me to serve under your chairmanship. Does the hon. Gentleman also recognise that one of the really big problems over the years is that the Treasury has never been particularly confident that defence procurement has been a successful activity and that it has been done well? Surely this is a way of trying to ensure that we can deliver confidence to the Treasury, so that it is less reticent about seeking to take some of these tough decisions rather better.

Mr Jones: I would love to see what the Treasury’s view is. I would think that it is very uneasy, as some senior civil servants are in the MOD, about giving control over the process to the private sector. As for the situation being more robust from the Treasury’s point of view, I am not sure that that will be the case. One of the main things with Gray is that the defence procurement budget will be fixed for a certain period of time, but who knows what will happen in 10 years’ time? That will affect what equipment we can have. The way the Government are going at the moment and with the round of redundancies coming in the new year, we will have more tanks and pieces of equipment than members of the armed forces. I think we can achieve what we want to achieve without going down this process.

4.45 pm

I have a concern about the penalties the Government will have available to them to ensure that the GoCo delivers. We talked this morning about Abbey Wood. Anyone who has run a company, a council or anything like that will know that if budget reductions are made it is possible to talk, like the Communities Secretary does, about saving money on paperclips, pot plants and things like that, but it will not save the big budget items that are wanted. The only thing that saves money is people because they are the most expensive item in most organisations. What was interesting about this morning’s discussion about Abbey Wood is that there will be a reliance on the GoCo to occupy those buildings. We are not clear what the rental levels or the agreement will be.

I am not sure that any company will take on a commitment to occupy a building, because if one is trying to drive through efficiencies there will be fewer people to occupy it. People can be moved around the building and spaced out a little, but if we are talking about the lifetime of this contract, technology will change and there may be people working not in one

single site but on numerous sites and even home working, for example. What will happen? I am not sure that any company will take on a commitment for a building in those circumstances. The Minister said this morning that there would be a penalty clause in the usual contractual terms, but that leaves the MOD with a problem in terms of a building that has been paid for which needs to be occupied or sold on. Again this detail needs to be looked at.

I turn now to the clause on conflicts of interest. It is interesting on two levels: on an individual level but also in relation to the concerns that the Opposition have about the potential conflicts of interest or security implications for our defence procurement. Let me deal with the position of people first. It is clear in the Bill that people cannot have conflicts of interest with other companies. One example has already been given of a director who has had to resign from a company because of a conflict of interests. It is a long contract. Even though they will be very well paid, according to Mr Gray, there will be an incentive for the employees of the GoCo to move. We explored this earlier. How will we stop them moving to contractors who are bidding for work with the MOD via the GoCo? In the short term that will not be possible.

Reference has already been made to the civil service or ministerial rules. We know how useless they are at stopping people moving after a period of time to areas in which they have had a previous interest. Quite rightly those rules have been criticised. There could be a period of *purdah*, which is common both in private industry and in other areas, but I do not see how it will be possible to stop people moving. It would be illegal to lay down that once someone had worked for a GoCo they could never work in the defence sector again. So what will prevent companies that are bidding for MOD contracts from poaching people from the GoCo? The answer is nothing. The idea that there will be an impregnable Chinese wall, or whatever it is, to stop people moving from the GoCo to the private sector is wrong, because we know in our hearts that that barrier will not exist. That raises questions about the effectiveness and integrity of the GoCo. There is an issue and it will be interesting to hear the Minister’s response to it. The people who work for the GoCo will be highly prized by many defence companies.

This morning, we touched on the number of companies involved, and reference has already been made to Serco. The Minister said that if a wider Government decision was made on Serco, that company may have to be taken out or asked to leave the process, but that limits the number of companies that can bid for this type of work. Has he looked at whether members of the potential consortium for the GoCo have any skeletons in their closets from existing contracts with Whitehall Departments or from international contracts? What assurances has he had on that? If we have question marks over the integrity of the consortium members or their performance in contracts in this country or overseas, that could debar them from taking part in the process.

Another issue that we touched on this morning was ownership in the GoCo. The Minister could not answer our question. I know that the Government will have the golden share and be able to block takeovers of the GoCo itself, but we need to explore the share ownership of the GoCo’s members. If, for example, Serco was taken over by a Chinese, Russian or any other sovereign

wealth fund, would the Government ask it to withdraw from the GoCo? Serious questions need to be asked on how and at what level parts of the consortium would be asked to leave the GoCo. We need reassurance not only on what measures will be in place to deal with possible foreign control of a key part of our defence procurement process, but confidence that there is at least some mechanism in place to look at that eventuality. Without that, individual parts of the consortium could be taken over—or control and influence over them could be gained—and that could, if not directly, indirectly influence the GoCo.

I do not understand why the Government have not looked at the issue with the GoCo board. It is clear that a number of successful UK and European-based companies contract with the United States Department of Defense. This morning, my hon. Friend the Member for Plymouth, Moor View talked about the support of the local employment base. In the United States, people are clear about that process. Anyone trying to enter the US defence market has either to build a plant or to buy a company in the United States. There are two reasons for that. The first is security. BAE Systems North America has a separate, stand-alone board from BAE Systems and does not have any interface.

The proposal to have a stand-alone UK board is important, and I cannot understand why the Government have not opted for that. They have insisted that either the chair or the chief executive has to be a UK citizen, but a stand-alone UK board would provide some confidence that we will not possibly get leakage of information or perceived leakage of information, or influence from parent companies and their operations in different parts of the world. The Americans quite rightly judge that arrangement to be important, and so should we. If we are going to have a GoCo, we should insist on having a separate, UK-based board.

The Minister also said this morning that the company will be registered in the UK and pay all UK taxes. I would like to know how that will be done. Is that going to be an insistence on the GoCo? How will the Government insist in the contract that the export of profits from the GoCo to the individual companies will be subject to all UK taxes? As the operator will be a consortium, a number of companies will have come together to deliver a GoCo. What control will we have on the delivery of profits that are made to the individual parts of the GoCo?

Mr Dunne: I have a number of quick points. The company will be incorporated in the UK. The hon. Gentleman asked how we will ensure that that happens. The MOD will be a signatory to a contract with that company. If the company is not correctly incorporated in the UK, we will not sign the contract. The MOD will have the right to appoint an observer on to the board of the operating company, so we will have someone at board level able to ensure that the company behaves appropriately.

A point was made earlier about the rules regarding directors of the GoCo going off to other companies. Directors will be subject to the same rules on public appointments as currently apply to defence contractors. The hon. Gentleman also spoke of individual employees of the GoCo being poached to work in industry. He is absolutely right; that happens now in DE&S. That is one of the problems in the industry. The reason why we

think the GoCo might be a better construct to encourage longevity in service is that it will be able to provide a career structure in a way that does not apply to the DE&S to the same degree, because that career structure is an inherently military and civil service career structure, which has different characteristics.

Mr Jones: I accept that point, but that could also be delivered by DE&S-plus, if we went down that route. The idea that the GoCo is the only way to deliver that is problematic. I would have more faith in the Government's approach, as would most people who look at the process, if we were having a genuine beauty parade between two options, but we are not—*[Interruption.]* I am sorry, but I do not think we are.

What the Minister has just said about the board is interesting. He said that he will insist that the company is incorporated in the UK. He also said that the MOD will have an observer on the board. I do not know what the Minister's definition of an observer is, but they will not have voting rights or influence on the board's operation. If the board decides to do something the MOD does not agree with, how will it insist that that does not happen if it has only an observer on the board who cannot vote or influence the process?

5 pm

I return to the point that there will be a consortium, not one single company. It may be incorporated in the UK, but how will its profits be apportioned to its individual members and what will their tax status be in terms of the individual profit lines that will go to the parent companies? It would be interesting to know how the Government could insist that when, for example, Serco or someone else receives its profits from the GoCo it does not channel them through one of its overseas subsidiaries or set up a mechanism to avoid paying what we would all consider to be the proper amount of tax on those profits. That needs further examination and an explanation of exactly how that will be structured.

It would be ironic if we spent public money procuring defence equipment for our brave servicemen and women, and the companies managing the process did not pay the full amount of tax on their profits in the UK. Clarification is needed of how the MOD can insist on that not just in the short term but in the long term, and whether paying a certain amount of tax or having a more tax-efficient way of paying it will be an issue for some companies when bidding and making their investment proposals.

Many issues remain concerning conflict of interest and they need to be explored. The Minister said that the directors will be covered by the same process that covers Ministers and civil servants, but if he has confidence in that, no one else has. That will not stop directors moving, even if we pay them large salaries to work for the GoCo and thereby be directors of it. It is difficult to know what will happen. We could insist that there is a cooling-off period, which is common in some areas—*[Interruption.]* The Minister nods, but how long will that be for. It cannot last for the entire nine years of the contract or the eight or five years remaining. That person will have detailed knowledge of how the GoCo is working if they go to a competitor company. That is the problem, and I accept why the Government are trying to put in place mechanisms to prevent conflict of

interest, but as soon as the private sector is brought into the organisation, as is being done, that will be virtually impossible. The mechanisms may be well meaning, but they will not work in practice.

The other situation that was raised this morning was how GoCo will be accountable to Parliament. That is covered later in the Bill, but it is worth exploring the transparency issues. A key issue is that not only is accountability to Parliament necessary, but the public must have confidence that there will be proper oversight of the procurement of equipment and the working of the GoCo. There will be a profit share between the two organisations—the MOD and the GoCo—but what will be the drivers of that profit? I have already mentioned that, if we are going to drive costs out, people are going to be one of those factors. But what else? Are they going to be so good that the big primes will be quivering in their boots? Are they suddenly going to ensure that money is found? It is not clear exactly how the “profit” is going to be made out of the contract. That is one of the fundamental problems with this type of arrangement.

In the workshare, is the profit going to come just from efficiencies, or are the Government going to try to renegotiate contracts that have already been let, as the Minister talked about at the start of this process? I know the right hon. Member for North Somerset (Dr Fox) argued when he was first in post that these bad, wicked primes that had duped the MOD over the years would somehow have their contracts renegotiated. I have yet to find out how much the Government have renegotiated from those contracts—unless the Minister is prepared to publish them. I have asked him on a number of occasions to do so, but all he said to me was, “You have asked the wrong question.” I shall have to think more ingeniously about how to ask that question.

This year’s MOD budget gave a figure of £700 million for efficiencies from renegotiated contracts. After the contracts have been let by the MOD via the GoCo, are we going to say to the primes that think they have won the contracts fair and square that, lo and behold, after a certain number of years we will revisit the contracts and screw them down for more? That is a little like going to a tailor, asking for a new suit, agreeing a price, walking out the door, then walking back in two years later and saying, “I want a discount on the suit that I have been wearing for the past two years.” That is the problem. I can see what will happen very clearly. It will not create the constructive relationships that the MOD wants to build with contractors and suppliers. All we will be doing is inflating the price of the original contract because we know that we will be giving back 5%, 6% or 10% later on. That is not an efficient way of doing things.

Mr Dunne: The hon. Gentleman gives me an opportunity to answer his challenge and give him some examples of where we have succeed in renegotiating contracts and reducing the cost to the MOD. It illustrates the stark contrast between the approach taken by the ministerial team under the previous Government and the much more rigorous, value-for-money and taxpayer-focused attitude of the current ministerial team.

At the defence and security exhibition at the ExCeL centre last month, the renegotiation of the support contract for the Apache and Merlin helicopter engines was announced, a contract that will last six years at a

cost of some £367 million—£300 million cheaper than the arrangements that existed under the hon. Gentleman’s Government over an equivalent period.

Mr Jones: I am pleased to hear that. Will the Minister now produce a full list of all those contracts? The original strategic defence and security review figures and his own budget now show that it is on target. Will he publish the full list of contracts that are up for renegotiation along with the targets? Is that process going to be carried out by the GoCo or by him? In his latest policy paper, the Minister seems to want a constructive relationship; will there be a threat over those companies?

I have spoken to a number of companies about this issue. They are not daft. They say that they want to continue to do business with the MOD and that the renegotiation emerged through fear rather than anything else. Is the Minister trying to tell me that that is a good basis for long-term, productive negotiations and for the development of our industrial base? I do not think that is the case at all. In future, he will find that people will add a margin to the price at the beginning because they know that later it will be taken out; I know he has a business background and I am sure he did the same when selling his books. Perhaps I will ask his brother, next time I see him in his bookshop in Mayfair—it is a very fine bookshop, I hasten to add, next to the Saudi embassy, and I recommend that people visit it—whether that is a process he would undertake.

In such cases, people will add an amount to the contract at the beginning. It is not as though we are talking about a mass of companies that can deal with this type of project; we are talking about a small number of individual contractors, so if one does it, it is quite clear what the others will do. If they are all negotiating under those conditions, they will all ensure that a margin is built into the contract, which will then be taken out later on.

I like the Minister. If he could produce the full list I mentioned, it would be very enlightening: we could see where the £700 million that has been earmarked this year is going to come from.

I turn now to another issue that was raised this morning: support for our local supply base. I support and take great pride in our defence industry, not only for the work it does in providing kit and equipment for our armed forces but for the excellent reputation it has for exporting products around the world—not just the primes but medium and small businesses. We cannot underestimate their importance to this country, not just for their monetary value but for the skill base they sustain. The constituency of my hon. Friend the Member for Barrow and Furness is famous for building nuclear submarines; there are very highly skilled individuals there, including engineers. There is also a cluster of optical and other companies around that industry. Those companies are quite small in nature but highly innovative: because they are small, they make sure they can react to markets very quickly. We need to retain those companies, and not just for the defence industry: as we know, such technologies are increasingly crossing over into other areas such as security.

If the cost driver in the GoCo is to get the most efficient contract—I am not suggesting for one minute that the Minister would not want to do that—we need

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some reassurance about how we will insist that the GoCo maintain the local-level expertise I have mentioned. This morning, in response to his hon. Friends, he gave us the assurance that that would be the case, but unless there is something in the contract to reflect that, how can he do it? We could find that SMEs and others that rely on the contracts are disadvantaged. In areas such as nuclear technology, investment should be local.

5.15 pm

The Minister said this morning that any company would want to make sure that it had skills and investment locally. Yes, but unless we insist on that, a situation might arise in which a company, for example in the constituency of my hon. Friend the Member for Barrow and Furness, suddenly says that it is cheaper to do research and development in Europe or elsewhere. I pick Barrow not only because my hon. Friend is sitting next to me, but because that community is heavily reliant on two particular industries, the civil nuclear industry and the submarine industry. There is an important public policy point for such communities—I mean no disrespect to my hon. Friend, who knows that I love Barrow dearly, having worked there—in that if that local expertise was lost locally, it would be very difficult to attract other large employers. If the sole purpose of the GoCo's existence is to drive out cost, where is the balance between ensuring that that happens and ensuring that local communities that rely heavily on defence contracts and expertise are maintained?

John Woodcock (Barrow and Furness) (Lab/Co-op): My hon. Friend is making a powerful case, not least because he is taking the time to extol the virtues of Barrow, which is important to do in any of our debates in Committee. Does that point not add to the concern about the lack of any reference in the Bill to the need to promote the industrial base, particularly in areas such as mine, which are so dependent on the defence industry, as he rightly says?

Mr Jones: I agree with my hon. Friend. This is not just about the protection of local industries; they are vital interests and there would be large implications if they closed and we lost their skills. If a company suddenly decides that such skills do not have to be nurtured in the UK, they could be lost. I use the word “nurtured”, because they have to be nurtured: the supply of skilled engineers in the nuclear industry cannot be turned on like a tap when it is needed; engineers need to be trained over a long period and to be nurtured through work programmes and bringing new apprentices and younger people through the process. The decline of the UK shipbuilding sector means that there might be a shortage of shipbuilding welders in a few years' time. If the Government are committed—to be fair to the Minister, I think that he is committed—to ensuring that we have a vibrant, successful defence industry in this country, not just at prime but at all levels, it is important to refer to that in the Bill.

Mr Dunne: I want to try to help the hon. Gentleman not to head too far up a blind ally. We discussed this morning, and he has just returned to this in his question, whether the GoCo would act in accordance with the

MOD's instructions, both in procuring specific equipment from a single-source supplier, on which the answer is yes, and in relation to policy initiatives in the MOD's procurement policies—we touched on SMEs and exports—on which the answer is also yes. On both his concerns, it is therefore clear that the MOD will instruct the GoCo to adopt its policies and that it will act accordingly, so that need not be in the Bill.

Mr Jones: I do not agree with the Minister. Such a matter can be reflected in a contract that sets out that the GoCo should, for example, take account of broader MOD policy, but what sanction does the MOD have over the GoCo to insist that that happens in practice? We can ensure either that that is done now in the Bill or in some mechanism in the contract, with the company insisting that vital skills are protected in places such as the constituency of my hon. Friend the Member for Barrow and Furness.

Oliver Colvile: I represent Plymouth, Sutton and Devonport. Over the years, the Navy has been the dead hand, stopping any other activity taking place in Devonport. Ford, for example, was keen to come to Plymouth, but did not because the Navy stopped it. We need an organisation, such as the one being proposed, to ensure that the Navy is not preventing things from happening and to develop a proper and better-paid skills base. We need to ensure that one organisation is not dominant. We need a series of companies that can actually deliver some of what is proposed.

Mr Jones: The hon. Gentleman makes a strange comment. I have spent a lot of time in his great city and I know the great contribution that it makes to the defence of this country, but it is a bit harsh to call the Navy a “dead hand”, given the innovation and the change that it has gone through both in his constituency and elsewhere. He may be trying to curry favour with the Army by making such comments—I am sure that that will work—but they are not helpful. If I were him, I would be concerned about ensuring that, either in the Bill or the contract, local skills will remain. If that is not secured, the GoCo may take the MOD's policy into account, but the MOD will have no levers to ensure that it does so in practice. Those who have been involved in defence for several years will know—as will the hon. Gentleman, from the work he does with SMEs—that SMEs need the loudest voice, because some quite rightly complain that they get crowded out by the primes when bidding for contracts or trying to innovate. If I were the hon. Gentleman, I would not just accept that his constituency will become a nirvana of regeneration; I would want some assurance that the MOD will ensure that the GoCo protects and takes account of SMEs. I accept that competition will be an issue, but it is important that this country maintains certain sovereign capabilities, such as those in the constituency of my hon. Friend the Member for Barrow and Furness. I would not want to see those skills lost in Barrow or anywhere else.

We touched this morning on the awarding of contracts and the GoCo. We are basically privatising our system of defence procurement. Quite rightly, defence contracts have been exempt from European procurement rules and one could argue—[*Interruption.*] I welcome the hon. Member for Canterbury. He asks whether I am still speaking. Yes, I am, and I am sure he will read my contribution in *Hansard* with great joy.

Mr Julian Brazier (Canterbury) (Con): Apologies, Mr Owen. That was not meant to be a stage whisper, but perhaps the hon. Member for North Durham chose to hear it.

Mr Jones: No, I did not choose to hear it. I will not bore the Committee, but I had my ears syringed last week, so my hearing at the moment is good. I recommend it to anyone who has ear problems. Perhaps that is too much detail for the Committee. It does give some advantages in being able to hear the hon. Gentleman.

I would like to explore the contract relationship. Will these still be classed as MOD contracts under European law? The situation seems to be that, although the MOD is the customer, we are putting in place somebody else to negotiate. I think I know the answer, but I would like some assurance that the matter has been looked at, to ensure that the bureaucrats in Brussels or Strasbourg are not suddenly faced by MOD contracts that have to be opened up to competition throughout Europe.

Mr Dunne: Again, to avoid heading down the ear trumpet of the hon. Gentleman's confusion, this is not a privatisation. We will choose between a GoCo—a Government-owned entity—and DE&S-plus, which will remain within the public sector. If a contract is placed by a GoCo on behalf of the MOD, it will be an MOD contract and will remain subject to the protections that concern the hon. Gentleman. Because they are public sector procurements, they will have to accord with the EU procurement rules, and the others that I referred to in my remarks this morning. We will have the benefit of article 346 exemptions where we wish to direct procurement to particular companies in particular locations to help deal with the issues in Barrow about which he is so concerned, as are we.

Mr Jones: Yes, but my hon. Friend the Member for Barrow and Furness has just reminded me of something. The Minister said that there were two options—DE&S-plus and a Government-owned entity—so that is not privatisation. That is not the case. I cannot see how the Government are going to own the process. They have the golden share to stop various things happening. However, decisions on procurement are to be taken by a private sector entity.

Mr Dunne: The premises on which the operating company will function will continue to be owned by the Government. The operating company can be transferred back into complete Government control in the event of failure of the management company above it. Through the mechanism of the golden or special share, the Government can exercise those powers. That is what gives Government control while the operations are undertaken by the private sector, with something more akin to an outsourcing arrangement.

Mr Jones: It is not an outsourcing arrangement. As the Minister said, I would have thought notionally most companies could be brought back—nationalised in a way—by the Government. In this situation, the day-to-day decision making on defence procurement will be made by a private company for profit. I find the logic that this is not a privatisation difficult to understand.

Regarding the people transferred into the GoCo and its ownership, the issue is the consortium. We all know the unhappy process. Before the hon. Member for Bournemouth East pipes up, I accept that it was a Labour Government who decided about QinetiQ. What is the role for individuals transferred from DE&S to the GoCo? Will they be allowed to take share options and other incentives? One could envisage a situation in which Mr Bernard Gray, if he is still around and has not been driven completely mad by the civil servants at the MOD—that is no disrespect to the civil servants in the room today; I am talking about those at a far higher pay grade—[*Interruption.*] Oh, the Minister is obviously incentivising his team by paying them good bonuses. That is why they have smiles on their faces—they are happy to work for him.

5.30 pm

Anyway, what will be the situation for people currently working for DE&S if the GoCo comes into being? Will those individuals, especially at director level, be transferred and allowed, for example, share options and other incentives? In the unhappy QinetiQ process, certain individuals made huge sums of money when it was finally sold. Will any system be in place for people who are employed by DE&S? I mentioned Mr Bernard Gray because he seems to be doing well at the moment, in terms of his salary package, but if the successful bidder chooses to employ him or offer him a directorship with shares, given that he has been on the inside track, will there be any way of preventing that?

Certain individuals could make large sums of money, and if we are to go down this route, the area needs to be explored. It would sit uneasily with me and the vast majority of the people transferred to the organisation—many on lower pay than Mr Gray—if one or two individuals suddenly found themselves richly rewarded for coming up with the new GoCo system. I would therefore be interested to know what arrangements, if any, will be put in place, and whether that has crossed the MOD's mind. I am sure that it might have crossed the minds of Mr Gray and others who potentially stand to make a lot of cash if the option goes ahead.

Mr Dunne: If the GoCo option is used, incentive arrangements will be put in place between the MOD and the GoCo, in relation to fees. It will be up to the management company to decide what kind of incentive arrangements it wishes to put in place for employees within the GoCo. I do not wish to personalise the discussion, but since the hon. Gentleman has referred to Mr Gray, he has indicated that he would not be part of a GoCo structure. He would be part of the MOD governor function and remain within the MOD, so the issue does not arise in his case.

Mr Jones: Mr Gray might say that, but it does not stop him doing it. It would be really wrong if he were able to go to the GoCo. If his whole argument is that people must be incentivised to work—I know that he is on a substantial salary package of at least £100,000 more than the Prime Minister earns a year—will the MOD look to incentivise him to keep him in that suggested role? It seems that one of the key drivers has been that he has argued for incentives, so how are we going to ensure that he is kept there? Likewise, having set up the organisation and fixed things as he has, along

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with others, he could clearly be a valuable asset if he went to work for one of the major defence contractors. The issue of people becoming directors needs clarification, because it would not sit comfortably with many people if some thought that they should be rewarded because of a system with which they had been involved from the beginning.

My hon. Friend the Member for Plymouth, Moor View, has tabled a number of amendments, leading to the wide-ranging discussion we had this morning and, hopefully, will have this afternoon about clause 1 and enabling legislation. I disagree with the Minister, although I quite like him, as I said earlier. There is only a single track in terms of where we are going. The GoCo is the only show in town as far as real change is concerned, and that is what we will end up with. The only way in which we could get cold feet is if the consultants' report and others were published—that is what my hon. Friend challenged the Government to do this morning—so that the Committee could see their view.

If we are to have such a radical change, which will lock in a defence procurement system for many years to come, it needs to come back to Parliament after the assessment phase, because otherwise there will be no opportunity at all for Parliament to scrutinise this before it comes into existence. If we agree the Bill as outlined now, we are basically saying to the Government, “We trust you to ensure that we get the best deal for the taxpayer and Parliament.” We need scrutiny of the GoCo proposal and public airing and discussion of DE&S-plus, because again we are not hearing a great deal about that. If the Government think that their system will be better and that it will deliver what it says, it is important for the two options to be appraised publicly. If not, there will be the feeling, which certainly I and other Opposition Members already have, that GoCo is a done deal.

I do not know why the Government are resistant to providing that next stage of information. If we go down the GoCo route, the issues around DE&S-plus will be scrutinised closely by the Public Accounts Committee. We are part of a process, however, and enabling legislation does not sit comfortably with me, because, basically, it gives the Government the powers just to go off and do things once the Bill has been enacted. What came out of the debate this morning and this afternoon was that the Minister is, quite rightly, still working his way through a lot of the detail of how things will be done. In the Bill, we are being asked to agree to something that is not what will be entered into at the end of the process. We need the opportunity to come back to it. If we do not have that, I, like my hon. Friend, will argue strongly—perhaps not today, but certainly on Report—for opposition to the GoCo as outlined, because there are too many unknowns in the details.

Furthermore, if, as the Minister said, there is proper and genuine competition between two options, we should be able to appraise them before we agree to the process. A lot of people have looked at the Bill and described it as rather dry and boring. It may be, in the detail—no disrespect to the people who drafted it—but it will have major implications for many of our constituents. I will get another plug in for Barrow, so that next time I visit I can get a free cup of tea or perhaps the freedom

of Barrow. It will impact on a number of communities throughout the country, in terms of procurement. It will also impact greatly on members of our armed forces; they live in our constituencies and we are rightly proud of them. I would not want a system put in place that in any way led to the process being inefficient or that meant that we did not get value for money. It does not fit comfortably with me that people should be making money out of Government money being spent, as we have seen.

This is a dry and possibly boring subject, and I hope that I have not kept people awake too much with my oration this afternoon. However, we need those two caveats. Without them, I could not support the clause at the moment. With those brief comments, I draw my remarks to a close.

The Chair: I am genuinely grateful to the hon. Gentleman for concluding his remarks.

Alison Seabeck: Thank you, Mr Owen. I am sure that you have enjoyed your first sortie on this Bill. My hon. Friend the Member for North Durham has delivered what can only be described as an epic speech. [Interruption.] It was far too short.

The debate on the clause has been thorough and has benefited from the experience and knowledge of Committee members, including my hon. Friend and the hon. Member for North Devon, both of whom served as Defence Ministers. Probing questions were asked by my hon. Friend the Member for Barrow and Furness, and by the hon. Members for South Derbyshire, for Plymouth, Sutton and Devonport—my neighbour—and for Bournemouth East, all of whom have either practical experience of the services and their needs or have defence industries based in their constituencies.

I will now round up, because there will be a vote in the Chamber shortly. The Minister began his reply by setting out the reasons why an “as is” option is not necessary—basically, because the business plans have been taken as the baseline—and then, with great patience, responded to questions and detailed his opposition to our amendments.

He made an interesting defence of the legislation, despite the dogged, persistent attempts of my hon. Friend the Member for North Durham, who did not leave a single square inch of it uncovered during his comments.

Damian Hinds (East Hampshire) (Con): He has just thought of something.

Alison Seabeck: They want more! The concerns raised about nuclear safety and the nuclear deterrent, and the experience of UK-US Government that my hon. Friend the Member for North Durham has, should be taken seriously, not least because these issues are being investigated by the US task group considering our GoCo. The Minister did not answer my question about whether he believed that the US would require a case study to be tested against the UK proposals in this respect.

Mr Dunne: I apologise if the hon. Lady did not catch my remarks. I said that we have gone through a series of examples with the United States, particularly in relation

to the submarine programme. I did not mention earlier that our director of submarines has been engaged with the US, talking through relevant issues in relation to the potential GoCo, including the deterrent. At this point, no red lines have emerged.

Alison Seabeck: I thank the Minister for clarifying that point. Clearly, I need my ears syringed, as does my hon. Friend the Member for North Durham.

The Minister repeatedly used the Atomic Weapons Establishment as an example of a successful GoCo, but the Cabinet Office is currently running the investigation into the contracts linked to one partner. The Minister carefully picked his way around that. It is a bit of a mess and there will be costs to the Government and taxpayers if failures are found, and it will create uncertainty. The public's faith in such organisations and in some public companies is wearing a bit thin. It highlights the dangers around the potential involvement of some of the companies in the GoCo and in the consortia. We genuinely need to be clear that there are rigid safeguards in place to protect the taxpayer. We will come on to those in later clauses.

5.45 pm

On the fire at AWE in 2010 and the resulting activity, will the Minister tell the Committee how much additional payment was required from the taxpayer, rather than from the companies involved? That information might be useful at some point.

The Minister spoke about the importance of balancing skills and capability. My hon. Friend the Member for Barrow and Furness raised specific questions linked to the work carried out for the MOD in his constituency. The hon. Members for South Derbyshire and for Plymouth, Sutton and Devonport rightly pressed the Minister further on skills. There is no requirement for the GoCo to hire locally or to stop it moving people in and around the UK, or outside the UK, as far as I can see. I am happy to be corrected, but I think it has such freedoms. It can, of course, employ people from outside the UK if entry requirements are met.

The GoCo does not appear to have any requirement to pay attention to the wider socio-economic implications for the projects it takes forward, which runs counter to wider departmental advice. The Minister states that the contracts will ensure skills are protected, but I am not convinced by that argument at the moment. He did, however, offer a useful explanation as to why the maritime option was the first to be taken forward. I understand the logic that he applied to that decision, but, to quote Sir Humphrey, "Brave, Minister. Very brave." In going for the biggest projects—45% of the total budget—there are indeed savings. There is a potential pot of gold at the end of the rainbow that could benefit the Department, but if the model fails for any of the reasons mentioned so far, it could be quite an expensive failure.

In response to the questions about property, I understand the points that the Minister made about the termination process. None the less, I can still envisage a scenario in which, to save money, the company might wish to rationalise, as my hon. Friend the Member for North Durham mentioned. The Minister knows that the Secretary of State has often said that the only way the GoCo makes money is if it saves money, so reducing the footprint might be something that it would want to do.

Mr Dunne: The hon. Lady might be seeking to interpret the Secretary of State's remarks in relation to the operating costs of the GoCo. I think his main thrust was that the savings are to be made out of the programme itself: the 92% of the spend, rather than the 8%.

Alison Seabeck: But is there a company out there that, given the opportunity, would not want to save money if it found it had an over-large footprint? Would it not want to reduce it? It is an issue, particularly if a substantially sized office is deemed to be surplus to requirements.

The hon. Member for North Devon limited his interventions to two, but they were both characteristically to the point. He expressed scepticism about the way in which decisions were taken on property use and how that could be controlled. It comes back to my point and whether the MOD and the Secretary of State could have any control over what the GoCo did in any of the properties that they moved into.

Amendments 3 and 4 are, of course, linked. We still have reservations, so I will seek to divide the Committee on amendment 3. Clearly, if the amendment falls, we will not need a vote on amendment 4, because they are interconnected.

On the argument made about the Government's ability to monitor share ownership and therefore influence companies within the GoCo, I am left extremely concerned. I accept that there are a series of protections in place through the bidding process, but I have issues that have yet to be fully explained when we come to the other side of that. It is unclear how proactive the monitoring of company share ownership will be. Who will undertake that task? In what sort of time scale could the MOD respond if it discovered that, either through a direct purchase of shares or some other vehicle, shares had been purchased by somebody who might be inappropriate? Again, that is a cause for concern. How quickly could it all be brought back in house, if that was necessary?

The Minister also needs to answer questions about who would be left arguing the case. Would there be a disagreement between the parent company and the company sitting beneath it in the consortium? If one of those proved to be a problem, who would the parent company take action against? Would it be against the company that is causing the problem, or would the company refer matters back and say, "Come on, MOD, you've allowed them into the consortium in the first place. You're responsible for some of the other losses that we and our other partners are now incurring"? It is rather messy and I am willing to have the Minister come back at some point and explain how he envisages that sort of disagreement being resolved, because I am far from clear about it.

I thank the Minister for his offer of a note on change of control, because that might just allay some of the existing fears.

On the amendment about conflict of interest, the Minister's reassurance that all of this can be handled on a voluntary basis is laudable, but not persuasive. He is relying on honourable men—they are largely men in this industry—to do the decent thing, and quite frankly history is littered with examples where that simply has not happened and a statutory duty has been required.

[*Alison Seabeck*]

The Minister has clearly looked at the special security arrangement. I urge him to revisit it, because although there are—as he set out—firewalls in place as part of this newly designed model, revisiting it would offer a greater sense of security. Perhaps he could say whether or not he has had any discussions with his US counterparts about this method of working.

The Minister said in his response that amendment 5 is unnecessary, because the industry will not cut corners. Again, we come back to other examples in other areas—provision of care and provision of prisons. We know that corners get cut. It is wishful thinking to expect companies not to seek value for money.

The question by the hon. Member for North Devon about having a monopoly brokerage was an interesting one. In his answer, the Minister made it clear that the GoCo would not be able to pick and choose, but would basically be told what it would be procuring. I can see that being a cause of friction, because an organisation with the type of expertise that is likely to be sitting within the GoCo will not be too happy to find that services or pan-Government procurement could potentially override the work that it feels it should be undertaking. I can, of course, understand the Minister's reply, in which he said that he wanted to keep them on their toes, but the GoCo will not want to see potential money-making projects siphoned off elsewhere.

In closing, I ask the Minister if he will answer my questions on CAAS and where that will sit post-GoCo, and to give some examples of the type of power to take decisions on behalf of the Secretary of State that is set out in subsection (7); I was hoping to get some practical examples.

The Minister also did not comment on cyber-security and how that will be managed.

Mr Dunne: I am happy to try to pick up on those points that—as the hon. Lady rightly said—I did not respond to in my earlier remarks.

As far as CAAS is concerned, that will not form part of the scope of the GoCo; that will be retained in the MOD, which I think the hon. Lady will find reassuring.

As far as cyber-security is concerned, as the hon. Lady may be aware the Secretary of State announced very recently that we will be establishing a cyber-domain within the MOD, to work with other branches of Government in ensuring protection of critical national infrastructure, to the extent that MOD contracts are placed independent of Government, and it would then be expected that those contracts would be placed through DE&S-plus or the GoCo, whichever is in place.

With regard to subsection (7), I think the hon. Lady was asking whether there were any examples of powers previously used by the Secretary of State that will be exercised by the GoCo. The answer is that, as the GoCo will be acting as agent of the Secretary of State, on instructions from the MOD, in essence it would be exercising its discretion in carrying out some of its tasks. For the avoidance of doubt, the subsection allows the GoCo to exercise its discretion, but the actual exercise of any function remains with the Secretary of State. I think that those are the specific questions that I failed to answer.

Alison Seabeck: The Minister has helpfully answered the last few questions, and his response on CAAS is helpful. I thank him.

The written evidence from Professors Hambleton and Kirkpatrick and I.J. Holder says that it is obvious that the creation of a defence acquisition GoCo of the proposed scale and scope would be an unprecedented experiment that would have to overcome a daunting array of challenges and risks. To some degree, the clause has flagged up the nature of some of those challenges and risks. Although we do not intend to vote against the clause, we intend to vote on amendments 3 and 10 and on amendment 4, which is contingent on amendment 3. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: That is helpful.

Amendment proposed: 3, in clause 1, page 2, line 42, at end insert—

‘(7A) Arrangements mentioned in this section must include provision for contractual obligations to be placed on the company operating the contract for defence procurement services under subsection (2), specifically including provision to—

- (a) require non-UK companies to establish special security arrangements for the operation of the contract;
- (b) disqualify from the directorship of the company any individual who holds a directorship over any other company whose main business is in the manufacturing or provision of equipment, works or services for defence purposes and;
- (c) disqualify from the directorship of the company any individual who holds financial securities in any other company whose main business is in the manufacturing or provision of equipment, works or services for defence purposes.’—(*Alison Seabeck.*)

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 1]

AYES

Brown, Mr Russell	Jones, Mr Kevan
Docherty, Thomas	Seabeck, Alison
Donaldson, Mr Jeffrey M.	
Hamilton, Mr David	Woodcock, John

NOES

Brazier, Mr Julian	Hinds, Damian
Colville, Oliver	Lancaster, Mark
Dunne, Mr Philip	Mordaunt, Penny
Ellwood, Mr Tobias	Pawsey, Mark
Gilbert, Stephen	
Harvey, Sir Nick	Wheeler, Heather

Question accordingly negated.

6 pm

Amendment proposed: 10, in clause 1, page 2, line 42, at end add—

‘(7A) Arrangements mentioned in this section must include provision for contractual obligations to be placed on the company operating the contract for defence procurement services under subsection (2); specifically including provision to prohibit the sale of financial securities in any publicly-listed company appointed under subsection (2) where such sale would result in a change of majority ownership.’—(*Alison Seabeck.*)

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 2]

AYES

Brown, Mr Russell	Jones, Mr Kevan
Docherty, Thomas	Seabeck, Alison
Donaldson, Mr Jeffrey M.	Woodcock, John
Hamilton, Mr David	

NOES

Brazier, Mr Julian	Hinds, Damian
Colville, Oliver	Lancaster, Mark
Dunne, Mr Philip	Mordaunt, Penny
Ellwood, Mr Tobias	Pawsey, Mark
Gilbert, Stephen	Wheeler, Heather
Harvey, Sir Nick	

Question accordingly negated.

Clause 1 ordered to stand part of the Bill.

Clause 2

FINANCIAL ASSISTANCE

Alison Seabeck: I beg to move amendment 6, in clause 2, page 3, line 35, at end insert—

‘(2A) Before the financial assistance is granted, the Secretary of State must—

- lay before both Houses a report detailing the circumstances requiring the financial assistance;
- withhold approval of any assistance until the report has been laid, and
- write to the chairs of the relevant parliamentary committees indicating that such a report has been laid.’

The amendment has been tabled so that the Minister can explain why there appears to be a lack of transparency and accountability specific to the clause. What is clear is that a lot of risk sits with the taxpayer. Therefore, when a contractor comes back, cap in hand and says, “Sorry, gov, but through no fault of ours we need a sub to keep this on track,” the public and Parliament have a right to know, not least because we are possibly talking about millions of pounds.

The clause as it stands is open-ended for both the GoCo contractor and the taxpayer. Subsection (1), which is italicised, is clearly money-related:

“The Secretary of State may give financial assistance to a contractor.”

That “may” appears to be a double-edged sword. From a shareholder’s perspective, that could send a ripple of concern: what happens if the Secretary of State decides not to bail out the contractor who may have got himself into a financial mess because of either incompetence or outside circumstances beyond his reasonable control?

We heard earlier from my hon. Friend the Member for North Durham on some of the issues that could affect contract costs and changes, including inflation and exchange rates. There might be a massive recession and key, unique suppliers go out of business, which leads to a product being seriously delayed with a massive cost overrun. That will surely end up the courts with a cost to the taxpayer, while the MOD could sit back and say to the company, “It is your responsibility to challenge.

If you are in dispute with a company, whatever the basis is for your particular problems, it is up to you.” We and the taxpayer should not be dragged into that. Minister, we need to understand how the taxpayer is protected. Is the flexibility offered by the use of “may” the way to achieve that protection?

Clause 2(2) gives the Secretary of State broad powers on the financial assistance that could be provided. Opposition Members considered whether those should be more narrowly defined. Will the Minister put on record exactly how the provision is to be overseen by parliamentarians? Our probing amendment would ensure that, where financial assistance is to be offered, both Houses of Parliament, and potentially Select Committees, would be able to review proposals. That is not about vetoing proposals, but being transparent about the use of public money to bail out private companies.

Equally, we are not clear at what stage in any project the Secretary of State would be made aware of any cost overruns or concerns that may lead him to believe that he may need to offer financial assistance. We know that the governor will keep an eye on progress, but perhaps we should look to introduce something along the lines of the US’s Nunn-McCurdy Act, whereby a programme can be terminated if it exceeds by 50% the original baseline estimate unless the Defense Secretary provides written certification, in their case, to Congress, explaining how it will be restructured and why it is important to national security.

Given that Parliament does not appropriate funds, we could argue that if the programme went over the same threshold, the Secretary of State should explain to the PAC, the National Audit Office or the Select Committee how it would be brought under control. That follows on from the “learning lessons from overseas” message that we had prior to parliamentary scrutiny in earlier sittings.

The PAC and other Select Committees will always express concern about the fact that they cannot insist on the Minister who made the decision coming before them. That is not a huge problem for this Committee, and it may be a huge relief to the Minister to know that should he introduce a GoCo and should everything go horribly wrong, if he has moved on, up or out of Government, he will not be the person held to account. That is part of the problem, in my view. There has to be accountability in decision making.

6.5 pm

Sitting suspended for a Division in the House.

6.20 pm

On resuming—

Alison Seabeck: I have talked about where responsibility and accountability should sit, but does the Minister believe that the contract with the contractor will be so watertight that exposure for taxpayers or the company will be avoided? If so, given historic Government failures—his, ours, local government and central Government—in negotiating tight contracts with the private sector, why is he so confident that the Government have got it right this time, particularly as one of the Department’s failures—“failures” is not the right word—or weaknesses perceived by outsiders in particular has been its inability to negotiate.

[Alison Seabeck]

If assistance is given by way of an indemnity, the liability is potentially unlimited and could involve the Government—I touched on that earlier—assuming liability for negligence, fraud or wilful default of a procurement services provider contractor under the Bill if that is not expressly carved out from the indemnity. Will the Minister confirm whether that is the case? If I have got the wrong end of the stick, I will be the first to put my hand up, but some reassurance would be helpful.

Does the Minister accept that the risk, when financial assistance is sought for other sorts of failure or breakdown, should sit with the contractor and not the taxpayer, and that in those circumstances it would be inappropriate for the Secretary of State to offer financial assistance? During a witness session, the Chief of Defence Matériel said that the GoCo will make money only if it saves money, which seems perfectly reasonable, but will the same rule apply to DE&S?

The CDM also talked in evidence about using a fairly standard measurement tool—earned value analysis or earned value management—to enable the MOD to keep an eye on the financial position of major projects running beyond the length of the contract, and said that that was already used in some parts of the MOD. If we are looking at reasons for financial assistance being offered, using an assessment tool that has not yet bedded down in a Department with a history of cost overruns and negative reports from the PAC and the NAO, how confident can we be that that will work in a completely new set-up? Should it not be allowed to bed down in the Department and, therefore, should the DE&S-plus model not be fully tested using that tool? It would help the Committee to assess the clause if the Minister set out exactly how he sees the DE&S-plus model managing financial risk. Does he envisage that element staying in-house or might it be outsourced within the DE&S-plus model.

My hon. Friend the Member for North Durham, who has disappeared, clearly thinks that we need more information about the DE&S-plus model to try to assess the GoCo model, and this is just one element within that on which it would be helpful to have a little more information, or at least a bit more about the Minister's vision for a public sector alternative.

There are a number of questions about the landscape in which the changes may or may not be necessary. Has consideration been given to whether EU restrictions on state aid would apply to financial assistance under clause 2(1)? I assume, because of his response on clause 1, that this has all been worked through thoroughly. None the less, will he answer the question? On a point of major failure or fraud by one of the consortium members, what action might he take and what protections will there be for the taxpayer? Who will be liable when it comes to compensating the other consortium members who unwittingly may have got in bed with a partner whose behaviour is on the wrong side of the law? Will it be the lead company or the British taxpayer who has to pursue that company, obviously at great expense?

When is the intergovernmental report around the Ministry of Justice's concerns about the contracts likely to be published? It will have significant bearing on our assessment of the proposals in the Bill, so it would be useful to have some indication of when the Minister expects the report to be published.

Mr Dunne: I am grateful to the hon. Lady for being so succinct in her consideration of the clause. We welcome her colleague, the hon. Member for North Durham, back to his place, and I hope he will bear that comment in mind.

I welcome the hon. Lady's amendment as it gives us the opportunity to discuss why we have included clause 2 in the Bill. We fully support the principle of being transparent with Parliament, but we do not believe that that needs to be embedded in legislation as such reporting requirements are already provided for in "Managing Public Money" and are placed on the Ministry of Defence departmental accounting officer. I will go on to address each of her questions, but to start I should stress that the clause has been designed to provide a fall-back option to be used as a last resort in circumstances where the GoCo company is in need of financial assistance and is unable to obtain it from the commercial market at acceptable rates.

We fully expect the contractor to be a financially robust company that will only very rarely need to seek financial assistance from the market and that, should it need to do so, the assistance required will be available on acceptable commercial terms. Therefore, this power to provide financial assistance to the contractor from the Secretary of State is anticipated to be required only in exceptionally rare circumstances and as a last resort to prevent the business from becoming insolvent and therefore to ensure business continuity from the MOD's perspective. Such continuity is clearly critical, given the national security implications of the role that will be played in procuring equipment for our armed forces. We must ensure that the business in question is available under all circumstances. That is the impact and the purpose of the clause.

Alison Seabeck: I thank the Minister for those comments. If a company is on the verge of becoming insolvent, the MOD will lend them money on tight financial and commercial lines. Is there a line over which the MOD will not step? If a company is on the rocks, albeit a company carrying out work for the MOD, there surely has to be a limit beyond which the MOD will not go. If the company is not robust enough, even with assistance, to pick itself off the floor that clearly has to be an issue. We cannot simply carry on throwing good public money after bad.

Mr Dunne: I completely accept that point. That is why the Secretary of State retains the power through the special share to bring the operations back under MOD control. The circumstances where that might apply, during the duration of a contract, are precisely the kind of circumstances that the hon. Lady envisages.

Alison Seabeck: I appreciate the Minister's patience. In that case, we need to be clear that the assessment of those contracts as they are running is extremely effective. The CDM talked about the method he was working on and working with in monitoring projects and ensuring that they do not overrun. I assume that the Minister is happy with that and that it will continue.

6.30 pm

Mr Dunne: There is a distinction between the monitoring of the procurement of the underlying contracts and the monitoring of the contract with GoCo. The clause is

designed to allow the MOD to fund shortfalls in available funds that GoCo requires to keep its operations going—to pay the staff and fund any outgoings of GoCo in doing its duty—rather than failures in its procurement of contracts, which are an MOD risk in the first place.

Mr Brown: Rather than just painting us a picture, will the Minister give us an indication of monetary value or of percentage terms? Opposition Members might feel more comfortable with that.

Mr Dunne: Yes and no. The power as drafted is unlimited in amount. As I indicated earlier, the operating costs of GoCo in its first phase are in the order of £400 million and in its second just under £1 billion a year. It is inconceivable that this power would be called upon for such amounts. We are talking about funding the GoCo for a short time in the event of some unforeseen calamity preventing the company from accessing funds to pay its bills, continue to operate and function on behalf of the MOD. In the event that that situation persisted for a period, it is much more likely that the Secretary of State would use his powers under the special share to take back control, rather than continue funding under the emergency regime. I cannot really quantify that for the hon. Gentleman, but it is most unlikely that the situation would endure beyond a year and that the entire cost of GoCo's operation would fall back on the MOD.

Mr Jones: Is that not the point about the GoCo and where risk sits? Ultimately, the taxpayer is underwriting the GoCo.

Mr Dunne: The MOD retains the risk of the underlying contracts—that is absolutely correct—and is doing so on behalf of the taxpayer.

As for the costs of the GoCo, the intent of the entire exercise is to find an incentive mechanism—a gain share/pain share mechanism—to assist the MOD to procure its equipment more cost-effectively. The proposal does not get to the heart of the risk of the GoCo; it is designed to provide a short-term power that may be used if needed to allow the Secretary of State to provide funding that would not otherwise be available because it was not on-vote within MOD funds, thereby ensuring that the activity could be maintained for a short period while the problem was resolved in some other way.

Mr Jones: Ultimately, the taxpayer is underwriting the GoCo. What will happen if the short-term solution the Minister refers to becomes long term? Clearly, the Government will act through their golden share and take things back in house, although there will be a cost involved in that. No risk will be taken by the GoCo because it can just walk away.

Mr Dunne: No, because in the event that the clause is exercised and funds are advanced by the MOD, the MOD will become a creditor of the entity and will seek recovery of those funds from the entity or from its parent entities if they are guaranteeing the obligations of the entity. We will look for reimbursement of those funds. There might be a risk, if there is a failure through the corporate chain, that those funds cannot be reimbursed, but I do not see this as blanket underwriting in the way the hon. Gentleman describes.

Alison Seabeck: I assume from what the Minister is saying that the contract is likely to refer to compensation from the company to the MOD—in addition to reimbursement—if things go belly up.

Mr Dunne: Yes. There will be the potential for compensation for interest on the funds or some other penalty if that were called for.

Mr Jones: The Minister has just said that the MOD will become a creditor. Where will the MOD be on a list of creditors in claiming on the company's assets? If he cannot give us the answer now, will he let us know later?

Mr Dunne: The hon. Gentleman correctly assumes that I have not gone through the ranking of creditors to see whether we have secured any preference or subordination compared with other creditors. That is partly because I think that this is most unlikely to happen. However, I have received inspiration from colleagues who have been thinking about that particular aspect in greater detail. The advice that I can pass on to the hon. Gentleman—I touched on this in my remarks to the hon. Member for Plymouth, Moor View—is that parent company guarantees will be triggered in the event of a default by the operating company or the management company. If there is a default, we will look in the first instance up through the corporate chain to the parent entities.

I want to address some of the specific questions asked by the hon. Lady. Regarding parliamentary oversight, to which she referred before we were interrupted and had to go to vote in the Chamber, the equipment programme contracts remain between the MOD and the underlying industrial contractor. Therefore, any cost overruns on a programme will impact the MOD in the first instance, which ensures that those contracts will be scrutinised by Parliament in the same way as they are now—through a request by the Select Committee, an investigation by the NAO or an investigation by the PAC. Those arrangements will continue. That is one reason for my thinking the amendment unnecessary. I will return to that point in a moment.

The hon. Lady also asked why the conditional “may” is used in clause 2(1) and (2). We used the conditional because we want to provide the Secretary of State with the discretion to decide whether he wishes to provide funding in relation to a request from GoCo. He may decide that he does not want to do so, or that he wishes to exercise his rights under the special share and collapse the entity altogether, rather than provide short-term funding. The power exists because the MOD will act as lender of last resort. That is why we wish to retain the discretion.

The hon. Lady also asked about negligence and fraud. My interpretation of how the clause might work is that it is likely to be used only in the event of providing short-term funding in a crisis. In those circumstances, fraud or negligence might not immediately be apparent. If fraud or negligence subsequently became apparent, the MOD will be entitled to pursue the GoCo entity for negligence or fraud, over and above the reimbursement provision in the contract. That is covered and does not require any specific wording in the Bill.

[Mr Dunne]

The hon. Lady also asked about whether state aid clearance will be necessary for such a clause to be implemented. That is covered by Treasury rules. Where we need to give assistance, it is inconceivable that we will not seek prior approval from the Treasury and probably a relevant Cabinet Committee. We will be covered by Treasury rules, which are relevant if it is deemed that state aid applies.

I will conclude by giving my views on the amendment. I assume that the hon. Lady will not press it to a vote, although she will let us know shortly. It would require the Secretary of State to withhold approval for the granting of financial assistance until a report had been laid before both Houses, setting out why financial assistance was required, and until he had written to the Chairs of the relevant parliamentary Committees—presumably the Defence Committee and the Public Accounts Committee—to tell them that the report had been laid.

The amendment would provide transparency to Parliament, which we support in principle. The intent of the clause, however, is to allow the Secretary of State to take action in extremis and at short notice. The main problem with the amendment is that it would introduce, by definition, delay to the provision of assistance, which of itself might exacerbate the crisis and call for more funding to be made available or, worse, leave the MOD in a perilous position in providing equipment to our armed forces. The mere fact of the amendment would obviate much of the clause's intent. If one thinks back to the banking crisis, when the hon. Lady's party was in government, a similar requirement for parliamentary approval before funding was made available to the banks would have aggravated the queues outside banks of people seeking to get their money. That would have put Parliament into disrepute.

Maintaining the security of supply of military matériel is a fundamental requirement of the MOD and that cannot be put at risk by the potential financial default of a contractor or, for that matter, the closure of sources of finance available in the markets, such as might have occurred during a credit crunch. The power provides a fall-back, intended to be used only in extremis.

A final consideration is that the content of any report to Parliament might need to be limited or made confidential due to commercial sensitivities regarding the contractor's financial position, which could make the report difficult to construct. The reporting of such matters is not usually embedded in legislation, but carefully governed through the Treasury's "Managing Public Money" rules.

I draw specific attention to a similar process under those rules for reporting contingent liabilities. Departments are required to lay those reports before the House. Where the proposal is more urgent or the House is not sitting, Departments write to the Chairs of the PAC and the departmental Select Committee concerned explaining the need for urgency. As a matter of record, the Department provides a written ministerial statement and departmental minute at the earliest available opportunity. The potential for similar powers is dealt with elsewhere in Government, without the requirement for prior parliamentary scrutiny. Given those practical issues, I respectfully request that the hon. Lady withdraw the amendment.

Alison Seabeck: The amendment is probing, partly because we want to tease out and get confirmation of the fact that issues around transparency are covered in some way, shape or form across Government. The Minister made some interesting points. I fully accept his comments on the assistance needing to be urgent and the amendment effectively blocking that. For that reason, I will not press it to a vote.

6.45 pm

I still, however, come back to the use of the word "may". Although I fully understand the Secretary of State's position and the requirement for him to have a degree of flexibility—former Ministers in our ranks have, for understandable reasons, said, "Certainly, don't cede the 'may' in this clause"—if I were a shareholder in a company thinking about tendering, it would none the less leave me a little nervous. On that note, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

FINANCIAL CLAIMS AGAINST CONTRACTORS OR FORMER CONTRACTORS

Alison Seabeck: I beg to move amendment 7, in clause 3, page 3, line 41, leave out 'is' and insert 'may be'.

The Chair: With this it will be convenient to discuss amendment 8, in clause 3, page 3, line 41, after 'Defence' insert

' , except in cases of negligence, fraud or wilful neglect'.

Alison Seabeck: We have just discussed where risk sits for the taxpayer, and there is undoubtedly a degree of risk with financial claims against contractors or former contractors. Our amendments are designed to highlight that risk, and to suggest that more might be done to mitigate it.

As far as I can see, there is no exclusion from Government liability for negligence, fraud, default or breach of law or regulation by the contractor, unless the Minister can tell us otherwise—I am sure his officials might be able to do so—or at least reassure us. It might be more reassuring if such exclusions were somehow written into the clause—perhaps through a liability cap or some kind of proportionate loss-sharing mechanism, so that the contractor has a financial incentive to minimise the Government's financial risk. I am advised that this a classic principal agent problem, so I am a little surprised that the Bill does not include more measures to align the contractor's financial incentives with those of the Government.

The Minister's response will be of interest not only to Opposition Members, but to Members of the other place who have a wealth of experience and a knowledge of contract law with which—with respect to Committee members—we are perhaps less well endowed.

For the record, will the Minister tell us what standard of contractual liability is typically imposed on providers of goods and services in commercial contracts with the

defence sector? It would be helpful to have some information on that. Will he give us some idea of whether contractual counterparties usually indemnify each other in current MOD contracts and, if so, what type of loss is likely to be covered? If that information is commercially sensitive, it is difficult to see how we can make a judgment on that, but I am sure that officials can come up with something that will give us an idea of what losses might be covered.

The recent RUSI report, to which I referred in the debate on clause 1, was fairly clear about where the potential risks inherent in the GoCo model sit—the Americans already seem to have recognised those risks. The report flagged up risks specific to the MOD—for example, from legal challenges if kit failed—and suggested that there would be limits on the risks and responsibilities that could be passed on to a contractor. It would be helpful if the Minister told us whether that is the case or whether RUSI has got it wrong.

We also need to look at historical failures—not necessarily at those in the UK, but at some of the companies linked to bids for the GoCo where there have been failures, violations or fraud in the US, and where payments and their recovery have taken a significant amount of time. By and large, the fines imposed on those companies appear to be quite small, yet the penalty for the American Government was quite significant. For example, there were failures over nuclear safety requirements—this comes back to a point made by my hon. Friend the Member for Barrow and Furness—by one company, which was also accused of botching the world's costliest environmental clean-up, which was linked to one of the nuclear sites it was managing. We want to know that the contractor cannot simply walk away—that there will be a clear route for financial claims against the contractor which will not be overly protracted and that the taxpayer will not suffer a disbenefit.

Mr Dunne: Again, the hon. Lady raises an interesting point of discussion, and it is important that we clear it up. As she was beginning to identify towards the end of her remarks, her point goes to the heart of the risk in the eyes of a contractor—of whether this is an attractive business proposition, given the level of risk being transferred, and the reasonableness or not of that risk.

As I said earlier, the financial risks of the underlying procurement rest with the MOD. The risk to the GoCo contractor is the potential fee, or loss of fee, through the pain share/gain share incentive arrangements, to which the contractor is eligible. It is unreasonable, therefore, to impose an obligation on the contractor to absorb part of the risk that resides with the MOD, other than in relation to the bit over which the contractor has authority, which is the fee.

The amendments should be resisted because they would have the effect—although I suspect not intended—of wrecking the Bill, as they would impose risks that we do not believe any contractor will be prepared to take. That topic was raised in our engagement with industry over the past year or so, to ensure that the proposition put to industry is sufficiently attractive to encourage it to take part.

That is the general concern, but I want to highlight more specifically why we are concerned about the amendment. As the hon. Lady said, clause 3 is designed to ensure that the GoCo is protected from exposure to

those unique, unlimited and typically uninsurable very large financial claims to which the GoCo would otherwise be potentially liable as a consequence of its role in acting as agent to the MOD on contracts entered into by the Secretary of State and industry. The practical effect of amendment 7, however, would be to introduce a degree of discretion for the Secretary of State on whether a relevant financial claim was transferred to the MOD.

Amendment 8 would limit the types of financial claims that may be transferred to the MOD by excluding financial claims relating to cases of negligence, fraud or wilful neglect. Under the clause, any applicable financial claim will be transferred to the MOD, and the Department will effectively “stand in a company's shoes” with respect to that claim. Without that protection, the contractor might be exposed to financial risks that may amount to significantly more than the value of the fees that the contractor could earn by performing the contract in the first place, which would introduce an unmanageable risk to the contractor, which might result in it becoming insolvent should such a risk materialise.

Understandably, we wish to protect the company, in order to ensure the continuing delivery of defence capability. We have decided that, in the circumstances I have laid out, the MOD should be prepared to stand in the company's shoes for relevant financial claims to preserve the company as an enduring entity. That is consistent with the policy intent that underpins the rest of the Bill, and it complements other provisions, such as those we discussed in clause 2, which allow the Secretary of State to provide financial assistance to the company as a lender of last resort.

I recognise that it appears somewhat strange on first reading for the MOD to stand in a company's shoes in respect of all relevant financial claims, but in reality the contractor will absolutely not be given blanket protection from relevant financial claims. Provisions in the Bill preserve the contractor's liability for what might be called normal business risk. Also, the draft GoCo contract will include extensive provisions that determine the extent of the GoCo contractor's liability in a variety of circumstances and set an annual liability cap. The drafting will detail specific circumstances in which the liability cap will not apply, such as the contractor's gross negligence or wilful misconduct.

The Secretary of State may have settled some claims, but that does not mean that, in the circumstances detailed in the contract, the cost cannot be recovered from the GoCo contractor—in particular, in the event of negligence or misconduct, for example. Introducing discretion over whether a financial claim is transferred to the Ministry of Defence would create significant uncertainty in the mind of the contractor, so the amendment would erode the contractor's protection from exposure to unlimited financial claims beyond what is reasonable. Together with amendment 8, that would cause sufficiently serious concern to the bidders to damage fatally the GoCo competition.

The hon. Member for Plymouth, Moor View asked a number of questions about the standard limits of liability and what losses could be covered, and the hon. Member for North Durham asked about standard limits. GoCo is a third party to the equipment programme contracts, not one of the original contracting parties, and standard limits apply where the insured is a party to the contract.

[Mr Dunne]

The standard limits to the contract, therefore, would apply to the MOD rather than the GoCo contractor. As for the RUSI note, there might have been some misunderstanding about the nature of the relationship between the GoCo and the defence industry contractor. RUSI assumed that GoCo would be a contracting party, but as I have explained, it will not. Bearing that in mind, I encourage the hon. Lady to withdraw her amendment.

Alison Seabeck: I thank the Minister for giving a full and clear explanation of his understanding of where liability sits. We tabled the amendment to enable a debate and because we had genuine concerns about where the risks sit. There is an annual liability cap, but there are instances in which it will not apply. It would be helpful if in due course he could let me know in writing exactly what those instances might be. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Schedule 1

EXEMPTIONS RELATING TO PREMISES USED BY A CONTRACTOR

Question proposed, That the schedule be the First schedule to the Bill.

Alison Seabeck: I did not time that well; I was hoping we would be able to start our discussion of the schedule at our next sitting.

The schedule and clause 4 appear to be relatively straightforward, which I am sure the Minister is pleased to hear me say. I am also sure that the schedule is based on previous legislative example, but I will welcome confirmation that that is so and that we are looking at a tried and tested mechanism for ensuring that the GoCo could not in any way, for example, cut health and safety corners. Hon. Friends have already expressed such concerns and may wish to speak about them later.

Mr David Hamilton (Midlothian) (Lab): We can finish tomorrow.

The Lord Commissioner of Her Majesty's Treasury (Mark Lancaster): There is no finish time.

The Chair: Order. The hon. Lady may continue.

Alison Seabeck: As the Minister is aware, we have some challenging sites with highly specific security and health demands, which is the nature of the defence estate. Will the Minister assure the Committee that, although exemptions are allowed, the GoCo will be expected to report any intention to apply exemptions to premises to which they do not currently apply and that it will be subject to a statutory instrument in all circumstances? Returning to the fire at the Atomic Weapons Establishment, which is a GoCo, will the Minister confirm that that was not the result of any

corner-cutting? Under what circumstances can the Secretary of State—Mr Owen, may I seek your advice about adjourning?

7 pm

The Chair: There is no cut-off point. I am sure the Whip will inform me when he has had enough. Please carry on.

Alison Seabeck: I just wanted to be sure.

Under what circumstances can the Secretary of State extend exemptions to other subordinate legislation not prescribed in schedule 1? Can the Minister provide some practical examples?

Mr Dunne: I am happy to try to answer the hon. Lady's points. Clause 4 gives effect to schedule 1 to the Bill, which makes provision exempting the contractor from legislative obligations and enforcement regimes where the Crown, and therefore the Ministry of Defence, is either currently exempt or where such an exemption could be granted. To provide the range of defence procurement services required under contract, it is critical that the contractor's employees be able to receive the protection of the same exemptions as those currently granted or available to DE&S employees. Clearly, where an exemption is not relevant, we would not seek to pass it on.

Schedule 1 includes exemptions from several legislative provisions: the Landlord and Tenant Act 1954, the Nuclear Installations Act 1965, the Health and Safety at Work etc. Act 1974, the Radioactive Substances Act 1993 and the Environmental Permitting (England and Wales) Regulations 2010. A power exercisable by the Secretary of State to extend exemptions where the MOD has the benefit of Crown exemptions from subordinate legislation to the contractor is also included.

The hon. Lady mentioned health and safety in particular, and the Health and Safety at Work etc. Act 1974 places a duty on the MOD as an employer to ensure the health, safety and welfare at work of all its employees and to conduct its activities in a way that does not expose people who are not MOD employees to risks to their health or safety. However, the MOD is exempt from the enforcement provisions in the 1974 Act to ensure the continued delivery of defence procurement services that are critical to the maintenance of defence capability. The provision in the Bill therefore provides the Secretary of State with the power to exempt a contractor from the enforcement provisions in part 1 of the 1974 Act. The Secretary of State can exempt a contractor from any other provisions in part 1 in the interests of the safety of the state.

Crown exemptions are also granted under the Environmental Permitting (England and Wales) Regulations 2010. If the Crown contravenes a provision therein, it is not criminally liable and no proceedings can be taken against it. Provisions also relate to entry to Crown premises. The authority—in this case the Environment Agency—can certify that powers of entry must not be used in relation to particular Crown premises. For Scotland, the Radioactive Substances Act 1993 applies and makes similar provision. The provision provides the Secretary of State with flexibility when considering on a case-by-case basis whether an exemption is necessary. It also gives

the Secretary of State the power, if required, to extend future relevant MOD exemptions to include the contractor. That may take the form of an amendment to current legislation or new legislation that does not yet exist and cannot be predicted. Without the power, there is a risk that support to military operations provided by a contractor could be inadvertently affected by legislation.

The provisions sought in the Bill are similar to those in section 69(2) of the Energy Act 2004, which was introduced by the previous Labour Government. It provides that:

“The Secretary of State may by order make such modifications of subordinate legislation as appear to him to be appropriate in consequence of any provision of”

chapter 3 of the 2004 Act.

Without the provision, the continued delivery of defence procurement services, which are critical to the maintenance of defence capability, would be at risk. I hope that helps the hon. Lady.

Schedule 1 agreed to.

Clause 5

JURISDICTION OF MINISTRY OF DEFENCE POLICE

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

Alison Seabeck: The clause allows the Ministry of Defence police to use their existing powers on what becomes GoCo property. It also allows for their powers to extend to any new site used by the contractor for MOD purposes. It would be helpful to understand what their powers would be, for example, in a fraud case or if they believe that a member of staff may have passed on information. I am assuming that they can go not only on to MOD sites covered by the GoCo, but potentially into the premises of companies that are part of the GoCo. Confirmation of that would be helpful, because an individual on MOD premises could easily transfer information from one site to another site that does not fall within the MOD’s remit.

Will the Minister allay the MOD’s fears and concerns because of cuts to its numbers, which it has spoken about on a number of occasions? Eamon Keating, from the Ministry of Defence police, said that the cuts

“will seriously hamper our ability to meet the security needs of the people we are duty-bound to protect.”

Given the cuts to their current responsibilities, is the Minister confident that, if a major incident arose—particularly, say, a large fraud allegation—they would be supported and have the people in their ranks and criminal investigation department who could undertake a full and thorough investigation in those circumstances? I am advised that they would be severely stretched. I would welcome any reassurance the Minister could give that, first, there will be no cuts to the Ministry of Defence police, and secondly, that their criminal investigation department will not be reduced further.

I am also assuming that the GoCo could employ private security companies at its own expense—well, ultimately, at the taxpayer’s expense, because any additional costs would be fed back to the taxpayer. Would the Secretary of State have any power to seek a price or value-for-money comparison of any move to staff premises with private sector staff, in order to ensure that there is best value when set against using MOD police staff?

Mr Jones: It is clear from the explanatory notes that existing sites used for MOD procurement will be covered by the clause, and that makes sense. However, the notes then refer to the powers being extended to new sites—for example, where the GoCo takes over new premises. Will the Minister explain how that process will designate what is a new utilised site? For example, does that include an office with two or three people, or does there have to be a certain designation by the Secretary of State? I would like clarity on that point. Regarding sites that may not be in the UK—especially where a company that is not UK-based is involved as part of a consortium—what powers will the MOD police have to investigate and pursue a fraud case or any other case relating to a procurement project?

Mr Dunne: The clause gives the Committee the opportunity to get a bit more real. We are talking about police, fraud and theft; many members of the Committee have either personal or indirect experience of those matters, so their interest is pricked as soon as we start talking about them. I am therefore pleased that we have reached the clause before finishing this evening, as that will help colleagues to move on to the next business in the House.

The Ministry of Defence has its own police force, as hon. Members know. That force’s role is to prevent, investigate and detect crime that relates to defence interests. The clause is essential to ensuring that Ministry of Defence police officers have clear and unambiguous jurisdiction to exercise the full range of their police powers across the full range of sites used by the contractor to deliver their defence procurement services contract, and that those officers are able to investigate offences that may relate to any defence work carried out on the Ministry of Defence’s behalf by the GoCo contractor.

It might assist the Committee to illustrate by way of a few examples situations in which the Ministry of Defence police’s jurisdiction could be unclear without the benefit of the clause. The first is a situation in which questions of jurisdiction are raised by a foreign judiciary in relation to the ability of the Ministry of Defence police to pursue a criminal investigation overseas, as the hon. Member for North Durham referred to. The second is if the Ministry of Defence police are required to investigate a party that does not have a direct contract with the GoCo, such as a sub-contractor. The third is if the contractor decided to occupy any premises that are not on Ministry of Defence land.

I can also give the Committee examples of cases in which Ministry of Defence police officers have recently used their police powers to progress criminal investigations. Those cases help to illustrate why it is so important that the clause is included in the Bill, to make sure there is no ambiguity about their powers. One example is a recent case of fraud against DE&S itself. A Ministry of Defence contractor that had been contracted to store the personal possessions of Ministry of Defence personnel located overseas systematically inflated the volumes of stored personal possessions. The case has proved to be very difficult to investigate for a number of reasons, including the complexities of the contract, the disbandment of the Ministry of Defence unit dealing with the contract, the volume of material and the dispersal of evidence and witnesses. Around 1,800 individual frauds, which took place over a five-year period, make up that case of

[Mr Dunne]

fraudulent trading; all of them had to be investigated individually to build a full picture of criminality. The investigation identified a loss to the Ministry of Defence of over £2 million. The case is listed for a 12-week trial in Southwark Crown court. The trial will commence next March, so I ask Committee members not to ask me any questions about it.

In another case, there was a police-led inquiry into a theft from DE&S of a large quantity of MOD defence equipment and clothing. [Interruption.] The hon. Member for Dunfermline and West Fife wants to ask me a question about the previous case.

Thomas Docherty (Dunfermline and West Fife) (Lab): No, I do not want to ask about that specific case. The Minister is making an eloquent case on behalf of the MOD police, but as those colleagues who serve on the Defence Committee know, in the previous year various thefts from MOD sites included a boat, helicopter wings and an airframe. Does he honestly think that the MOD police have enough resources to do their job properly?

Mr Dunne: Unfortunately, as the hon. Gentleman is aware, theft occurs throughout life. Irrespective of the resources available to law enforcement, thefts do occur.

Thomas Docherty: Helicopter wings are not something that someone can pop under their arm and then slip out of a base; nor is a boat, nor is an airframe. They are not pens and Pritt Sticks: they are significant items and such thefts should be investigated properly.

Mr Dunne: Indeed, and they are investigated properly. As the hon. Gentleman may well be aware, the most serious theft that has occurred since I have been in post was of a consignment of munitions travelling by train last autumn. The train was intercepted at an unscheduled halt and a number of bar mines were stolen. Four individuals were apprehended as a result of an investigation by the Ministry of Defence police in conjunction with local forces and the individuals concerned were successfully prosecuted last month. The MOD police are very good at their job; they have the right resources; and they protect MOD property, including that with a national security implication.

7.15 pm

Alison Seabeck: We are talking largely about theft of property, whether it is helicopter wings or socks. My concern is the capacity of the MOD police to deal with potentially serious fraud within the GoCo or its associated bodies, or perhaps the theft of IP. Would they have the capacity to undertake a full investigation were that to be?

Mr Dunne: There are certain crimes where the MOD police are able to call on specialist officers in other forces. The most obvious that leap to mind are breaches of the Official Secrets Act, where the Metropolitan police take the lead on any investigations. They would do so in co-ordination and co-operation with the MOD police. There are other examples.

Mr Jones: I do not think I ever lost a train of munitions. I think we once lost a horse, but I will not go into that. Will the Minister clarify the definition of a new site utilised by the contractor? It is obvious if it is a new office building. Would it extend to a contractor who worked from home for the GoCo, for example? Would his house be designated a site and, therefore, would the police in a fraud case have powers to enter? Would that be a designated site?

Mr Dunne: I am glad the hon. Gentleman has raised that, because it was also mentioned by the hon. Member for Plymouth, Moor View, and I was about to come to that. It is clear that it is in the interests of the MOD for the MOD police to have unambiguous jurisdiction to enable officers to exercise powers of search and seizure and to obtain search warrants. Evidence in some of the cases I mentioned and could go on to talk about is not always kept in premises that are the main operational premises of the GoCo. It can be held at a contractor's office or subcontractor's office or at the home address of the employees of a contractor or subcontractor. The power would provide the MOD in certain circumstances with the opportunity to take advantage of due process to make searches or arrests on those premises.

The hon. Lady asked whether the MOD police capabilities are being affected by recruitment cuts and whether the GoCo could employ private security contractors in preference to the MOD to provide security in certain facilities. Clearly it has been the case that MOD police have been under a recruitment freeze for a short number of years. As far as I am aware, that has not led to concerns about their ability to meet their obligations. If the recruitment freeze lasts many more years that might start to have an impact on capability, but at this point, I do not believe that to be the case. I believe the GoCo would have the ability, if it wanted, to introduce private security in certain circumstances. It is not something that any bidder has yet raised with us. We have not gone into that level of detail, but they would not be precluded from undertaking that if they wanted to do so.

Alison Seabeck: Coming back to the capacity and numbers and the freeze, the MOD police themselves are aware that around 150 civilian investigators have been engaged by the Department to work with service police. What is their status with regard to the GoCo?

Mr Dunne: I am sorry, but could the hon. Lady repeat the question?

Alison Seabeck: Certainly. I was obviously being a bit vague. The Department has employed around 150 civilian investigators to work with service police officers, according to figures supplied by the MOD police. What will their degree of jurisdiction be as civilian investigating officers? Will they be enabled to go in and investigate the GoCo or is it purely the MOD police?

Mr Dunne: I apologise for asking the hon. Lady to repeat the question. This power applies to warranted MOD police officers, not to those who are not warranted. It would be for the GoCo, if wanted to undertake an investigation and did not feel it had enough resources within MOD police, to seek assistance from other warranted

forces. Security companies could not be involved, using these powers, to investigate. I thought that the reference to private security firms was more to do with guarding and other non-warranted activities. With that, I encourage the Committee to agree to the clause.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.
—(Mark Lancaster.)

7.21 pm

Adjourned till Thursday 10 October at half-past Eleven o'clock.

Written evidence reported to the House

DR 06 CBI

DR 07 Army Rumour Service website

DR 08 Professor K G Hambleton, I J Holder and Professor D L I Kirkpatrick

DR 09 Professor Taylor and Dr Louth

DR 10 Philip Dunne MP on behalf of the Ministry of Defence

