Armed Forces Bill: Committee Stage Report

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The Committee of the Whole House on the *Armed Forces Bill* took place on 14 June 2011.

All of the Government's amendments to the Bill relating to the call-out of the Reserves and the Armed Forces Covenant were adopted. Several other amendments and new clauses relating to the Covenant and the publication of defence statistics were defeated on division.

The Bill, as amended in Committee, is now Bill 202 of Session 2010-12.

Report Stage and Third Reading of the Bill is scheduled for 16 June 2011.

Contents

1 Introduction

The *Armed Forces Bill* was introduced in the House of Commons on 8 December 2010 and Second Reading took place on 10 January 2011.

Unlike the majority of Government Bills, the *Armed Forces Bill* has traditionally been committed to a specially convened Select Committee after Second Reading, which sits only for the duration of the Bill. Three oral evidence sessions of the Armed Forces Bill Select Committee were subsequently held in early February 2011 on some of the general themes associated with the Bill. The extent to which the Bill, as introduced, fulfilled the Prime Minister's June 2010 pledge to enshrine the Military Covenant in law received particular attention.

Those sessions were then followed by four sessions dedicated to formal consideration of the Bill between 10 and 17 February 2011. Several amendments relating to clause 2 of the Bill were moved in Committee, but after extensive debate were defeated on division. The Special Report of the Select Committee was published on 10 March 2011 (HC 779, Session 2010-12).

The Committee of the Whole House and remaining Commons stages had originally been scheduled for 10 May 2011. However, the Bill was delayed by the Government at the beginning of May amid speculation that it was reconsidering the provisions in the Bill relating to the Covenant.

Indeed, on 15 May 2011 the Prime Minister announced that aspects of the Covenant would now be written into the Bill. The Secretary of State for Defence provided further details to the House on 16 May when the Government also published the first Tri-Service *Armed Forces Covenant*, along with a document outlining both the practical measures that are being

undertaken to implement the Covenant and future commitments in this area. The Government's amendments to clause 2 were tabled on 8 June 2011.

Detailed information on the provisions of the Bill, the debate in Select Committee and the amendments tabled ahead of the Committee of the Whole House stage, is available in the following Library papers:

- Library Research Paper RP10/85, *Armed Forces Bill,* 17 December 2010
- Library briefing SN05899, *Armed Forces Bill: Consideration in Select Committee*, latest update 9 June 2011
- Library briefing SN05979, *Armed Forces Covenant,* 9 June 2011
- Library briefing SN05991, *Amendments to the Armed Forces Bill*, 13 June 2011

2 Committee of the Whole House Stage

As expected the focus of the Committee of the Whole House was on the Armed Forces Covenant and the amendments introduced by the Government to put the principles of the Covenant on a statutory footing.

The Government's amendments on both the Armed Forces Covenant and the call-out of the Reserves were subsequently adopted after debate. A number of other amendments and new clauses relating to the Covenant, base closures, and the enlistment of minors were either withdrawn or fell after debate (Amendments 2-4, amendment 17, new clauses 1-7, new clauses 11, 13 and 14); while several were also defeated on division (amendment 16 and new clauses 15 and 17).

The following note is a brief summary of the main points raised during the Committee.

The Bill, as amended, is now Bill 202 of Session 2010-12.

2.1 Call out of the Reserves

New clause 12 would amend section 56 of the *Reserve Forces Act 1996*, which as a whole legislates for the maintenance and composition of the Reserves, their terms and conditions of enlistment, employee agreements and the terms of their call-out for operational duty.

Subsection 1 of section 56 already provides for the Secretary of State to make an order authorising the call-out of the Reserves for "operations outside the United Kingdom for the protection of life or property; or [...] on operations anywhere in the world for the alleviation of distress or the preservation of life or property in time of disaster or apprehended disaster".

This new clause makes provision for the Reserves to also be temporarily called out for "urgent work of national importance" in accordance with instructions issued by the Defence Council under the *Defence (Armed Forces) Regulations 1939*, which form part of the UK's emergency powers legislation.[1]

[1] Including the *Emergency Powers Act 1920,* as amended by the *Emergency Powers Act 1964,* and the *Emergency Powers Act 1939*

New amendment 14 provided for this new clause to commence two months after this Act is passed; while amendment 15 altered the title of the Bill to reflect this change in the scope of the Bill.

In introducing these amendments, the Parliamentary under Secretary of State for Defence, Andrew Robathan, commented:

> The new clause reflects the importance that the Government place on their reserve forces, and amendments 14 and 15 are concomitant with it. The new clause is designed to align more closely the circumstances in which reservists may be called out in the United Kingdom with those in which regular personnel may be used. It would enable reservists to be deployed in the UK more widely than at present so that their skills can be used in a wider range of circumstances [...]
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> we do not have legislation in place to allow us to use the numbers of reserves available or their specialist skills in all appropriate circumstances. The Secretary of State's power to call out reservists in the UK is currently limited by the Reserve Forces Act 1996 to the defence of the realm or
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> "the alleviation of distress or the preservation of life and property in time of disaster or apprehended disaster."
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> There are many circumstances falling short of "disaster or apprehended disaster" in which reserves could make a valuable contribution, but under the existing legislation, they cannot be mobilised. I have in mind a number of examples. The first is the foot and mouth outbreak of 2001, when we could not call out reservists because the work that needed to be done was not to alleviate distress or preserve life or property. The second is a major disruption to the road and rail network, such as we saw at the beginning of this year, when reservists could not be mobilised to deliver vital food and blood supplies to a large number of people over a wide area, and when we had to resort at the last minute to volunteers. The final example is a requirement for unarmed, low-level support to the security operation for the London 2012 Olympic games. Currently in such circumstances, it would be possible to use regular forces because there is a power to use regulars for urgent work of national importance. This power has been used for a wide range of activities, such as dealing with the consequences of flooding, heath fires, severe snow, hurricanes and the foot and mouth outbreak of 2001.[2]

He went on to state:

> Being able to mobilise reserve forces would offer a number of important practical advantages. First, there are more than 30,000 committed individuals in the volunteer reserves. Secondly, reservists are based in every part of the UK and can bring to bear important local knowledge in relation to local problems. Thirdly, this would enable us to draw on a range of specialist skills held in the reserves that do not exist in the regular forces—for example, medical skills, meteorological expertise, and rail and maritime expertise. Over the last decade, we have seen the ever greater integration of the reserves into our force capability. The new clause is proposed in that developing context. The Future Reserves 2020 study, which will report to the Prime Minister this month, is taking a wider look at the role of the reserves and making better use of their specialist skills. I expect the study to recommend that we should make more of the

[2] HC Deb 14 June 2011, c674-5

> strengths and skills that reservists offer. The new clause represents a first step towards that.[3]

The new clause was widely supported in the House, although clarification was sought as to the status of employment protection for Reserve forces. In his closing remarks on the new clause Andrew Robathan confirmed that "we have absolutely no intention of removing employment protection from reservists".[4]

Mark Lancaster also expressed concern over the extent to which these new powers may be used, warning that frequent mobilisation could act as a disincentive to joining the Reserves. He commented that:

> We must be careful when we use these powers. Few people in the reserve forces are not prepared to be mobilised, but when we start mobilising people for the second, third or fourth time, reservists are forced to answer an important question: are they prepared to give up their first career for a second career? Protections are in place so reservists can go back to resume their employment, but many employers, who might be incredibly supportive of the reserve forces, sometimes feel quite strongly about who they should promote [...]
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> I support the extension of these powers, but I add the caveat that we must be very careful how we use them.[5]

The new clause and amendments were subsequently agreed and added to the Bill (new section 28 of Bill 202).

2.2 Armed Forces Covenant

The majority of amendments and new clauses tabled ahead of the Committee of the Whole House related to clause 2 of the Bill on the Armed Forces Covenant.

In summary, Elfyn Llwyd tabled a number of amendments and new clauses that would establish the post of Minister for Former Armed Forces Personnel who would be responsible for the annual report to Parliament; would broaden the scope of the Armed Forces Covenant report; would establish a new Former Armed Services Personnel Rights Charter and a new Former Armed Services Personnel Policy Forum; would establish Former Armed Forces Personnel Support Officers in each prison and probation service in England and Wales and make provision for the funding of specified welfare groups in order to provide assistance to veterans.

Gemma Doyle and Kevan Jones tabled a number of amendments and new clauses that would expand the topics for compulsory inclusion in the Armed Forces Covenant report; expand the existing network of Armed Forces Advocates; give powers to the Parliamentary and Local Government Ombudsmen to investigate complaints from Service personnel over the failure of a public body to meet its commitments under the Armed Forces Covenant; while also making it an obligation on all public bodies and Ministers, when making policy, to have regard to the same issues that the Secretary of State must also consider in preparing the Armed Forces Covenant report.

The Government also tabled amendments to clause 2 that would set out on the face of the Bill the key principles that underpin the Covenant and which must be taken into consideration

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3 HC Deb 14 June 2011, c675
4 ibid, c680
5 ibid, c678-9

when preparing the Armed Forces Covenant Report. The amendments largely mirrors the text of the *Armed Forces Covenant* which was published on 16 May, recognising in particular the unique obligations of, and sacrifices made, by the Armed Forces and the principle that they should not be disadvantaged by that service. Despite the Government's commitment to consult the External Reference Group in the preparation of the Armed Forces Covenant report,[6] the Government's amendments to clause 2 did not make this a statutory obligation.

Further detail is available in Library briefing SN05991.

All of these amendments and new clauses were grouped together for debate.

Backbench and Opposition Amendments

In introducing his amendments, Mr Llwyd welcomed the move to place the Covenant on a statutory basis but argued that there was still a need to strengthen the provision of welfare for veterans and that his particular amendments would "establish a more robust structure of support for personnel leaving the forces, and would ensure that veterans were not disadvantaged in any way when trying to gain access to public services as a result of the service that they had given".[7] He also raised many of the points that had previously been made in the Select Committee, in particular in relation to the scope of the annual report. He noted:

> I appreciate that the Secretary of State will have the power to increase the number of subjects if he desires, but, to put it simply, there is no point legislating for an armed forces report to be laid before Parliament if it provides only a limited vision of the problems it needs to address. The bare fact is that veterans do not often encounter these problems in isolation, as the factors that contribute to social estrangement are far more likely to be encountered as a package.[8]

In introducing her amendments, Gemma Doyle also supported the amendments to clause 2 tabled by the Government but went on to suggest that "They enshrine in law the principles of reporting to Parliament, but they are still a step away from fully enshrining the covenant in law". As such, she argued that new clause 17 would "fully enshrine the principles of the covenant in law, not half-heartedly but unambiguously" by placing a duty on all Departments and public bodies to give consideration to Service personnel, families and veterans in policy making and implementation.[9]

She also argued that the scope of the Armed Forces Covenant report, as it stood, was "insufficient" and that the list set out in amendment 16 was "more comprehensive and more appropriately reflects the Secretary of State's responsibilities" and that "Fundamentally, I want the Secretary of State to come to Parliament and report on the matters for which he or she is responsible".[10] In speaking to new clause 14 and the extension of the powers of Ombudsmen, Ms Doyle suggested that "just as important as writing the covenant into law, the Bill should provide a form of accountability so that the principles contained in the covenant mean something in reality". She went on to note that:

> It is essential that there should be a system of accountability as a last resort, should all reasonable means fail. This is not about creating justiciable rights, but a system of

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6 As set out in the Secretary of State's statement to the House on 16 May 2011.
7 HC Deb 14 June 2011, c684
8 ibid, c685
9 ibid, c693
10 ibid, c694 and c696

> accountability is needed if the covenant is to mean anything. Principles must be enforceable if they are to be anything more than words on a piece of paper.[11]

Reflective of the overall debate in the Select Committee, many members expressed concern that specifying a broader range of subjects to be covered in the annual report could in fact be too prescriptive and "that it would be better instead to leave some discretion with the Secretary of State to be able to look at any disadvantage and report on that, because it is hard to predict exactly where such disadvantages may lie?".[12] Louise Mensch also suggested that a "simpler way to address the needs of our veterans would be for this country to have a veterans' administration or Department",[13] a suggestion that was supported by many Members as a longer term goal given the current economic climate.

In response to all of these amendments the Minister, Andrew Robathan, made the following observations:

- Although ex-service personnel issues lie across the whole of Government, the MOD is uniquely placed to play a leading role. The MOD runs the Service Personnel and Veterans Agency, and is involved in the transition of members of the Armed Forces to civilian life. On that basis, the MOD believes that the current arrangements regarding welfare provision for veterans are fit for purpose and that they can be improved as things evolve.

- There is no justification for the creation of a new ministerial post and that it is right that the Secretary of State for Defence, with overall responsibility for current and former members of the armed forces, has the responsibility of preparing the annual report.

- The MOD does not feel that the creation of a new Charter and associated veterans bodies is necessary. The proposal for a charter has been overtaken by the publication of the *Armed Forces Covenant*, which represents a better approach as it avoids the creation of legal rights. The appointment of a Former Armed Forces Personnel Support Officer to every prison and probation service in England and Wales would impose an unnecessarily legislative framework; while the veterans in custody support programme already focuses on the early identification of ex-service individuals who would benefit from extra support. There is also no need for the creation of an additional policy forum for veterans given the number of groups that already exist to help shape the delivery of veterans' policy, including the External Reference Group.

- It would not be appropriate for the Government to give general financial support to veteran's welfare groups. It is a long-standing practice that central Government do not provide funds raised through taxation to assist the core activities of individual charities and the MOD believe that registered charities should remain independent.

- The MOD would rather not legislate for a specific list of topics to be included in the Armed Forces Covenant report as they may change in the future. Such a list would deny the Secretary of State the flexibility to deal with the effects of Service that are considered to be the most important or relevant at the time of each report. The ERG's advice and expertise will be of huge benefit to the Government in preparing the

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11 HC Deb 14 June 2011, c700
12 ibid, c686
13 ibid, c688

annual report, but the MOD cannot place on the group the duty of deciding what subjects the Secretary of State will cover. It must be the Minister's decision, so that he is answerable to the House for it.

- New clause 14 is unclear about what exactly the Ombudsmen are intended to do, and the Government is therefore not inclined to accept it. The Government will continue to work with public bodies and local authorities to help them implement their commitments under the Armed Forces Covenant. While it is recognised that the Ombudsmen have a vital role to play, it is not considered to be the one described in this new clause.

- With respect to new clause 17, the Government must consider whether the right course of action is to create a legal duty to have regard to certain matters, or to adopt a more practical approach. In the Government's view, placing a general duty on all public bodies and Ministers in the preparation of all policy would be unhelpful and unfocused. It would lead to more of a box-ticking culture and a cottage industry of assessments. The Government would prefer to continue working with public bodies to ensure as far as possible that they take account of the Armed Forces Covenant in their preparation of policy. Much progress has already been made, and the imposition of a new statutory duty would not be of benefit.[14]

Despite expressing his dissatisfaction with the Minister's response, Mr Llywd subsequently withdrew his amendments.

However, amendment 16 on expanding the topics to be covered in the Armed Forces Covenant report and new clause 17 on the statutory obligation of all public bodies and Ministers, when making policy, to have regard to Armed Forces Covenant issues, were pressed to a vote.

On division, amendment 16 was defeated by a vote of 223 (Ayes) to 283 (Noes);[15] while new clause 17 was also defeated by a vote of 213 (Ayes) to 291 (Noes).[16]

Government Amendments

In introducing the Government's amendments to clause 2, Andrew Robathan acknowledged the work of the Royal British Legion in relation to this Bill and the Government's willingness to take its comments on board. He commented:

> Those other organisations are as concerned as the Government are to avoid the pitfalls of the covenant ending up in the courts. They have also pointed out where they think we can do better, and we have listened to them. They argued persuasively that the language of the Bill that related to the armed forces covenant report did not go far enough in explaining our intentions. Our amendments aim to put that right, and I hope that everybody in the Chamber welcomes that.[17]

In speaking to the Government's three amendments specifically, Mr Robathan noted:

> Our amendments do not seek to introduce new constraints to prevent the Secretary of State from using his discretion in preparing the report. They do not try to prejudge in detail exactly which subjects will be relevant—unlike, I fear, several of the amendments

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14 HC Deb 14 June 2011, c707-713
15 Division No. 291
16 Division No. 293
17 HC Deb 14 June 2011, c704

that we are discussing. Rather, they allow us to be clear about the principles to which the Secretary of State must have regard, especially now that the armed forces covenant has been published [...]

The other two principles listed in the amendment are not statements of fact in the same way, but they should command the same level of consensus. They are at the core of the Government's and the nation's obligations under the covenant. We can never remove all disadvantage that results from membership of the armed forces—the very nature of the job prevents it—but we can, and must, do all we can to minimise disadvantages, particularly when it concerns access to public services.

The question of disadvantage is dealt with more fully in amendment 12—an important new provision that clarifies how the annual report will deal with removing or reducing disadvantage. The first part requires the Secretary of State to make a judgment about whether the effects of service constitute or result in disadvantage when he is looking at a particular field—an element of the covenant such as health care or housing. He is also required to look at service people or

"particular descriptions of service people".

In other words, he will be looking at individual elements of the armed forces community. That could be a very broad category including families or ex-service personnel, or it could be a smaller grouping such as those injured in service or foreign and Commonwealth personnel. The Committee will understand that this gives the Secretary of State the ability to drill down to find the real problems, which often do not affect a whole group but a small part of it. The amendment also gives the Secretary of State the responsibility of deciding who should be the subject of that comparison. In some cases, the right comparison will be with the ordinary civilian; in others, it may make sense to look at a rather more specialised comparison such as with members of the emergency services.

The second part of amendment 12 sets out what the Secretary of State must do with his judgment. He must go on to say in the annual report what is his response to the disadvantage that he has identified. Perhaps nothing can be done about it—it may be an inevitable result of the military profession—or he may be able to announce how the matter is to be resolved, or who has responsibility for doing so. In all cases, the House will be in a position to decide whether that response is satisfactory.

Amendment 13 adds more about special provision. It requires the Secretary of State to look at the effects of service covered in his annual report and to reach a view on whether special provision would be justified. It adds that when he believes that special provision would be justified, he must say so. As with the previous amendment, he is not obliged to treat service people as if they are a single group who must all be treated in the same way.

The amendment does not require us to extend special provision in particular ways or to try to prejudge when it will be appropriate. Instead, it requires us to keep the principle at the forefront of our minds when preparing the annual report so that Parliament can decide if we have treated these particularly deserving groups in the right way.[18]

He concluded by commenting that:

The three amendments will mean that, for the first time, an Act of Parliament refers to the key principles of the armed forces covenant. They do this in a form which does not give them legal force in terms of individual actions but which ensures that the

[18] HC Deb 14 June 2011, c703-6

> Secretary of State has regard to them in his important new duty to prepare a report. That will strengthen further the accountability that the Government are seeking to build.[19]

The Governments amendments received widespread support across the House, despite some Opposition concern that they did not go far enough (see above).

Clause 2, as amended, was subsequently ordered to stand as part of the Bill.

2.3 Base Closures

New clause 1 and amendment 1, tabled by Thomas Docherty, sought to introduce an obligation upon the Secretary of State to prepare, prior to commencing a programme of closure or realignment of military bases, a base closure report to be laid before Parliament. Parliamentary approval of any base closures would also become a statutory requirement.

New clause 16, tabled by Angus Robertson, which sought to establish an independent UK Defence Base Closure and Realignment Commission, was also grouped with new clause 1.

In introducing his amendments, Thomas Docherty stated:

> We have seen, in the last strategic defence and security review, an unprecedented attack on our defence of the realm capabilities [...]
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> Each Government, over the past 40 or 50 years, have reconfigured our armed forces structure to best suit the challenges as they have seen them, but never before have we seen one so radical and based not on the nation's defence needs, but on the Chancellor of the Exchequer's needs. For that reason, there is great concern in communities up and down the country that decisions are being made not by the Ministry of Defence, but by the Treasury, and that therefore those decisions are not being made because they are the correct defence decisions but because they are the most expedient or financially convenient for the Treasury and in order to save money [...]
>
> The purpose of my new clause is to ensure parliamentary oversight of the decisions made by the Ministry of Defence [...] Under the new clause, the Secretary of State would compile a report setting out what weight he was giving to each of the criteria, which might be quite mixed. Having had a chance to review the report, a future Defence Select Committee might wish to invite the Secretary of State to appear before it and to scrutinise it, although I cannot bind any such Committee to do so. The report would then be subject to a straight-up-and-down vote in the House. There would not be an option to cherry-pick individual bases; it would be a straight-up-and-down report, as they have in the United States. If the House really felt that the Government had got it wrong, it would send the matter back and ask the Government to reconsider [...] Only when the Secretary of State had gained parliamentary approval could he proceed with the closure of the bases.[20]

In speaking to his own clause, Angus Robertson stated:

> When discussing his [Thomas Docherty's] new clause and mine, the question we must ask is whether the way in which the Ministry of Defence deals with base closures or realignments is adequate. Is the way in which the criteria are established widely understood? Is there transparency and consistency in the process?

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19 HC Deb 14 June 2011, c706

20 ibid, c719-724

> When we talk about a covenant, it should not be a covenant only with our service personnel; surely it should also be a covenant with the communities that have associations, long and deep, with the armed forces, whether they be based in Fife, Moray, Norfolk or anywhere else. The Ministry of Defence owes it to our defence communities to treat them better than they have been treated throughout this basing review.
>
> I agree that there should be parliamentary oversight; this should not be conducted only by the Ministry of Defence. I have no reason to believe that the information provided to Ministers to help them make their decision is not well thought through: I am sure it is, but it has taken such a long time. The issue is not just about parliamentary approval, however, as there needs to be a degree of independent insight, which is why I believe we should have a commission nominated by the Defence Select Committee.
>
> If at least one good thing comes out of this botched process, namely an acknowledgement from the Government that they could and should improve it, I will not proceed with my new clause, in the hope that the Government will return at some stage with better-thought-through approach for the future.[21]

New clause 1 was also tabled during the Select Committee stage of Bill, and subsequently withdrawn. In keeping with the Government's position during that Select Committee debate, Mr Robathan rejected the provisions of this new clause, stating:

> New clause 1 is very unwelcome at a time when we are trying to streamline the way in which the Government conduct operations. It would require the prior approval of both Houses of Parliament to any alteration in the function of, and any closure of, any of our bases anywhere in the world. As well as bases in the United Kingdom, it would affect bases in Germany, Cyprus, the Falkland Islands and Afghanistan. That would hamstring our operations. It would involve our revealing publicly our plans and, no doubt, a great deal of highly sensitive information so that the Houses could debate it.
>
> Base closures and changes are already subject to a number of legislative requirements through, for example, planning consents and the need for sustainability assessments. Parliament already has ample opportunity to make its views about proposed major changes known to the Government, and Parliament and indeed the nation will no doubt hold the Government to account for the decisions that they make. We believe, however, that it must be right for the Government to make those decisions. Requiring advance approval would constitute an abandonment of the Government's responsibility, and would make vital strategic decision-making impossible.[22]

On the proposal for an independent basing commission, as exists in the United States, Mr Robathan also argued:

> The hon. Gentleman may have offered that before as a model that we should follow, but we take the view that the Defence Secretary must act in the best interests of defence—that is what he is appointed to do—and where defence assets and personnel are based must depend on strategic considerations for the security and defence of the United Kingdom and value for money for the taxpayer.
>
> I acknowledge the hon. Gentleman's enthusiasm for the process used in the United States, but in our parliamentary system the Secretary of State for Defence is accountable to Parliament in a way that does not apply in the United States. Members of Parliament can, and do, make representations directly to Ministers, and I assure the

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21 HC Deb 14 June 2011, c725-6

22 ibid, c727-8

> hon. Gentleman that those representations are heard. This is not pure window dressing, so I hope he, too, will not press his amendment to a Division.[23]

Thomas Docherty subsequently withdrew his amendments, while new clause 16 was not pressed to a vote by Mr Robertson and subsequently fell.

2.4 Enlistment and Discharge of Under-18s

Under the *Queens Regulations for the Army* all Service personnel have the statutory right, after 28 days of service, to leave within the first six months of enlistment. In addition, all of the Services operate a policy focused on "unhappy juniors", which allows for a person under the age of 18 who has shown a genuine and persistent unhappiness with Service life to be discharged outside of his/her statutory right to leave within the first six months. As with the statutory right to discharge a period of 14 days notice is usually required. After this point a person is tied to a minimum period of service of four years, with a right to give 12 month's notice at the three year point.

New clause 7 sought to make provision for the statutory right of minors to leave the Armed Forces with 14 days notice. The clause was also grouped with new clause 11 which would prohibit the enlistment of under-18s.

In introducing his new clause Dr Huppert acknowledged that the proposal to allow under-18s to leave as of right had also been supported by the Joint Committee on Human Rights. While there was some debate over whether the current unhappy juniors policy represented a 'right' to leave before the age of 18, Dr Huppert expressed the opinion that, while in practice minors may be able to leave the Armed Forces, this policy did not constitute a statutory right which the Bill should address.

However, he then went on to acknowledge the MOD's response to the Armed Forces Bill Select Committee Special Report in which the Department announced that "for those under the age of 18, the ability to be discharged will in future be a right up to the age of 18, subject to an appropriate period of consideration or cooling off".[24] Consequently Dr Huppert sought clarification on what would be considered an appropriate period of 'cooling off' time and when any secondary legislation to introduce this change would be laid before the House.

In introducing new clause 11, John McDonnell also stated:

> I find it extraordinary that when it comes to military recruitment or their engagement in the military, we do not treat under-18s as minors. Legally, that is what they are. I therefore find it extraordinary that we allow children to sign up to involvement in the military, legally—currently—making a commitment for six years. They are minors, signing up to a process that could put them in harm's way and which certainly puts them under a disciplinary regime and environment that has made a number of them vulnerable over the years.[25]

He went on to state:

> The Minister might correct me on this, but I understand that we are now the only European country that recruits under-18s to the armed forces. I would welcome a rethink from the Government about the whole practice of recruiting children into the

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[23] HC Deb 14 June 2011, c729

[24] *Government Response to the Select Committee on the Armed Forces Bill Special Report,* HC 779, Session 2010-12

[25] HC Deb 14 June 2011, c731-2

> military and the possibility of phasing it out. I understand that the Minister might not want to accept the amendment this evening and I will not press it, but I would welcome consideration from the Government about phasing out the recruitment of children to the military.

In responding to the issue of discharge as a right, Mr Robathan commented:

> Young people who join the armed services at the ages of 16 and 17 are a valued source of manpower—it is particularly man power in the Army—but we take the duty of care seriously too. When the subject was first raised with me, I had not appreciated that there was what we might describe as a certain element of confusion over whether people could leave at the age of 18. The situation is changing, but currently if a young man—they are typically young men—approaching his 18th birthday said that he was unhappy, he would be dubbed an unhappy minor and in practice he would be allowed to go after a cooling-off period. However, the situation is slightly confused [...]
>
> after listening to people and to the debate in the Select Committee, it seems to me that it is important to clarify the position. As the hon. Member for Cambridge said, people will have a right to leave up to the age of 18. However, I am not saying that we want them to leave, so we shall give them a cooling-off period. It is likely to be longer than two weeks. It is a genuine change and will be enacted in statute, because it is right that people understand that they do not have to beg to leave; they have the right to leave, but we shall make every effort to dissuade good young people from leaving if we wish to retain them.
>
> People are currently informed of their rights and that will continue. The answer to his question is the old parliamentary expression, "We expect secondary legislation soon." I hope it will be before the recess, but it may not be. I do not want to get it wrong.[26]

On the issue of enlistment he went on to argue:

> Prohibiting the enlistment of people under the age of 18 would be to the detriment of the armed forces. We take real pride in the fact that the armed forces provide challenging and constructive education, training and employment opportunities for young people [...]
>
> I can assure the Committee that we recognise the need for special care in recruiting and training under-18s. There are currently no plans to revisit the Government's recruitment policy for under-18s, which is fully compliant with the optional protocol on the involvement of children in armed conflict in the United Nations convention on the rights of the child.[27]

New clause 7 was subsequently withdrawn and new clause 11 was not pressed to a division and therefore fell.

2.5 Defence Statistics

New clause 15, tabled by Angus Robertson, sought to make provision for the Secretary of State to publish annual statistics on defence spending, by both Government Office Region and each Local Authority area, with respect to equipment and non-equipment expenditure, and service and civilian personnel costs. Subsection 2 of that clause also sought to oblige the Secretary of State to publish annual estimates of the national and regional employment that is dependent upon MOD expenditure and defence exports.

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[26] HC Deb 14 June 2011, c733-4

[27] ibid

In introducing this clause, Mr Robertson argued:

> It is a pleasure to speak in favour of new clause 15 on defence statistics, which, for some, might appear a dry subject but which, after a strategic defence and security review and during an ongoing basing review, is quite important. It is especially important to those of us who have concerns that the way in which the Ministry of Defence has been managing its infrastructure, manning levels and spending is grossly imbalanced [...]
>
> I would have thought it was a matter of concern to Members on both sides of the House that rather than continuing to provide statistics on these matters, the UK Government have simply stopped answering parliamentary questions and providing the important information [...]
>
> Frankly, we would be in dereliction of our duty as parliamentarians if we did not try to inform ourselves of how the Department that we are trying to hold to account is spending our constituents' tax money. How that informs our political priorities is a totally different matter, but the coalition parties made an express commitment to everybody in the United Kingdom that they would seek and deliver transparency. When it comes to defence statistics, they have reneged on that.
>
> This is an opportunity for both Conservative and Liberal Democrat Members—and Labour Members if they have found their conscience on the issue—to understand that this is an important problem that is easily remedied. The new clause would allow that to happen, as it would force the MOD to provide and publish the statistics that we all deserve. That is why, unless the Minister agrees to publish the statistics, I will force a Division on this important issue.[28]

In response the Minister for the Armed Forces, Nick Harvey, stated:

> we are only too ready to share with hon. Members any information that we have and that we compile. As the hon. Gentleman knows only too well, the previous Government ceased to compile that information, and frankly for very good reason. It was unreliable information being measured against an old and out-of-date baseline. No defence decisions were being made in the light of that information. It is several years since that information has been compiled. We are happy to share with him any information that we have in this regard, but we do not have that information any longer.[29]

Andrew Robathan went on to provide further justification for the Government's position:

> What is important is how the money is spent, not how statistics are gathered, and I will put on record what we feel.
>
> The Ministry of Defence has no plans to reinstate the publication of annual estimates of regional defence spending or the employment effects of that expenditure. The Department decided to stop the compilation and publication of those statistics three years ago. Although the statistics were valuable in giving national and regional employment context to defence spending, the data did not directly support MOD policy making and operations. Furthermore, the compilation of the series depended on external sources that had not been updated for some years. The MOD had been struggling to maintain the quality of the statistics even to a basic level. To reinstate their compilation would cost the Department about £500,000 in the next four years.

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[28] HC Deb 14 June 2011, c736-9

[29] ibid, c740

> The purpose of the defence budget is to maintain the armed forces so that they can contribute to our nation's security—a nation that includes, I am glad to say, Scotland and Northern Ireland. Every pound that the MOD spends must contribute to the security of the United Kingdom, and it gets doled out not on a regional basis but on a defence- needs basis [...]
>
> I note from previous debates on this subject that the hon. Gentleman is concerned that the cessation of those statistics will mean that a gap emerges in information on defence, particularly with regard to Scotland. It should be noted that assessments of the employment effects of MOD expenditure will continue to be undertaken for individual defence projects, and as part of the regional impact assessments that are conducted to inform MOD base closures. For instance, we know how many people are employed at specific bases—that is quite straightforward—but we do not compile huge tables of statistics that are of no great value. Decisions and policy in these areas will continue to use evidence about the employment impacts.
>
> In the light of that, I hope the Committee rejects new clause 15.[30]

However, that clause was subsequently pressed to a division which was defeated by a vote of 10 (Ayes) to 282 (Noes).[31]

The Committee of the Whole House was subsequently adjourned and the Bill, as amended, is now Bill 202 of Session 2010-12.

Report Stage and Third Reading of the Bill is scheduled for 16 June 2011.

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30 HC Deb 14 June 2011, c741-2

31 Division No. 292