



Report Stage and Third Reading of the Defence Reform Bill

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[Report Stage and Third Reading](#) of the *Defence Reform Bill* took place in the House of Commons on 20 November 2013.

Several Government amendments to the Bill had already been debated, and agreed, during the Public Bill Committee stage (see Library briefing [SN06732](#)). At the end of those deliberations several Members, including the Opposition frontbench, continued to express concerns over several principles behind the Bill, namely the proposal to establish Defence Equipment and Support as a Government-Owned, Contractor-Operated (GOCO) entity, and the Government's recent decision to increase the strength and role of the Reserves while the Regular forces are reduced over the next few years.

The day before Report Stage, the Government announced that one of the consortia bidding for the GOCO contract had withdrawn from the competition. Work is now underway to determine whether it is in the public interest for the MOD to proceed with only one commercial bidder and the public sector comparator (DE&S plus).

Several amendments were tabled prior to Report stage, including one which sought to impose an obligation on the Government to report on the viability and cost-effectiveness of the plan to increase the size of the Reserves, which would then be subject to approval by both Houses before the Government could continue with its reform agenda. Despite the support of several Conservative backbenchers, that amendment was, however, defeated on division. A clause seeking to increase the leave entitlement of Reservists was also defeated.

The following is a brief summary of changes made to the Bill at [Report Stage](#), and the major points of debate. The Bill has now passed to the House of Lords and is [HL Bill 60](#). Second Reading is currently scheduled for 10 December 2013.

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1 Report Stage – Debate and Amendments

To date, the proposal to establish Defence Equipment and Support (DE&S) as a Government-Owned, Contractor-Operated (GOCO) entity, has been the main focus of debate during both Second Reading and the Committee Stage of the Bill.

Several [amendments](#) relating to the GOCO (Part 1 of the Bill) were tabled for Report Stage but were subsequently not called.

Instead, the main focus of the Report Stage was on the Government’s plans for the Reserves, and specifically the amendment (new clause 3) which sought to impose an obligation on the Government to report on the viability and cost-effectiveness of the plan to increase the size of the Reserves, which would then be subject to approval by both Houses before the Government could continue with its reform agenda. While many Members supported the principle of scrutinising the reserves plan in more detail, others accused supporters of the amendment of undermining the morale of the Reserve forces and trying to derail the Government’s wider plans for restructuring the Army.

A copy of the full debate is available [online](#).

1.1 The Reserves

[Several amendments](#) relating to the Reserves were tabled for debate. Of note, was the amendment calling for an annual report of the Reserve Forces and Cadets Association (RFCA) to be placed on a statutory basis; John Baron’s amendment calling for a report on the plan to increase the size of the Reserves; and an amendment seeking to increase the leave entitlement of Reserve personnel. The latter two amendments were defeated on division.

Annual Report of the RFCA

Although not a Government-tabled amendment,¹ the principle that the RFCA should annually report to the House on the state of the Reserves, and that that obligation should be placed on a statutory basis, was supported by the Government. The Secretary of State for Defence, Philip Hammond, stated:

At this stage we are minded to accept the principle of this new clause 1 ... We have already made arrangements to receive independent reports from the RFCAs on an annual basis; my hon. Friend is suggesting placing that requirement in statute. On reflection, we consider that to be a sensible idea that will strengthen the programme for the growth and reinvigoration of our Reserves.²

The reason for the Government's support for this proposal became clearer within the context of the overall debate on the proposals to increase the size of the Reserves and the amendment seeking to delay those reforms until Parliament had had an opportunity to scrutinise the plans in more detail (see below). Later on in the debate Philip Hammond suggested that having an annual independent report on the Reserves, that would be laid before Parliament, would allow the progress of the Reserves reform programme to be tracked over many years, and therefore the report outlined in John Baron's amendment (new clause 3) was unnecessary and would "create a one-off hurdle, which sends a negative signal now".³ He went on to state:

I am happy to have made a commitment to my hon. Friend to introduce ... an amendment that reflects his new clause 1, which I have to say is technically imperfect, to ensure that this House has an annual opportunity to consider an independent report, produced under statute by the RFCA, not only once, as is proposed in new clause 3, but every year—not just as we roll out the programme, but thereafter—so that we can monitor not just the expansion of our Reserves, but the maintenance of them in future.⁴

In addressing the calls for mental health issues of Reservists to be addressed on an annual basis (new clause 4), he also proposed that Reservists' mental health issues be considered as part of that new independent annual report.⁵

The Government will now introduce an amendment to reflect this provision during the House of Lords stages.

Report on the Reserves

New clause 3 sought to impose an obligation on the Government to report on the viability and cost-effectiveness of the plan to increase the size of the Reserves, which would then be subject to approval by both Houses before the Government could continue with its reform agenda. Speaking to his amendment, John Baron MP stated:

New clause 3 and consequential amendments tabled in my name and that of other hon. Members will, if successful, postpone the implementation of the Government's reservist plans until their viability and cost-effectiveness have been scrutinised and accepted by Parliament [...] Contrary to some claims and inferences, these are not wrecking amendments; they are not designed to scupper, reverse or tear up the Army

¹ This amendment (new clause 1) had been tabled by Julian Brazier MP

² HC Deb 20 November 2013, c1262

³ Ibid, c1285

⁴ Ibid, c1318

⁵ Ibid, c1322

reserve plans, and they are certainly not an attempt to recreate, or go back to, Victorian-style and size armies [...]

I also want to make it clear that if these amendments are passed the delay to the Army reserve plans could be kept to an absolute minimum if the Government allowed prompt scrutiny of the report. There is no intention to drag this out or turn it into a campaign that goes on for months and months. The report could be produced the day after the Bill becomes an Act and we could have a debate in this place within weeks. I have to say that the stories that this is scuppering the Army reserve plans or reversing them are very wide of the mark.⁶

Responding to the Government's suggestion that the annual report by the RFCA (see above) would adequately monitor the progress of Reserves reform, he went on to state:

As I have said, the report on its own is not enough, because we need proper scrutiny and a vote in the House, and if it does not bear scrutiny, perhaps that tells a wider story [...]

One of the first questions I would like the Secretary of State to answer is why the plan has changed. As we heard from the former Secretary of State in his own words—it came from his mouth, not mine—the original plan was that the Regulars would be held at their current level until the Reservists were able to take their place. That plan has changed. To return to a point that several Members have already made, by the end of last year a good number of the Regulars had already gone—the final tranche may be next year; we are not sure—and by the end of next year most of the Regular units and battalions will have been disbanded. Meanwhile, the Reservists are not due to reach adequate strength to take their place until 2018, if present plans are met, but there is every indication that, because we are struggling, we will not even achieve that [...]

Let me talk about the recruitment problems. Last Thursday, figures confirmed yet again that TA numbers are in decline—not rising, but in decline. We also know that the Army Reserve recruitment targets are being badly missed, as confirmed in a spate of reports, some derived from leaked MOD documents. Figures due last Thursday regarding Army Reserve recruitment were not released in full. It is clear that the required recruits are not coming forward and that computer problems have added to the problems [...] These are the sorts of delays we are talking about and which Parliament has every right properly to scrutinise [...]

Our concerns are not just about Reserve targets not being met; we also have deep-seated concerns about the resulting capability and manpower gaps, which are getting worse as we miss the Reserve recruitment targets.

In order to make the Army Reserve plans work, the mobilisation rate has to double from 40% to 80%. I see nothing in the plans about how that massive increase in the mobilisation rate can be justified or whether it has been costed. It is a massive ask to go from 40% to 80% mobilisation. These questions need to be answered.

There are also concerns about the plan risking capability gaps. The nature of conflict is changing. Many countries that are not necessarily friendly to the west are increasing their military spending, and war is becoming more asymmetrical. Gone are the days of binary conflicts involving good guys versus bad guys—terrorism has ensured that things are much more complex nowadays—and we need professional, mobile, high-readiness, agile forces that are ready to respond to the threats that we face.

⁶ HC Deb 20 November 2013, c1271

The encroachment of the Human Rights Act 1998 also puts pressure on the plans, because we will now have to ensure that the same standard of training and equipment is available to reservists on deployment as is available to regulars. It is not clear whether the extra cost of that has been accommodated, given recent developments—this is a relatively recent ruling. It is no wonder that ex-military chiefs are worried, with many suggesting that strategic thought has been abandoned. These are questions to which we need answers.

Our concern must also focus on the real possibility that rising costs and flawed assumptions could easily lead to false economies. I suggest that the Government have yet to produce a fully costed plan, and that is what lies at the heart of new clause 3. It is clear that costs are rising: the extra resources being poured into boosting Reservist recruitment are an example. In addition to that, and to the extra payments to small and medium-sized enterprises, other rising costs include the £5,000 bonus, the Reservist award, pensions and mental health costs. To the best of my knowledge, none of this has been properly costed.⁷

He concluded by suggesting that “If passed, new clause 3 would confirm that the time had come for Parliament properly to scrutinise the Government’s plans. There comes a stage in any struggling project when the evidence and common sense suggest, and perhaps demand, a rethink. We have reached that stage with these plans”.⁸

Reactions to this amendment were mixed. While many Members supported the principle of scrutinising the Reserves plan in more detail; others accused advocates of the amendment of undermining the morale of the Reserve forces and trying to derail the Government’s wider plans for restructuring the Army.

The Shadow Defence Secretary, Vernon Coaker, expressed the Opposition’s support for this amendment, stating:

Importantly, the Secretary of State knows that we are not calling for the reforms to be reversed. He knows that we are not saying the reforms should be shelved. Like Members on both sides of the House, we want to see an enlarged Reserve force with an enhanced and more heavily integrated role alongside Regular forces...

What we need is evidence that the reforms are progressing as planned and promised, and we are trying to get the Defence Secretary to take more responsibility for that. There is clearly an issue about viability. All signs coming from the MOD suggest that the plan has, to some extent, fallen off course. Members of the armed forces and of this House have justifiably and sincerely held concerns, and the Secretary of State has exacerbated those by his response to some of the concerns [...]

We support new clause 3 because we want the Defence Secretary to take more responsibility for these reforms. We consider it better to pause until the MOD has managed to get recruitment back on track as a plan accepted by Parliament than to be forced to ditch the entire reform a few years down the line when it is clear that it is not working. A pause before progressing the reforms would give him time to fix the problems, to provide us with the figures, to prove his plan is cost-effective and to show that he can meet the time frame he has set.⁹

The former Defence Secretary, Bob Ainsworth, also suggested:

⁷ HC Deb 20 November 2013, c1273-7

⁸ Ibid, c1279

⁹ Ibid, c1285 and c1288

The effect can and should be that this House is enormously interested in the development of the Reserves and wants to see their capability properly developed and scrutinised—and no more than that [...]

The growth of the Reserve element in all the services has huge potential benefits, such as a connection with the population at large that the small Regular armed forces that we inevitably have today and will have tomorrow can never achieve on its own. Equally, as other Members have said, it brings skills into the armed forces that cannot be kept up to date within the Regulars themselves. So there are those potential improvements [...]

New clause 3 calls for a level of scrutiny that is wholly justified by the importance of the decisions, and the changes of direction and structure, that we are implementing...¹⁰

However, other Members argued that any pause in implementing the reforms would be detrimental to morale and also questioned the impact that the rejection of any such report would have on the Army's wider restructuring plans. Julian Brazier argued:

The effect of my hon. Friend's new clause would be not to guarantee a larger Regular Army, but to devastate our attempts to rebuild the reserve forces by putting them all on hold [...]

if Parliament passes his amendment, that will strike a hammer-blow to morale in the TA... I urge Members on both sides of the House to think very seriously before they send that message to the Reserve forces.¹¹

Gerald Howarth supported this position, suggesting that “the imperative is not to put the reserve generation on hold, but to ramp it up as fast as we can”. He also went on to question:

I think it would have a destabilising, adverse effect. My hon. Friend has not made the situation clear. What would happen if we initiated his proposed process, scrutinised the plan and the House then rejected it? Where would we be then? Would the House go back to square one and trade alternative views—perhaps even within our own parties—while in the meantime the whole thing implodes and melts down?¹²

Caroline Dinenage also raised the issue of SMEs and the impact any delay would have on the other measures in this Bill intended to support those businesses which employ Reservists:

One of my concerns with new clause 3 is that it will provoke confusion. It will delay or prevent payments being made to small enterprises when their employees are mobilised. This extra finance for small and medium-sized enterprises, who find it most difficult to plug the gap when their employees are away, is vital. These firms do us a great service by employing Reservists and it is only right that they should be fully compensated.¹³

Rory Stewart also suggested that “new clause 1 will encourage recruitment, because it will show that we are taking the Reserves seriously, whereas new clause 3 will discourage recruitment by introducing an unnecessary delay”.¹⁴

¹⁰ HC Deb 20 November 2013, c1280-1

¹¹ Ibid, c1269-70

¹² Ibid, c1292-3

¹³ Ibid, c1303

¹⁴ Ibid, c1309

Responding to the debate, the Defence Secretary reiterated the Government's commitment to a new independent annual report on the Reserves as a means of monitoring progress:

As I have made clear, we have no problem with submitting information to the House for scrutiny. By accepting new clause 1, we will deliver the intention behind subsection (1) of new clause 3. I believe that making it an annual report for annual scrutiny will provide for better scrutiny than what he is proposing.

I cannot accept the halt that is proposed in new clause 3. That would send out a signal now to the thousands of people who are in the Reserve forces or are thinking of joining them. The Government have set out their plan and are legislating to deliver it. The Army has embraced the plan wholeheartedly. For Parliament to introduce additional tripwires at this stage would create uncertainty, undermine the message about the roll-out of improved terms and conditions, and cast doubt on our intention to spend the sizeable sum of £1.8 billion that is available to support this agenda. In short, it would make the whole agenda into a political football.¹⁵

New clause 3 was subsequently put to a vote. Despite the support of a number of Conservative backbenchers, the amendment was defeated on division by a vote of 252 to 306.

Leave Entitlement for Reservists

Thomas Docherty also tabled an amendment which sought to provide Reservists with an entitlement to two weeks statutory additional unpaid leave, where the company they work for has more than 50 employees, for the purposes of Reserve training. During that period a Reservist would receive military pay.

Speaking to his amendment, Thomas Docherty commented:

On new clause 6, we have all heard, in the Defence Committee and elsewhere, that the biggest disincentive to joining the Reserves, of whichever service, is getting time off work [...]

The White Paper sets out an ambitious goal of increasing the annual training requirement to 40 days, and I think Members on all sides of the House recognise the importance of that. I hope the Secretary of State will support new clause 6... because it seeks to provide a simple way to address that goal: Reservists would receive an additional two weeks unpaid leave from their employer, provided that their firms had more than 50 employees. The hon. Member for Northampton South (Mr Binley) made the point that we have to be careful about the impact on small and medium-sized enterprises, and it is right that we provide protection to smaller companies. The proposal is sensible and measured, because Reservists will receive their military pay at no cost to their employer. In the rare cases of resistance from an employer, we propose that complaints are referred to an employment tribunal for arbitration.¹⁶

Given that the Report Stage debate was dominated by the proposal for a report on Reserves reform, few members made direct comments about this amendment, despite the fact that it was taken to a vote. Of note were the comments by the Liberal Democrat MP, Sir Nick Harvey. While supporting the principle behind the amendment, he went on to argue:

The difficulty with legislating for that now in the manner the hon. Gentleman is suggesting is that there is a serious cost implication: he is proposing that military pay

¹⁵ HC Deb 20 November 2013, c1320

¹⁶ Ibid, c1297-8

will be provided for that period of time. I dearly hope that this Government or a future Government will at some point be able to find the resources, but a gargantuan effort has been made to balance the Ministry of Defence's books and the resources are not there. I know the Labour party has a bit of form on making unfunded commitments, but it would be irresponsible to legislate on this when we do not have the funds to pay for it.¹⁷

Responding to the amendment the Defence Secretary confirmed that the Government could possibly return to this issue in the 2015-2016 Armed Forces Bill:

Finally, let me turn to new clause 6, which was tabled by the hon. Member for Dunfermline and West Fife (Thomas Docherty). His intentions are absolutely honourable and good: he wants to impose an obligation on employers to grant unpaid leave for training. We have not absolutely ruled out looking at that possibility in the future, but we have made a conscious decision that we want to do this working with employers, not against them. That has meant a couple of tough decisions on unpaid leave availability and discrimination rules. For now, we have decided to try to work with the grain, with employers, but if that does not work and we find there is a problem in the future, we will have an opportunity to return to this issue in the Armed Forces Act in 2016.¹⁸

The amendment was subsequently put to a vote, although defeated on division by 235 to 315.

1.2 Government Amendments

Only one minor Government amendment to the Bill was agreed relating to Schedule 1 and the exemptions to existing legislation that may be made by the Secretary of State for Defence with respect to the GOCO contractor.

Amendment 1 made changes to Schedule 1 thereby allowing the whole of Part 1 of the *Health and Safety at Work Act 1974* to potentially be subject to exemptions, as determined by the Secretary of State.

The Bill has now passed to the House of Lords ([HL Bill 60](#)). Second Reading is currently scheduled for 10 December 2013.

¹⁷ HC Deb 20 November 2013, c1298

¹⁸ *ibid*, c1322