

# **DEFENCE REFORM ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1: Defence Procurement**

##### ***Section 4 and Schedule 1: Exemptions relating to premises used by a contractor***

20. **Section 4** gives effect to Schedule 1, which makes provision exempting the contractor from some legislative obligations and enforcement regimes where the Crown, and therefore MOD, is currently exempt. These are particularly relevant to DE&S because DE&S manages safety and environmental functions and currently occupies a wide range of sites for the purpose of carrying out its functions. Exemptions may only be given to a contractor in respect of the sites which will be used by it for carrying out defence procurement services for the Secretary of State under the section 1 arrangements.
21. The exemption in respect of the Landlord and Tenant Act 1954 ensures that when the lease or tenancy of any premises let by the Secretary of State to a contractor has come to an end, the contractor cannot claim a statutory right to a new lease or tenancy on relevant sites. Similarly, any subtenant of the contractor in relation to such premises will also not have security of tenure.
22. The exemption from the Nuclear Installations Act 1965 will enable the Secretary of State to designate a site used by the contractor as a site to be treated as one used by a government department. That site would otherwise require a nuclear site licence.
23. Under paragraph 4 of the Schedule, in relation to the Health and Safety at Work etc Act 1974, the Secretary of State can exempt a contractor from the enforcement provisions in Part 1 of the 1974 Act. Further, the Secretary of State can exempt a contractor from any other provisions in Part 1 in the interests of the safety of the State. An exemption would be conferred by a negative resolution statutory instrument.
24. There are a number of areas where MOD has the benefit of Crown exemptions from subordinate legislation and the Secretary of State will have the power under paragraph 7 to extend such exemptions to the contractor where required. This will be done by means of a negative resolution statutory instrument. This provision gives the Secretary of State flexibility to consider on a case by case basis whether to extend an exemption to the contractor.