

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM

ADVANCED RESEARCH AND INVENTION AGENCY BILL

Background

1. This memorandum has been lodged by Shirley-Anne Somerville MSP, Cabinet Secretary for Education and Skills, under Rule 9.B.3.1(c)(ii) of the Parliament's standing orders, and is supported by Jamie Hepburn MSP, Minister for Higher Education, Further Education, Youth Employment and Training. This memorandum is supplementary to LCM-S6-6¹. The Advanced Research and Invention Bill was introduced in the House of Commons on 2 March 2021 and the House of Lords on 8 June 2021. The latest version of the Bill can be found at:

<https://bills.parliament.uk/bills/2836/publications>

Content of the Advanced Research and Invention Agency Bill

2. The Explanatory Notes set out the UK Government view that the primary purpose of this Bill is to create a new body, the Advanced Research and Invention Agency (ARIA), with significant independence from government influence and with as few bureaucratic burdens as possible in order to give it maximum freedom to achieve its aim of supporting "visionary high-risk, high-pay off" research and development.

3. The Bill contains provisions about:

- the establishment and functioning of ARIA;
- powers of the Secretary of State over ARIA;
- consequential amendments;
- interpretation, extent and commencement of the Bill.

Provisions Which Relate to Scotland

4. As set out in LCM-S6-6, the Bill extends to the whole of the United Kingdom, including Scotland (clause 13). All elements of the Bill, with the exception of those relating to reserved issues or specifically to England, Wales and/or Northern Ireland (clauses 5 and 14-15; schedule 3 paragraphs 1-4, 6-10 and 11(1)), make provision for a purpose within the legislative competence of the Scottish Parliament. This has been recognised by the UK Government.

5. Details of the provisions relevant to the Scottish Parliament and Scottish Ministers can be found in the original Legislative Consent Memorandum (LCM-S6-6). The Scottish Parliament and Scottish Ministers have overall responsibility for the excellence, impact and sustainability of research and innovation in Scotland. ARIA has the potential to significantly influence all these aspects. The Scottish Government therefore believes it would be in Scotland's interest to create the agency as a body overseen by the UK Government together with the Scottish Government (and potentially the other devolved administrations). The Scottish Government requested that amendments were made to the Bill (which was introduced to the UK Parliament

¹ <https://www.parliament.scot/-/media/files/legislation/bills/lcms/advanced-research-and-invention-agency-bill/splcms066.pdf>

on 2 March 2021) to provide for Scottish Government representation on the ARIA Board and not make ARIA a reserved matter. Following discussions with the UK Government, the Scottish Government has agreed in principle to a Memorandum of Understanding that addresses these issues.

6. As a result, the UK Government tabled an amendment² on 10 November 2021. The amendment is to schedule 3, which makes consequential amendments. A reference to ARIA will no longer be inserted into Scotland Act 1998 (previously paragraph 5 of schedule 3 in the ARIA Bill). The amendments will ensure ARIA will not be reserved, ensuring the devolved competence for research and innovation in Scotland. The Memorandum of Understanding sets out arrangements for regular consultation of the Chief Scientific Adviser for Scotland on ARIA matters has been agreed in principle with the UK Government. This will create ARIA under joint governance, in line with the fact that devolved administrations have overall responsibility for the excellence, impact and sustainability of research and innovation in the devolved nations.

Reasons for seeking a legislative consent motion

7. The Bill is a relevant Bill under Rule 9B.1.1 of the Standing Orders, as it makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament.

8. The Bill applies to the whole of the United Kingdom even though research and innovation sit within the legislative competence of Scotland (clause 13).

9. The elements of the Bill that make provision for a purpose within the legislative competence of the Scottish Parliament are:

- clauses 1-4;
- clauses 6-12;
- schedule 1;
- schedule 2;
- schedule 3 paragraph 11(2).

10. Clause 5 does not require consent because it relates to national security, which is a reserved matter.

11. Clauses 1-3 and schedule 1 require consent because they make provision about research and innovation, which are devolved matters, for a purpose within the legislative competence of the Scottish Parliament.

12. Clauses 4, 6-8, 10-11 and schedule 2 require consent because they make provision about research and innovation, which are devolved matters, for a purpose within the legislative competence of the Scottish Parliament.

13. Clause 9 introduces schedule 3, which makes consequential amendments. Under this schedule, references to ARIA would be inserted into the Public Contracts (Scotland) Regulations 2015 (paragraph 11(2)).

² [Amendment paper \(page 2\) https://bills.parliament.uk/publications/43581/documents/932](https://bills.parliament.uk/publications/43581/documents/932)

14. Clause 12 requires consent because it makes provision about research and innovation, which are devolved matters, for a purpose within the legislative competence of the Scottish Parliament.

15. Clause 12 makes provisions about interpretation of the Bill. It sets out the definitions of:

- functions;
- primary legislation;
- scientific knowledge;
- scientific research.

16. With an amendment removing the reservation tabled and the Memorandum of Understanding agreed in principle, the concerns of the Scottish Government, set out in the original LCM have been addressed and we are now in position to recommend consent to the ARIA Bill.

Consultation

17. For details see the original Legislative Consent Memorandum (LCM-S6-6). Scottish stakeholders have welcomed the agreement between the Scottish Government and the UK Government which include the amendment that removes the reservation of ARIA.

Financial Implications

18. There are no direct financial implications for the Scottish Government from the amended Bill. Nor are there for research organisations in Scotland. Some organisations and businesses in Scotland may benefit from the grant that ARIA is expected to be given by the UK Government, and other future ARIA funding.

Conclusion

19. As set out LCM-S6-6, the Scottish Government noted most aspects of the Bill are not contentious but that it considered it fundamental that amendments were made to the provisions in the Bill that fail to provide for Scottish Government representation on the ARIA Board and that made ARIA a reserved matter. A Memorandum of Understanding between the UK Government and devolved administrations sets out arrangements for regular consultation of the Chief Scientific Adviser for Scotland which has helped to address concerns about SG representation on the ARIA Board and the tabled amendment removes the reservation of ARIA. As such, the Scottish Government now recommends the Scottish Parliament gives its consent to the Bill.

Draft Legislative Consent Motion

20. The draft motion, which will be lodged by the Cabinet Secretary for Education and Skills, is:

“That the Parliament agrees that the relevant provisions of the Advanced Research and Invention Agency Bill, introduced in the House of Commons on 2 March 2021,

relating to research and innovation, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

SCOTTISH GOVERNMENT

November 2021

This Supplementary Legislative Consent Memorandum relates to the Advanced Research and Invention Bill (UK legislation) and was lodged with the Scottish Parliament on 18 November 2021

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