

**Education, Children and Young People Committee****6<sup>th</sup> Meeting, 2021 (Session 6), Wednesday 27 October****Legislative Consent Memorandum: Advanced Research and Invention Agency Bill.****Purpose**

This paper provides information to support the evidence session regarding the Scottish Government's Legislative Consent Memorandum (LCM) on the UK Government's Advanced Research and Invention Agency (ARIA) Bill. On 14 September, the Parliamentary Bureau designated the Committee as the 'lead' Committee scrutinising the LCM.

**Background**

The UK Government introduced the ARIA Bill in the House of Commons on 2 March 2021. A [House of Lords Library briefing](#) on the Bill summarises the primary purposes of the Bill as follows—

“Firstly, it would establish the Advanced Research and Invention Agency (ARIA). Secondly, it sets out ARIA's functions. These are focused on conducting “ambitious” scientific research “with a tolerance to failure”. Thirdly, the bill would enable the secretary of state to make grants to ARIA and to provide it with funding” (p.1).

The Bill completed its passage through the House of Commons on 7 June 2021 and is currently awaiting a date being set for Second Reading of the Bill. Details of the parliamentary passage of the Bill, to date, in the UK Parliament can be accessed at—[Advanced Research and Invention Agency Bill - Parliamentary Bills - UK Parliament](#)

The Scottish Government has lodged a Legislative Consent Memorandum which is reproduced at [Annexe A](#) to this paper. The Scottish Government are not recommending consent and accordingly have not included a Legislative Consent Motion within the Memorandum. The Scottish Government position, to not recommend consent to the Bill as currently drafted, is summarised in the Memorandum as follows—

“Most aspects of the Bill are not contentious but ... the Scottish Government does see it as fundamental that amendments are made to the provisions in the Bill that fail to provide for Scottish Government representation on the ARIA Board and that make ARIA a reserved matter (schedule 1 paragraph 2(3) and schedule 3 paragraph 5)”. (Para. 39)

In addition, the Minister for Higher Education, Further Education, Youth Employment and Training, Jamie Hepburn MSP, wrote to the Committee on 8 September, “to provide further context around the position of the Scottish Government on the UK Government's ARIA Bill”. This letter is reproduced at [Annexe B](#). In response, to this letter, the Committee wrote to the Minister seeking copies of all correspondence from the Scottish Government to the UK Government on the issue of legislative consent in relation to the ARIA Bill. The Minister wrote to the Committee on 8 October 2021 and provided copies of

four letters from the Scottish Government to the UK Government on this issue. These letters are provided at [Annexe C](#).

These letters detail that discussions continue between the Scottish and UK Governments. Potential alternatives to ARIA being a reserved matter that appear to be considered include “a Memorandum of Understanding (or similar vehicle)”<sup>1</sup>. In terms of representation on the Board of ARIA, a potential approach involving “consultative arrangements between our Chief Scientific Advisers”<sup>2</sup> is considered by the Scottish Government to be an acceptable alternative.

The Minister notes, in correspondence to the UK Government Minister for Science, Research and Innovation of 3 September 2021, that—

“I remain open to the possibility of lodging a supplementary Memorandum, recommending consent, at a later point, should satisfactory amendments be tabled and as long as parliamentary timetables allow. This gives an opportunity for our officials to continue discussions to find a mutually acceptable solution”. (p.1)

A House of Lords Library briefing on the Bill, including consideration of the Bill’s passage through the House of Commons, is provided at [Annexe D](#).

## Evidence Session

The Committee will take evidence from the Minister for Higher Education, Further Education, Youth Employment and Training, Jamie Hepburn MSP on the LCM. Members may wish to consider discussing the following issues with the Minister—

- Whether the issues of the approach taken in the Bill to make ARIA a ‘reserved matter’ and representation on the ARIA Board remain the two outstanding issues with regard to the Scottish Government’s position on legislative consent;
- The Minister’s understanding of the rationale for the approach taken in the Bill by the UK Government with regard to these two issues;
- Information included in the Legislative Consent Memorandum, and in Scottish Government correspondence to the UK Government, states the Scottish Government would have difficulty having formal influence over ARIA once legislation is in place. The Memorandum states this has been the case with UKRI being reserved under the Scotland Act. Scottish Government correspondence, of 25 June 2021, highlights the experience of UK Research and Innovation (UKRI) which was included as a reserved matter in the Scotland Act 1998, [Part 2, Schedule 5, C12](#), by the Higher Education and Research Bill 2016. Members may wish to explore what the Scottish Government experience has been of UKRI being a ‘reserved matter’;
- The Scottish Government’s LCM states that—

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<sup>1</sup> Correspondence from the Scottish Government to UK Government, 22 September 2021, p.2.

<sup>2</sup> Ibid, p.2.

“The creation of ARIA in the way proposed by the Bill will narrow the sphere of devolved competence for research and innovation in Scotland. Although it will not affect the legal powers of the Scottish Parliament or Scottish Ministers to provide for research funding, it does affect their ability to set research policy in other ways as a result of the fact that ARIA will be controlled solely by UK Ministers”. (para.28)

Members may wish to explore how, from the Scottish Government’s perspective, the sphere of devolved competence would be narrowed by the Bill making ARIA a reserved matter?

- What steps the Scottish Government took to seek amendments to the ARIA Bill when the Bill was being scrutinised in the House of Commons;
- Whether discussions remain on-going at either official or Ministerial level and whether the Minister has discussed the issue with his UK Government counterpart; and
- The Ministers’ understanding of the timetable for the Bill in the House of Lords and accordingly the timescale for consideration of legislative consent within the Scottish Parliament.

The Committee also invited George Freeman MP, Minister for Science, Research and Innovation to provide evidence on the LCM. The Minister has declined this invitation at present, on the basis that discussions between the UK and Scottish Governments are ongoing.

The Minister has provided copies of three letters from the UK Government to the Scottish Government on the LCM. These letters are provided at [Annexe E](#).

Stephen Herbert  
Clerk  
Education, Children and Young People Committee  
22 October 2021

**Annexe A****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(a) of the Parliament's Standing Orders, and is supported by Jamie Hepburn MSP, Minister for Higher Education, Further Education, Youth Employment and Training. The Advanced Research and Invention Agency Bill was introduced in the House of Commons on 2 March 2021. The Bill can be found at <https://bills.parliament.uk/bills/2836>.

**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 "*ambitious scientific research with a tolerance to failure*".

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. The Bill extends to the whole of the United Kingdom, including Scotland (see clause 13).

5. However, the amendments made by Schedule 3 of the Bill have the same extent as the provision being amended. Paragraphs 5 and 11(2) of that Schedule make amendments which extend to Scotland and require legislative consent. Paragraph 11(1) makes an amendment which does not extend to Scotland. The other provisions of Schedule 3 make amendments which would extend to Scotland, but are not considered to fall within devolved competence and therefore do not require consent.

6. The elements of the Bill that make provision for a purpose within the legislative competence of the Scottish Parliament, or alter that legislative competence or the executive competence of the Scottish Ministers, and are requiring consent are:

- clauses 1-4
- clauses 6-12
- schedule 1
- schedule 2
- schedule 3 paragraphs 5 and 11(2)

7. Clause 5 does not require consent because it relates to national security, which is a reserved matter. LCM-S6-6

8. The list of provisions requiring consent from the Scottish Parliament has been recognised as such by the UK Government. There is no disagreement on this between the UK and Scottish Governments.

### **Reasons for considering legislative consent**

9. The provisions requiring consent from the Scottish Parliament fall under the following subjects:

#### *Establishment and functioning of ARIA (Clauses 1-3; Schedule 1)*

10. 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.

11. Clause 1 establishes the Advanced Research and Invention Agency (ARIA) as a corporate body and introduces schedule 1. Schedule 1 details the structure and operation of ARIA. This includes:

- how executive and non-executive members are appointed;
- term limits and remuneration; and
- reporting requirements; and
- supplementary powers.

12. Although the UK Government claims that high independence of ARIA from government is of key importance to its functioning, paragraph 2(3) of schedule 1 includes the UK Government Chief Scientific Adviser (CSA) as a non-executive member of the ARIA Board. A request to give the Chief Scientific Adviser for Scotland an equivalent place was rejected by the UK Government. Paragraph 2(3) of schedule 1 of the Bill also gives the Secretary of State the power to appoint further Board members. Although this is not the current stated policy intention of the UK Government, it does leave the ARIA Board open to the potential future appointment of more UK Government officials or advisers whilst the Scottish Government would remain without any influence. The Scottish Government therefore sees it as fundamental that amendments are made to paragraph 2(3) of schedule 1 that ensure Scottish Government representation on the ARIA Board. For this reason, the Scottish Government does not recommend consent to paragraph 2(3) of schedule 1 as it stands.

13. Paragraphs 2(3) and 3(1) of schedule 1 give the UK Secretary of State the power to appoint the Chair and first Chief Executive Officer (CEO) for ARIA, positions which are expected to greatly determine the direction of ARIA's activities in the first phase of its existence. The recruitment processes for these posts have already started (even though the Bill has not yet passed) and are led by two senior civil servants in the UK Government. The Devolved Administrations have been offered no role in this. Paragraphs 8(7), 9(4) and 11 of schedule 1 give the UK Secretary of State also influence over other staffing matters at ARIA.

14. Clause 2 sets out ARIA's functions. It states that ARIA may do, or commission or support others to do, any of the following:

- (a) conduct scientific research;
- (b) develop and exploit scientific knowledge;
- (c) collect, share, publish and advance scientific knowledge

15. Although ARIA will be established as a funding agency and not a research institution in its own right, this clause gives ARIA the freedom to become actively involved in the programmes they sponsor to ensure their success.

16. The clause also states that the activities which ARIA may do, commission or support in exercising a function are not restricted to activities in the United Kingdom, i.e. ARIA can fund research anywhere in the world.

17. Subsection 6 of clause 2 states that ARIA must have regard to the desirability of exercising its functions for the benefit of the United Kingdom.

18. Clause 3 states that in exercising any of its functions, ARIA may give "particular weight" to the potential for significant benefits to be achieved or facilitated through scientific research, or the development and exploitation of scientific knowledge, "that carries a high risk of failure". This clause captures the key reason for the establishment of ARIA: the funding of high-risk research.

*Powers of the Secretary of State (Clauses 4, 6-8, 10-11; Schedule 2)*

19. 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.

20. Clause 4 provides the UK Secretary of State with the power to grant funding to ARIA. This funding can be made subject to conditions. This clause therefore gives the UK Government a way to directly influence the activities of ARIA. Although it is not the current stated policy position to do so, this route could be used by the UK Government to exercise more control over ARIA in future.

21. Clause 6 requires ARIA to provide the UK Secretary of State with information upon request. The clause also notes that ARIA is not required to disclose information if it contravenes data protection legislation or in respect of which a claim to confidentiality of communications could be maintained in legal proceedings.

22. Clause 7 introduces schedule 2, which contains provisions about schemes for the transfer of staff, property, rights and liabilities to ARIA. The schedule gives the UK Secretary of State and UK Research & Innovation (UKRI) powers to make property and staff transfer schemes to ARIA.

23. Clause 8 allows the UK Secretary of State to make provisions by regulations for the dissolution of ARIA. Subsection 2 states that such regulations may not be made before ten years have elapsed since the Bill has passed. This is included to allow ARIA time to mature and prove its effectiveness. The regulations would be subject to the draft affirmative procedure in the UK Parliament. As the Bill stands, neither the Scottish

Ministers nor Scottish Parliament would have a formal say in the potential dissolution of ARIA, even though this could have a major impact on research organisations in Scotland.

24. Clause 10 allows the UK Secretary of State to make consequential amendments to legislation in connection with the ARIA Act. Again, there would be no role for the Scottish Ministers or Scottish Parliament in this process. Clause 11 makes further provision about regulations that can be made by the Secretary of State under the Act, including a power to make consequential, transitional or savings provisions.

25. Most of the clauses discussed above give the UK Government considerable opportunity to influence ARIA, now and in the future. Although it is not currently the stated policy intent to exercise such influence strongly, the approach in the Bill to minimising UK Government influence appears much less strict than that to influence by the Devolved Administrations.

*Consequential amendments (Clause 9; Schedule 3 paragraphs 5 and 11(2))*

26. Clause 9 introduces schedule 3, which makes consequential amendments. Under this schedule, references to ARIA would be inserted into the following pieces of legislation:

- Scotland Act 1998 (paragraph 5)
- Public Contracts (Scotland) Regulations 2015 (paragraph 11(2))

27. Paragraph 5 of schedule 3 makes amendments which have the effect of making ARIA a reserved matter. As such, it alters the legislative competence of the Scottish Parliament and the executive competence of Scottish Ministers and requires the consent of the Scottish Parliament.

28. The creation of ARIA in the way proposed by the Bill will narrow the sphere of devolved competence for research and innovation in Scotland. Although it will not affect the legal powers of the Scottish Parliament or Scottish Ministers to provide for research funding, it does affect their ability to set research policy in other ways as a result of the fact that ARIA will be controlled solely by UK Ministers.

29. It would be very difficult for the Scottish Government to try to gain formal influence over ARIA at a later stage once legislation is in place. This has been experienced with UKRI which makes key decisions that directly affect Scottish research organisations and businesses without any ways of formal influence for the Scottish Government.

30. ARIA will also significantly change the research funding landscape and will impact on the behaviour and priorities of researchers and research providers in Scotland, as well as other organisations funding research in Scotland. This could for instance have a direct impact on the demand from universities for an increase in core research funding which the Scottish Government provides via the Scottish Funding Council (SFC).

31. The UK Government will have, in the longer term, the power to shape ARIA further, change the relevant legislation, widen its remit, increase its level of funding or

abolish it. The Scottish Parliament and Scottish Ministers would have no formal influence over this, in the same way they're currently lacking such influence over changes in activity by UKRI.

32. It remains unclear to the Scottish Government why exactly this reservation is required. It appears a heavy-handed approach to minimising devolved government influence over ARIA when more nuanced options would be available to ensure this. The way in which the Devolved Administrations have been completely excluded from involvement in ARIA by making it a reserved matter is not in line with the limited way in which UK Government influence is being controlled in the Bill. The UK Secretary of State will have key legal powers to influence the agency and the UK Government Chief Scientific Adviser, who works closely with UK Ministers, will be on the Board of ARIA.

33. The Scottish Government therefore sees it as fundamental that paragraph 5 of schedule 3 is removed from the Bill. For this reason, the Scottish Government does not recommend consent to paragraph 5 of schedule 3 as it stands.

34. Paragraph 11(2) of schedule 3 makes amendments to the Public Contracts (Scotland) Regulations 2015 in order to exempt the agency from existing Public Contract Regulations in Scotland. This is to give ARIA the flexibility to fund activities in an agile manner. The provision requires consent because it makes provision for a purpose within devolved competence.

#### *Interpretation (Clause 12)*

35. 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.

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

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

#### *General comments*

37. 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 Parliament and alters that competence and the executive competence of the Scottish Ministers.

38. The Bill applies to the whole of the United Kingdom even though research and innovation sit within the legislative competence of the Scottish Parliament. The only other key area of direct relevance to research policy that is currently reserved is another UK Government agency: UKRI. All other key research-related issues are devolved.



39. Most aspects of the Bill are not contentious but, as outlined above, the Scottish Government does see it as fundamental that amendments are made to the provisions in the Bill that fail to provide for Scottish Government representation on the ARIA Board and that make ARIA a reserved matter (schedule 1 paragraph 2(3) and schedule 3 paragraph 5).

40. For this reason, the Scottish Government cannot, as it stands, recommend the Scottish Parliament gives its consent to the UK Parliament legislating in respect of any of the provisions in the Bill that make provision for a purpose within the legislative competence of the Scottish Parliament, or alter that legislative competence or the executive competence of the Scottish Ministers (as listed under paragraph 6).

### **Consultation**

41. There has been no formal consultation by the UK Government on the Bill but the House of Commons Science and Technology Committee held an inquiry into the creation of the new agency to which many stakeholders gave evidence. The UK Government responded to the Committee report and accepted some of its more minor recommendations<sup>1</sup>. The UK Government has also held informal meetings with stakeholder organisations in Scotland on the creation of the new agency in some of which the Scottish Government was involved. Scottish stakeholders were not consulted specifically on the constitutional or governance aspects of the ARIA Bill by the Scottish Government but have expressed the opinion, as part of the SFC Review of Coherent Provision and Sustainability, that decisions about UK Government research funding flows and policy should be tracked and influenced wherever possible.

### **Financial implications**

42. There are no direct financial implications for the Scottish Government from the 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.

### **Draft Legislative Consent Motion**

43. Under Rule 9B.3.3 (d) of the Parliament's Standing Orders, if the Scottish Government does not propose to include a draft motion in the Memorandum, the Memorandum must explain why not. Paragraphs 12 and 27-33 set out the Scottish Government's reasons for not including a draft motion in this Memorandum for the purposes of that rule.

### **Conclusion and Scottish Government position**

44. 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

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<sup>1</sup> For the House of Commons report and the UK Government response see: <https://committees.parliament.uk/work/265/a-new-uk-research-funding-agency/>

overseen by the UK Government together with the Scottish Government (and potentially the other Devolved Administrations). As such, the Scottish Government has requested that amendments should be made to the Bill to provide for Scottish Government representation on the ARIA Board and not make ARIA a reserved matter.

45. As such amendments are fundamental, the Scottish Government cannot, at this time, recommend the Scottish Parliament gives its consent to the UK Parliament legislating in respect of any provisions in the Bill (as listed under paragraph 6) that are within the legislative competence of the Scottish Parliament, or alter that legislative competence or the executive competence of the Scottish Ministers.

46. In view of this fact, the Scottish Government has not included a draft Legislative Consent Motion in this Memorandum.

47. The Scottish Government's position, which has been explained to the UK Government, is that the relevant provisions in the ARIA Bill should be amended in order to make the Advanced Research and Invention Agency a shared responsibility for the UK and Scottish Governments. If during the remaining stages of the Bill's progression, appropriate amendments are provided which address the Scottish Government's fundamental concerns, a supplementary memorandum with a final position on consent will be lodged. At present, the Scottish Ministers cannot recommend to the Scottish Parliament to give its consent.

**SCOTTISH GOVERNMENT**  
**September 2021**

*This Legislative Consent Memorandum relates to the Advanced Research and Invention Agency Bill (UK legislation) and was lodged with the Scottish Parliament on 2 September 2021*

**ADVANCED RESEARCH AND INVENTION AGENCY BILL – LEGISLATIVE  
CONSENT MEMORANDUM**

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**Annexe B**

**Minister for Higher Education Further  
Education, Youth Employment and  
Training**

**Jamie Hepburn MSP**

F/T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Stephen Kerr MSP

Convener of the Education, Children and  
Young People Committee

Scottish Parliament

8 September 2021

Dear Convener

**ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL**

I'm writing to the Committee to provide further context around the position of the Scottish Government on the UK Government's ARIA Bill, to which the Scottish Government has advised the Scottish Parliament not to consent.

In the first instance I feel it is important to underline that the Scottish Government is supportive of the overall policy intent of the ARIA Bill, namely to create a new agency 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. We have no issue with this prospectus at all.

The Scottish Government, believes that this policy intent could be achieved by creating ARIA under joint responsibility being vested collectively in the Scottish, Welsh, Northern Ireland and UK administrations. This makes sense in line with the fact that the devolved administrations have overall responsibility for the excellence, impact and sustainability of research and innovation within their jurisdiction.

When the UK Government introduced the ARIA Bill to the UK Parliament on 2<sup>nd</sup> March 2021, it had given no indication beforehand to the Scottish Government of the intention to add ARIA to the reservations in the Scotland Act 1998.

As I am sure you will agree, the reservation of powers that were devolved in 1999 should not be done routinely and never without the consent of the Scottish Parliament.

I have not been presented with any rationale that justifies the case of ARIA being reserved.

My predecessor wrote to the UK Minister for Science, Research and Innovation, Amanda Solloway, on 24 March indicating that the Scottish Government would be able to recommend that the Scottish Parliament consent to the ARIA Bill if changes were made to the Bill that would give the Scottish Government shared oversight over ARIA and, in particular, remove the alterations to the Scotland Act 1998. I reiterated that condition in a follow-up letter to Ms Solloway on 25 June 2021 and in direct conversation with her.

The pace with which the UK Government has engaged with us in meaningful dialogue on our concerns has by my view been too slow. She wrote to me on 7 September to reiterate her view that reservation of ARIA is necessary to guarantee the independence of the prospective agency. I cannot see any case as to this being a necessity and moreover the ARIA Bill gives the UK Secretary of State key legal powers to influence the agency. Further, the UK Government Chief Scientific Adviser, who works closely with UK Ministers, will be on the Board of ARIA. Yet, what I believe to be a fairly modest request to the UK Government to give the Chief Scientific Adviser for Scotland similar membership, in recognition of the devolved nature of research and innovation, has consistently been rejected. The other devolved administrations have made similar requests for their equivalent office holders which have also been rebuffed.

The Scottish Government does not see that the changes we have requested to the Bill would affect the ability of ARIA to carry out its functions effectively. Indeed there is a danger that failure to ensure the devolved context is considered in this legislation will lead to duplication of effort rather than added value as should be the aim of such a new body, such as we have seen with UK Research and Innovation (UKRI) which is another organisation that has too often operated without regard to the Scottish context.

Over the past six months, the Scottish Government has held regular discussions with the UK Government on the ARIA Bill, first of all to fully understand the UK Government's policy approach to the Bill, and secondly to press for involvement of the DAs in oversight of ARIA. This has proven thus far to not have been productive and unfortunately not led to any agreement from the UK Government to make changes to the ARIA Bill. This has left the Scottish Government no choice but to recommend the Scottish Parliament does not consent to the ARIA Bill as it stands. The Welsh Government has lodged a similar Legislative Consent Memorandum recommending Senedd Cymru withholds its consent to the Bill for similar reasons.

The Scottish Government will continue to try to secure a mutually agreeable solution with the UK Government and the other Devolved Administrations, and will lodge an

supplementary Legislative Consent Memorandum if such agreement is reached in time. I am happy to provide further information as may be felt helpful.

Yours sincerely

**Jamie Hepburn**

Cc: Stuart McMillan MSP, Convener of the Delegated Powers and Law Reform Committee

Ivan McKee, Minister for Business, Trade, Tourism and Enterprise, SG

**Minister for Higher Education, Further  
Education, Youth Employment and Training**

**Jamie Hepburn MSP**

F/T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Stephen Kerr MSP

Convener of the Education, Children and Young  
People Committee

Scottish Parliament

8 October 2021

Dear Stephen,

**ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL**

I'm writing in response to your letter of 28<sup>th</sup> September in which you requested copies of all correspondence from Scottish Ministers to UK Ministers on the issue of the ARIA Bill.

As far as I'm aware, there are four Ministerial letters issued to UK Ministers of relevance to the ARIA Bill, copies of which I have attached for your information.

You will find that they contain a consistent message to UK Ministers that the Scottish Government has seen no compelling reason to add ARIA to the list of reserved matters in the Scotland Act 1998.

My officials continue to have positive engagement with the UK Government to find alternatives to a reservation.

Meanwhile I'm looking forward to giving evidence to the Committee on 27<sup>th</sup> October.

**Jamie Hepburn**

Cc: Stuart McMillan MSP, Convener of the Delegated Powers and Law Reform Committee

Ivan McKee, Minister for Business, Trade, Tourism and Enterprise, SG

**Minister for Further Education, Higher Education and  
Science**

T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Amanda Solloway MP  
Minister for Science, Research and Innovation  
Department for Business, Energy and Industrial  
Strategy

24 March 2021

Dear Amanda,

**ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL**

Following our discussion on the plans for a new high risk research funding agency, I would like to thank you for your letter of the 18<sup>th</sup> February 2021 in which you are asking for me to confirm whether I agree with your devolution analysis on the above Bill and would be content, in principle, to begin the legislative consent process in the Scottish Parliament. I also thank your officials for sending a copy of the draft Bill and the policy statement to my officials and answering their queries.

Please note that it will be for the next Scottish Government administration to make a recommendation to the Scottish Parliament about the provisions in the Bill, and for next Scottish Parliament to make the final decision on consent.

Nevertheless, I'll set out below the position of the current Scottish Government.

Whilst I agree with Scottish stakeholders that there appears to be a niche for more high risk research, and creating a new UK-wide funding agency may well be the best policy option to deliver this, I'm not convinced that ARIA needs be reserved through an amendment to the Scotland Act 1998. In fact, this is something which Scottish Ministers are very keen to avoid.

The current position of the Scottish Government is therefore that starting the legislative consent process in the Scottish Parliament should be subject to changes being made to the ARIA Bill that would give the Scottish Government shared oversight over ARIA. This would then also remove the need for alterations to the Scotland Act 1998. If the next administration agrees, the changes to the ARIA Bill requested are outlined in the Appendix to this letter. These relate specifically to SG representation on the ARIA Board. My officials would be happy to discuss these further with their BEIS counterparts.

On the basis of the information you've given, it is my understanding that ARIA is meant to fulfil a very different role, and meant to have a very different operational approach, than UKRI. I therefore do not see any clear grounds for including ARIA in the reservations of the Scotland Act 1998 just because UKRI is, which appears to be the primary basis for the proposed approach in the devolution analysis.

The second and third elements of the rationale in the devolution analysis also do not explain why ARIA needs to be a reserved matter. I would like to see the Scottish Government (or wider Devolved Administrations) be given shared oversight of the agency in partnership with the UK Government, in line with our shared research funding powers.

This wouldn't mean ARIA could not still be made largely autonomous from government. It also wouldn't mean it couldn't "seek to fund the most exceptional science wherever it exists". Such a remit doesn't require ARIA to be a reserved matter in my view.

Scottish Parliament Standing Orders specify that an LCM should normally be lodged with the Scottish Parliament two working weeks after the introduction of a relevant Bill in Westminster.



However, given the close proximity to the end of this Scottish Parliament Session, and taking into account the anticipated UK Parliamentary timetable for the Bill, the Scottish Government will not lodge an LCM for the Bill this Scottish Parliament Session.

Scottish Government officials will keep in contact with yours regarding anticipated timescales for a decision by the next SG administration and for lodging the memorandum at the earliest appropriate opportunity in Session 6 to allow scrutiny by the Scottish Parliament.

Yours sincerely,

**RICHARD LOCHHEAD**

Minister for Higher Education Further Education,  
Youth Employment and Training

Jamie Hepburn MSP

F/T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Amanda Solloway MP

Minister for Science, Research and Innovation  
UK Government

Department for Business, Energy and Industrial  
Strategy

25 June 2021

Dear Amanda,

#### ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL

Thank you for our recent discussion on your plans for a new high risk research funding agency, ARIA.

As agreed, I'm writing to confirm that the position of the Scottish Government in respect to the ARIA Bill remains unchanged from the one set out in the letter from my predecessor, Richard Lochhead, to you on 24 March 2021.

Whilst I support the overall policy intent of the ARIA Bill, I still do not see any clear grounds for including ARIA in the reservations of the Scotland Act 1998. I would also like to see the Scottish Government (or wider Devolved Administrations) be given shared oversight of the agency in partnership with the UK Government, in line with our shared research funding powers.

Such changes are unlikely to negatively affect ARIA's agility, independence or operations, or to prevent UK Government from achieving the Bill's policy intent.

The Scottish Government has overall responsibility for the excellence, impact and sustainability of research and innovation in Scotland. ARIA has the potential to significantly influence all these aspects, and that influence could increase over time. Although the Bill will not affect our legal powers to provide research funding, it will narrow the sphere of devolved competence in other ways.

Without formal influence over the agency, even at distance, the Scottish Government will no longer be able to set research policy quite to the same extent as it can now. Our experiences with UKRI have shown us that. Scottish Government formal influence over UKRI was excluded from both the relevant legislation and framework at the time of its creation. I'm keen not to see us being put in the same position with ARIA.

The current position of the Scottish Government remains therefore that changes being made to the Bill that would give the Scottish Government shared oversight over ARIA and, in particular, remove the alterations to the Scotland Act 1998 would enable us to recommend that the Scottish Parliament consent to the Bill.

The amendments to the ARIA Bill requested are outlined in the Appendix to this letter but I would be happy to consider alternative ones you may want to propose in order to meet our request on shared oversight. A role of the ARIA framework agreement could also be considered to detail the method of formal shared oversight at a distance (e.g. through our CSAs) and to prevent this putting additional burdens on ARIA, but this would still be subject to ARIA being removed as a reserved matter in the Bill.

Scottish Parliament Standing Orders specify that the Scottish Government must lodge a legislative consent memorandum in the Scottish Parliament for any relevant UK Bill. Due to the recent Scottish Parliament elections and the need for discussions between our Governments on this Bill, there has been a delay in lodging a memorandum. However, given the advanced stage of scrutiny of the Bill at Westminster, a memorandum will be lodged as soon as possible to enable scrutiny after summer recess. In this respect, it would be helpful if you could please confirm to me the expected timetable for progress of the Bill in the House of Lords.

As above, the Scottish Government will not be able to recommend consent unless amendments to the Bill are tabled. I would therefore encourage our officials to continue to work together to develop a mutually acceptable amendment to the Bill. I would also be happy to take up your suggestion to meet again to discuss the matter further. It would be helpful to do as soon as possible.

Yours sincerely

Jamie Hepburn

Cc Ivan McKee, Minister for Business, Trade, Tourism and Enterprise

## APPENDIX

### Requested changes to the ARIA Bill

Insert “the Chief Scientific Adviser for Scotland” in the following:

Schedule 1, paragraph 2(3)

Schedule 1, paragraph 6(5)

Schedule 1, paragraph 7(4)

Schedule 1, paragraph 18(1)(a)

Schedule 1, paragraph 18(2)

Omit Schedule 3, paragraph 5

Minister for Higher Education Further Education,  
Youth Employment and Training

Jamie Hepburn MSP

F/T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Amanda Solloway MP

Minister for Science, Research and Innovation  
UK Government

Department for Business, Energy and Industrial  
Strategy

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3 September 2021

Dear Amanda,

#### ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL

I'm writing to you to follow up on my letter of 25 June 2021 which set out the position of the Scottish Government on the ARIA Bill.

In my letter, I indicated that the Scottish Government would be able to recommend that the Scottish Parliament consent to the ARIA Bill if changes were made to the Bill that would give the Scottish Government shared oversight over ARIA and, in particular, remove the alterations to the Scotland Act 1998.

I'm grateful for the discussions our officials have had to attempt to address these issues and am supportive of these continuing to look for a solution.

In order to allow the Scottish Parliament to consider this matter before the Bill concludes its parliamentary passage, we have now lodged a Legislative Consent Memorandum recommending that the Scottish Parliament do not consent to relevant provisions in the Bill. A copy of the Memorandum can be found here:  
<https://www.parliament.scot/bills-and-laws/bills/legislative-consent-memorandums/advanced-research-and-invention-agency-bill>

I remain open to the possibility of lodging a supplementary Memorandum, recommending consent, at a later point, should satisfactory amendments be tabled and as long as parliamentary timetables allow. This gives an opportunity for our officials to continue discussions to find a mutually acceptable solution.

I remain supportive of the overall policy intent of the ARIA Bill, and, therefore, of our officials continuing to work together to develop a mutually acceptable amendment to the Bill.

Yours sincerely

Jamie Hepburn

Cc: Ivan McKee, Minister for Business, Trade, Tourism and Enterprise, Scottish Government  
Gordon Lyons, Minister for the Economy, Northern Ireland Executive  
Vaughan Gething, Minister for Economy, Welsh Government

Minister for Higher Education, Further  
Education, Youth Employment and Training  
Jamie Hepburn MSP

F/T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

George Freeman MP  
Minister for Science, Research and Innovation  
UK Government  
Department for Business, Energy and Industrial  
Strategy

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22 September 2021

Dear George,

#### ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL

First of all, my congratulations on your appointment as the new UK Government Minister for Science, Research and Innovation. I am looking forward to working with you and I hope we can get a date to meet soon to discuss shared priorities.

I am responding to the letter from your predecessor, Amanda Solloway, on the Advanced Research and Invention Agency (ARIA) Bill of 7<sup>th</sup> September 2021.

It is clear that both our governments fully support the policy intent behind the ARIA Bill. Similarly, we are in agreement that “distance from government” should be one of the central characteristics in ARIA’s design.

As research and innovation (apart from UKRI) are devolved matters, creating a similar distance between ARIA and the Scottish Government as there will be between ARIA and the UK Government would be the right approach.

ARIA will be a creature of statute, so a further act of the UK Parliament could repeal or amend the ARIA Act in future. In stark contrast, the current ARIA Bill, by reserving ARIA in the Scotland Act, would put it beyond the competence of this and all future Scottish Parliaments. I’m sure you would agree that this constitutes a very unequal approach to creating distance from government.

Reservation is a very significant step which the Scottish Government would only recommend to the Scottish Parliament in the most compelling circumstances. As you will be aware, I have not been able to recommend the Scottish Parliament consents to the ARIA Bill because the reservation is a fundamental issue.

Such a solution being acceptable to the Scottish Government would be subject to the BEIS proposal on consultative arrangements between our Chief Scientific Advisers (as an alternative to the CSA for Scotland being on the ARIA Board), which we found acceptable, also remaining valid.

I hope that we can work together to find a solution that will establish ARIA as a successful UK-wide agency at distance from government.

Yours sincerely,

**JAMIE HEPBURN**

Cc: John Swinney, Deputy First Minister and Cabinet Secretary for Covid Recovery  
Shirley-Anne Somerville, Cabinet Secretary for Education and Skills  
Angus Robertson, Cabinet Secretary for the Constitution, External Affairs and  
Culture  
Ivan McKee, Minister for Business, Trade, Tourism and Enterprise,  
Scottish Government





## Advanced Research and Invention Agency Bill

### HL Bill 24 of 2021–22

Author: Eren Waitzman

Date published: 17 June 2021

The Conservative Party first stated its intention to create a new research funding agency in its 2019 manifesto. In the October 2019 Queen’s Speech, the Government confirmed plans to develop proposals for the agency.

The bill has several purposes. Firstly, it would establish the Advanced Research and Invention Agency (ARIA). Secondly, it sets out ARIA’s functions. These are focused on conducting “ambitious” scientific research “with a tolerance to failure”. Thirdly, the bill would enable the secretary of state to make grants to ARIA and to provide it with funding.

The bill was introduced in the House of Commons on 2 March 2021. It was carried over into the new parliamentary session and completed its House of Commons stages on 7 June 2021.

The creation of ARIA was generally welcomed in the House of Commons. However, several concerns were raised by Members of Parliament. This included questions over the agency’s mandate, composition, and accountability, particularly its exemption from the Freedom of Information Act 2000. Amendments addressing these concerns were tabled by the Opposition and Scottish National Party during the bill’s committee and report stages. However, none of these amendments were agreed to. The bill was not amended in the House of Commons.

The bill has been welcomed by organisations and stakeholders within research, science and technology, such as the Royal Academy for Engineering and Wellcome. However, several organisations, including the Institute for Physics, have expressed concern that ARIA does not have a clear mandate. In addition, concerns have also been raised regarding the long-term funding of the agency.

The bill was introduced in the House of Lords on 8 June 2021. This briefing provides a background to the bill, details its provisions and sets out some immediate reaction to the bill.

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## I. What is the background to the bill?

### I.1 Plans to create a new research agency

The Government first set out its commitment to create an independent research agency in the 2019 Conservative Party manifesto. It stated that new public research and development spending would contribute to “a new agency for high-risk, high-payoff research, at arm’s length from government”.<sup>1</sup>

In the background briefing notes for the October and December 2019 Queen’s Speeches, the Government provided further detail on the research agency. The Government stated that it would be “backing a new approach to funding high-risk, high-payoff research in emerging fields of research and technology”.<sup>2</sup> This new approach would be “broadly modelled on the US Advanced Research Projects Agency (ARPA)”.<sup>3</sup>

ARPA was created as part of the US Department of Defense by the then US President Dwight D Eisenhower in February 1958, in response to the USSR launching Sputnik I—the world’s first artificial satellite. It was created with a commitment that the US would “be the initiator and not the victim of strategic technological surprises”.<sup>4</sup> In 1972, ARPA was renamed the Defense Advanced Research Projects Agency (DARPA).

DARPA remains in operation today. It has a single mission, to “make pivotal investments in breakthrough technologies for national security”.<sup>5</sup> In 2021, it has a budget of US\$3.5 billion.<sup>6</sup>

According to the bill’s explanatory notes, the Advanced Research and Invention Agency is expected to “emulate key features of the ARPA model”.<sup>7</sup> This includes:

- organising ambitious research goals around the long-term programmes of work, which could vary from basic research through to the creation of prototypes and commercialised technologies. This would be led by programme managers, who are tasked with “facilitat[ing] cohesion between individual

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<sup>1</sup> Conservative Party, [Conservative and Unionist Party Manifesto](#), 22 November 2019, p 40.

<sup>2</sup> Prime Minister’s Office, [Queen’s Speech December 2019: Background Briefing Notes](#), 19 December 2019, p 107.

<sup>3</sup> Prime Minister’s Office, [Queen’s Speech October 2019: Background Briefing Notes](#), 14 October 2019, p 93.

<sup>4</sup> Defense Advanced Research Projects Agency, [‘About DARPA’](#), accessed 11 June 2021.

<sup>5</sup> *ibid.*

<sup>6</sup> Defense Advanced Research Projects Agency, [‘Budget’](#), accessed 11 June 2021.

<sup>7</sup> [Explanatory Notes](#), p 2.

- research projects in pursuit of transformational breakthroughs”;
- “significant autonomy” for programme managers who are able to “take advantage of innovative and flexible approaches to programme funding”; and
- a “tolerance to failure” in pursuit of transformational breakthroughs “embedded in its culture”. The explanatory notes state that only a small fraction of ARIA’s goals will be achieved, and that ARIA is supposed to “provide value from its failures”.<sup>8</sup>

In the 2020 budget, HM Treasury announced that the Government would be investing at least £800 million until the end of the current parliament (2024–25) in a “new blue-skies funding agency” which had been “modelled on the extraordinary ‘ARPA’ in the US”.<sup>9</sup>

In July 2020, the Government published its Research and Development Roadmap for the UK. The roadmap provided further information on the Government’s plans for the funding agency. It stated that it would “back breakthrough technologies and basic research by experimenting with new funding models across long-term time horizons”. Additionally, the roadmap stated that although £800 million represented a “small proportion” of the overall public spending on research and development funding, it will be “a critical part of the UK’s investment portfolio alongside other funding bodies”.<sup>10</sup>

The Government has committed to investing £14.9 billion in research and development in 2021/22, with an objective of increasing economy-wide investment in research and development to 2.4 percent of GDP by 2027.<sup>11</sup>

## **1.2 House of Commons Science and Technology Committee inquiry**

Following the 2020 budget and an announcement that funding would be allocated towards a new research agency, the House of Commons Science and Technology Committee launched an inquiry examining: the Government’s proposals to establish a new UK research funding agency; the role of the new agency; and how it should function. As part of the inquiry, the committee took oral evidence from several witnesses, including a representative from DARPA.

In February 2021, the committee published its findings. It concluded that “there can be a role for a body that sits outside and operates in a different

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<sup>8</sup> [Explanatory Notes](#), p 2.

<sup>9</sup> HM Treasury, ‘[Budget 2020](#)’, updated 12 March 2020.

<sup>10</sup> Department for Business, Energy and Industrial Strategy, [UK Research and Development Roadmap](#), updated 21 January 2021, p 17.

<sup>11</sup> HM Treasury, ‘[Budget 2020](#)’, updated 12 March 2020.

way to the established UK research funding mechanisms”.<sup>12</sup> However, it stated that the Government had “not clearly articulated the need for, or intended remit of, the proposed agency” and that this would be “made much more straightforward” if the agency served a clear “client”, such as a government department. The committee also recommended to the Government that if it wanted a UK ARPA to pursue research programmes “with the potential to have transformational effects on society”, it must:

- fund research considered “too risky” by the existing research and innovation system and “be prepared for some programmes to fail”;
- accept that research projects will take a long time, potentially 10–15 years, to “bear fruit” and will consequently have to guarantee long-term funding for the agency and its programmes; and
- ensure that the agency focuses on no more than two central missions, given the size of the agency’s budget.<sup>13</sup>

The committee also addressed concerns witnesses raised that a UK ARPA may not be able to “operate effectively with sufficient freedom” if it was situated inside UK Research and Innovation’s (UKRI) framework. In its report, the committee stated that it agreed with these concerns and for the agency to be effective, it “must be able to pursue novel and contentious activities without case-by-case ministerial approval”.<sup>14</sup> Therefore, it concluded that if this was not possible within the UKRI framework, it “find[s] there is merit” in the Government establishing a UK ARPA as a separate entity. However, the committee called on the Government to clarify whether it intended to establish an agency as a separate body or within UKRI, whether the process would require primary or secondary legislation to do so and the timescale for the process.<sup>15</sup>

On 26 April 2021, the Government published its response to the committee. In its response, the Government stated that it wished to give ARIA an “open mission”, which was to “benefit society and the economy through transformative technological change”.<sup>16</sup> Addressing the committee’s recommendation that ARIA should serve a specific client, the Government said that it wanted to “leave the door open” for the agency to “forge links” with multiple government department customers. The Government also

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<sup>12</sup> House of Commons Science and Technology Committee, [A New UK Research Funding Agency](#), 12 February 2021, HC 778 of session 2019–21, p 3.

<sup>13</sup> *ibid*, pp 3–4.

<sup>14</sup> *ibid*, p 4.

<sup>15</sup> *ibid*.

<sup>16</sup> House of Commons Science and Technology Committee, [A New UK Research Funding Agency: Government Response to the Committee’s Third Report of Session 2019–21](#), 26 April 2021, HC 1363 of session 2019–21, p 2.

noted that it had “clearly stated” the intention to establish ARIA as a separate organisation to UKRI.<sup>17</sup>

### 1.3 UK Research and Innovation

Launched in 2018, UKRI is the national funding agency currently tasked with investing in science and research in the UK. It is an executive non-departmental public body, sponsored by the Department for Business, Energy and Industrial Strategy, and brings together Innovate UK, Research England and seven research councils.<sup>18</sup>

UKRI has a budget of £7.9 billion for the 2021/22 financial year.<sup>19</sup> The agency currently funds research in two distinct ways, collectively referred to as the dual support system:

- firstly, through grant funding, which is allocated by the seven research councils to their respective disciplines; and
- secondly, Research England provides block grants to higher education institutions.<sup>20</sup>

Its funding decisions are made independently from government, in accordance with the ‘Haldane Principle’. According to section 103 of the Higher Education and Research Act 2017, the principle is defined as:

the principle that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (such as a peer review process).<sup>21</sup>

## 2. What would the bill do?

In the Queen’s Speech 2021, the Government confirmed it would be bringing forward the Advanced Research and Invention Agency Bill to create the Advanced Research and Invention Agency (referred to in the bill as ARIA). ARIA would be tasked with funding “high-risk, high reward” research

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<sup>17</sup> House of Commons Science and Technology Committee, [A New UK Research Funding Agency: Government Response to the Committee’s Third Report of Session 2019–21](#), 26 April 2021, HC 1363 of session 2019–21, p 2.

<sup>18</sup> UK Research and Innovation, [‘Who we are’](#), accessed 11 June 2021. The seven research councils are the: Arts and Humanities Research Council; Biotechnology and Biological Sciences Research Council; Economic and Social Research Council; Engineering and Physical Sciences Research Council; Medical Research Council; Natural Environment Research Council; and the Science and Technology Facilities Council.

<sup>19</sup> UK Research and Innovation, [‘What we do’](#), accessed 11 June 2021.

<sup>20</sup> Royal Society, [How Does the UK Government Invest in Research and Development?](#) accessed 11 June 2021.

<sup>21</sup> [Section 103 of the Higher Education and Research Act 2017](#).

and development in the United Kingdom.<sup>22</sup> The bill seeks to do several things. It:

- establishes ARIA as a statutory corporation;
- sets out ARIA's functions. These are focused on conducting "ambitious" scientific research "with a tolerance to failure", and developing, exploiting and sharing scientific knowledge; and
- enables the secretary of state to make grants to the agency and to provide it with funding.<sup>23</sup>

The bill was first introduced in the House of Lords on 8 June 2021.<sup>24</sup> It is formed of 15 clauses and 3 schedules. The provisions detailed in the bill would apply to the whole of the United Kingdom.

## 2.1 Clause by clause

### *Advanced Research and Invention Agency*

**Clause 1** would establish a body corporate called the Advanced Research and Invention Agency. **Schedule 1** details the structure and operation of ARIA. This includes:

- how executive and non-executive members are appointed;
- term limits and remuneration; and
- reporting requirements.

**Clause 2** sets out ARIA's functions. It states that ARIA may do, or commission or support others to do, any of the following:

- conduct scientific research, including literature research reviews to identify areas which would benefit from further scientific exploration or by carrying out laboratory work itself;
- develop and exploit scientific knowledge to enable it to use scientific research for the purposes of creating prototypes or introducing products to market; or
- collect, share, publish and advance scientific knowledge. This could be achieved by convening conferences or seminars and publishing academic or other papers for closed or public consumption.

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<sup>22</sup> Prime Minister's Office, [Queen's Speech 2021: Background Briefing Notes](#), 11 May 2021, p 57.

<sup>23</sup> UK Parliament, '[Have your say on the Advanced Research and Invention Agency Bill](#)', 24 March 2021.

<sup>24</sup> *ibid.*

**Clause 3** states that in exercising any of its functions, ARIA may give “particular weight” to the potential for significant benefits to be achieved or facilitated through scientific research, or the development and exploitation of scientific knowledge, “that carries a high risk of failure”. According to the bill’s explanatory notes, ARIA may set “highly ambitious research goals”, which, if achieved, would “bring about transformative scientific and technological advances”. Such advances would also “yield significant economic and social benefit”. Therefore, the bill would allow ARIA to have a “high tolerance to project failure”.<sup>25</sup>

**Clause 4** would provide the secretary of state with a grant funding power. This power would be subject to conditions, such as requiring the repayment of financial support with or without interest.

**Clause 5** sets out that ARIA must comply with any directions given by the secretary of state, if the secretary of state considers it “necessary or expedient” to protect interests of national security. According to the bill’s explanatory notes, this could take the form of general directions or directions in a particular case, for example, to “stop certain activities or partnerships in the interests of national security”.<sup>26</sup> The clause also states that a direction may be varied or revoked. The bill’s delegated powers memorandum notes that in situations where national security may be at risk and where the need to use directions arises, the secretary of state must do so “urgently and privately”.<sup>27</sup> For example, where the secretary of state identifies that a hostile party may have sought an association with ARIA. Therefore, the Department for Business, Energy and Industrial Strategy states that it would not be “appropriate” to involve Parliament.

**Clause 6** would require ARIA to provide the secretary of state with information, if requested, for the secretary of state to perform their functions in relation to ARIA. Subsection 3 states that a disclosure of information required under this section does not breach:

- any obligation of confidence owed by ARIA; or
- any other restriction on the disclosure of information (however imposed).

The clause also notes that ARIA is not required to disclose information if it contravenes data protection legislation (subsection 4) or in respect of which a claim to legal professional privilege could be maintained in legal proceedings (subsection 5).

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<sup>25</sup> [Explanatory Notes](#), p 5.

<sup>26</sup> *ibid.*

<sup>27</sup> Department for Business, Energy and Industrial Strategy, [Advanced Research and Invention Agency Bill: Memorandum from the Department for Business, Energy and Industrial Strategy to the Delegated Powers and Regulatory Reform Committee](#), 9 June 2021, p 1.



**Clause 7** introduces schedule 2, which contains provisions about schemes for the transfer of staff, property, rights and liabilities to the agency. The schedule would give the secretary of state powers to make property and staff transfer schemes to ARIA. Subsection 4 of the clause states that a permitted transferor means either the secretary of state or UKRI.<sup>28</sup>

**Clause 8** would allow the secretary of state to make provisions by regulations for the dissolution of ARIA. However, subsection 2 states that such regulations may not be made before ten years have elapsed since the bill has passed. Prior to making regulations, the secretary of state must consult ARIA and others that the secretary of state considers appropriate. Subsection 4 sets out what the regulations may include, such as:

- providing for the transfer of property, rights or liabilities of ARIA to the secretary of state or another person; and
- making provision about the payment by the secretary of state or ARIA of compensation to any individual who suffers loss or damage as a result of the dissolution.

The regulations would be subject to the draft affirmative procedure.<sup>29</sup>

### ***Consequential amendments***

**Clause 9** introduces schedule 3, which makes consequential amendments. Under this schedule, ARIA would be inserted into the following acts:

- Public Records Act 1958, which means that any records produced by ARIA from its creation should be treated as public records (paragraph 1);
- Parliamentary Commissioner Act 1967, which means that ARIA is listed as one of the public bodies that can be investigated by the Parliamentary Commissioner for Administration, a body responsible for investigating the administrative actions of government departments and public bodies (paragraph 2);
- House of Commons Disqualification Act 1975 and the Northern Ireland Assembly Disqualification Act 1975, prohibiting members of ARIA, its staff, committees and sub-committees from becoming members of the House of Commons or Northern Ireland Assembly, and vice versa (paragraphs 3 and 4); and the

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<sup>28</sup> The Cambridge English Dictionary defines a 'transferor' as "someone who sells property, shares, etc, to someone else". Cambridge English Dictionary, '[Transferor](#)', accessed 11 June 2021.

<sup>29</sup> Department for Business, Energy and Industrial Strategy, [Advanced Research and Invention Agency Bill: Memorandum from the Department for Business, Energy and Industrial Strategy to the Delegated Powers and Regulatory Reform Committee](#), 9 June 2021, p 2.

- Equality Act 2010, which makes ARIA subject to the provisions of the act (paragraph 10).

**Clause 10** would allow the secretary of state to make regulations to modify legislation. This includes a power to amend, repeal or revoke legislation. For example, the explanatory notes state that a provision could be made to apply Freedom of Information Act 2000 provisions to ARIA, as it would not take the form of a public body as defined by the act.<sup>30</sup>

### **General provisions**

**Clause 11** would make further provisions to make regulations under clause 8 or schedule 1. It sets out the procedure for making such regulations. Regulations under clause 8 (the dissolution of ARIA) or under clause 10 (that amend, repeal or revoke any provision of primary legislation or retained direct principal EU legislation) are subject to the affirmative procedure.

**Clauses 12 to 15** make provisions about interpretation, extent and commencement of the bill. These include that the act would apply to England, Scotland, Wales and Northern Ireland.

## **3. What response has there been to the bill?**

The Government first introduced the bill in the House of Commons on 2 March 2021.<sup>31</sup> Following its introduction, many organisations and stakeholders in research, science and technology have welcomed the bill. Some concerns have been raised about the agency’s mandate and whether the Government will fund the agency in the long-term.

### **3.1 House of Commons bill stages**

#### **Second reading**

Second reading took place in the House of Commons on 23 March 2021. Speaking on behalf of the Government, the Secretary of State for Business, Energy and Industrial Strategy, Kwasi Kwarteng, said that the Government had introduced the bill to “give ARIA significant powers and freedoms and a mandate to be bold”.<sup>32</sup> Mr Kwarteng also set out the purpose of ARIA:

The new agency will be characterised by a sole focus on funding high-risk, high-reward research. It will have strategic and cultural autonomy.

<sup>30</sup> [Explanatory Notes](#), p 7.

<sup>31</sup> UK Parliament, ‘[Advanced Research and Invention Agency Bill: Stages](#)’, accessed 11 June 2021.

<sup>32</sup> [HC Hansard, 23 March 2021, col 819](#).

It will invest in the judgment of able people, and it will also enjoy flexibility and a wide degree of operational freedom.<sup>33</sup>

Responding, the Shadow Business, Energy and Industrial Strategy Secretary, Ed Miliband, said that the Labour Party supported the bill and its aims.<sup>34</sup> However, Mr Miliband also stated the bill “requires improvement”<sup>35</sup> and expressed concern about three areas:

- the mandate for ARIA;
- its position in the wider research and development system; and
- accountability.<sup>36</sup>

This included concerns over ARIA being exempt from freedom of information requests. Mr Miliband argued that Labour “strongly disagree[d]” with the Government on the bill’s exemption from the Freedom of Information Act 2000. He highlighted that DARPA in the US had 47 requests for information last year, contending that it is “hardly an obstacle to getting on with the day job”.<sup>37</sup>

Despite these concerns, Mr Miliband stated Labour would not be opposing the bill’s passage but would “seek to improve it” so that it “can strengthen our science base and do what is required to help us meet the massive challenges we face as a society”.<sup>38</sup>

Speaking on behalf of the Scottish National Party (SNP), Stephen Flynn, the party’s spokesperson for business, energy and industrial strategy, also said that the bill was something the SNP could “welcome”. However, the SNP also had concerns. Describing the bill as “incredibly vague on details”, Mr Flynn queried:

- what the wider mission of the bill would be, as he was unsure whether the bill was trying to achieve better outcomes for health, defence or transport;
- who would be leading ARIA;
- transparency around the agency’s resources and accountability; and
- its impact in Scotland.<sup>39</sup>

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<sup>33</sup> [HC Hansard, 23 March 2021, col 819.](#)

<sup>34</sup> *ibid*, col 823.

<sup>35</sup> *ibid*.

<sup>36</sup> *ibid*, col 824.

<sup>37</sup> *ibid*, col 826.

<sup>38</sup> *ibid*, col 827.

<sup>39</sup> *ibid*, cols 829–31.

Greg Clark, the chair of the House of Commons Science and Technology Committee, also welcomed the legislation. Mr Clark cited his committee's report into the agency, which raised questions that he hoped would be "clarified" by the Government during the bill's progression in Parliament. This included questions on:

- the agency's focus;
- the role of ministers and the chief executive officer (CEO); and
- whether ARIA's budget should go towards "blue-sky research and brand-new thinking, without particular regard to the application" or whether ARIA was looking to turn "already nascent good ideas into practical applications".<sup>40</sup>

Closing the debate, the Parliamentary Under Secretary of State for Business, Energy and Industrial Strategy, Amanda Solloway, sought to address some of the issues raised. Discussing concerns over ARIA's mission, Ms Solloway stated that it would be decided by ARIA's leaders, who would be responsible for "strategic oversight of their programme portfolio". Turning to accountability, the minister said ARIA would be at a "greater distance from central government than we are used to" and that was a "deliberate move". She also noted that there were powers in the bill for the secretary of state to intervene on issues of national security and to introduce additional procedures to measure conflicts of interest.<sup>41</sup> Discussing transparency, Ms Solloway noted that departments and public authorities working with ARIA would be subject to freedom of information requests. In addition, she said there would be other statutory commitments to transparency, including a requirement on ARIA to produce an annual report on its functions, which, along with its accounts, would be laid before Parliament.<sup>42</sup>

Following the second reading debate, the bill was committed to a House of Commons Public Bill Committee.<sup>43</sup> A carry-over motion was also tabled and agreed, allowing the bill to be resumed in the 2021–22 parliamentary session.<sup>44</sup>

### **Committee stage**

There were six sittings of the House of Commons Public Bill Committee, which ran from 14 to 22 April 2021. During committee stage, 25

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<sup>40</sup> [HC Hansard, 23 March 2021, col 828.](#)

<sup>41</sup> *ibid*, cols 889–90. Paragraph 11 of schedule 1 notes that the secretary of state may make provisions by regulations about the procedures to be adopted for dealing with conflicts of interests of members of the agency, its committees or sub-committee.

<sup>42</sup> *ibid*, col 890.

<sup>43</sup> *ibid*, col 891.

<sup>44</sup> *ibid*.

amendments tabled by the Labour Party and SNP were moved with none of the amendments successful:

- 16 were defeated following a division;
- 1 was negated without division (rejected without a vote); and
- 8 were withdrawn.

A brief summary of the amendments tabled by the Opposition and put to a division can be found below:

- **Amendment 2:** This amendment sought to amend clause 1 of the bill to change ARIA's name to the Advanced Research and Engineering Projects Agency. It was defeated by 9 votes to 3.<sup>45</sup>
- **Amendment 5:** This amendment would have required ARIA and UKRI to prepare a memorandum of understanding detailing how they would collaborate and avoid overlap. Amendment 5 was defeated by 9 votes to 5.<sup>46</sup>
- **Amendment 10:** This amendment would have required the secretary of state to seek and obtain the consent of the House of Commons Science and Technology Committee for the appointment of ARIA's first CEO. The amendment was defeated by 9 votes to 6.<sup>47</sup>
- **Amendments 7 and 8:** These amendments would have required the secretary of state to have regard to the: collective relevant experience of ARIA's members in the devolved nations when using their power of appointment (amendment 7); and the diversity of ARIA's board when using their powers of appointment (amendment 8). Amendment 7 was defeated by 9 votes to 5, whilst amendment 8 was defeated by 9 votes to 6.<sup>48</sup>
- **Amendments 15 and 35:** Amendment 15 would have required ARIA to have regard for its core mission, which for the ten years following the passing of the bill would undertake activities to support the achievement of net zero, set out in the Climate Change Act 2008. Its mission would be established by statutory instrument, under the draft affirmative procedure. Similarly, amendment 35 would have set the primary mission for ARIA to support the development of technologies and research supporting the UK's transition to net zero carbon emissions or reduce the harmful effects of climate change. The amendments were defeated by 8 votes to 6.<sup>49</sup>

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<sup>45</sup> [HC Hansard, 20 April 2021, col 89.](#)

<sup>46</sup> *ibid*, col 94.

<sup>47</sup> *ibid*, col 114.

<sup>48</sup> [HC Hansard, 20 April 2021, cols 121–22.](#)

<sup>49</sup> *ibid*, col 152.

- **Amendment 16:** This amendment would have required ARIA to have regard for the benefit of its activities across the nations and regions of the UK in the exercising of its functions. The amendment was defeated by 8 votes to 6.<sup>50</sup>
- **Amendment 20:** This amendment sought to insert a new subsection into clause 5, placing a requirement on the secretary of state to prepare and provide an annual report to the Intelligence and Security Committee of Parliament about measures that impact national security. Amendment 20 was defeated by 9 votes to 6.<sup>51</sup>
- **Amendment 21:** This amendment sought to amend schedule 3. This would have removed ARIA's exemption from the Public Contracts Regulations 2015.<sup>52</sup> The amendment was defeated by 8 votes to 6.<sup>53</sup>
- **Amendment 22:** This amendment sought to insert a new subsection into schedule 3 to make ARIA subject to the Freedom of Information Act 2000. Amendment 22 was defeated by 9 votes to 5.<sup>54</sup>

The following amendments were tabled by the Scottish National Party and were put to a division:

- **Amendment 28:** This amendment sought to insert a new subsection (4) into schedule 1, ensuring that the secretary of state appointed at least 50 percent of women as non-executive members of ARIA's board. Amendment 28 was defeated by 9 votes to 6.<sup>55</sup>
- **Amendment 31:** This amendment would have required both Houses of Parliament, under the affirmative resolution procedure, to approve the name of the proposed chair of ARIA. In addition, it stated that ARIA must not exercise any functions, nor could the secretary of state make any grants to ARIA, until its first chair had been appointed. The amendment was defeated by 9 votes to 6.<sup>56</sup>
- **Amendments 29 and 30:** These amendments would have inserted new provisions into schedule 1 to ensure that ARIA's annual report included statistics on the: gender balance of executive and non-executive board members and senior staff; and on the percentage of its funding to each region in the UK.

<sup>50</sup> [HC Hansard, 22 April 2021, col 140.](#)

<sup>51</sup> [HC Hansard, 22 April 2021, col 169.](#)

<sup>52</sup> [The Public Contracts Regulations 2015.](#)

<sup>53</sup> [HC Hansard, 22 April 2021, col 182.](#)

<sup>54</sup> *ibid*, col 192.

<sup>55</sup> [HC Hansard, 20 April 2021, col 103.](#)

<sup>56</sup> *ibid*, col 114.

Both amendments were defeated by 8 votes to 6.<sup>57</sup>

Further information on committee stage proceedings in the House of Commons can be found in the House of Commons Library briefing, [Advanced Research and Invention Agency Bill 2019–21](#).<sup>58</sup>

### **Report stage**

Report stage for the bill took place on 7 June 2021.<sup>59</sup> During report stage, further amendments from the Opposition and the Scottish National Party were debated. Three amendments were moved to division, but were defeated and not added to the bill. These amendments were as follows:

- **Amendment 1:** This amendment sought to amend clause 2 of the bill to set the primary mission for ARIA to support the development of technologies and research that support the UK's transition to net zero carbon emissions or reduce the harmful effects of climate change. A similar amendment was also introduced by Stephen Flynn during the committee stage of the bill.

Moving amendment 1, Stephen Flynn reiterated his argument made at committee that he found it “extremely regrettable” that despite there being a “climate emergency”, the Government “still refuse[d]” to make tackling it a “core purpose” of ARIA. He argued that this would ensure that its aim was to meet the UK's net zero target.<sup>60</sup> Responding, Amanda Solloway rejected setting ARIA a primary mission, stating that ARIA “must make its own distinct contribution to be effective”, which means being an organisation “led by brilliant people with strategic autonomy—not directed by ministers”.<sup>61</sup>

The amendment was defeated by 364 votes to 263, a majority of 101.<sup>62</sup>

- **Amendment 12:** This amendment, tabled by Labour, would have required ARIA to consider its core mission for ten years following the bill's passing to be supporting the achievement of

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<sup>57</sup> [HC Hansard, 20 April 2021, col 140.](#)

<sup>58</sup> House of Commons Library, [Advanced Research and Invention Agency Bill 2019–21](#), 6 May 2021.

<sup>59</sup> UK Parliament, '[Advanced Research and Invention Agency Bill: Stages](#)', accessed 11 June 2021.

<sup>60</sup> [HC Hansard, 7 June 2021, col 711.](#)

<sup>61</sup> *ibid*, col 744.

<sup>62</sup> *ibid*, cols 748–52.

net zero. The mission would be established by statutory instrument subject to the draft affirmative procedure. A similar amendment was also moved during committee.

Moving amendment 12, Chi Onwurah, the shadow minister for Science, Research and Digital, stated that it sought to support the Government in its commitment to achieve net zero by 2050. She also argued that without a core mission, there was a risk that ARIA will be “directionless, provide no societal return for taxpayer investment or be prey to vanity projects”.<sup>63</sup> Ms Solloway responded that the “continued chopping and changing” of ARIA’s mission would “hamper” its ability to commit to long-term programmes.<sup>64</sup>

Amendment 12 was defeated by 364 votes to 263, a majority of 101.<sup>65</sup>

- **Amendment 14:** Amendment 14 was also tabled by the Labour Party and sought to add a new section into clause 6 to make ARIA subject to the Freedom of Information Act 2000 and the Public Contract Regulations 2015. Similar amendments were also tabled during the bill’s committee stage.

Also moving the amendment, Chi Onwurah stated that ARIA’s “current blanket exemption” from both the act and regulations “cannot be justified”.<sup>66</sup> Ms Onwurah outlined that ARIA would spend approximately £800 million of public money and that without accountability and transparency, the Labour Party believed ARIA would provide the Government with a “side-door to sleaze in science”.<sup>67</sup> Responding, Amanda Solloway reiterated the reasons why the Government felt the exemption was important:

- Firstly, ARIA is expected to commission and contract others to conduct research in pursuit of its goals. The commissioning and contracting is a “fundamentally different way” of funding research and development and procurement rules do not apply.
- Secondly, this way of funding research is core to DARPA’s approach, which “offers flexibility” outside US government

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<sup>63</sup> [HC Hansard, 7 June 2021, col 720.](#)

<sup>64</sup> *ibid*, col 744.

<sup>65</sup> *ibid*, cols 753–77.

<sup>66</sup> *ibid*, col 721.

<sup>67</sup> *ibid*.



contracting standards. By taking that funding approach, ARIA would “benefit from similar flexibilities”.<sup>68</sup>

The amendment was defeated by 364 votes to 263, a majority of 101.<sup>69</sup>

Following the report stage, the bill was reported without amendment.<sup>70</sup>

### **Third reading**

The third reading of the bill in the House of Commons took place immediately after report stage. The Secretary of State for Business, Energy and Industrial Strategy, Kwasi Kwarteng, said that he believed that the creation of ARIA would “make our outstanding UK research and development system even stronger and more dynamic, more diverse, and it will help us to innovate and level up across the country”.<sup>71</sup>

Ed Miliband outlined the Labour Party’s support for the bill. However, he reiterated three issues with the bill, arguing that Labour “continue to believe that improvement is necessary and possible”. The issues were that:

- the bill as drafted does not provide ARIA with a clear mission.
- there is “no justification” for ARIA’s exemptions from the Freedom of Information Act 2000 and public contract regulations; and
- each region of the UK benefits from the creation of the agency.<sup>72</sup>

Similarly, Sarah Olney, the Liberal Democrat spokesperson for Business, Energy and Industrial Strategy, also welcomed the bill but called for tackling climate change to be a “baseline” for ARIA’s focus. In addition, Ms Olney spoke about scrutiny of ARIA. She stated that she understood the Government’s “reluctance” to allow freedom of information requests, but that scrutiny “can be constructive and improving”, which can “only benefit” the agency.<sup>73</sup>

Further, Stephen Flynn stated that many of the points made at third reading had “certainly covered off many of the points that I would seek to address” and that he had “no desire” to cover many of the arguments he had

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<sup>68</sup> [HC Hansard, 7 June 2021, col 745.](#)

<sup>69</sup> *ibid*, cols 758–62.

<sup>70</sup> *ibid*, col 762.

<sup>71</sup> *ibid*, col 763.

<sup>72</sup> *ibid*, col 764.

<sup>73</sup> *ibid*, col 770.

previously expressed during the bill's progression in the House of Commons.<sup>74</sup>

The bill was read for the third time and passed to the House of Lords.<sup>75</sup>

### 3.2 External reaction

Many organisations and stakeholders within research, science and technology have welcomed plans to create ARIA. Sir Jim McDonald, the president of the Royal Academy of Engineering (RAE), said that the RAE was “delighted” to see the Government “deliver on its commitment to a high-risk, high-reward funding agency”.<sup>76</sup> Similarly, Sir Jeremy Farrar, director at Wellcome, stated that the Government’s plan to create ARIA was “great news for UK research” and “demonstrates their [the Government’s] bold ambitions to support exciting science”.<sup>77</sup>

However, although other organisations and stakeholders within research and development also welcomed the plans, they raised concerns over the agency, its remit and funding. Greg Clark, the chair of the House of Commons Science and Technology Committee, stated that:

There remains much that is unclear about what ARIA is meant to be. It’s not clear if it is a new institution that will conduct its own research and attract global scientific talent, or if it is another funding agency for researchers in existing organisations.<sup>78</sup>

Similarly, Tony McBride, the director of Policy and Public Affairs at the Institute of Physics, argued that a clear mission was “essential” to the successful operation of ARIA.<sup>79</sup> Additionally, Dr Daniel Rathbone, the assistant director at the Campaign for Science and Engineering contended that there must be a “clear purpose” for ARIA. Turning to funding, he said that the agency will need “longevity and continuity of funding to succeed”.<sup>80</sup>

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<sup>74</sup> [HC Hansard, 7 June 2021, col 767.](#)

<sup>75</sup> *ibid*, col 770.

<sup>76</sup> Royal Academy of Engineering, ‘[Academy responds to ARIA announcement](#)’, 19 February 2021.

<sup>77</sup> Science Media Centre, ‘[Expert reaction to announcement of UK government plans for the Advanced Research and Invention Agency \(ARIA\)](#)’, 19 February 2021.

<sup>78</sup> *ibid*.

<sup>79</sup> *ibid*.

<sup>80</sup> Science Media Centre, ‘[Expert reaction to announcement of UK government plans for the Advanced Research and Invention Agency \(ARIA\)](#)’, 19 February 2021.

#### 4. Read more

- Department for Business, Energy and Industrial Strategy, '[Advanced Research and Invention Agency \(ARIA\): policy statement](#)', 19 March 2021
- Department for Business, Energy and Industrial Strategy, '[Bill introduced to create high risk, high reward research agency ARIA](#)', 2 March 2021

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Department for  
Business, Energy  
& Industrial Strategy

**George Freeman MP**  
Minister for Science, Research &  
Innovation  
Department for Business,  
Energy & Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET

Stephen Kerr MSP  
Convener, Education Children and Young  
People Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

T +44 (0) 20 7215 5000  
E [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)  
W [www.gov.uk](http://www.gov.uk)

October 2021

Dear Stephen,

### **ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL**

Thank you for your letter of 28 September regarding the ARIA Bill. I am pleased to see the scrutiny that this important initiative is receiving in the Scottish Parliament and that your Committee is leading. ARIA has extraordinary potential to deliver for the whole of the UK and we have heard consistently from stakeholders that it must be empowered to operate on a UK-wide basis. That is how it will find and fund the most exceptional science this country has to offer.

I understand that Minister Hepburn will be providing the correspondence from Scottish Government Ministers; I have attached the relevant correspondence from the UK Government to date. I hope this assists with your scrutiny.

With regards the invitation to give evidence, I am afraid that at this moment in time I do not believe it would be appropriate or helpful for me to appear before the Committee. As you say, discussions between the UK and Scottish Governments are ongoing. I remain hopeful, as does Minister Hepburn, that through productive conversations in the coming weeks we will find an agreement that reflects our shared interest that ARIA can build on the existing science ecosystem across the UK.

In the meantime, if you require any clarifications on correspondence or discussions to date, I am happy to provide those in writing.

I am copying this letter to the Secretary of State for Scotland.

Yours ever,

**GEORGE FREEMAN MP**  
Minister for Science, Research and Innovation



Department for  
Business, Energy  
& Industrial Strategy

Amanda Solloway MP  
Minister for Science, Research &  
Innovation  
Department for Business,  
Energy & Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET

Richard Lochhead MSP  
Minister for Further Education, Higher Education and  
Science  
Scottish Government  
Edinburgh  
EH1 3DG

T +44 (0) 20 7215 5000  
E [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)  
W [www.gov.uk](http://www.gov.uk)

Our ref:  
Your ref:

18 February 2021

Dear Richard,

I am writing regarding the Advanced Research and Invention Agency (ARIA) Bill ahead of its introduction in Parliament. We and our officials have had discussions on the proposals, and I am grateful for the constructive manner of those ongoing discussions and the contribution of your officials. I have enclosed in Annex A our devolution analysis of the Bill and would be grateful if this could be held in confidence until the Bill is introduced.

This Bill will create a new UK-wide funding body for high-risk, long-term R&D, and set a broad framework for the body's operation. ARIA will deliver on this Government's commitment to invest at least £800m over the five years of this Parliament, as part of our intention to cement the UK's position as a science superpower. Its key features will emulate those that international experts have identified as most integral to funding transformational research: strategic, scientific and cultural autonomy; high-risk, long-term focus; investing in talented people; and financial flexibility and operational freedom.

ARIA will seek to fund the most exceptional science wherever it exists, and its focus on transformational research will deliver benefits to the whole of the United Kingdom. As such, the provisions of the Bill extend to the whole of the United Kingdom as well. This not only aligns ARIA with existing research funding delivered through UKRI and the Research Councils, but also reflects the gap for high-risk, high-reward research that exists in Scotland as well as the rest of the UK (as attested to by a number of Scottish stakeholders in submissions to the House of Commons Science and Technology Committee).

Our assessment of the Bill is therefore that the establishment and reservation of a UK-wide ARIA engages the legislative consent process.

It is incredibly important that the views of the outstanding universities, scientists and innovative businesses in Scotland are heard, and to this end I would be keen to work closely with you, and through our officials, to understand how to best consult with Scottish research community.

A more detailed devolution analysis is set out below. As work to finalise policy is ongoing, I will send you a full copy of the final Bill ahead of introduction. I would be grateful if you could, following receipt of this, write to confirm whether you agree with

our devolution analysis and indicate if you would be content, in principle, to begin the legislative consent process in the Scottish Parliament.

I am copying this letter to the Secretary of State for Scotland and the Minister of State for the Constitution and Devolution.

Yours ever,

**AMANDA SOLLOWAY MP**

Parliamentary Under Secretary of State - Minister for Science, Research and  
Innovation

## Annex A: Devolution analysis

The general subject of the Bill is its provision for the creation of a new research funding agency, as well as powers for the Secretary of State to make grants to that body. It is important to note that the Scottish Government will continue to be able to fund research to the same extent as it can do now.

### Reservation of ARIA

We propose to reserve ARIA through an amendment to the Scotland Act 1998. The text of the relevant clauses is copied below. These clauses, in terms of Paragraph 3 Part III Schedule 5 of the Scotland Act 1998, have the effect of reserving for ARIA:

- i. its constitution, including its establishment and dissolution, its assets and liabilities and its funding and receipts,
- ii. conferring functions on it or removing functions from it,
- iii. conferring or removing any functions specifically exercisable in relation to it.

The principal rationale for this reservation is to bring ARIA in line with existing reservations for the Research Councils and UKRI, and to maintain maximum autonomy for the body at risk of minimal government interference. The reservation limits future deviation from this central characteristic and ensures comparable access to ARIA funding across the four nations. A number of Scottish stakeholders, including the Royal Society of Edinburgh and Universities Scotland, have identified a gap in the UK-wide Research and Development landscape that a high-risk, high-reward agency like ARIA can seek to fill.

### *Schedule 3: Minor and consequential amendments Scotland Act 1998*

- 6 (1) In Part 2 of Schedule 5 to the Scotland Act 1998 (specific reservations), section C12 is amended as follows.
- (2) In the heading, after “Innovation” insert “, the Advanced Research and Invention Agency”.
- (3) After the entry for “United Kingdom Research and Innovation” insert the following entry—  
“The Advanced Research and Invention Agency.”
- (4) In the entry beginning “The subject-matter of section 5”, after “Innovation” insert “, the Advanced Research and Invention Agency”.





Department for  
Business, Energy  
& Industrial Strategy

Amanda Solloway MP  
Minister for Science, Research &  
Innovation  
Department for Business,  
Energy & Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET

Richard Lochhead MSP  
Minister for Further Education, Higher Education and  
Science  
Scottish Government  
Edinburgh  
EH1 3DG

T +44 (0) 20 7215 5000  
E [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)  
W [www.gov.uk](http://www.gov.uk)

Our ref:  
Your ref:

5 May 2021

Dear Richard,

Thank you for your letter of 24 March regarding the Advanced Research and Invention Agency (ARIA). I am delighted to hear you agree with Scottish stakeholders that there is a niche for ARIA to deliver funding to high-risk research for the benefit of the whole of the UK.

I am also pleased that we have been able to work together at official and ministerial level and hope to continue to do so after the Scottish elections via a joint approach to consultation with the research community in Scotland. My officials will be in contact to take this forward.

With regards ARIA's reservation, your understanding that ARIA will fulfil a different role to UKRI is correct. However, as our policy statement explains, it is also essential that ARIA is aligned with and complements UKRI within the wider R&D ecosystem. A shared constitutional status will support that alignment.

Further, stakeholder and expert input has consistently identified the critical importance of distance from government. The Royal Society of Edinburgh states the agency will require "a high level of operational independence to be truly effective". If ARIA was not reserved, this would mean different reporting obligations could be placed on ARIA by each of the devolved administrations. These would be additional to the (deliberately limited) measures already in the Bill, including an annual report of ARIA's functions and accounts laid before Parliament. My officials are open to further discussion on this matter to better understand your concerns.

With regards governance, what matters here are outcomes, and how they reflect our shared desire to see ARIA find and fund transformational research throughout the UK. To that end our open recruitment process – including building on existing engagement and inviting a wide set of stakeholders to propose potential candidates – will encourage geographic diversity from the outset. Further, we will be considering what information the Framework Agreement should require ARIA to provide in its annual report to Parliament. As I stated to the ARIA Bill Committee, which has now finished scrutiny of the Bill, it is extremely likely that will include geographical information on funding.

We have considered carefully your proposal for the Chief Scientific Advisor for Scotland to take up a position on the ARIA Board. As above, ARIA will be a small and agile body at arms-length from the government, in line with the critical

characteristic of maximum autonomy. This characteristic received considerable support from across the UK's science and innovation community, both during policy development and since ARIA's launch. The Government Chief Scientific Advisor (GCSA) is one of the very limited routes back to government and reflects the lines of accountability for ARIA that flow through UK Government ministers. The GCSA represents the whole of the UK and of course maintains strong informal links to the devolved administrations, for example through the CSA Network.

Maximising relevant experience, diversity and excellence in the small number of Non-Executive Director appointments is critical to ensuring ARIA delivers for the UK public. I believe the best way to achieve that is through a recruitment process open to all, promoted throughout the UK to find and attract the very best candidates. My concern with placing constraints on these positions on the other hand, is that they would decrease Board autonomy, and make it more challenging for ARIA to deliver in an agile way.

My officials are happy to meet with yours to explain our position and how crucial these characteristics are to ARIA's long-term success.

I am copying this letter to the Secretary of State for Scotland and the Minister of State for the Constitution and Devolution.

Yours ever,

**AMANDA SOLLOWAY MP**

Parliamentary Under Secretary of State - Minister for Science, Research and  
Innovation



Department for  
Business, Energy  
& Industrial Strategy

Amanda Solloway MP  
Minister for Science, Research &  
Innovation  
Department for Business,  
Energy & Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET

Jamie Hepburn MSP  
Minister for Higher Education, Further Education, Youth  
Employment and Training  
Scottish Government  
Edinburgh  
EH1 3DG

T +44 (0) 20 7215 5000  
E [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)  
W [www.gov.uk](http://www.gov.uk)

7 September 2021

Dear Jamie,

### **ADVANCED RESEARCH AND INVENTION AGENCY (ARIA) BILL**

Thank you for your letters of 25 June and 3 September regarding the ARIA Bill. I am pleased to see the constructive engagement that our officials have had in recent months. I'm also glad that you remain supportive of the policy intent of the Bill, which highlights the value of our ongoing work to find a mutually acceptable solution.

We are making excellent progress on agreeing appropriate governance arrangements but, as part of this package, we have not yet reached agreement on the reservation of ARIA. I wanted to set out why this is critical to delivery.

First, I recognise that the reservation of new UK-wide bodies in devolved policy areas is not and should not be routine. In this unique case, the reason is to uphold – now, and in the future – the distance from government that is one of the central characteristics in ARIA's design.

Distance from government is what will allow ARIA to take risks and for programmes to fail without fear of short-term political influence. It will allow ARIA to exercise maximum autonomy over its research choices, allocating funding in line with scientific and technical expertise. And it is one of the recommendations for ARIA that came through most strongly from our engagement with stakeholders in Scotland, around the UK, and internationally.

The reservation of ARIA is just one of several ways the Bill protects distance from all four governments, but it guarantees distance in ways that cannot be achieved by other means. It places a strict limit on interventions that might be necessary or appropriate for other bodies but, given ARIA's size and autonomy, could undermine its effectiveness. For example, the possibility of legislation that seeks to direct ARIA's activity in Scotland (for which there is purposely no equivalent power in the Bill for the UK Government).

It is also limited to ARIA alone: it does not affect wider devolved R&D competencies or the Scottish Government's ability to fund research as it is able to currently. The provisions my officials have proposed in response to your concerns on ARIA, including those which extend to UKRI and wider R&D policy, indicate our intent to *strengthen* the level of shared oversight as it exists under the current settlement. The provisions on governance that we are reaching agreement on recognise the importance of the Scottish Government's involvement in supporting ARIA's objective to find and fund the most cutting-edge research for the benefit of the whole of the UK. They operate in conjunction with the reservation, striking that important balance between ARIA's

autonomy and the involvement of the Scottish and UK Governments. The provisions therefore suggest how that might work for ARIA as a reserved body: through specific arrangements that fit both the priorities you have for involvement in ARIA, and the structure and objectives of this unique organisation.

The wider statutory position of the UK government similarly reflects ARIA's need for autonomy and distance. In contrast to UKRI, which is reserved and which ARIA will complement, there is no power of direction for the Secretary of State. In clause 6 of the Bill, information rights are strictly limited relative to UKRI and other comparable bodies. The Secretary of State's role is stripped back to essential functions required in the establishment and delivery of ARIA: national security, necessary appointments (with the first CEO the only executive appointment), and the provision of funding allocated by the UK Parliament.

Reflecting the autonomous, science-led organisation we are seeking to establish, the UK Government Chief Scientific Advisor's (GCSA) position should be viewed in his capacity as independent scientific advisor, as the best person for the limited link back to Government. It is important the GCSA is equally able to reflect the priorities and interests of the Scottish Government and indeed all four nations, and this why one of our proposals is a duty to consult, and a new dedicated forum for that consultation.

It is expressly not the intent of this Government to exercise control over ARIA's direction, whether that be through non-executive appointments or future encroachments on ARIA through changes to legislation. However, I recognise your concerns about the situation in future. This is why, for example, we have proposed a Memorandum of Understanding (or similar vehicle) to ensure the UK Government cannot take a significantly greater role in setting ARIA's purpose, functions or priorities in the future without consultation with the Scottish Government. My officials are ready to discuss the details of this and other provisions that can provide formal routes to input in line with the organisation ARIA needs to be to succeed.

I am grateful for the continued involvement of the Scottish Government in creating ARIA, and recognise the value of that involvement in ensuring ARIA can benefit Scotland, and the whole UK. Our efforts to engage stakeholders across the UK, including in the critical recruitment process for ARIA's first CEO and Chair, are testament to that. ARIA's organisational structure and objectives are unique, but the right level of oversight from both UK Government and the Devolved Administrations can be achieved through a tailored package of measures. I know our officials will continue to engage closely in the coming weeks, but I am also happy to meet again to discuss what I have set out above.

I am copying this letter to the Secretary of State for Scotland and the Minister of State for the Constitution and Devolution.

Yours ever,

**AMANDA SOLLOWAY MP**

Parliamentary Under Secretary of State - Minister for Science, Research and Innovation