

# **The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Advanced Research and Invention Agency Bill**

December 2021



## 1. Background

1. The Advanced Research and Invention Agency Bill (the Bill) was introduced into the House of Commons and had its first reading on 2 March 2021.<sup>1</sup> It is sponsored by the Department for Business, Energy and Industrial Strategy. The Bill was re-introduced on 12 May 2021 following a carry-over motion.<sup>2</sup>
2. The Bill completed its stages in the House of Commons on 7 June 2021. It had its first reading in the House of Lords on 8 June 2021. Report stage is scheduled for 14 December 2021.

### The Welsh Government's Legislative Consent Memorandum

3. On 9 July 2021, Vaughan Gething MS, Minister for Economy (the Minister), laid before the Senedd a Legislative Consent Memorandum<sup>3</sup> (the Memorandum) in respect of the Bill.
4. We reported on the Memorandum on 21 October 2021.<sup>4</sup>
5. Paragraphs 7 to 29 of that report set out the clauses of the Bill that require the Senedd's consent, and identify where disagreement exists between the Welsh and UK Governments.

### The Welsh Government's Supplementary Legislative Consent Memorandum

6. On 24 November 2021, the Minister laid a Supplementary Legislative Consent Memorandum<sup>5</sup> (Memorandum No. 2) in respect of the Bill.
7. The Business Committee agreed that the Economy, Trade and Rural Affairs Committee, the Children, Young People and Education Committee and the Legislation, Justice and Constitution Committee should report on Memorandum No. 2 by 2 December 2021.<sup>6</sup>

---

<sup>1</sup> [Advanced Research and Invention Agency Bill](#), [HC Bill 264 2019-21]

<sup>2</sup> [Advanced Research and Invention Agency Bill](#), [HC Bill 1 2021-22]

<sup>3</sup> Welsh Government, [Legislative Consent Memorandum, Advanced Research and Invention Agency Bill](#), July 2021

<sup>4</sup> Legislation, Justice and Constitution Committee report, [The Welsh Government's Legislative Consent Memorandum on the Advanced Research and Invention Agency Bill, October 2021](#)

<sup>5</sup> Welsh Government, [Supplementary Legislative Consent Memorandum, Advanced Research and Invention Agency Bill](#), November 2021

<sup>6</sup> Business Committee, [Timetable for consideration of the Supplementary Legislative Consent Memorandum for the Advanced Research and Invention Agency Bill](#), November 2021

---

## **Amendment made to Schedule 3 of the Bill**

---

8. Memorandum No. 2 concerns an amendment to Schedule 3 (Consequential amendments) of the Bill that was proposed in the House of Lords.

9. Memorandum No. 2 notes that the:

*"... amendment removes the amendments that would have treated the Advanced Research and Invention Agency as a reserved matter in relation to Wales and funding provided to it through the Science and Technology Act 1965 as outside the functions of the Welsh Ministers."<sup>7</sup>*

10. Paragraph 10 of Memorandum No. 2 explains:

*"The UK Government has proposed specific amendments to the Bill to remove the amendment to the Government of Wales Act 2006 (GOWA 2006), which would have named ARIA in Schedule 7A, so that it would become a particular authority, the effect of which would be to reserve to the UK Government and UK Parliament ARIA's constitution and funding, and thereby to limit the Welsh Ministers' concurrent power (in relation to Wales) under section 5 of the Science and Technology Act 1965 ("the STA 1965"), in exchange for signature of a Memorandum of Understanding ("the MoU") titled 'Agreement on the Independence of the Advanced Research and Invention Agency (ARIA)'. The MoU is intended to establish the principle that governments of the UK will not interfere in ARIA's activities in their regions, and to provide for some level of oversight by the Devolved Governments' Chief Scientific Advisors (CSAs), although this is not a legally binding document."*

## **The Welsh Government's position**

---

11. The Welsh Government explains its position in paragraphs 17 to 24 of Memorandum No. 2 and, in conclusion, states:

*"It would be appropriate for the Senedd to give its consent for this Bill for two reasons: firstly, amendments to GOWA 2006 will be removed, preserving the current position in relation to bodies reserved under Section C11 of Schedule 7A to that Act – this is a good outcome for devolution for which I have*

---

<sup>7</sup> Welsh Government, Memorandum No. 2, paragraph 12

*fought; secondly, the MoU demonstrates the current intention of the UK Government to allow for at least some level of influence by the other governments in the governance of ARIA.*

*Therefore I recommend the Senedd supports this UK Government amendment to the ARIA Bill and gives consent on the condition that the specific amendment to the Bill in relation to the reservation of powers is made."<sup>8</sup>*

## 2. Committee consideration

**12.** We considered Memorandum No. 2 at our meeting on 29 November<sup>9</sup> and agreed our report on 6 December 2021.

### Our view

**13.** In our report on the Memorandum we expressed concern at the introduction of a new specific reservation to the *Government of Wales Act 2006* restricting the competence of the Senedd to legislate and, in advance of the debate on the relevant consent motion, sought an update from the Minister on discussions with the UK Government on this issue.<sup>10</sup>

**14.** We therefore welcome the removal of the restriction on the Senedd's legislative competence made by an amendment in the House of Lords, such that the Advanced Research and Invention Agency (ARIA) will not be a reserved matter in Wales.

**15.** We note that the Welsh Ministers will exercise functions under section 5 of the *Science and Technology Act 1965* concurrently with the Secretary of State.

**16.** On the matter of concurrent powers, we note the Welsh Government's comments that:

*"It would normally be our view that concurrent functions should be removed at the first opportunity. While this would be desirable, I think it unlikely that the BEIS Secretary of State would agree to the removal of concurrent powers extant from the STA 1965. In our negotiations with the UK Government, I*

---

<sup>8</sup> Welsh Government, Memorandum No. 2, paragraphs 26-27

<sup>9</sup> [Legislation, Justice and Constitution Committee, 29 November 2021](#)

<sup>10</sup> Legislation, Justice and Constitution Committee report, The Welsh Government's Legislative Consent Memorandum on the Advanced Research and Invention Agency Bill, October 2021, paragraph 38, Conclusion 1 and Recommendation 1

---

*considered that a concession on the concurrent functions was acceptable in order to protect the Senedd's competence."*<sup>11</sup>

**17.** We also note that, to secure the removal of the restriction, the intergovernmental negotiations have resulted in the Welsh Government entering into a Memorandum of Understanding with the UK Government regarding ARIA. We note, and draw to the attention of the Senedd, the following paragraphs of Memorandum No. 2:

*"The original request for the involvement of the Welsh, Scottish and Northern Irish governments of the United Kingdom in ARIA has been met partially by the establishment of the MoU which gives some level of involvement in ARIA through the UK Government's CSA. We acknowledge this is weak in relation to our principles but it is a compromise position in order to secure the removal of the amendments to the reservations in GOWA 2006...*

*Although the MoU is not ideal, our overriding constitutional priority and benefit is to ensure that the proposed reservation is removed from the Bill. BEIS made it clear to me that this was contingent on agreeing the MoU. Furthermore, it is highly unlikely that BEIS will have any appetite to address the existing concurrent powers. As my main objective has been secured, I consider the proposal made by BEIS to be the best outcome that could be achieved and is a sensible compromise in the circumstances."*<sup>12</sup>

**Recommendation 1.** We recommend that the Minister publishes the Memorandum of Understanding titled 'Agreement on the Independence of the Advanced Research and Invention Agency' at the earliest opportunity and undertakes to provide regular reports on activity in relation to the Memorandum of Understanding under the Inter-Institutional Relations Agreement between Senedd Cymru and the Welsh Government.<sup>13</sup>

**18.** In our report on the Memorandum, we acknowledged the Welsh Government's position that it would not recommend that the Senedd gives its consent to the Bill. We note that as a result of the amendment tabled by the UK Government, and which is the subject of Memorandum No. 2, the Welsh Government is now recommending that the Senedd gives its consent to the Bill.

---

<sup>11</sup> Welsh Government, Memorandum No. 2, paragraph 19

<sup>12</sup> Welsh Government, Memorandum No. 2, paragraphs 20 and 23

<sup>13</sup> [Inter-Institutional Relations Agreement between Senedd Cymru and the Welsh Government](#), November 2021

---