

Report on the Legislative Consent Memorandum for the Advanced Research and Invention Agency Bill

October 2021

Introduction

1. The Welsh Government laid a [Legislative Consent Memorandum \(LCM\)](#) (PDF 146KB) on the Advanced Research and Invention Agency Bill (the Bill) before the Senedd on 9 July 2021. The Business Committee referred the LCM to the [Economy, Trade and Rural Affairs Committee](#), the [Children, Young People and Education Committee](#), and the [Legislation, Justice and Constitution Committee](#), with a [reporting deadline of 21 October 2021](#). (PDF 42.1KB)

Background

2. The Bill was introduced in the House of Commons on 2 March 2021, it is sponsored by the Department for Business, Energy and Industrial Strategy. The long title to the Bill notes that it is *"to make provision for and in connection with the establishment of the Advanced Research and Invention Agency."*

3. The Bill was made subject to a carry-over motion on 23 March 2021 and consideration by the House of Commons concluded on 7 June 2021. On 8 June 2021 the Bill received its first reading in the House of Lords, with the date for the second reading yet to be confirmed.

4. The UK Government's Explanatory Notes state that the Bill's purpose is:

"to establish the Advanced Research and Invention Agency (ARIA) as a statutory corporation. ARIA is a new type of funding body for conducting,



commissioning and supporting ambitious scientific research with a tolerance to failure."

Overview of the Bill

5. The Bill's **Explanatory Notes** explains that:

As the R&D Roadmap sets out, ARIA will champion bold and transformative R&D which has a high chance of failure but can produce the greatest long-term rewards. ARIA "will back breakthrough technologies and basic research by experimenting with new funding models across long-term time horizons" and "invest in new ideas and empower researchers to deliver radical technological advancements".

6. UK Government contends that to achieve the above, ARIA must be a separate corporate body (thus requiring primary legislation to establish) that sits outside the reserved **United Kingdom Research and Innovation** (UKRI), the main research funding body in the UK that funds research across the UK nations.

7. The establishment of ARIA is set in the context of an **ambitious UK Government aim** to increase public R&D spending to £22 billion by 2024/25, to achieve 2.4% of GDP being invested in R&D each year by 2027.

Research and Innovation in Wales

8. Research and innovation is not reserved, and Welsh Government and UK Government both fund it in parallel. Whilst Welsh Government argues in its LCM that it has the powers to create a body similar to ARIA, no such body exists at the present time.

9. Instead, Welsh Government funding for research is primarily allocated to two bodies:

- the Higher Education Funding Council for Wales (HEFCW), which allocates research and innovation funding to universities in Wales (approximately £85 million for research in 2020/21) and has published its Research and Innovation **Vision for Wales** in May 2019.
- Health Care and Research Wales, which funds and oversees Welsh medical research centres, research units, clinical trials units, infrastructure support groups (some £42 million for research in 2020-21).

10. In addition to this, most Welsh research institutions can also then access funding from UKRI and its constituent Research Councils, primarily through competitive processes. UKRI has a budget of £8 billion for 2021-22, with no theoretical limit to how much of this Welsh institutions

could win (although in practice Wales does not win its population share of UKRI funding (some 5%).

11. The 5th Senedd's Economy, Infrastructure and Skills Committee conducted an inquiry into research and innovation in Wales, recommending in April 2019 that "more should be done to communicate a vision for research and innovation in Wales", and that "Welsh research and innovation needs to be better woven into the fabric of UK level discussions and be more visible." It also said that more funding should be made available to HEFCW to implement the recommendations of Professor Graeme Reid in his review of Welsh Government funded research and innovation. The Reid review argued for Wales to have closer integration with and influence within the UK system.

Provisions for which consent is sought

12. ARIA is intended to be a UK-wide organisation, similar to UK Research and Innovation (UKRI) and its Research Councils. The Bill includes provision to make ARIA's funding powers (for science, research and innovation) a reserved matter by amending paragraph 87 of Section C11 of Schedule 7A of the Government of Wales Act 2006, so that ARIA sits alongside UKRI and the Research Councils.

13. The LCM states that consent of the Senedd is required on the majority of the provisions of the Bill as the Senedd has competence to legislate in the same or similar terms in relation to Wales. The main subject matter of the Bill, research and innovation (the term 'innovation' is used in the Bill as a descriptor along with the term 'invention' but 'innovation' is the more widely accepted term and hence is used here), is a devolved area of the law.

14. In Welsh Government's view, Clauses 1-11 and Schedules 1-3 of the Bill require legislative consent - the LCM sets out its reasoning in each case. The remaining Clauses 12-15 are standard Bill provisions comprising interpretation, short title, commencement and extent. Other than in respect of clause 5, the UK Government and Welsh Government agree that consent of the Senedd is required for the provisions listed in the LCM.

15. In the case of Clause 5 - national security directions - the LCM explains that the Secretary of State (SoS) may give ARIA directions as to the exercise of its functions if the SoS considers it necessary in the interests of national security. ARIA must comply. The UK Government do not consider that clause 5 requires the consent of the Senedd. The UK Government are of the view that the provision relates to national security, which is a reserved matter. Welsh Government says that consent is required, as this provision operates in conjunction with the substantive clauses of the Bill and the Senedd has competence to so direct a body established by the

Senedd in Wales for the same purposes. It states that "This clause is not about national security but the giving of directions."

Reasons for making these provisions for Wales in a UK Bill

16. Paragraph 16 of the LCM sets out the reasons why the Welsh Government thinks it is appropriate for the Bill to contain devolved provision:

"ARIA will be a new body with a UK-wide remit with the potential to fund advanced research and invention across the UK in a competitively awarded manner based on merit. It does not replace or duplicate any existing UK reserved body or any body established in Wales, and it would offer greater opportunity across the UK"

17. However, the statement is caveated with the following:

"the majority of the provisions of the ARIA Bill are within the legislative competence of the Senedd and the Bill does not as presently drafted provide for any influence over ARIA's activities by the devolved governments"

Welsh Government position

18. Welsh Government argues that 'the majority of the provisions of the Bill are within the legislative competence of the Senedd' and that the Bill:

"...seeks to reserve a number of powers to UK Government with respect to research and innovation in Wales and we consider this is unacceptable."

19. For this reason, and because the Bill does not provide for any involvement of the devolved UK nations in the governance of ARIA (when there is such provision within the reserved UKRI) Welsh Government states it cannot recommend the Senedd gives its consent to the Bill. Welsh Government explains in full:

"[we cannot recommend consent] for two reasons: first the reservation of new powers to the UK Parliament with respect to research and innovation is unacceptable; secondly the Bill makes no provision for the involvement of the devolved governments in the governance of ARIA. I have communicated this to the BEIS Minister and as no accommodation of our concerns have been forthcoming to date, I recommend that the Senedd does not give its consent in relation to this Bill in its current form."

20. The Minister for Economy also states in the LCM that:

"Having set the precedent of recognising the need for the board of UKRI to have knowledge of R&I in Wales under devolved arrangements, I do not think it is unreasonable to expect that similar provision should be implemented for ARIA and also given that ARIA provides for the UKG CSA to be a member. I will continue to press the UK Government for such amendments to be brought forward."

Committee View

21. The Committee asks that Welsh Government expands on the reasons given in the LCM as to why it is considered that the consent of the Senedd is required for Clause 5 of the Bill - national security directions.

22. The Committee reiterates the view, expressed by the Fifth Senedd's Economy, Infrastructure and Skills Committee, that representation of devolved administrations and of Wales on the board of a new Research and Invention Agency body is something it supports.

23. In advance of the information requested above being provided, the Committee is not in a position to make a recommendation as to whether or not the Senedd should agree to a Legislative Consent Motion associated with this Memorandum.