

ADVANCED RESEARCH AND INVENTION AGENCY BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

- These Explanatory Notes relate to the Lords Amendments to the Advanced Research and Invention Agency Bill (Bill 224) as brought from the House of Lords on 11th January 2022
- These Explanatory Notes have been prepared by the Department for Business, Energy & Industrial Strategy in order to assist the reader of the Bill. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 24, the Bill as first printed for the introduction in the Lords
- These Explanatory Notes might best be read alongside the Lords Amendments and the text of the Bill. They are not, and are not intended to be, a comprehensive description of the Lords Amendments
- Lords amendments 2 to 8 and 10 to 15 were tabled in the name of the Minister.
- Lords amendment 1 was tabled by Lord Browne of Ladyton and was opposed by the Government.
- Lords amendment 9 was tabled by Baroness Noakes and supported by the Government.
- In the following Commentary, an asterisk(*) appears in the heading of any paragraph that deals with a non-Government amendment

Commentary on Lords Amendments

Lords Amendment to Clause 2: ARIA's functions

Lords Amendment 1*

- 1 Lords Amendment 1 would add to the list of conditions that ARIA may attach to its financial support contained in clause 2(4), which particularises ARIA's general power to do so contained in clause 2(3).
- 2 It would explicitly include reference to ARIA's ability to attach conditions whereby financial support provided by ARIA may be treated as convertible to equity interest in the business entity. It would also add explicit reference to conditions whereby ARIA could require a business entity receiving financial support to obtain ARIA's consent in advance of transferring IP rights from the UK to any territory outside the UK, or selling or transferring a controlling interest to an entity not resident in the UK, for a period of ten years.

Lords Amendments to Clause 8: Power to dissolve ARIA

Lords Amendment 2

- 3 Lords Amendment 2 would remove the power to treat legislative references to ARIA as references to another body, as part of the orderly winding up of ARIA in the event of its dissolution. This power would be unnecessary as a result of the power to modify, amend, repeal or revoke such references introduced by Lords amendment 3.

Lords Amendment 3

- 4 Lords Amendment 3 would extend the power to make regulations dissolving ARIA under Clause 8 to making consequential amendments of primary legislation. This new power would replace the power removed by Lords Amendment 4 to amend primary legislation in consequence of any provision of the Bill or regulations made under Clause 8. As regulations cannot be made under Clause 8 for a period of ten years after the Act is passed, the new power introduced by Lords Amendment 3 is also extended to allow amendments of legislation whenever passed or made.

Lords Amendment to Clause 10: Power to make consequential provision

Lords Amendment 4

- 5 Lords Amendment 4 would omit the power to amend primary legislation in consequence of any provision of the Bill. The power to amend primary legislation in consequence of regulations made under clause 8 would be retained and included in clause 8 by Lords Amendment 3.

Lords Amendments to Clause 11: Regulations

Lords Amendment 5

- 6 Lords Amendment 5 is consequential to Lords amendment 4. It would correct the provisions on the procedure to be followed for regulations made under the Bill by reflecting the removal of the power omitted by Lords Amendment 4.

Lords Amendment 6

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- 7 Lords Amendment 6 is consequential to Lords amendment 4. It would correct the provisions on the procedure to be followed for regulations made under the Bill by removing a reference to the power omitted by Lords Amendment 4.

Lords Amendment to Clause 12: Interpretation

Lords Amendment 7

- 8 Lords amendment 7 would omit the definition of “primary legislation” in clause 12. The definition would instead be included in clause 8 by Lords Amendment 3.

Lords Amendment to Clause 14: Commencement

Lords Amendment 8

- 9 Lords Amendment 8 would update the numbering of the sections of the Bill contained in the provisions on commencement, to reflect the omission of clause 10 containing the power to make consequential provision by Lords Amendment 4.

Lords Amendments to Schedule 1: The Advanced Research and Invention Agency

Lords Amendment 9*

- 10 Lords Amendment 9 would remove the requirement for ARIA to pay pensions or gratuities for non-executive members determined by the Secretary of State.

Lords Amendment 10

- 11 Lords Amendment 10 is consequential to Lords Amendment 9, and would remove the reference in Schedule 1, sub-paragraph 7(4) to the requirement for ARIA to pay pensions or gratuities for non-executive members determined by the Secretary of State. This reference would be left hanging as a result of the removal of the power through Lords amendment 9.

Lords Amendments to Schedule 3: Consequential amendments

Lords Amendment 11

- 12 Lords Amendment 11 would omit the amendments made in Schedule 3 to the Bill that would have treated the Advanced Research and Invention Agency as a reserved matter in relation to Scotland and Northern Ireland and funding provided to it through the Science and Technology Act 1965 as a reserved matter in Scotland.

Lords Amendment 12

- 13 Lords Amendment 12 would provide for the Advanced Research and Invention Agency to be a public authority for the purposes of Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (workers’ services provided through intermediaries to public authorities or medium or large clients). As ARIA is not a public authority for the purposes of the Freedom of Information Act 2000, it would not otherwise be treated as a public authority for the purposes of the Income Tax (Earnings and Pensions) Act 2003.

Lords Amendment 13

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- 14 Lords Amendment 13 would omit the amendments in Schedule 3 to the Bill 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.

Lords Amendment 14

- 15 Lords Amendment 14 would insert in Schedule 3 to the Bill amendments of the Small Business, Enterprise and Employment Act 2015, the Enterprise Act 2016, the Data Protection Act 2018 and the Social Security Contributions (Intermediaries) Regulations to treat the Advanced Research and Invention Agency in the same way as a body that is a public authority for the purposes of the Freedom of Information Act 2000.

Lords Amendment 15

- 16 Lords Amendment 15 would amend the UK GDPR to insert reference to section 21(8) of the Data Protection Act 2018, which would be introduced by Lords Amendment 14.

Financial Effects of Lords Amendments

- 17 Lords Amendment 12 would apply Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 to a new category of body. It would create different tax obligations to those that would exist if the amendment were not made and therefore constitutes a change or extension in incidence of the tax burden, for which a ways and means resolution is required.

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