

Advanced Research and Invention Agency Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Business, Energy & Industrial Strategy, are published separately as Bill 1–EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Kwasi Kwarteng has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Advanced Research and Invention Agency Bill are compatible with the Convention rights.

Advanced Research and Invention Agency Bill

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A

B I L L

[AS INTRODUCED]

TO

Make provision for and in connection with the establishment of the Advanced Research and Invention Agency.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Advanced Research and Invention Agency

1 Establishment of ARIA

- (1) A body corporate called the Advanced Research and Invention Agency is established.
- (2) In this Act that body is referred to as “ARIA”.
- (3) Schedule 1 contains further provision about ARIA.

5

2 ARIA's functions

- (1) ARIA may do, or commission or support others to do, any of the following—
 - (a) conduct scientific research;
 - (b) develop and exploit scientific knowledge; 5
 - (c) collect, share, publish and advance scientific knowledge.

- (2) In exercising its function of supporting others, ARIA may, in particular—
 - (a) encourage, facilitate and provide advice; 10
 - (b) provide financial support by way of grants, loans, investments in companies or other entities, or in any other form (including prizes);
 - (c) make available rights or other property (including by way of loan, licence or gift or other transfer). 15

- (3) Where ARIA provides financial support, or makes property available, it may do so subject to conditions.

- (4) The conditions may, in particular, include provision under which—
 - (a) financial support is to be repaid or otherwise made good (with or without payment of interest);
 - (b) property is to be restored; 25
 - (c) information is to be provided to ARIA for the purpose of the exercise of any of its functions.

(5) The activities which ARIA may do, commission or support in exercising a function are not restricted to activities in the United Kingdom.

(6) In exercising its functions, ARIA must have regard to the desirability of doing so for the benefit of the United Kingdom, through—

(a) contributing to economic growth, or an economic benefit, in the United Kingdom,

(b) promoting scientific innovation and invention in the United Kingdom, or

(c) improving the quality of life in the United Kingdom (or in the United Kingdom and elsewhere).

3 Ambitious research, development and exploitation: tolerance to failure

In exercising any of its functions under this Act, 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.

4 Grants to ARIA from the Secretary of State

(1) The Secretary of State may make grants to ARIA.

(2) Grants under subsection (1) may be subject to conditions.

(3) The conditions may, in particular, include provision under which sums paid by the Secretary of State under subsection (1) are to be repaid (with or

without payment of interest).

5 National security directions

- (1) The Secretary of State may give ARIA directions as to the exercise of its functions if the Secretary of State considers it necessary or expedient in the interests of national security. 5
- (2) The power to give directions under this section includes power to vary or revoke a direction.
- (3) ARIA must comply with a direction given under this section. 10

6 Information

- (1) ARIA must provide the Secretary of State with such information as the Secretary of State may request for the purposes of or in connection with the Secretary of State's functions in relation to ARIA. This is subject to subsections (4) and (5). 15
- (2) Information provided under subsection (1) must be provided in such form as the Secretary of State may request. 20
- (3) A disclosure of information required under this section does not breach—
 - (a) any obligation of confidence owed by ARIA, or
 - (b) any other restriction on the disclosure of information (however imposed). 25
- (4) This section does not require a disclosure of information if the disclosure would contravene the data protection legislation.

In determining whether a disclosure would do so, the duty imposed by this section is to be taken into account.

- (5) This section does not require the disclosure of anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings. 5
- (6) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act). 10

7 Transfer schemes

Schedule 2 contains provision about schemes for the transfer of staff and property, rights and liabilities to ARIA. 15

8 Power to dissolve ARIA

- (1) The Secretary of State may by regulations make provision for the dissolution of ARIA.
- (2) Regulations may not be made under this section within ten years after the date on which this Act is passed. 20
- (3) Before making regulations under this section, the Secretary of State must consult—
 - (a) ARIA, and
 - (b) such other persons as the Secretary of State considers appropriate. 25
- (4) Regulations under this section may, in particular—

- (a) provide for the transfer of property, rights or liabilities of ARIA to the Secretary of State or any other person;
 - (b) create or extinguish rights, or impose or extinguish liabilities, in connection with provision made under paragraph (a); 5
 - (c) make provision about the continuing effect of things done by ARIA;
 - (d) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of, or in relation to, ARIA when a transfer takes effect; 10
 - (e) provide for references to ARIA in any provision of, or made under, primary legislation or retained direct EU legislation, or in any other instrument or document to be treated as references to another person; 15
 - (f) make provision about the payment by the Secretary of State or ARIA of compensation to any person who suffers loss or damage as a result of the dissolution. 20
- (5) The property, rights or liabilities mentioned in subsection (4)(a) include—
- (a) property, rights or liabilities that could not otherwise be transferred; 25
 - (b) property acquired, and rights and liabilities arising, after a transfer;
 - (c) criminal liabilities.
- (6) Regulations under this section— 30

- (a) may transfer rights and liabilities relating to employees, but
- (b) may not affect the operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

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Consequential amendments

9 Consequential amendments

Schedule 3 contains consequential amendments.

10 Power to make consequential provision

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(1) The Secretary of State may by regulations make such modifications of any relevant provision as the Secretary of State considers to be appropriate in consequence of—

- (a) any provision of this Act, or
- (b) regulations under section 8.

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(2) In this section—

“modification” includes amendment, repeal or revocation;

“relevant provision” means any provision of, or made under—

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- (a) primary legislation passed before the end of the Session in which this Act is passed, or

- (b) retained direct EU legislation.

25

General

11 Regulations

- (1) A power to make regulations under this Act includes power to make—
 - (a) transitional or saving provision; 5
 - (b) different provision for different purposes.
- (2) A power to make regulations under section 8 or paragraph 11 or 18(2) of Schedule 1 includes power to make consequential, supplementary or incidental provision. 10
- (3) Regulations under this Act are to be made by statutory instrument.
- (4) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament— 15
 - (a) regulations under section 8;
 - (b) regulations under section 10 that amend, repeal or revoke any provision of primary legislation or retained direct principal EU legislation. 20
- (5) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament. 25
- (6) This section does not apply to regulations under section 14.

12 Interpretation

(1) In this Act—

“functions” includes powers and duties;

“primary legislation” means—

(a) an Act (including this Act);

(b) an Act of the Scottish Parliament;

(c) an Act or Measure of Senedd Cymru;

(d) Northern Ireland legislation;

“scientific knowledge” means knowledge in, or in connection with, any of the sciences (including the social sciences) or technology, and includes the results of scientific research;

“scientific research” means research and development in any of the sciences (including the social sciences) or in technology.

(2) In this Act, references to the transfer of property include references to the grant of a lease.

13 Extent

(1) This Act extends to England and Wales, Scotland and Northern Ireland.

(2) Any amendment made by this Act has the same extent as the provision amended.

14 Commencement

(1) Subject to subsection (2), the provisions of this Act come into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint.

- (2) The following provisions come into force on the day on which this Act is passed—
 - (a) paragraph 11 of Schedule 1 and section 1(2) and (3) so far as relating to it;
 - (b) sections 10 to 13; 5
 - (c) this section;
 - (d) section 15.
- (3) The Secretary of State may by regulations made by statutory instrument make transitional or saving provision in connection with the coming into force of any provision of this Act. 10

15 Short title

This Act may be cited as the Advanced Research and Invention Agency Act 2021.

SCHEDULES

SCHEDULE 1

Section 1

THE ADVANCED RESEARCH AND INVENTION AGENCY

Status

- 1(1) ARIA is not to be regarded— 5
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) ARIA's property is not to be regarded— 10
- (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Membership

- 2(1) ARIA is to consist of— 15
- (a) executive members, and
 - (b) non-executive members.
- (2) The executive members are— 20
- (a) the Chief Executive Officer,
 - (b) the Chief Finance Officer, and
 - (c) at least two and not more than five other members.
- (3) The non-executive members are— 25
- (a) a chair appointed by the Secretary of State,
 - (b) the Government Chief Scientific Adviser, and
 - (c) such other members as the Secretary of State may appoint.

- (4) The Secretary of State must exercise the power in sub-paragraph (3)(c) so as to secure that the majority of members are non-executive members.

Executive members: appointment and status 5

3(1) The first Chief Executive Officer is to be appointed by the Secretary of State.

- (2) Subject to sub-paragraph (1), the executive members are to be appointed by the chair after consulting the other non-executive members. 10

(3) But the chair may not appoint an executive member without the consent of the Secretary of State.

- (4) The Secretary of State may refuse consent under sub-paragraph (3) only where the Secretary of State considers it necessary or expedient in the interests of national security. 15

(5) The executive members are to be members of ARIA's staff. 20

Executive members: term

4(1) Any appointment of a Chief Executive Officer must be for a fixed term of not more than five years. 25

- (2) A person cannot be appointed as the Chief Executive Officer more than twice.

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5(1) An executive member—

- (a) ceases to be a member of ARIA upon ceasing to be a member of ARIA's staff, and
- (b) may resign from office by notifying the chair. 5

(2) The Secretary of State may remove a person from office as an executive member if the Secretary of State considers it necessary or expedient in the interests of national security. 10

Non-executive members: tenure

6(1) Subject to the provisions of this Schedule, a person holds and vacates office as a non-executive member of ARIA in accordance with that person's terms of appointment. 15

(2) A person may resign from office as a non-executive member by notifying the Secretary of State. 20

(3) The Secretary of State may remove a person from office as a non-executive member on any of the following grounds—

- (a) absence from ARIA's meetings for a continuous period of more than six months without ARIA's permission, 25
- (b) inability or unfitness to carry out the functions of the office, or

- (c) such other grounds as the Secretary of State considers appropriate.
- (4) A person ceases to be a non-executive member of ARIA upon becoming a member of ARIA's staff. 5
- (5) Nothing in this paragraph applies to the Government Chief Scientific Adviser.

Payment of non-executive members

- 7(1) ARIA must pay its non-executive members such remuneration as the Secretary of State may determine. 10
- (2) ARIA must pay, or make provision for paying, to or in respect of a person who is or has been a non-executive member of ARIA, such sums as the Secretary of State may determine in respect of— 15
 - (a) pensions or gratuities;
 - (b) allowances or expenses.
- (3) Where a person ceases to be a non-executive member of ARIA, ARIA must pay the person compensation of such amount as the Secretary of State may determine if the Secretary of State determines that the person should be compensated because of special circumstances. 20 25

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- (4) Sub-paragraphs (1) and (2)(a) do not apply to the Government Chief Scientific Adviser.

Staffing

- 8(1) Subject to paragraph 3, ARIA may— 5
 (a) appoint employees, and
 (b) make such other arrangements for the staffing of ARIA as it considers appropriate, including arrangements for persons to be seconded to ARIA. 10
- (2) The terms on which executive members are, by virtue of paragraph 3, to become, or continue to be— 15
 (a) employees of ARIA, or
 (b) persons seconded to ARIA under sub-paragraph (1)(b),
are to be determined in accordance with this paragraph.
- (3) The terms of employment of other employees are to be determined in accordance with this paragraph. 20
- (4) ARIA must pay its employees such remuneration as may be determined in accordance with this paragraph.
- (5) ARIA must pay, or make provision for paying,— 25
 (a) to or in respect of an executive member of ARIA, such sums in

- respect of pensions or gratuities relating to service as an executive member as may be determined in accordance with this paragraph, and
- (b) to or in respect of a person who is a member of ARIA's staff, such sums in respect of allowances or expenses as may be determined in accordance with this paragraph. 5
- (6) ARIA may pay, or make provision for paying,— 10
- (a) to or in respect of an employee of ARIA, such sums in respect of pensions or gratuities, other than those mentioned in sub-paragraph (5)(a), as may be determined in accordance with this paragraph, and 15
- (b) to or in respect of a person who has been an employee of ARIA, such sums in respect of allowances or expenses as may be determined in accordance with this paragraph. 20
- (7) A matter is determined in accordance with this paragraph if—
- (a) in the case of a matter which relates to the first Chief Executive Officer, it is determined by the Secretary of State; 25
- (b) in the case of a matter which relates to any other executive member, it is determined by the chair with the 30

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consent of the Secretary of State,
after consulting the other non-
executive members;

- (c) in the case of a matter which relates
to any other member of ARIA's staff, it
is determined by ARIA with the
consent of the Secretary of State.

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Committees and sub-committees

9(1) ARIA may establish committees.

- (2) A committee established by ARIA may
establish sub-committees.

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- (3) A committee or sub-committee may
consist of or include persons who are
neither members of ARIA nor members of
ARIA's staff.

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- (4) ARIA may pay such allowances and
expenses as ARIA may determine with
the consent of the Secretary of State to
any person who—

- (a) is a member of a committee or sub-
committee, but

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- (b) is not a member of ARIA or a member
of ARIA's staff.

Procedure

10(1) ARIA may determine its own procedure
and the procedure of any committee or
sub-committee.

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(2) The quorum for a meeting of ARIA is half the number of its members.

11 The Secretary of State may by regulations make provision about the procedures to be adopted for dealing with conflicts of interest of members of ARIA or members of a committee or sub-committee. 5

12 The validity of proceedings of ARIA, or a committee or sub-committee of ARIA, is not affected by a vacancy or defective appointment. 10

Delegation of functions by ARIA

13(1) ARIA may delegate any of its functions to—
(a) a member of ARIA, 15
(b) a member of ARIA's staff authorised for that purpose, or
(c) a committee or sub-committee.

(2) A function is delegated under this paragraph to the extent and on the terms that ARIA determines. 20

Accounts and audit

14(1) ARIA must—
(a) keep proper accounts and proper records in relation to them, and 25
(b) prepare a statement of accounts in respect of each financial year.

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- (2) Each statement of accounts must comply with any directions given by the Secretary of State as to—
 - (a) its content and form;
 - (b) the methods and principles to be applied in preparing it. 5

- (3) ARIA must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as practicable after the end of the financial year to which the statement relates. 10

- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts, and 15
 - (b) send a copy of each report and certified statement to the Secretary of State.

- (5) The Secretary of State must lay before Parliament a copy of each such report and certified statement. 20

Annual report

- 15(1) ARIA must prepare a report on the exercise of its functions during each financial year. 25

- (2) The report relating to a financial year must be prepared as soon as practicable after the end of the financial year.
- (3) ARIA must send the report to the Secretary of State. 5
- (4) The Secretary of State must lay the report before Parliament.

Seal and evidence

- 16(1) The application of ARIA's seal must be authenticated by the signature of— 10
 - (a) a member of ARIA, or
 - (b) another person authorised for that purpose by ARIA.
- (2) A document purporting to be duly executed under ARIA's seal or signed on its behalf— 15
 - (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.
- (3) But this paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland. 20

Supplementary powers

- 17(1) ARIA may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions. 25
- (2) In particular, ARIA may—
 - (a) borrow money,

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- (b) acquire and dispose of land,
- (c) accept gifts,
- (d) form and participate in partnerships and joint ventures, and
- (e) form companies. 5

Interpretation

18(1) In this Schedule—

- (a) references to the Government Chief Scientific Adviser include a person for the time being acting as such; 10
- (b) references to members of ARIA’s staff are to persons who—
 - (i) are employees of ARIA, or
 - (ii) have been seconded to it under paragraph 8(1)(b). 15
- (2) The Secretary of State may by regulations provide that references in this Schedule to the Government Chief Scientific Adviser are references to the person for the time being appointed to, or acting in, another office that is specified in the regulations. 20
- (3) The Secretary of State may by regulations make such amendments of this Schedule (including of sub-paragraph (2)) as appear to the Secretary of State to be appropriate in consequence of the exercise of the power under sub-paragraph (2). 25
- (4) In this Schedule, “financial year” means—

- (a) the period beginning with the date on which ARIA is established and ending with the second 31 March following that date, and
- (b) each successive period of 12 months.

SCHEDULE 2 Section 7 5

TRANSFER SCHEMES

Transfer schemes

- 1(1) The Secretary of State may make one or more property transfer schemes or staff transfer schemes. 10
- (2) A “property transfer scheme” is a scheme for the transfer to ARIA from a permitted transferor of any property, rights or liabilities, other than rights or liabilities under or in connection with a contract of employment. 15
- (3) A “staff transfer scheme” is a scheme for the transfer to ARIA from a permitted transferor of any rights or liabilities under or in connection with a contract of employment.
- (4) In this Schedule, a “permitted transferor” means the Secretary of State or United Kingdom Research and Innovation. 20

Supplementary

- 2(1) The things that may be transferred under a property transfer scheme or a staff transfer scheme include— 25

- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities. 5
- (2) A property transfer scheme or a staff transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred; 10
 - (b) make provision about the continuing effect of things done by the permitted transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of, or in relation to, the permitted transferor in respect of anything transferred; 15
 - (d) make provision for references to the permitted transferor in an instrument or other document in respect of anything transferred to be treated as references to ARIA. 20
- (3) A property transfer scheme may make provision for the shared ownership or use of property. 25
- (4) A staff transfer scheme may make provision which is the same as or similar to the TUPE regulations.

Interpretation

- 3(1) For the purposes of this Schedule—
- (a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual’s employment in the civil service are to be regarded as constituting the terms of the contract of employment.
- (2) In this Schedule—
- (a) “civil service” means civil service of the State;
 - (b) “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

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SCHEDULE 3

Section 9

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CONSEQUENTIAL AMENDMENTS

Public Records Act 1958

- 1 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert—
- “Advanced Research and Invention Agency.”

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Parliamentary Commissioner Act 1967

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert—
- “Advanced Research and Invention Agency.”

25

House of Commons Disqualification Act 1975

3 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—

“The Advanced Research and Invention Agency.”

5

Northern Ireland Assembly Disqualification Act 1975

4 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—

“The Advanced Research and Invention Agency.”

10

Scotland Act 1998

5(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.”

15

20

(4) In the entry beginning “The subject-matter of section 5”, after “Innovation” insert “, the Advanced Research and Invention Agency”.

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Northern Ireland Act 1998

- 6 In Schedule 3 to the Northern Ireland Act 1998 (reserved matters), after paragraph 35A insert—
“35B The Advanced Research and Invention Agency.”

5

Government of Wales Act 2006

- 7 The Government of Wales Act 2006 is amended as follows.

- 8(1) Schedule 3A (functions exercisable concurrently or jointly with the Welsh Ministers) is amended as follows.

10

- (2) In the Table in paragraph 1(2), in the entry relating to the Science and Technology Act 1965, in the column headed “Functions”, after “Innovation” insert “, the Advanced Research and Invention Agency”.

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- 9(1) In Part 2 of Schedule 7A (specific reservations), Section C11 (United Kingdom Research and Innovation and Research Councils) is amended as follows.

20

- (2) In the heading, after “Innovation” insert “, the Advanced Research and Invention Agency”.

- (3) In paragraph 87—

- (a) after “(“UKRI”),” insert “the Advanced Research and Invention Agency (“ARIA”), and

25

- (b) after “UKRI” (in the second place it occurs) insert “, ARIA”.

Equality Act 2010

- 10 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Industry, business, finance etc.”, at the appropriate place insert— 5
- “The Advanced Research and Invention Agency.”

Public Contracts Regulations

- 11(1) In regulation 2(1) of the Public Contracts Regulations 2015 (S.I. 2015/102), in the definition of “contracting authorities”, at the end insert “or the Advanced Research and Invention Agency”. 10
- (2) In regulation 2(1) of the Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446), in the definition of a “contracting authority”, at the end insert “, but does not include the Advanced Research and Invention Agency”. 15

Advanced Research and Invention Agency Bill

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B I L L

[AS INTRODUCED]

To make provision for and in connection with the establishment of the Advanced Research and Invention Agency.

*Presented by Secretary
Kwasi Kwarteng
supported by
The Prime Minister,
The Chancellor of the
Exchequer,
Secretary Matt Hancock,
Secretary Oliver*

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