

ADVANCED RESEARCH AND INVENTION AGENCY BILL

Supplementary Memorandum from the Department for Business, Energy and Industrial Strategy to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. The Government has tabled amendments to the Advanced Research and Invention Agency Bill (“the Bill”) for Lords Committee stage. It will also oppose that Clause 10 stand part of the Bill. No new delegated powers are proposed and powers already in the Bill will be curtailed. This supplementary memorandum explains the purpose of these amendments and their impact on the relevant delegated powers (together with the impact of the omission of Clause 10) and has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Bill. This memorandum is intended to be read with the original delegated powers memorandum which identifies the provisions of the Bill that confer delegated powers and explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. DELEGATED POWER AMENDED

Clause 8 (dissolution of ARIA)

Power conferred on: Secretary of State

Power exercisable by: Regulations made by statutory instrument

Parliamentary procedure: Affirmative

Context and purpose of amendment

2. The Government will oppose clause 10 standing as part of the Bill. The effect of this will be that the general power to make consequential amendments will be omitted with specific consequential amendments being made in Schedule 3 to the Bill. Clause 8 will be amended so as to allow consequential amendments to be made to legislation in consequence of the exercise of the power to dissolve ARIA conferred by Clause 8. This power will allow consequential amendments to be made to legislation whenever passed including legislation passed after the current session of Parliament

3. Clause 8 after amendment will read (new text underlined),

“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.

(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.

(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);
- (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;
- (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;
- (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.

(5) The property, rights or liabilities mentioned in subsection (4)(a) include—

- (a) property, rights or liabilities that could not otherwise be transferred;
- (b) property acquired, and rights and liabilities arising, after a transfer;
- (c) criminal liabilities.

(6) Regulations under this section—

- (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).

(7) Consequential provision made under this section by virtue of section 11(2) may modify any provision, whenever passed or made, of, or made under—

- (a) primary legislation, or
- (b) retained direct EU legislation.

(8) In subsection (7)—

“modify” includes amend, repeal or revoke;

“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.”

4. Clause 11 is consequentially amended and, marked to show the effect of the Government amendments (omitted text being underlined and omitted text struck through), reads as follows

“11 Regulations

(1) A power to make regulations under this Act includes power to make—

- (a) transitional or saving provision;
- (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.

(3) Regulations under this Act are to be made by statutory instrument.

(4) A statutory instrument containing ~~any of the following~~ regulations under section 8 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament—

~~(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.~~

(5) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) This section does not apply to regulations under section 14.”

5. In Clause 12 the definition of primary legislation will be omitted as this is now included in subsection (8) of Clause 8.

Justification

6. Policy work has now been completed on the Regulations that would have been needed under clause 10 and is now reflected in the amendments that will be made to Schedule 3. In consequence the need for consequential amendments is limited to the exercise under Clause 8 of the power to dissolve ARIA. Given that at least ten years of legislation will be passed or made before ARIA can be dissolved, it makes sense for the power to make consequential provision in Clause 8 to apply to legislation whenever passed so that subsequent references to ARIA that are redundant can be removed thereby keeping the statute book up to date. The power to dissolve ARIA is a power that can only be exercised once, and so it is only possible for consequential amendments to be made on one occasion.

Impact on procedure

7. The amendment has no impact on the Parliamentary procedure provided for.

Department for Business, Energy and Industrial Strategy

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