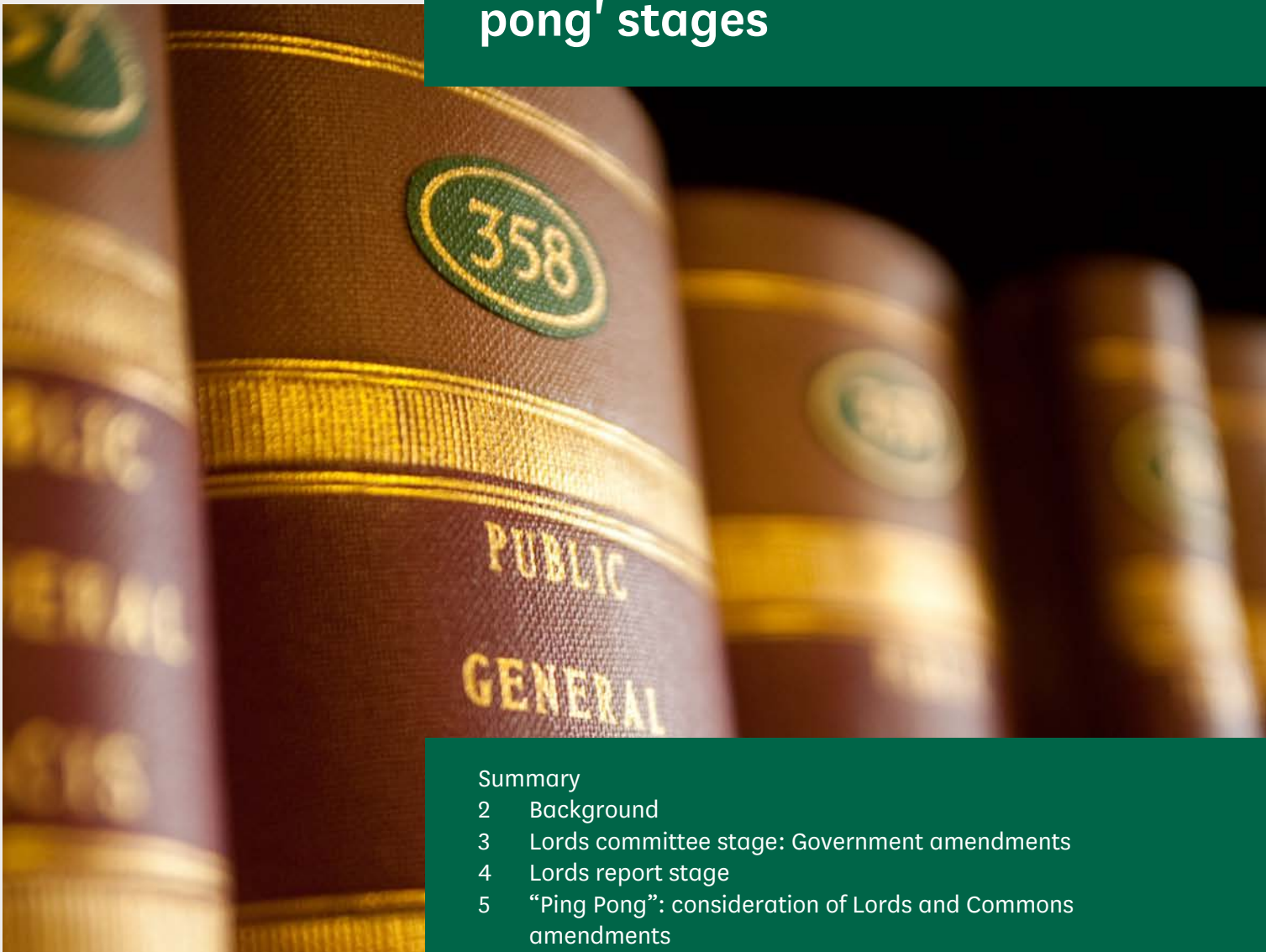


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1 March 2022

Advanced Research and Invention Agency Bill 2021-22: Lords amendments and 'ping- pong' stages



Summary

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Summary

1.1 What does the Bill aim to do?

The Bill seeks to establish a new research funding agency aimed at providing long-term support for “high-risk, high-pay off” “blue-skies research”.¹

In the [March 2020 Budget](#), the Chancellor announced that the UK Government would invest “at least £800 million” in this new agency as part of the Government’s wider commitment to increase public research and development (R&D) funding to £22bn by 2024/25 and increase overall UK spending on R&D to 2.4% of GDP by 2027.

As introduced, the Bill does several things:

- First, it establishes the Advanced Research and Invention Agency (ARIA) as a statutory corporation.
- Second, it sets out ARIA’s functions. These focus on conducting “ambitious” scientific research, while accepting the risks of project failure, and on developing, exploiting and sharing scientific knowledge, such as translating basic scientific research into more commercial technologies.
- Third, the Bill enables the Secretary of State to make grants to ARIA and provide it with funding.

1.2 Progress of the Bill through the House of Commons and House of Lords

Commons

The [Advanced Research and Invention Agency \(ARIA\) Bill, 2019-21 and 2021-22 \[Bill 264\]](#), was introduced in the Commons on 2 March 2021 and had its second reading on 23 March 2021 where it passed without a vote.

The committee stage ran from 14 to 22 April 2021, across six sittings. None of the 25 Opposition amendments moved during this stage were successful. The report stage and third reading of the Bill took place on 7 June 2021, in the new (2021-22) parliamentary session. Three amendments were moved to a vote,

¹ The term ‘blue-skies research’ has been used to refer to research endeavours that do not always have an obvious and immediate ‘real world’ application.

all were defeated, and the Bill was reported without amendment. The Bill was read for a third time on the same day and passed without a vote.

Lords

The Bill had its second reading in the House of Lords on 2 November 2021 and passed without a vote. The Lords committee stage had two sittings on the 17 and 22 November 2021, and the Lords report stage was held on 14 December 2021. Two non-Government amendments were pushed to a vote; one was agreed while the other was defeated. The third reading took place on 10 January 2022, and it passed without a vote.

The Commons considered the Lords amendments on 31 January 2022 and the Bill returned to the House of Lords for consideration of Commons amendments on 9 February 2022.

Full background on the Bill and an overview of its progress through the Commons can be found in the Commons Library briefing on the [Advanced Research and Invention Agency Bill 2019-21 and 2021-22](#).

1.3 Lords committee stage

In the two House of Lords committee stage sittings, no amendments were pushed to a vote and no non-Government amendments were added to the Bill. Two Government amendments were in response to the [Lords Delegated Powers and Regulatory Reform Committee's](#) report on the Bill. Clause 10 (Power to make consequential provision) was removed from the Bill, on the grounds that it was too broad. Instead, a narrower provision was introduced as part of Clause 8 (Power to dissolve ARIA).

Due to the amendments, consequential amendments could now only be made that related to regulations made under Clause 8, rather than any provision of the Bill (as initially permitted under Clause 10).

1.4 Lords report stage and third reading

At the report stage, two non-Government amendments were pushed to a vote. Amendment 1 to Clause 2 aimed to give ARIA a financial stake in the businesses that it funds, together with a 10-year veto on both foreign acquisitions of the funded business or selling the businesses' intellectual property abroad. Amendment 1 was agreed on a vote (166 Content, 153 Not Content).

Amendment 6 to Clause 2 would subject ARIA to Freedom of Information requests. It was defeated by 126 Content votes to 134 Not Content.

A non-Government amendment seeking to remove a power in the Bill to pay pensions and gratuities to non-executive ARIA members was agreed without a vote.

The Bill was read for the third time on 10 January 2022 and passed following a minor, technical amendment by the Government.

Lords amendments to the ARIA Bill, for consideration by the Commons, are available at: [HCB 224 without endorsement .fm \(parliament.uk\)](https://hcb224.withoutendorsement.fm/parliament.uk) (opens PDF).

1.5

‘Ping-Pong’: Consideration of Lords and Commons amendments

The term “ping-pong” refers to the to and fro of amendments to Bills between the House of Commons and the House of Lords.

On 31 January 2022, the [House of Commons considered amendments](#) made in the House of Lords. The Government amendments made in the House of Lords, during the committee stage, were all agreed without a division (vote). The non-Government amendment, to remove a power to pay pensions and gratuities to non-executive ARIA members, made during the Lords report stage, was also supported by the Government and agreed without a division. Lords amendment 1 (giving ARIA a financial stake in the businesses that it funds) was disagreed following a division (Ayes 304, Noes 208).

The Bill [returned to the House of Lords](#) for consideration of Commons amendments on 9 February 2022. The Lords agreed to the Commons rejection of Amendment 1.

The Bill received Royal Assent on 24 February 2022, meaning it is now an Act of Parliament, the Advanced Research and Invention Agency Act 2022

2

Background

The [Advanced Research and Invention Agency Bill 2019-21](#) and 2021-22 [Bill 264] was announced in the Queen's Speeches in October and December 2019 and had its first reading on 2 March 2021.

The Bill, as introduced, does several things:

- First, it establishes the Advanced Research and Invention Agency (ARIA) – a new type of funding body supporting “high-risk, high-pay off research” – as a statutory corporation
- Second, it sets out ARIA's functions. These are focused on both conducting “ambitious” scientific research with a tolerance to failure, and on developing, exploiting and sharing scientific knowledge, such as translating basic scientific research into more commercial technologies;
- Third, the Bill enables the Secretary of State to make grants to ARIA and provide it with funding. It is anticipated that the Agency will be fully operational by 2022.²

Several Government documents were published alongside the Bill:

- [Explanatory notes](#)
- [Delegated powers memorandum](#)
- [Press release](#)
- [Advanced Research and Invention Agency \(ARIA\): policy statement](#)

Full background on the Bill and an overview of its progress through the Commons can be found in the Commons Library briefing on the [Advanced Research and Invention Agency Bill 2019-21 and 2021-22](#).

The Bill had its Second Reading in the Commons on 23 March 2021 where it passed without division. The committee stage ran from 14 to 22 April 2021, across six sittings. None of the 25 Opposition amendments moved during the committee stage were successful. The report stage and Third Reading of the Bill took place on 7 June 2021, in the new (2021-22) Parliamentary session. Three amendments were moved to a division. Each was defeated and the Bill was reported without amendment. The Bill was read for a third time on the same day and passed without division.

² Practical Law Life Sciences, [Advanced Research and Invention Agency Bill introduced to UK Parliament](#), 3 March 2021

3

Lords committee stage: Government amendments

Following its stages in the Commons, the Bill proceeded to the House of Lords where it was reprinted as [HL Bill 24](#) 2021-22. The Second Reading in the Lords took place on 2 November 2021, which it passed without division. The Bill then proceeded to its committee stage, where it was considered over the course of two sittings; one on the [17 November](#) and a second on [22 November 2021](#).

In all the Committee sittings there were no amendments that were pushed to a division. No opposition or crossbench amendments were added to the Bill. Government amendments, however, were agreed to and added to the Bill. At committee stage, the Minister for Business, Energy and Corporate Responsibility, Lord Callanan, indicated that the amendments had been prompted by the [Lords Delegated Powers and Regulatory Reform Committee's](#) (DPRRC) report on the Bill.³

Powers to make consequential provisions

Regarding Clause 10 of the Bill (power to make consequential provision), the DPRRC report stated that Clause 10 contained a:

Henry VIII power for Ministers to make regulations amending or repealing any Act of Parliament that they consider appropriate, including all Acts ever passed until the end of the current parliamentary session.⁴

The DPRRC added that the Government had not given a “convincing explanation [as to] why clause 10 should contain such a wide-ranging Henry VIII power” and that the Committee took the view that “clause 10 [was] inappropriately wide”.⁵

The [Government Response](#) to the DPRRC's report indicated that it had accepted the Committee's conclusions about Clause 10 and that it intended to omit it from the Bill and narrow the power to make consequential provision at the Lords committee stage.⁶

³ [HL Deb, 22 November 2021, c162GC](#)

⁴ Lords Delegated Powers and Regulatory Reform Committee, 4th Report of Session 2021-22, [Advanced Research and Invention Agency Bill: Telecommunications \(Security\) Bill](#), HL Paper 29, 24 June 2021, para 14

⁵ *Ibid*, para 18

⁶ Delegated Powers and Regulatory Reform Committee, Tenth Report of Session 2019-21, [Appendix 1: Advanced Research and Invention Agency Bill: Government Response](#), 10 November 2021

Powers to dissolve ARIA

The DPRRC also objected to Clause 8 which allows Ministers to dissolve ARIA, by an affirmative statutory instrument, no earlier than 10 years after it has been established. The DPRRC asserted that the Government's justifications for including a power to dissolve ARIA by statutory instrument were "inadequate" and that they objected to the approach "on principle":

If Parliament creates a body, it should be for Parliament to dissolve the body. It should not be for Ministers to dissolve it by statutory instrument, even an affirmative instrument.⁷

The Government did not agree with the DPRRC's conclusions regarding Clause 8 and stated that "there was both a clear policy rationale and precedent for the specific power in clause 8".⁸

At the committee stage, Lord Callanan tabled amendment 36 to Clause 8. This replaced the power in (the now removed) Clause 10 (to amend primary legislation in consequence of regulations made) with an extension of the powers in Clause 8. The amendment provided a more restricted power than that previously existed in Clause 10, so that it could only be used in consequence of regulations made under clause 8. The Minister went on to explain that, as a result of amendment 36, "minor and technical changes" were made to other parts of the Bill via amendments 35, 44, 45, 46 and 48 to Clauses 8(4)(e), 11, 12 and 14.

ARIA as a reserved body

In addition, the Minister tabled amendments 37 and 40 to Schedule 3 which removed the "amendments 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".⁹ Lord Callanan explained that, during discussions with the devolved administrations, objections were raised to the creation of ARIA as a reserved body.

To address concerns, an "agreement on the independence of ARIA" had been established which all four administrations "have said that they will abide by" which, the Minister stated, will "sit beneath the overarching memorandum of understanding on devolution".¹⁰ He added that at the moment it is "a high-level document" that requires further work but that "Ministers in Scotland,

⁷ Lords Delegated Powers and Regulatory Reform Committee, 4th Report of Session 2021-22, [Advanced Research and Invention Agency Bill: Telecommunications \(Security\) Bill](#), HL Paper 29, 24 June 2021, para 6

⁸ Delegated Powers and Regulatory Reform Committee, Tenth Report of Session 2019-21, [Appendix 1: Advanced Research and Invention Agency Bill: Government Response](#), 10 November 2021

⁹ [HC Deb, 22 November 2021, c168GC](#)

¹⁰ *ibid*

Wales and Northern Ireland have all now given in-principle consent for the Bill on the basis of this approach”.¹¹

¹¹ [HC Deb, 22 November 2021, c169GC](#): a copy of the draft agreement can be found in Scottish Parliament, Education, Children and Young People Committee, [Supplementary Legislative Consent Memorandum \(LCM\) on the UK Advanced Research and Invention Agency Bill](#), Annexe A: Draft Memorandum of Understanding – ARIA Bill, 2 December 2021, SP Paper 59

4 Lords report stage

Following completion of the Lords' committee stage, the Bill proceeded to report stage in the House of Lords, where it was reprinted as [HL Bill 85](#) 2021-22. The report stage took place on 14 November 2021.

No Government amendments were tabled. Two non-Government amendments were pushed to a division; one passed, the other did not. The amendment defeated at division would have made ARIA subject to Freedom of Information (FOI) requests. The matter of ARIA and FOI is discussed in detail in the Library briefing on the [Advanced Research and Invention Agency Bill 2019-21 and 2021-22](#). In addition, a non-Government amendment, tabled by Baroness Noakes (Con), to remove a power from the Bill to pay pensions or gratuities to non-executive members of ARIA, was agreed without division.

The sections below refer only to amendments made to the Bill, and not to those amendments that were defeated at division, withdrawn, not moved, not discussed or to those that were purely technical in nature.

Equity interest and intellectual property

Lord Browne (Lab) tabled Amendment 1 to Clause 2 (ARIA's functions) which aimed to give ARIA a financial stake in the businesses that it funds, together with a 10-year veto on both foreign acquisitions of the funded business or selling the businesses' intellectual property (IP) abroad.

Lord Browne argued that ARIA needed the powers set out in Amendment 1 so as to:

prevent what has happened to far too many British businesses happening to the businesses it supports during their developmental stage or when they begin to produce significant profits [...] Substantial potential income for the United Kingdom based on government R&D has gone abroad, and this should not happen to ARIA.¹²

More specifically, the amendment sought to make it a condition that ARIA's provision of financial support to a business would enable ARIA to secure an equity interest in that business. In addition, in the 10 years following the provision of financial support, the business would require the consent of ARIA to transfer IP rights abroad, or to sell or transfer a controlling interest in that business to another business not resident in the UK.

¹² [HL Deb, 14 December 2021, c181](#)

The principles underpinning the amendment had some cross-party support. The former Comptroller and Auditor General of the National Audit Office, Lord Morse (CB), told the Lords that “if foreign-owned companies are allowed to acquire companies that own intellectual property derived from ARIA or to take that intellectual property offshore [...] the reverse of the objective of the [ARIA] scheme will be achieved”.¹³

Similarly, former health minister, Lord Bethell (Con) expressed his concerns that “in our efforts to build Britain into a science and research superpower, all that we will be is a laboratory for others to borrow from and that we will simply supply the unicorns of the future from overseas. Somehow, we have to capture that value here in the UK”.¹⁴ Responding for the Government, Lord Callanan argued that he did not think that the report stage of the Bill was “the most effective forum for setting precedents to this very expansive and wide-ranging area of government policy”. He added that the Government was:

rightly cautious about introducing wider powers to act on the grounds of public or economic interest, as such an approach could destabilise investment into the UK, reduce economic growth and ultimately, therefore, risk jobs and prosperity.¹⁵

Amendment 1 to Clause 2 was agreed on division (166 Content, 153 Not Content).

Pensions and gratuities to non-executive members of ARIA

Baroness Noakes (Con) moved amendment 16 to Schedule 1 (The Advanced Research and Invention Agency) of the Bill to remove a power to pay pensions and gratuities to non-executive ARIA members. She described its inclusion in the Bill as representing “drafting from another era and which keeps being repeated merely because it follows precedent”, adding that the Minister had previously stated in Committee that the Government had “no intention of using the power”.¹⁶ Responding for the Government, Lord Callanan confirmed that it was not the Government’s intention to offer pensions and gratuities to non-executive ARIA members and that the Government would support the amendment. It was subsequently agreed without division.

¹³ [HL Deb, 14 December 2021, c186](#)

¹⁴ [HL Deb, 14 December 2021, c188](#)

¹⁵ [HL Deb, 14 December 2021, c190-191](#)

¹⁶ [HL Deb, 14 December 2021, c228](#)

5 “Ping-Pong”: consideration of Lords and Commons amendments

Overview

The term “ping-pong” refers to the to and fro of amendments to Bills between the House of Commons and the House of Lords.¹⁷

On 31 January 2022, the [House of Commons considered amendments](#) made in the House of Lords.

The Bill [returned to the House of Lords](#) for consideration of Commons amendments on 9 February 2022. The Lords agreed to the Commons rejection of Amendment 1, which aimed to give ARIA a financial stake in the businesses that it funds.

The Bill received Royal Assent on 24 February 2022, meaning it is now an Act of Parliament, the Advanced Research and Invention Agency Act 2022.

5.1 Commons consideration of Lords amendments: 31 January 2022

The House of Commons considered the Lords’ amendments on 31 January 2022. BEIS Minister George Freeman (Minister for Science, Research and Innovation) spoke for the Government, and the shadow Science Minister, Chi Onwurah, spoke on behalf of the Official Opposition.

On returning to the Commons, the Bill (showing just the Lords amendments) was reprinted as [Bill 224 2021-22](#) (opens PDF).

The Government amendments made in the House of Lords, during the Lords committee stage, were all agreed without a division (vote). Baroness Noakes’ amendment, to remove a power to pay pensions and gratuities to non-executive ARIA members, made during the Lords report stage, was also supported by the Government and agreed without a division.

¹⁷ UK Parliament, [Glossary: Ping-Pong](#), not dated (accessed 16 February 2022)

Disagreement to the Lords non-Government amendment

Equity interest and intellectual property

Lords amendment 1 was disagreed following a division (Ayes 304, Noes 208).¹⁸ Amendment 1 aimed to give ARIA a financial stake in the businesses that it funds, together with a 10-year veto on both foreign acquisitions of the funded business or selling the businesses' intellectual property (IP) abroad.

Responding to amendment 1, the Minister stated that the Government recognised “the substance of the concerns underlying the amendment: namely, that ARIA should have a duty to the taxpayer to ensure it is not haemorrhaging intellectual property of value to the UK”. The Minister stressed, however, that it was the Government’s belief that it was “not appropriate at this stage to specify ARIA’s contracting and granting arrangements in legislation”.¹⁹ In particular, he noted that the “framework agreement” (a governance document to be agreed between BEIS and ARIA’s leadership)²⁰ would set out the “appropriate ways to ensure that value is maximised” and that it would include “obligations on ARIA to work closely with our national security apparatus”.²¹

In addition, the Minister stated that Clause 2(6) already stipulated that ARIA has a “statutory responsibility to generate economic return for the UK”. He added that he wanted the ARIA leadership team to have the “freedom to set out what the right mechanism is [to address that statutory responsibility], rather than to mandate it now”.²² He also emphasised that the [National Security and Investment Act 2021](#) had brought in a “new investment screening regime” which “permits the Government to scrutinise acquisitions on national security grounds”.²³

The shadow Science Minister, Chi Onwurah, disagreed with the Minister’s assessment of the [National Security and Investment Act 2021](#), stating that it “does not address the issue of intellectual property and its economic value” but rather is focused on matters of national, rather than economic, security.²⁴ Reflecting on the Minister’s comments on amendment 1, Ms Onwurah suggested that he shared the Opposition’s concerns but “that he does not really seem to have a plan to address them”.²⁵ The SNP spokesperson for Business, Energy and Industrial Strategy, Stephen Flynn, similarly suggested

¹⁸ [HC Deb, 31 January 2022, c94-97](#)

¹⁹ [HC Deb, 31 January 2022, c86](#)

²⁰ See BEIS, [Advanced Research and Invention Agency \(ARIA\): policy statement](#), 19 March 2021

²¹ [HC Deb, 31 January 2022, c87](#)

²² [HC Deb, 31 January 2022, c90-91](#)

²³ [HC Deb, 31 January 2022, c86](#)

²⁴ [HC Deb, 31 January 2022, c90](#)

²⁵ *ibid*

that “the Minister seems to be in broad agreement” with the principles underpinning amendment 1.²⁶

For further information on the National Security and Investment Bill 2019-21 (now Act), please see the Commons Library briefing: [National Security and Investment Bill 2019-21 - House of Commons Library](#) (January 2021).

5.2 Lords consideration of Commons amendments: 9 February 2022

The House of Lords considered the House of Commons amendments on 9 February 2022. ‘[HL Bill 105 Commons reason](#)’ explained that the Commons disagreed with amendment 1 on the grounds that it would “make provision relating to the administration of financial support provided out of public funds”.²⁷ The BEIS Minister, Lord Callanan, spoke on behalf of the Government regarding the Commons rejection of amendment 1. He stated that “ARIA already has the power and ability to do all the things” that Lord Browne – who tabled amendment 1 – wanted included in the Bill, but that the Government wanted ARIA “to retain its operational independence and flexibility” and had thus rejected the amendment.²⁸ He also noted that on 1 February, Dr Peter Highnam was announced as ARIA’s first CEO.²⁹

Lord Callanan moved ‘Motion A’ that “this House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A”.³⁰

Lord Browne stated that he accepted that the “Commons reason is not challengeable” and that he did not “intend to debate that or to divide the House on the noble Lord’s Motion”.³¹ He added, however, that in the Commons, George Freeman had “used the potential of the framework agreement, and what it could include, five times in debates” but that the document had yet to be published:

The problem is that none of us has seen the outline of the framework document, or even the Government’s bid for the negotiations of what the framework document will include. Until we see that, there is no way that any of us can judge its merit as a mechanism for dealing with the issues that we have raised.³²

²⁶ [HC Deb, 31 January 2022, c92](#)

²⁷ [HL Bill 105 Commons reason](#), 1 February 2022 (opens PDF)

²⁸ [HL Deb, 9 February 2022, c1583](#)

²⁹ BEIS, [US research director appointed first chief executive of Advanced Research and Invention Agency - GOV.UK \(www.gov.uk\)](#), 1 February 2022

³⁰ [HL Deb, 9 February 2022, c1575](#)

³¹ [HL Deb, 9 February 2022, c1578](#)

³² [HL Deb, 9 February 2022, c1579](#)

Motion A was subsequently agreed without a vote.

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