EXPLANATORY MEMORANDUM TO

THE RESEARCH COUNCILS (TRANSFER OF PROPERTY ETC) ORDER 2007

2007 No. 770

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

The order makes provision for the transfer to the Science and Technology Facilities Council of all property, rights, liabilities and obligations of the Council for the Central Laboratory of the Research Councils ("CCLRC") and the Particle Physics and Astronomy Research Council ("PPARC"), as well as certain rights, liabilities and obligations of the Engineering and Physical Sciences Research Council ("EPSRC").

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Under section 1(c) of the Science and Technology Act 1965 ("the Act"), a body established for purposes connected with scientific research and consisting of persons appointed by a Minister of the Crown may be declared to be established as a Research Council by Order in Council. The STFC will be established as a Research Council for the purposes of the 1965 from 1 April 2007. (See the Science and Technology Facilities Council Order 2007 (S.I. 2007/279), made by Her Majesty in Council on 7 February under section 1(1)(c) of the Act after being approved by both Houses of Parliament as required by section 1(4) of the Act.) The STFC has been established to take over, from 1 April 2007, all the present responsibilities of CCLRC and PPARC, as well as certain responsibilities of the EPSRC relating to grants and fellowships awarded in the field of nuclear physics.

4.2 Most of the property, rights, liabilities and obligations to be transferred from CCLRC, PPARC and EPSRC will transfer by virtue of the order alone on 1 April 2007, but where there is any rule of law that prevents a complete transfer being made in this way, provision is made for later transfers. Examples of property and rights which cannot be transferred by virtue of the order alone include registered land in England and Wales (where registration in the name of STFC will be required to complete the transfer) and intellectual property rights held in jurisdictions outside the United Kingdom.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Act provides for the creation and funding of Research Councils and related matters.

7.2 Following consultation on the proposition that the creation of such a body would strengthen the UK's ability to compete internationally in science, on 25 July 2006 the Department announced that: it would be creating a new large facilities council as a research council by merging the current responsibilities of PPARC and CCLRC; and that responsibility for nuclear physics would be transferred to it from the EPSRC.

7.3 The new Council should be able to provide a more integrated approach to large facilities, including international negotiations, for long term projects involving several countries acting together; to obtain more value from the knowledge and technologies that are developed as a result of the new Council's programmes; and to deliver both of these aims using the two science and innovation campuses at Harwell and Daresbury as identifiable knowledge transfer centres which host UK based large scale international facilities.

7.4 On the 9 November 2006 the Department announced that the new council would be called the "Science and Technology Facilities Council".

8. Impact

8.1 A Regulatory Impact Assessment (RIA) is attached to this memorandum. This is the same assessment as submitted with the STFC Order 2007 (SI 2007/279) referred to above.

8.2 The RIA sets out at paragraph 29 the public sector bodies that may be affected in some measure. The impact on them is assessed as likely to be minimal.

9. Contact

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ANNEX - REGULATORY IMPACT ASSESSMENT

TITLE OF DISCUSSION PAPER

1. The creation of a new large facilities research council, the Science and Technology Facilities Council (STFC)[1]

PURPOSE AND INTENDED EFFECT

Objective of the Paper

2. The Government proposes to create a single large facilities council, by April 2007, so as to provide a more strategic and cohesive approach to the UK's management of public investment in large scientific facilities both at home and overseas.

   Devolution: These changes will apply in the UK.

Background to the Paper

3. As part of the *Science and Innovation Framework 2004-2014: Next Steps* document, the Government asked for views on whether the Council for the Central Laboratory of the Research Councils (CCLRC) should be merged with the large facilities operations conducted by the Particle Physics and Astronomy Research Council (PPARC) to create a single large facilities council. The Government also invited views on if, in the event of such a merger, the grant giving functions of PPARC should be transferred to the Engineering and Physical Sciences Research Council, (EPSRC).

4. *The Science and Innovation Investment Framework 2004-2014: Next Steps* sets out the Government's thoughts on the long-term challenges facing UK science and innovation, and the next steps to build on the Science and Innovation Investment Framework 2004-2014. The document sets out a range of new proposals, including that to create a large facilities council, which are designed to create a more effective science and innovation system in the UK, and maximise the impact of public investment in research on the economy.

CONSULTATION

Responses

5. The consultation was published both on the Office of Science and Innovation (OSI) website and in hard copy format. It was also forwarded to relevant

[1] Chapter 3 of *The Science and Innovation Investment Framework 2004 – 2014: Next Steps*, the proposal to create a large facilities council, and the potential transfer of the grant giving functions of the Particle Physics and Astronomy Council (PPARC) to the Engineering and Physical Sciences Research Council, (EPSRC).

interested parties. Responses were invited by 16 June 2006, after a consultation period of 12 weeks. A total of 125 responses were received by the deadline. Not all respondents expressed clear views for or against the creation of a large facilities council, however, of those that did, two thirds were broadly supportive of the proposal. PPARC and CCLRC were both in favour of the merger. Most respondents (about three quarters) were of the opinion that the grant giving functions of PPARC should not be transferred to EPSRC, and there was wide ranging support that they should be merged into the new council so that facilities management and grant-awarding powers were not separated.

OPTIONS

The case for change

6. It is not clear that the scientific and wider economic potential of UK investment in large scientific facilities is being exploited to best effect under present arrangements. Management of large research facilities can be viewed as rather fragmented with decisions on investment frequently taken by different research councils without an overall priority-setting process. A more coherent priority-setting process across the spectrum of the UK's large facilities investment would also improve the quality and value for money of large facilities operations.

Option 1: Create a new Large Facilities' Council by merging CCLRC and PPARC which retains PPARC's grant giving responsibility.

7. This would involve a merger between the Council for the Central Laboratory of the Research Councils (CCLRC) and the large facilities operations conduced by the Particle Physics and Astronomy Council (PPARC) to create a new Science and Technology Facilities Council (STFC).

Option 2: Create a new Large Facilities Council by merging CCLRC and PPARC and transferring PPARC's grant giving responsibility to EPSRC.

8. This would involve a merger between the Council for the Central Laboratory of the Research Councils (CCLRC) with the Particle Physics and Astronomy Council (PPARC), with the large facilities operations currently managed by PPARC and CCLRC transferred to a new Science and Technology Facilities Council (STFC).

9. Under this option, PPARC's grant giving operations would transfer to EPSRC. This would effectively mean that a single research council (EPSRC) would have responsibility for the full spectrum of physics funding in the UK. The new large facilities council would have no grant giving responsibilities but would be responsible for building, operating and managing the UK's investment in large facilities.

Option 3: Do Nothing

10. Retain CCLRC and PPARC in their current form.

COSTS AND BENEFITS

BENEFITS

Option 1

11. Bringing responsibility for the UK's key large scientific facilities together in one organisation would enable a more strategic approach on UK funding of large facilities to be adopted. It would also significantly strengthen the UK's negotiating position in international negotiations, by creating an organisation with overall responsibility for the UK's investment in large facilities. Under current arrangements, several different organisations have lead responsibility for large-scale research projects. The latter problem is particularly acute in the UK, given that the administration of research funding here is more decentralised than in France or Germany.

12. Creating a large facilities council would also provide a stronger vehicle for the development of science sites at Daresbury in the North West and Harwell in Oxfordshire, following the Budget announcement that they are to become Science and Innovation Campuses. These sites are currently owned by CCLRC (in the case of Harwell, jointly with the United Kingdom Atomic Energy Authority), but contain a number of research groups and facilities currently funded by PPARC. The new Council would therefore have both a wider scientific breadth and greater financial resources to develop both campuses.

13. For similar reasons, the new Council should also be better placed to engage more effectively in knowledge transfer by acting as a coherent focus to attract high tech companies and spin outs to set up close to its facilities, thereby maximising opportunities for business engagement and commercialising research. The new Council would also offer an opportunity to build more effective collaboration with users of large facilities currently operated by CCLRC, (eg ISIS) for instance through shared policy committees.

14. Moving nuclear physics to the new council would also produce benefits. In this area, large grants linked to experiments of large facilities are much closer to those of PPARC scientists than most of EPSRC's. Indeed, PPARC already provides access to some key machines for nuclear physicists through its CERN subscription.

15. Merging PPARC's grant giving responsibilities into the new council would thus ensure that facility management and grant-awarding powers are not separated and would thus help to ensure a close relationship between those using the facilities and those developing the facilities in the areas of nuclear physics, astronomy and space. This could also have a positive impact on the

long–term strategic planning required in the construction of new large scientific facilities.

16. Merging PPARC's grant giving responsibilities into the new council would also introduce an element of continuity. Academic researchers would continue to apply for research grants and access facilities in the same way they do at present.

Option 2

17. As paragraphs 11 - 14. In addition, transferring PPARC's grant giving responsibility to EPSRC would remove the current division in UK physics funding by bringing funding together in one organisation, thereby providing a 'one stop shop' for the UK physics community.

Option 3

18. Would continue an existing and established structure which is familiar to UK scientists.

COSTS

Option 1

19. The proposals to create a large facilities council would amount in effect to a merger of PPARC and CCLRC, plus a minor transfer of functions from EPSRC (nuclear physics). The budget of the new organisation for 2007-08 would therefore be the sum of its constituent parts, and in the region of £530 m.

20. OSI will address longer term funding after the DTI's CSR07 settlement is known. The Councils would have to bear the transitional costs of the changes from within their existing budgets, but these should be modest. OSI does not envisage any significant redundancies from the merger in the short term. The main area for potential savings would have been administration, but the Research Councils already have an agreed plan for creating a shared service centre for back office functions, which would essentially be unchanged by the merger.

21. There are no expected costs to stakeholders of this option. The main users are academic researchers who would continue to apply for research grants and access the facilities in the same way as they do at present.

Option 2

22. As paragraphs 18 – 20 above, but the new body would have a budget in the region of £ 460m, since the value of PPARC's grant giving responsibility, (in the region of £ 70m), would be transferred to EPSRC.

23. There are no expected costs to stakeholders of this option. Research grant applicants would use essentially the same procedures with EPSRC.

Option 3

24. There would be no immediate costs associated with this option. The loss would be in strategic, particularly international effectiveness, and the less optimum use of resources in the longer term.

RISKS

Option 1

25. With this approach, there is a risk that funding may be diverted away from grants to support facilities management and that Universities could also be disadvantaged in favour of Government-run facilities as a result. This approach could also lead to the risk of a potential conflict of interest in grant giving for example in the future management of large facilities which are currently operated or managed by CCLRC on behalf of the UK.

26. Procedures could be put in place to guarantee the transparency of the new Council's funding decisions, and to ensure adequate input from the wider community. Provided this is done, this option carries less risk than Option 2.

Option 2

27. Transferring PPARC's grant giving responsibilities to EPSRC would fragment the responsibilities for UK research in particle physics, astronomy and space, and would have the disadvantage that the management of grants in these areas would be separated from the management of large facilities. Investments in particle physics, astronomy and space by their very nature have to be long term, often over a decade or more, and the investment in any facility needs to be coordinated with the investment in the relatively small numbers of research groups capable of exploiting it.

Option 3

28. To continue with the current arrangements would run the risk that the UK does not fully exploit its investment in large scientific facilities as currently decisions on investment are taken by several different Research Councils without an overall priority-setting process in place.

SECTORS AND GROUPS AFFECTED

29. The creation of a large facilities council could potentially affect the following range of stakeholders active in the UK's science and innovation community though the impact is likely to be minimal:

Private Sector

- R&D – active business

Public Sector

- Central Government
- Research Councils and higher education funding bodies
- Higher Education Institutes
- NHS
- Schools
- Regional Development Agencies
- Other Government Agencies

SMALL FIRMS IMPACT TEST

30. There is no significant impact on small business in the proposals.

COMPETITION ASSESSMENT

31. The proposals outlined will affect businesses to a minimal extent and are not expected to unduly affect competition outside the science community. They will also allow companies in the supply chains for large facilities to have a single Council with whom to work.

ENFORCEMENT, SANCTIONS AND MONITORING

32. The Government will monitor the impact of the measures presented and future measures taken forward as a result of the public consultation as part of its annual reporting on the Science and Innovation Framework 2004 – 2014.

IMPLEMENTATION AND DELIVERY PLAN

33. OSI is aiming to have the new Council in place by 1st April 2007 to minimise the period of uncertainty and to coincide with the start of the new financial year. A new Large Facilities Council will be created by transferring the staff, assets and liabilities of PPARC and CCLRC together with the nuclear physics assets and liabilities of EPSRC. This would require the granting of a new Royal Charter to incorporate the new Council and the use of the powers in the Science and Technology Act 1965 as follows; those in section 1, whereby Her Majesty in Council can make an order declaring that a new Research Council be established after affirmative resolution approval of the draft order by each House of Parliament, and those in section 3, whereby staff, assets and liabilities can be transferred following a transfer of responsibilities for scientific research.

34. The staff transfer process will comply with any applicable TUPE requirements. Following the completion of the preparation of accounts and any other outstanding actions, a request would be made to Her Majesty in Council for the annulment of the CCLRC and PPARC Charters.

POST IMPLEMENTATION REVIEW

35. The new Council will be reviewed in the same way as the 8 existing Research Councils. OSI undertakes a formal six-monthly review with each council and monitors progress against objectives by a quarterly review of individual scorecards.

SUMMARY AND RECOMMENDATION

36. Based on assessment of the above options, we recommend that Option 1 be implemented.

SUMMARY COST AND BENEFITS

37. The costs in implementing this change are minimal as detailed above, but will produce significant benefits in improving the UK's ability to negotiate internationally on large facilities issues by creating a 'one stop shop' for both the UK and International Science Communities. This will prevent fragmentation, thereby allowing a more coherent priority-setting process across the spectrum of the UK's large facilities investment. This, in turn, would also improve the quality and value for money of large facilities operations to the UK.

38. The costs of implementing this option are unlikely to impact on stakeholders.

DECLARATION AND PUBLICATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Malcolm Wicks
Minister for Science and Innovation
Department of Trade and Industry
20 November 2006

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