

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Jobs and Innovation

Industry Research and Development Act 1986

Industry Research and Development (National Positioning Infrastructure Capability Program) Instrument 2018

Purpose and Operation

Section 33 of the *Industry Research and Development Act 1986* (the IR&D Act) provides a mechanism for the Minister to prescribe programs, by disallowable legislative instrument, in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

The statutory framework provided by s33 of the IR&D Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, innovation, science and research programs. This allows the Government to respond quickly and appropriately to the need to implement innovative ideas and pilot programs on an ongoing basis and as opportunities arise. Prescribing programs in legislative instruments provides transparency and parliamentary oversight of Government programs and spending activities, whilst reducing administrative burden on the Commonwealth.

Once a program is prescribed by the Minister under s33, subsection 34(1) allows the Commonwealth to make, vary or administer arrangements in relation to activities under the prescribed program. Arrangements may include contracts, funding agreements or other arrangements, and may provide for money to be payable by the Commonwealth to one or more third parties. The power conferred on the Commonwealth by subsection 34(1) may be exercised on behalf of the Commonwealth by a Minister or an accountable authority of a non-corporate entity, or by their delegate (under s36).

The purpose of the *Industry Research and Development (National Positioning Infrastructure Capability Program) Instrument 2018* (the Legislative Instrument) is to prescribe the National Positioning Infrastructure Capability Program (the Program). The funding for the Program has been secured through the Department of Industry, Innovation and Science 2018-19 Budget. The Program provides \$63.9 million as part of the Australian Government's commitment to the Australian Technology and Science Growth Plan. Investment for the Program is supported through the National Digital Economy Strategy.

The Program will establish a national network for Positioning, Navigation and Timing (PNT) data and will deliver nationally consistent and accurate (3-5 cm) PNT data in near real-time. The Program will:

1. Integrate existing and new ground stations for Global Navigation Satellite Systems (GNSS);

2. Establish a GNSS data analytics and monitoring capability within Geoscience Australia, a portfolio agency of the Department of Industry, Innovation and Science, to deliver standardised open data to users and ensure network integrity; and
3. Engage existing and new industries and service providers on the business opportunities of the Program to increase productivity, safety and innovation.

Funding authorised by this Legislative Instrument comes from Program 1: Geoscientific and Spatial Information Services, Outcome 1 as set out in the *Portfolio Budget Statements 2018, Budget Related Paper No. 1.13A, Industry, Innovation and Science Portfolio* (<https://www.industry.gov.au/sites/g/files/net3906/f/2018-19-department-of-industry-innovation-and-science-pbs.pdf>) at pages 144 and 151.

The Program will be delivered by Geoscience Australia, which is the national agency with expertise and experience in GNSS and PNT. Funding under the Program will be delivered through an open tender process. The Program will be administered in accordance with the *Commonwealth Grant Rules and Guidelines* (<https://www.finance.gov.au/sites/default/files/commonwealth-grants-rules-and-guidelines-july2014.pdf>) and the *Commonwealth Procurement Rules* (<https://www.finance.gov.au/sites/default/files/commonwealth-procurement-rules-1-jan-18.pdf>).

Spending decisions will be made by the delegate of the Accountable Authority, who will be the Chief Financial Officer with responsibility for the Program.

There are no selection criteria that will be used consistently across the Program, given that Geoscience Australia will need to acquire unique and individualised services to deliver the Program at specific times. The Program will not be subject to merits review as it involves the allocation of finite resources and supports the implementation of policy decisions made by government about the delivery of the Program.

Persons who have complaints about the Program will have recourse to Geoscience Australia. Geoscience Australia will investigate any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way Geoscience Australia handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

The Legislative Instrument specifies that the legislative power in respect of which it is made is the communications power (section 51(v) of the Constitution). Section 51(v) of the Constitution empowers the Parliament to make laws with respect to 'postal, telegraphic, telephonic and other like services'. In that regard, funding provided under the Legislative Instrument will support activities relating to communications services. The Program will establish a national network for PNT data to provide Australian industry with accurate and standardised data.

Authority

Section 33 of the *Industry Research and Development Act 1986* provides authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department has been consulted on this Legislative Instrument.

Regulatory Impact

It is estimated that the regulatory burden is likely to be nil (OBPR reference number 21757).

Details of the *Industry Research and Development (National Positioning Infrastructure Capability Program) Instrument 2018*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (National Positioning Infrastructure Capability Program) Instrument 2018*.

Section 2 – Commencement

This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

This section specifies the provision of the *Industry, Research and Development Act 1986* (the Act) under which the Legislative Instrument is made.

Section 4 – Definitions

This item provides for definitions of terms used in the Legislative Instrument.

Section 5 – Prescribed Program

This section prescribes the National Positioning Infrastructure Capability Program (the Program) for the purposes of s 33 of the Act.

The Program will establish a national network to deliver consistent and accurate (within 3-5 cm) position, navigation and timing data in near real-time.

Section 6 – Specified legislative power

This section specifies that the legislative power in respect of which the Legislative Instrument is made is the power of the Parliament to make laws with respect to ‘postal, telegraphic, telephonic, and other like services’ (section 51(v) of the Constitution).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Industry Research and Development (National Positioning Infrastructure Capability Program) Instrument 2018

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument provides legislative authority to commit Commonwealth funds for the National Positioning Infrastructure Capability Program. The Program will establish a national network for positioning, navigation and timing (PNT) data to provide Australian Industry with accurate and standardised PNT data. Access to this PNT data will maintain Australia's competitive advantage in industries such as agriculture, resources, new emerging sector such as automated transport, and space tracking capability to compete in the global market.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Senator the Hon Michaelia Cash
Minister for Jobs and Innovation