

**EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Industry, Science and Technology

*Industry Research and Development Act 1986*

*Industry Research and Development (Maker Projects—Community STEM Engagement Grants Program) Instrument 2020*

**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 section 33 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 section 33, 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 section 36).

The purpose of the *Industry Research and Development (Maker Projects—Community STEM Engagement Grants Program) Instrument 2020* (the Legislative Instrument) is to prescribe the Maker Projects—Community STEM Engagement Grants Program (the Program). The funding for the Program has been secured through the Department of Industry, Science, Energy and Resources 2019-20 Budget. The Program provides up to \$1 million each year as part of the Australian Government's commitment to support the development of science, technology, engineering and mathematics (STEM) skills in youth under 18 years of age.

The purpose of the Program is to provide funding that will support partnerships between STEM-related organisations, community organisations and/or schools to deliver STEM related events and activities (maker projects) that benefit students and youth under 18 years of age, with a particular focus on groups traditionally under-represented in STEM, including girls, Aboriginal and Torres Strait Islanders, people with disabilities and people living in regional, rural and remote areas.

The Program aims to foster creativity and inquiry-based learning and support the development of STEM skills in students and youth under 18 years of age in design, engineering and programming, through hands-on learning. The activities funded will achieve this by encouraging students and youth under 18 years of age to engage with a range of technologies and will encourage practical skills, creativity and entrepreneurial thinking and inspire students to pursue STEM disciplines in their study and work. Examples of the maker projects are STEM related events and activities, such as interactive workshops, events relating to existing interactive exhibitions, hands-on participation and the creation of resource packs for participants to support a sustainable impact of the activity.

Funding is available to successful STEM-related organisations, in collaboration with community organisations and/or schools, to deliver STEM related initiatives and events (maker projects) to students and youth under 18 years of age. By partnering with one or more community organisations, businesses, STEM experts and/or schools, maker projects can be tailored to the needs of the participating communities.

Collaboration allows participants to have the opportunity to engage with STEM experts, innovators, inventors or entrepreneurs, who they may not otherwise have been able to interact with.

Funding authorised by this Legislative Instrument comes from Program 1: Supporting Science and Commercialisation, Sub-program 1.1: Science Awareness, Infrastructure and International Engagement, as set out in the *Portfolio Budget Statements 2019-20, Budget Related Paper No. 1.11, Industry, Innovation and Science Portfolio* (<https://www.industry.gov.au/sites/default/files/2019-04/2019-20-department-of-industry-innovation-and-science-pbs.pdf>) at page 30.

The Program will be delivered by the Department's Business Grants Hub through AusIndustry, which is a specialised design, management and delivery body with extensive expertise and capability in delivering similar programs.

The Program is a competitive, merits based grants program. The Program is administered by the Department in accordance with the *Commonwealth Grant Rules and Guidelines 2017* (<http://www.finance.gov.au/sites/default/files/commonwealth-grants-rules-and-guidelines.pdf>). Eligibility and assessment criteria are outlined in the Program guidelines, available on [business.gov.au](http://business.gov.au).

Spending decisions will be made by the Program Delegate who is the AusIndustry General Manager responsible for administering the Program, taking into account the recommendations of an independent assessment committee.

Grants will be a minimum of \$20,000 up to a maximum of \$100,000. The grant amount will be up to 80 per cent of eligible project costs.

The Program involves the allocation of finite resources between competing applicants. In addition, there is a robust and extensive assessment process, an enquiry and feedback process,

and an existing complaints mechanism for affected applicants. Therefore, external merits review does not apply to decisions about the provision of grants under the Program.

Applications will be assessed against the eligibility criteria and assessment criteria set out in the Program guidelines in three stages. At first instance, applications will be assessed by AusIndustry against the eligibility criteria. Secondly, AusIndustry will refer all eligible applications to an independent assessment committee who will assess the eligible applications against the assessment criteria. Thirdly, the merit assessments will be considered by the independent committee and compare them to other eligible applications in the funding round. The independent committee will then make recommendations to the Program Delegate on which projects to fund. This will include comparing the applications and scoring each application out of 100. The committee may comprise representatives from the Australian Government, selected state and territory governments, and other independent technical experts. The independent assessment committee may seek input from independent experts to inform their assessments. In order to support a spread of projects across Australia and increase accessibility of STEM-related activities and events, the Committee will also take into account the geographic location of the projects, when recommending projects for funding and proposed target audiences, particularly in regards to priority equity groups - girls, Aboriginal and Torres Strait Islanders and people with disabilities.

Applications must address the eligibility and assessment criteria, and provide relevant supporting information. The amount of detail and supporting evidence should be relative to the project size, complexity and funding amount requested. Larger and more complex projects should include more detailed evidence. To be competitive, applications must score highly against all assessment criteria and score at least 50 per cent on each criterion.

After considering the applications, the independent assessment committee will make recommendations to the Program Delegate regarding those applications suitable for funding. The Program Delegate will make the final decision about which grants to approve, taking into consideration the independent assessment committee's recommendations, and the availability of grant funds. The Program Delegate will not approve funding if there are insufficient Program funds available across relevant financial years for the Program.

Both successful and unsuccessful applicants will be informed in writing. Unsuccessful applicants have an opportunity to discuss the outcome with the Department, and can submit a new application for the same or similar project in future funding rounds. Where this occurs, applicants should include new or more information to address the weaknesses identified in their previous application.

Persons who are otherwise affected by decisions or who have complaints about the Program will also have recourse to the Department. The Department investigates any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

The Legislative Instrument specifies that the Program spending is supported by the external affairs power (paragraph 51(xxix) of the Constitution) and the territories power (section 122 of the Constitution).

### External affairs power

The external affairs power (paragraph 51(xxix) of the Constitution) empowers the Parliament to make laws with respect to ‘external affairs’. The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party.

Australia has obligations relating to educating children under the *Convention on the Rights of the Child* (CRC). The Program seeks to improve the STEM-related skills of youth under 18 years of age. The Program prescribed by the Legislative Instrument contributes to implementing Australia’s obligations under the following Articles of the CRC:

- Article 4: This article requires States Parties to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the CRC.
- Article 28: This article relevantly states the child has a right to education, and the State’s duty is to ensure that primary education is free and compulsory, to encourage different forms of secondary education accessible to every child, and to make higher education available to all on the basis of capacity, and
- Article 29 (1)(a): This provision relevantly states that parties agree that the education of the child shall be direct to the development of the child’s personality, talents and mental and physical abilities to their fullest potential.

### Territories power

Section 122 of the Constitution empowers the Parliament to ‘make laws for the government of any territory’. Funding provided under the Legislative Instrument may involve the making of grants to deliver maker projects within a Territory.

### 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 minor (OBPR reference number 26288).

## **Details of the *Industry Research and Development (Maker Projects—Community STEM Engagement Grants Program) Instrument 2020***

### **Section 1 – Name of Instrument**

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Maker Projects—Community STEM Engagement Grants Program) Instrument 2020*.

### **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.

The definition of *Convention on the Rights of the Child* refers to the Convention on the Rights of the Child done at New York on 20 November 1989. The document is referred to at section 6 in regards to the external affairs power. The Convention is available freely and publicly on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

### **Section 5 – Prescribed program**

This section prescribes the Maker Projects—Community STEM Engagement Grants Program (the Program) for the purposes of section 33 of the Act.

The Program provides grants to eligible entities to collaborate with community organisations and/or schools to deliver maker projects where students and youth under 18 years of age can improve their STEM skills through hands on learning.

### **Section 6 – Specified legislative power**

This section specifies that the legislative powers in respect of which the Legislative Instrument is made are the power of the Parliament to make laws with respect to external affairs (paragraph 51(xxix) of the Constitution) and the government of a Territory (section 122 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 (Maker Projects—Community STEM Engagement Grants Program) Instrument 2020*

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

The purpose of the Legislative Instrument is to prescribe the Maker Projects – Community STEM Engagement Grants Program (the Program). The Program provides funding that will support partnerships between STEM-related organisations, community organisations and/or schools to deliver STEM related events and activities (maker projects) that benefit students and youth under 18 years of age. The program will have a particular focus on groups traditionally under-represented in STEM including, but not limited to, girls, Aboriginal and Torres Strait Islanders, people with disabilities and people living in regional, rural and remote areas.

## Human rights implications

This Legislative Instrument engages the following rights:

- The right to education – article 28 of the Convention on the Rights of the Child (CRC).
- The right to equality and non-discrimination – article 10 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and article 5 of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD).
- Protecting the rights of persons with disabilities on the basis of inclusion, equality and non-discrimination – articles 6, 7, 24 and 30 of the Convention on the Rights of Persons with Disabilities (CRPD)

### **The right to education**

Article 28 of the CRC recognises the right of the child to education.

This Program directly engages this right by providing additional opportunities for STEM engagement, which will provide educational benefits, directed at students and youth.

### **The right to equality and non-discrimination**

Article 10 of the CEDAW requires State Parties to take appropriate measures to ensure women equal rights in the field of education.

Article 5 of the ICERD addresses the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, including the right to education and training and the right to equal participation in cultural activities.

The Program directly engages these rights by providing avenues for engagement with STEM activities which creates new educational opportunities. In addition, the Program specifically focuses

on providing opportunities for groups traditionally underrepresented in STEM which includes, but is not limited to, girls and people of Aboriginal and Torres Strait Islander background.

### **Protecting the rights of persons with disabilities on the basis of inclusion, equality and non-discrimination**

Article 6 of the CRPD recognises that women and girls with disabilities are subject to multiple forms of discrimination, and that they should enjoy equal and full enjoyment of human rights and fundamental freedoms.

Article 7 of the CRPD recognises the right of children with disabilities to all human rights and fundamental freedoms on an equal basis with other children.

Article 24 of the CRPD recognises the right of persons with disabilities to education, free from discrimination and on the basis of equal opportunity.

Article 30 of the CRPD recognises the right of persons with disabilities to take part on an equal basis with others in cultural life, recreation, leisure and sport.

The Program directly engages these rights in multiple ways, by targeting the Program at students and youth under 18 years of age and also by focusing on groups traditionally underrepresented in STEM. The Program is designed to increase opportunities available to persons with disabilities, such as opportunities for education and participation in their community free from discrimination.

### **Conclusion**

This Legislative Instrument is compatible with human rights because, to the extent it engages human rights, it promotes the protection of those rights.

**The Hon Karen Andrews MP**  
**Minister for Industry, Science and Technology**