

EXPLANATORY STATEMENT

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

Industry Research and Development Act 1986

Industry Research and Development (Empowering Business to Go Digital 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 (Empowering Business to Go Digital Program) Instrument 2020* (the Legislative Instrument) is to prescribe the Empowering Business to Go Digital Program (the Program). The funding for the Program has been secured through the Department of Industry, Innovation and Science (the Department) Portfolio Additional Estimates 2018-19.

The Program provides \$3 million to support a non-government organisation (NGO) to increase the awareness, and promote the adoption, of digital electronic communications amongst small businesses in line with the recommendations of the Small Business Digital Taskforce Report published in March 2018, available at <https://www.industry.gov.au/data-and-publications/small-business-digital-taskforce-report-to-government>. This will include establishing an online platform as a central point of up-to-date and tailored information about digital electronic communications for Australian businesses and their trusted advisers.

Funding authorised by this Legislative Instrument comes from Program 2: Growing Business Investment and Improving Business Capability, Outcome 1, as set out in the *Portfolio Additional Estimates Statements 2018-19, Industry, Innovation and Science Portfolio* (<https://www.industry.gov.au/about-us/finance-reporting/finance-reporting/budget-statements/budget-2018-19>) at page 23.

The Program will be delivered by the Department's Business Grants Hub, 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 merit criteria are outlined in the Grant Opportunity Guidelines, available at <https://www.business.gov.au/Grants-and-Programs/Empowering-Business-to-go-Digital>

Spending decisions will be made by the Program Delegate responsible for administering the Program, taking into account the recommendations of an assessment panel. The assessment panel may comprise Commonwealth government agency representatives and/or external experts. The assessment panel may seek input from independent experts to inform their assessments.

A single grant of up to \$3 million will be awarded. The grant amount will be up to 50 per cent of eligible project costs. The grantee must fund the costs not met by the grant and cannot use funding from other Commonwealth government sources.

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 the grant under the Program.

Applications will be assessed in two stages against the eligibility and merit criteria as set out in the Grant Opportunity Guidelines. Applications will first be assessed by AusIndustry against the eligibility criteria. An assessment panel will then consider eligible applications against the merit criteria. This will include comparing the applications and scoring each application out of 100.

Applications must address the eligibility and merit criteria, and provide relevant supporting information. To be competitive, applications must score highly against each merit criterion.

Both the successful applicant and unsuccessful applicants will be informed in writing. Unsuccessful applicants have an opportunity to discuss the outcome with the Department. 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.

Communications power

Section 51(v) of the Constitution empowers the Commonwealth to make laws with respect to ‘postal, telegraphic, telephonic and other like services’. In that regard, funding under this Legislative Instrument will support the use of electronic communication to increase small business awareness and adoption of digital technologies. Funding under this Legislative Instrument will also support activities relating to communicating electronically.

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. The OBPR has assessed this proposal as not likely to have a regulatory impact on business, community organisations or individuals (OBPR ID: 24136).

Details of the *Industry Research and Development (Empowering Business to Go Digital Program) Instrument 2020*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Empowering Business to Go Digital 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.

Section 5 – Prescribed Program

This section prescribes the Empowering Business to Go Digital Program (the Program) for the purposes of section 33 of the Act.

The Program will provide \$3 million in grant funding to support a non-government organisation to do all or any of the following:

- increase the awareness, and promote the adoption, of digital electronic communications amongst small businesses by engaging with small businesses and their advisers (whether by using digital electronic communications or other forms of communication);
- establish and operate a website that provides small businesses with up-to-date and tailored information about digital electronic communications, including by identifying and drawing together existing digital resources provided by government and by others;
- use digital electronic communications to engage in activities to improve information sharing between small businesses, government, industry associations and other key stakeholders in the program.

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 (within the meaning of paragraph 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 (Empowering Business to Go Digital 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 Empowering Business to Go Digital Program (the Program) will build and enhance small business digital capability.

The Program will provide \$3 million in grant funding to support a non-government organisation to do all or any of the following:

- increase small business awareness and adoption of digital electronic communications, in line with the recommendations of the Small Business Digital Taskforce report;
- establish a website that will provide up-to-date and tailored information about digital electronic communications for small businesses, including by identifying and drawing together existing digital resources provided by government and by others;
- use digital electronic communication to engage in activities to improve information sharing between small businesses, government, industry associations and other key stakeholders.

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.

The Hon Karen Andrews MP

Minister for Industry, Science and Technology