

EXPLANATORY STATEMENT

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

Industry Research and Development Act 1986

*Industry Research and Development (Digital Readiness Assessment Tool 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 relevant 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 (Digital Readiness Assessment Tool Program) Instrument 2020* (the Legislative Instrument) is to prescribe the Digital Readiness Assessment Tool Program (the Program). The funding for the Program has been secured through the Department of Industry, Science, Energy and Resources 2020-2021 Budget. The Program provides \$2.4 million as part of the Australian Government's commitment to accelerating the digital capability of businesses.

The Program provides funding to develop and operate an online tool that will help businesses self-assess their digital maturity and provide them with direction and pathways to existing government programs and resources to pursue their digital transformation. This tool will be hosted on business.gov.au and may also be made available on the government supported non-government organisation (NGO) website, navii.com.au.

The purpose of the Program is to accelerate the adoption of digital technologies by Australian businesses and drive long-term growth and business resilience by providing businesses with information about how they compare against their peers or frontier firms, as well as practical pathways for businesses to improve their digital maturity to reach their business goals.

The primary users of the Program will be Australian Small and Medium Sized Enterprises (SMEs) of up to \$100 million in annual turn-over across all industry sectors and/or businesses with less than 200 employees.

The Program will also be used by facilitators engaged in the Entrepreneurs' Programme and Australian Small Business Advisory Services (ASBAS) Digital Solutions. These facilitators and advisors will refer customers to the tool link and support customers to connect with solutions providers.

Funding authorised by this Legislative Instrument comes from the Digital Business Plan Program 1.2: Growing innovative and competitive businesses, industries and regions, Outcome 1, as set out in the *Portfolio Budget Statements 2020-21, Budget Related Paper No. 1.9, Industry, Science, Energy and Resources Portfolio* (<https://www.industry.gov.au/about-us/finance-reporting/budget-statements>) at page 31.

The Program will be developed by the Department and delivered through business.gov.au and may also be made available through the digital adoption NGO advocate and service provider, navii.gov.au. Business.gov.au provides information, grants, services and support available to businesses from across government. The Entrepreneurs' Programme gives businesses access to expert advice and financial support through grants to help business entrepreneurs achieve their goals. Navii.gov.au provides trusted advice and tech solutions to enable businesses to drive their digital transformation, growth and productivity.

The funding under the Program will support the development and procurement of an off-the-shelf solution to host the digital tool and a digital maturity model. A number of providers will be investigated for suitability. The provider with the required capabilities will be engaged to work closely with the Department to have the solution implemented and configured to meet the needs of the Program. The content for the tool will be developed by an SME specialist who will work closely with the Department to bring together key stakeholders within government, NGOs, and the private sector.

The procurements will be subject to the *Commonwealth Procurement Rules 2017* and decisions may be subject to the *Government Procurement (Judicial Review) Act 2018*.

Spending decisions will be made by the Program Delegate who is the Head of the Digital Economy and Technology Division.

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 legislative powers in respect of which the Instrument is made are the following:

Communications power

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 be for the purpose of developing and operating an online self-assessment tool to be delivered solely on the internet. The self-assessment tool will be accessed by SMEs via the internet to compare their digital maturity against that of similar businesses or market leaders. The online self-assessment tool will be an important internet based resource for businesses for comparing digital maturity across industry sectors.

Authority

Section 33 of the IR&D Act 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 ID 42660).

Details of the *Industry Research and Development (Digital Readiness Assessment Tool Program) Instrument 2020*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Digital Readiness Assessment Tool 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 IR&D 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 Digital Readiness Assessment Tool Program (the Program) for the purposes of section 33 of the IR&D Act.

The Program provides funding to develop and operate an online tool that will help Australian businesses self-assess their digital maturity and provide them with direction and pathways to existing government programs and resources to pursue their digital transformation. This tool will be hosted on business.gov.au and may also be made available on the government supported non-government organisation website, navii.com.au.

The purpose of the Program is to accelerate the adoption of digital technologies by Australian businesses and drive long-term growth and business resilience by providing Australian businesses with information about how they compare against their peers or frontier firms, as well as practical pathways for a business to improve their digital maturity and capability to reach their business goals.

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 (Digital Readiness Assessment Tool 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 *Industry Research and Development (Digital Readiness Assessment Tool Program) Instrument 2020* is to prescribe the Digital Readiness Assessment Tool Program (the Program).

The Program provides funding to develop and operate an online self-assessment tool by which Australian small and medium sized enterprises may compare their digital maturity with similar businesses and frontier companies. The Program's purpose is to accelerate the adoption of digital technologies by Australian businesses and drive long-term growth and business resilience by helping Australian businesses self-assess their digital maturity and capability and provide them with direction and pathways to existing government programs and resources to pursue their digital transformation. This tool will be hosted on business.gov.au and may also be made available on the government-supported website, navii.com.au.

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