

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Decentralisation and Regional Education

Industry Research and Development Act 1986

Industry Research and Development (Regional Decentralisation Agenda – Securing Raw Materials Program) – Instrument 2021

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 (Regional Decentralisation Agenda – Securing Raw Materials Program) Instrument 2021 (the Legislative Instrument) is to prescribe the Regional Decentralisation Agenda – Securing Raw Materials Program (the Program). The funding for the Program was provided in the 2020-21 Budget and appropriated to the Department of Infrastructure, Transport, Regional Development and Communications. The Program forms part of the Australian Government’s Regional Decentralisation Agenda, and will support the long-term economic prosperity of Australia’s regions by promoting jobs growth, boosting investment, and building sustainable businesses and competitive regional industries.

The program provides funding for businesses to do one or more of the following activities:

- a) relocate to regional areas;
- b) establish new operations, branches or outposts in regional areas;
- c) partner with regional universities or research organisations to conduct research and development in relation to locally sourced raw materials;
- d) commercialise the outcomes of that research and development;
- e) establish new facilities in regional areas to extract, process, use or otherwise add value to locally sourced raw materials.

The Program will provide \$35 million from 2021-22 for matched investments of up to \$5 million.

Eligible activities within the projects include research into, and development of, new or improved raw materials, methods of processing raw materials, technologies to produce raw materials or methods of growing raw materials, or new uses for existing raw materials. They can also be proof of concept of the outcomes of research or commercialising the outcomes of research.

Funding authorised by this Legislative Instrument comes from Program 3.1 of the Portfolio Budget Statements (PBS), Outcome 3: Strengthening the sustainability, capacity, and diversity of our cities and regional economies, as set out in the *Portfolio Budget Statements 2020-21, Budget Related Paper No. 1.10, [Infrastructure, Transport, Regional Development and Communications Portfolio](#)* at page 56.

The Program will be delivered by the Department of Industry, Science, Energy and Resources' (the Department) 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, merit based grants program. The Program is administered by the Department in accordance with the Commonwealth Grant Rules and Guidelines 2017 (<https://www.finance.gov.au/government/commonwealth-grants/commonwealth-grants-rules-and-guidelines>). Eligibility and merit criteria will be outlined in the Program guidelines that will be made publicly available on business.gov.au and GrantConnect.

Spending decisions will be made by the delegate, taking into account the recommendations of an independent assessment committee.

Grants will be a minimum of \$250,000 up to a maximum of \$5 million. The grant amount may be up to 50 per cent of eligible project costs.

The Program involves the allocation of finite resources between competing applicants. In addition, there will be a robust assessment process, an enquiry and feedback process, and a complaints mechanism for affected applicants. Therefore, external merits review will not apply to decisions about the provision of grants under the Program.

Applications will be assessed against the eligibility criteria and merit criteria set out in the Program guidelines in two stages. In the first instance, applications will be assessed by the Department against the eligibility criteria. An independent assessment committee will then consider eligible applications against the merit criteria. This will include comparing the applications and scoring each application out of 100. The committee may comprise representatives from the Australian university, research and business sectors. The independent assessment committee may seek input from independent experts to inform their assessments.

Applications must address the eligibility and merit 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 each merit criterion.

After considering the applications, the independent assessment committee will make recommendations to the delegate regarding applications suitable for funding. The 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.

Both successful and unsuccessful applicants will be informed of the outcome of their application in writing. Unsuccessful applicants will be given the 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 will investigate 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.

Corporations power

The Legislative Instrument specifies that the legislative power in respect of which the instrument is made is the power of the Parliament under section 51(xx) of the Constitution to make laws with respect to foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth.

Eligibility to receive funding under the Program is limited to entities which are trading corporations to which section 51(xx) applies.

Terms and conditions with which grantees must comply to receive funding under the Program will be set out in grant agreements in accordance with section 35 of the Act.

Background

The Regional Decentralisation Agenda is a key element of the Australian Government's commitment to build strong and vibrant regional communities and economies, create jobs, and encourage growth. The Government announced, in the 2020-21 Budget, \$41 million for two new research and development programs to support regional economies. The initiatives, which are part of the Regional Decentralisation Agenda, are:

- \$35 million for the Securing Raw Materials Program; and
- \$6 million for the Regional Cooperative Research Centre Projects program.

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.

Regional Development Australia (RDA) Committees were consulted in the development of the Program via two teleconferences, and communications directly to the Department.

The Program, and its underpinning policy objective, was discussed at meetings hosted by the Hon Andrew Gee MP, Minister for Decentralisation and Regional Education, on 3 November 2020. Business representatives at the meetings noted that collaboration between businesses and research institutions is important and can deliver outcomes. Feedback from the education representatives in attendance highlighted the importance of, and need to encourage, collaboration between universities and businesses. Participants also noted that extra value could be gained for businesses by being located in close proximity to the resource, and that stronger linkages between universities and businesses in the regions would support expansion and growth.

Regulatory Impact

It is estimated that the regulatory burden is likely to have a nil to minor impact on applicants (OBPR reference number 42971).

Details of the *Industry Research and Development (Regional Decentralisation Agenda – Securing Raw Materials Program) – Instrument 2021*

PART 1 – PRELIMINARY

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Regional Decentralisation Agenda – Securing Raw Materials Program) – Instrument 2021*.

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 Regional Decentralisation Agenda – Securing Raw Materials Program (the Program) for the purposes of section 33 of the Act.

The program provides funding for businesses to do one or more of the following activities:

- a) relocate to regional areas;
- b) establish new operations, branches or outposts in regional areas;
- c) partner with regional universities or research organisations to conduct research and development in relation to locally sourced raw materials;
- d) commercialise the outcomes of that research and development;
- e) establish new facilities in regional areas to extract, process, use or otherwise add value to locally sourced raw materials.

The Program recognises that establishing or securing a supply of raw materials is a crucial element of business success and supports the long-term economic prosperity of Australia's regional communities by promoting jobs growth, boosting investment, and building

sustainable businesses and competitive regional industries. It delivers benefits to regional communities by encouraging businesses to relocate to regional Australia.

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 corporations (s51(xx) of the Constitution).

Section 7 – Eligibility Criteria

This section sets out an eligibility criterion relating to the Program for the purposes of subsection 33(4) of the Act. It provides that the eligibility criterion will include that applicants must be trading corporations to which paragraph 51(xx) of the Constitution applies.

Statement of Compatibility with Human Rights

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

Industry Research and Development (Regional Decentralisation Agenda – Securing Raw Materials Program) Instrument 2021

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 (Regional Decentralisation Agenda – Securing Raw Materials Program) Instrument 2021 (the Legislative Instrument) is to prescribe the Regional Decentralisation Agenda – Securing Raw Materials Program (the Program). The funding for the Program was provided in the 2020-21 Budget and appropriated to the Department of Infrastructure, Transport, Regional Development and Communications. The Program forms part of the Australian Government’s Regional Decentralisation Agenda, and will support the long-term economic prosperity of Australia’s regions by promoting jobs growth, boosting investment, and building sustainable businesses and competitive regional industries.

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The Program recognises that establishing or securing a supply of raw materials is a crucial element of business success. It also delivers benefits to regional communities by encouraging businesses to relocate to regional Australia. \$35 million in grant funding will be provided from 2021-22.

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 Andrew Gee MP

Minister for Decentralisation and Regional Education