

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Northern Australia

Industry Research and Development Act 1986

Industry Research and Development (Supporting Agricultural Showmen and Women Program) Instrument 2021

Purpose and Operation

Section 33 of the *Industry Research and Development Act 1986* (the 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 Minister for Industry, Science and Technology has delegated the Minister's power under subsection 33(1) to the Minister responsible for administering the *Primary Industries Research and Development Act 1989* under subsection 33(6) of the Act to prescribe the Supporting Agricultural Showmen and Women Program (the Program). This is currently the Minister for Agriculture and Northern Australia.

The statutory framework provided by section 33 of the 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 (Supporting Agricultural Showmen and Women Program) Instrument 2021* (the Legislative Instrument) is to prescribe the Program.

The Program provides an initial \$4.3 million in the 2021-22 financial year as part of the Australian Government's response to the significant challenges posed by COVID-19. The Program will provide agricultural showmen and women with the assistance they need to meet the challenges posed by COVID-19 because they will play a critical role in supporting regional communities to recover from COVID-19. The Program will provide support for operational costs including rental assistance associated with showmen and women's participation at agricultural shows and Showmen's Guild membership fees.

The Program will allocate an initial \$4.279 million over two components:

1. Showmen's Guilds fees – to cover the costs of membership fees;
2. Showground rental fees – to cover rental expenses incurred by travelling show businesses at an agricultural show.

Additionally, the Minister for Agriculture and Northern Australia has announced further funding for this Program as part of the Government's commitment to support agricultural showmen and women impacted by COVID-19 (<https://minister.awe.gov.au/littleproud/media-releases/ag-shows-25-million>).

Rental assistance for agricultural showmen and women will support their participation in agricultural shows. A higher participation rate by showmen and women will deliver benefits to agricultural shows and regional communities, which have been impacted by COVID-19. Travelling show businesses are integral to the success of regional agricultural shows, with some shows attributing up to 75 per cent of their gate attendance to the presence of the showmen and women. Rental assistance relieves the operational costs for showmen and women while ensuring that shows receive ground rentals to offset costs.

Funding authorised by this Legislative Instrument was included in the 2021-22 Budget under the measure Supporting Agricultural Showmen and Women for a period of one year commencing in 2021-22. Details are set out in *Budget 2021-22, Budget Measures, Budget Paper No. 2 2021-22* at page 60 (<https://budget.gov.au/2021-22/content/bp2/index.htm>).

The Program will be delivered through the Department of Social Services' Community Grants Hub, which is a specialised design, management and delivery body with extensive expertise and capability in delivering similar programs.

The Program is an ad hoc grants program. The Program is administered by the Department of Agriculture, Water and the Environment (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>). Grant guidelines containing eligibility and assessment criteria will be made available on GrantConnect at www.grants.gov.au.

Spending decisions will be made by the Minister for Agriculture and Northern Australia, or the Program Delegate, who is responsible for administering the Program, taking into account the recommendations of an assessment by Departmental officers against the Program guidelines.

The total value of grants awarded under this Program cannot exceed the amount of available funds. Should the value of eligible Showmen's Guild membership fees or showground rental fees exceed the amount of available funds, then each applicant's claim will be reduced to ensure that claims do not exceed the amount of available funds.

The Victorian Showmen's Guild (VSG) will be the eligible applicant for the showground rental fees component of the Program. The VSG is uniquely placed to fill the service gap created by the COVID-19 related disruptions to travelling show businesses at agricultural shows and being able to meet the Program's objective and outcomes as described above. It is intended that the VSG will work with agricultural show societies and other state and territory guilds to provide payments to the relevant show societies to cover the rental costs of showmen and women.

For the guild fees of the component of the Program, the eligible applicants will be the five Showmen's Guilds in Australia: The Showmen's Guild of Australasia, West Australian Showmen's Guild, VSG, The Showmen's Guild of South Australia and the Showmen's Guild of Tasmania. These eligible applicants have been identified as being uniquely placed to meet the Program's objectives and outcomes for this component of the Program as the organisations who administer the guild fees. It is intended that payments will be made to each of the guilds to cover the costs of guild membership fees.

As the Program involves targeted ad-hoc grants, the Program will not be subject to merits review. Merits review of the Program would not be appropriate because decisions will relate to the provision of ad-hoc grants to a certain service provider over others and the allocation of a finite resource from which all potential claims for a share of the resource cannot be met. Any funding that has already been allocated would be affected if the original decision were overturned. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see items 4.16 to 4.19 of *What decisions should be subject to merits review?*).

Persons who are otherwise affected by decisions or who have complaints about the Program will 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 it is made are the executive power and express incidental power, including the nationhood aspect (section 51(xxxix) and section 61 of the Constitution).

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth. In that regard, funding provided under the Legislative Instrument will be directed towards alleviating and mitigating the economic consequences of COVID-19, an unforeseen crisis of immediate national significance, on agricultural showmen and women.

Authority

Section 33 of the Act provides authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department and the Department of Industry, Science, Energy and Resources have been consulted on this Legislative Instrument.

The department has also consulted state and territory Showmen's Guilds, the Australian Show Association and agricultural show society peak bodies. There was general support for the key elements of the Program.

The department will consult with the VSG on an ongoing basis to ensure that the grant will be administered and used effectively to achieve the aims of the Program.

Regulatory impact

The proposal is considered to be non-regulatory (OBPR reference number ID 44271).

Other

The Legislative Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Industry Research and Development (Supporting Agricultural Showmen and Women Program) Instrument 2021*

Section 1 – Name

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Supporting Agricultural Showmen and Women 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 section provides for definitions of terms used in the Legislative Instrument.

Section 5 – Prescribed program

This section prescribes the Supporting Agricultural Showmen and Women Program (the Program) for the purposes of subsection 33(1) of the Act.

The Program provides an initial \$4.3 million in the 2021-22 financial year as part of the Australian Government's response to the significant challenges posed by COVID-19. The Program will provide agricultural showmen and women with the assistance they need to meet the challenges posed by COVID-19 because they will play a critical role in supporting regional communities to recover from COVID-19. The Program will provide support for operational costs including rental assistance and Showmen's Guild fees.

The Minister for Agriculture and Northern Australia has also announced further funding for this Program as part of the Government's commitment to support agricultural showmen and women impacted by COVID-19 (<https://minister.awe.gov.au/littleproud/media-releases/ag-shows-25-million>).

Section 6 – Specified legislative power

This section specifies that, for the purposes of subsection 33(3) of the Act, the legislative power in respect of which the Legislative Instrument is made is the power of the Parliament to make laws with respect to enterprises and activities that are peculiarly adapted to the government of a nation and cannot otherwise be carried on for the benefit of the nation (s 61 and s 51(xxxix) of the Constitution).

Statement of Compatibility with Human Rights

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

Industry Research and Development (Supporting Agricultural Showmen and Women 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 (Cth)*.

Overview of the instrument

The purpose of the *Industry Research and Development (Supporting Agricultural Showmen and Women Program) Instrument 2021* (Legislative Instrument) is to prescribe the Supporting Agricultural Shows and Field Days Program (the Program).

The Program provides an initial \$4.3 million in the 2021-22 financial year as part of the Australian Government's response to the significant challenges posed by COVID-19. The Minister for Agriculture and Northern Australia has also announced further funding for this Program as part of the Government's commitment to support agricultural showmen and women impacted by COVID-19 (<https://minister.awe.gov.au/littleproud/media-releases/ag-shows-25-million>).

The Program will provide agricultural showmen and women with the assistance they need to meet the challenges posed by COVID-19 because they will play a critical role in supporting regional communities to recover from COVID-19. The Program will provide support for operational costs including rental assistance and Showmen's Guild fees.

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. David Littleproud MP
Minister for Agriculture and Northern Australia