

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry and Science

Industry Research and Development Act 1986

*Industry Research and Development (Underwriting New Generation Investments Program)
(Repeal) Instrument 2022*

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 Commonwealth entity, or by their delegate (under section 36).

The purpose of the *Industry Research and Development (Underwriting New Generation Investments Program) (Repeal) Instrument 2022* (the Legislative Instrument) is to repeal the *Industry Research and Development (Underwriting New Generation Investments Program) Instrument 2021*, thereby removing legislative authority to enter into commitments under the Underwriting New Generation Investments Program (the UNGI Program).

Background

The UNGI Program launched in 2018 with the stated aim of reducing wholesale electricity prices by increasing competition and supply, assisting commercial and industrial customers and smaller retailers to access affordable energy supply arrangements and improving reliability by increasing the level of firm and firmed capacity in the system. This Program

was intended to do this by providing support, in the form of revenue floor arrangements, loans and/or grants, to support new dispatchable electricity generation projects, including projects to build new dispatchable generators and projects to upgrade the capacity or efficiency of existing dispatchable generators.

Twelve projects were shortlisted at the commencement of the program. No projects have been delivered and no underwriting commitments have been made.

The UNGI Program has now been closed because it was unlikely to achieve its objectives. This instrument repeals the instrument that prescribed the UNGI Program, meaning that the Government will not have legislative authority to enter into commitments under the UNGI Program.

Authority

Section 33 of the IR&D Act and section 33 of the *Acts Interpretation Act 1901* provide authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the Department of Climate Change, Energy, the Environment and Water has been consulted in relation to the Legislative Instrument. Further consultation is not required because the sole purpose of the Legislative Instrument is to terminate the UNGI Program and there have been no commitments made that would be affected by that termination.

Regulatory Impact

No commitments have been made under the UNGI Program and so the regulatory burden is nil.

Details of the *Industry Research and Development (Underwriting New Generation Investments Program) (Repeal) Instrument 2022*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Underwriting New Generation Investments Program) (Repeal) Instrument 2022*.

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) and the *Acts Interpretation Act 1901* (the AI Act) under which the Legislative Instrument is made. Section 33 of the IR&D Act allows instruments to be made prescribing programs, and subsection 33(3) of the AI Act confirms that this includes the power to repeal such an instrument.

Section 4 – Schedules

This section is a machinery provision that provides for a schedule of repealed instruments.

Schedule 1 – Repeals

This schedule specifies that the whole of the *Industry Research and Development (Underwriting New Generation Investments Program) Instrument 2021* is repealed.

Statement of Compatibility with Human Rights

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

*Industry Research and Development (Underwriting New Generation Investments Program)
(Repeal) Instrument 2022*

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 UNGI Program launched in 2018 with the stated aim of reducing wholesale electricity prices by increasing competition and supply, assisting commercial and industrial customers and smaller retailers to access affordable energy supply arrangements and improving reliability by increasing the level of firm and firmed capacity in the system.

No projects have been delivered and no underwriting commitments have been made.

The UNGI Program has now been closed because it was unlikely to achieve its objectives. This instrument repeals the instrument that prescribed the UNGI Program, meaning that the Government will not have legislative authority to enter into commitments under the UNGI Program.

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 Ed Husic MP
Minister for Industry and Science