

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry and Science

Industry Research and Development Act 1986

Industry Research and Development (Single Business Service Program) Instrument 2023

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 (Single Business Service Program) Instrument 2023* (the Legislative Instrument) is to prescribe the Single Business Service Program (the Program). The funding for the Program has been secured through the Department of Industry, Science and Resources (the Department) 2023-2024 Budget. The Program provides funding of \$39.6 million over four years from 2023-24 to 2026-27, and \$11.0 million ongoing, as part of the Australian Government's commitment to simplify small to medium businesses engagement with government. The Program provides information on, and an entry point to, the services and support small and medium businesses can access across government jurisdictions through a telephone call centre and website (business.gov.au), which includes webchat and email communication. This will include information on how to plan, establish, operate, and exit a business in Australia.

Funding will be used to continually update the information provided through the website and telephone contact centre, answer queries through the telephone contact centre, and maintain the quality of the services.

Funding authorised by this Legislative Instrument comes from Program 1.1: Growing innovative and competitive businesses, industries and regions, Outcome 1, as set out in the *Portfolio Budget Statements 2023-24, Budget Related Paper No. 1.11, Industry, Science, and Resources Portfolio* (<https://www.industry.gov.au/publications/budget-2023-24>) at page 37.

The Program will be delivered by the Department's Business Outreach and Engagement branch, which has extensive expertise and capability in managing the delivery of the Program.

The Program is an information and referral service for the Australian business community. The Program is administered by the Department in accordance with the Australian Government *Digital Service Standard* (<https://www.dta.gov.au/help-and-advice/about-digital-service-standard>). The level of service provided is outlined in the Program's Customer service charter, available at <https://business.gov.au/about-us/customer-service-charter>.

Spending decisions will be made by the Program Delegate who is the General Manager responsible for administering the Program, taking into account the recommendations of the website Product Manager and telephone contact centre Manager. The Program Delegate is an SES officer who holds delegation under the Department's general financial framework, including delegation under the *Public Governance, Performance and Accountability Act 2013*, and sections 34 and 35 of the IR&D Act.

Spending decisions under the Program involve the allocation of finite resources between certain service providers to implement policy decisions made by the Government. Merits review would not be able to provide an effective remedy to a party aggrieved by a decision, because a successful application for review by one service provider would require a reduction in funding to other service providers, and it would cause significant delays in channelling funds into service provision. Accordingly, external merits review will not apply to spending decisions of the Program Delegate. The Administrative Review Council has recognised that decisions of this nature should be excluded from merits review (see paragraphs 4.16 to 4.19 of *What decisions should be subject to merits review?* available at <https://www.ag.gov.au/legal-system/administrative-law/administrative-review-council-publications/what-decisions-should-be-subject-merit-review-1999>).

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.

For the purposes of subsection 33(3) of the IR&D Act, the Legislative Instrument specifies that the legislative powers in respect of which the Instrument is made is the communications power in paragraph 51(v) of the Constitution.

Paragraph 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 operating and improving the business.gov.au website and telephone call centre. The business.gov.au website and telephone call centre can be accessed via the internet and telephone to receive information on the services and support businesses can access across government jurisdictions. This will include information on how to plan, establish, operate, and exit a business in Australia.

Further details of the Legislative Instrument are set out at **Attachment A**.

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 (Office of Best Practice Regulation 23-03994).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at **Attachment B**.

Details of the *Industry Research and Development (Single Business Service Program) Instrument 2023*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Single Business Service Program) Instrument 2023*.

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 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 – Single Business Service Program

This section prescribes the Single Business Service Program (the Program) for the purposes of section 33 of the IR&D Act.

The Program provides an information and entry point for small to medium businesses to access services and support from across government jurisdictions through a telephone call centre and website (business.gov.au), which includes webchat and email communication. This will include information on how to plan, establish, operate, and exit a business in Australia.

Section 6 – Communications 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 (Single Business Service Program) Instrument 2023

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 *Industry Research and Development (Single Business Service Program) Instrument 2023* (the Legislative Instrument) provides legislative authority to commit Commonwealth funding for the *Single Business Service Program* (the Program)

The Program simplifies small to medium businesses engagement with government by providing information on, and an entry point to, the services and support businesses can access across government jurisdictions. This is delivered through a telephone call centre and website (business.gov.au), which includes webchat and email communication. This will include information on how to plan, establish, operate, and exit a business in Australia.

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