

EXPLANATORY STATEMENT

Issued by the authority of the Minister for the Environment and Water

Industry Research and Development Act 1986

Industry Research and Development (Additional Support for Clothing Textiles Circularity Grant Program) Instrument 2025

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 and Science has delegated the Minister's power under subsection 33(1) to the Minister responsible for administering the *Recycling and Waste Reduction Act 2020*, under subsection 33(6) of the Act to prescribe the Additional Support for Clothing Textiles Circularity Grant Program (the Program). This is currently the Minister for the Environment and Water.

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 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 (Additional Support for Clothing Textiles Circularity Grant Program) Instrument 2025* (the Legislative Instrument) is to prescribe the Program.

The funding for the Program has been secured through the 2024-25 Mid-Year Economic and Fiscal Outlook (MYEFO) at page 218. The Program will provide \$1.0 million over two years from 2024-25 to support the Australian Government's commitment to transition to a more circular economy. The purpose of the Program will be to deliver a grant of financial assistance to the eligible organisation responsible for implementing, on a national level, voluntary industry-led product stewardship initiatives for clothing textiles in Australia. The relevant responsible organisation at the time of the instrument being made is Clothing Stewardship Australia Limited.

The Program aims to demonstrate the readiness of industry-led stewardship models, collaborating along the length of the supply chain, to coordinate and deliver national pilot programs aligned to circular economy principles. Pilot programs can address any stage of the product lifecycle, including end of life. The Program also aims to demonstrate or inform the scalability of these approaches to increase resource recovery from clothing textiles.

The Program will provide funding of \$1.0 million over two years from 2024-25. Funding is limited to eligible activities, for example, trials and pilot programs that implement circular economy principles for clothing textiles throughout the product lifecycle, including at end of life. Funding is available on successful application by the industry representative organisation invited to apply to undertake eligible projects to meet the aims of the Program.

Activities that may be supported by the Program could include supply chain collaborations to identify, investigate and trial programs to inform large-scale recovery and recycling of used or unsold clothing and thereby reduce waste to landfill.

The Department of Climate Change, Energy, the Environment and Water (DCCEEW) has policy responsibility for the Program. The Business Grants Hub in the Department of Industry, Science and Resources will administer the delivery of the grants program with oversight and policy support provided by DCCEEW.

The Program is an ad-hoc grant program. The Program is administered by DCCEEW in accordance with the requirements of the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* and the *Commonwealth Grants Rules and Principles 2024 (CGRPs)*.

Spending decisions will be made by the Minister for Environment and Water or their delegate, taking into account the recommendations of an assessment by DCCEEW officers against the Program guidelines.

The delegate of the Minister for the Environment and Water would be a Senior Executive Service employee from the area of DCCEEW responsible for administering circular economy policy, including oversight of product stewardship approaches. This would ensure the delegate has relevant expertise in, and understanding of, product stewardship approaches, and be able to perform relevant functions in accordance with the Commonwealth resource framework.

As the Program is an ad-hoc, non-competitive grant that supports the implementation of policy decisions made by the Government, the Program will not be subject to merits review. Merits review of the Program would not be appropriate because these decisions relate to the provision of a one-off grant to a certain service provider. The allocation of this grant therefore reflects a budgetary decision of a policy nature made by the government to fund this Program. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see items 4.18 of *What decisions should be subject to merits review?* <https://www.ag.gov.au/legal-system/publications/what-decisions-should-be-subject-merit-review-1999>). This instrument will instead be subject to parliamentary scrutiny.

The review and audit process undertaken by the Australian National Audit Office also provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Statement of the Relevance and Operation of Constitutional Heads of Power

For the purposes of subsection 33(3) of the Act, the Legislative Instrument specifies that the legislative power in respect of which it is made is the executive power and express incidental power, including the nationhood aspect (see paragraph 51(xxxix) and section 61 of the Constitution).

The express incidental power in paragraph 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested by the Constitution in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports, among other things, 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, the Program will provide funding to an industry-led voluntary product stewardship scheme for clothing textiles that will support activities to be undertaken at, and address problems at, the national level, and which require significant national-level cooperation.

Further details on the Legislative Instrument are set out in [Attachment A](#).

Background

A circular economy is one where products are designed to be reused, repaired, and recycled, minimising waste and maximising resource efficiency. It aims to create a closed-loop system where materials are continuously circulated and repurposed rather than being discarded as waste.

‘Product stewardship’ is an important enabler for the circular economy. It is where producers, importers and retailers take individual or collective responsibility for their products by providing financial resources to manage products and their environmental impacts, including at the end of a product’s useful life. Examples of activities that support product stewardship include recycling to reduce landfill costs or recovering valuable resources that can be used to make new products.

Product stewardship aims to ensure that those involved in producing, selling, using and disposing of products have a shared responsibility to ensure that those products or materials are managed in a way that reduces their impact, throughout their lifecycle, on the environment and on human health and safety. Product stewardship actions can target the design, use and reuse or recycling of products.

The *Recycling and Waste Reduction Act 2020* establishes the framework for product stewardship in Australia, and includes three product stewardship approaches: voluntary, co-regulatory and mandatory. The Program will support voluntary stewardship approaches and is separate from, but complementary to, the legislative framework.

In 2023, an estimated 1.4 billion clothing items were sold in Australia and an estimated 200,000 tonnes were sent to landfill. The Program will support an industry-led national voluntary product stewardship scheme to reduce the amount of clothing items sent to landfill.

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, and Resources have been consulted on this Legislative Instrument.

DCCEEW consulted the eligible applicant after the 2024-25 MYEFO was released. The applicant confirmed their availability to apply for the ad hoc grant under the Program and their capacity to deliver grant activities, subject to legislative authority and successful application.

As the Program is similar in nature to a previous grant program supporting voluntary industry-led product stewardship, the former National Product Stewardship Investment Fund program (now closed) as prescribed under item 377 in Part 4 of Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997*, it was considered unnecessary to undertake additional consultation in relation to the Legislative Instrument.

Impact Analysis

It is estimated that the regulatory burden is likely to be minor (Office of Impact Analysis (OIA) reference number OIA24-08596).

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 (Additional Support for Clothing Textiles Circularity Grant Program) Instrument 2025

Section 1 – Name of Instrument

1. This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Additional Support for Clothing Textiles Circularity Grant Program) Instrument 2025* (the Legislative Instrument).

Section 2 – Commencement

2. This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

3. This section specifies that the Legislative Instrument is made under section 33 of the *Industry Research and Development Act 1986* (the Act).

Section 4 – Definitions

4. This section provides for definitions of terms used in the Legislative Instrument.

Section 5 – Prescribed Program

5. This section prescribes the Additional Support for Clothing Textiles Circularity Grant Program (the Program) for the purposes of subsection 33(1) of the Act.
6. The purpose of the Program is to provide grant funding to the eligible organisation responsible for implementing, on a national level:
 - (a) voluntary industry-led national product stewardship initiatives; and
 - (b) pilot sustainability projects which address the environmental impacts of clothing textiles at all stages of the product lifecycle and align with circular economy principles.

Section 6 – Specified Legislative Power

7. This section specifies that for the purposes of subsection 33(3) of the Act, 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 (see paragraph 51(xxxix) and section 61 of the Constitution) is specified.

Statement of Compatibility with Human Rights

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

Industry Research and Development (Additional Support for Clothing Textiles Circularity grant program) Instrument 2025

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 (Additional Support for Clothing Textiles Circularity Grant Program) Instrument 2025* (the Legislative Instrument) is to prescribe the ‘Additional Support for Clothing Textiles Circularity Grant Program’ (the Program). The purpose of the Program is to provide grant funding to the eligible organisation responsible for implementing, on a national level, voluntary industry-led product stewardship initiatives for clothing textiles at all stages of the product lifecycle, including at end of life, aligned to circular economy principles. This might include collection trials to scale up domestic textiles recycling.

The Program aims to demonstrate the readiness of industry-led stewardship models, collaborating along the length of the supply chain, to coordinate and deliver national pilot programs aligned to circular economy principles. Pilot programs can address any stage of the product lifecycle, including end of life. The Program will also aim to demonstrate or inform the scalability of these approaches to increase resource recovery from clothing textiles.

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 Tanya Plibersek MP
Minister for the Environment and Water**