

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry and Science

Industry Research and Development Act 1986

*Industry Research and Development (Future Battery Industries Demonstrator Program)
Instrument 2025*

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 (Future Battery Industries Demonstrator Program) Instrument 2025* (the Legislative Instrument) is to prescribe the Future Battery Industries Demonstrator Program (the Program) of the Building Future Battery Capabilities measure. The funding for the Building Future Battery Capabilities measure has been secured through the Department of Industry, Science and Resources (the Department) 2024-2025 Budget. The Building Future Battery Capabilities measure provides \$20.3 million as part of the Australian Government's Future Made in Australia agenda to maximise the economic and industrial benefits of the move to net zero. The Building Future Battery Capabilities measure is also a key element of the National Battery Strategy, which aims to improve Australia's resilience and security and drive economic growth by expanding Australia's battery manufacturing capabilities and building skills.

Through the Program, \$9.930 million is available to a successful company to undertake eligible projects to:

- deliver a national battery supply chain navigator tool that maps national industry and research capability and supply chains, as well as government battery projects and programs, and gives industry and investors access to information on customers, capability, traceability and environmental, social and governance information.
- deliver an innovation and scale-up program for the commercialisation of innovative Australian battery technologies and deliver an annual industry showcase.
- support the delivery of best practice guidelines and standards for industry on how to safely install, maintain, transport and handle (including recycle) batteries.

Funding authorised by the Legislative Instrument comes from the Future Made in Australia - Making–Australia a Renewable Energy Superpower initiative, as outlined in the *2024-25 Budget Paper No.2: Budget Measures* (https://budget.gov.au/content/bp2/download/bp2_2024-25.pdf) at page 69.

The Program will be delivered by the Business Grants Hub, a specialised design, management and delivery body within the Department with extensive expertise and capability in delivering similar programs.

The Program is a closed, non-competitive program. The Program is administered by the Department in accordance with the *Commonwealth Grant Rules and Principles 2024* (<https://www.legislation.gov.au/F2024L00854/latest/text>). Eligibility and merit criteria are outlined in the Program guidelines, available at: <https://www.grants.gov.au/> (GO7314 Building Future Battery Capabilities Program – Future Battery Industries Demonstrator Stream).

Spending decisions will be made by the Program Delegate who is a Manager in the Business Grants Hub responsible for administering the Program, taking into account the recommendations of the Department. The Program Delegate 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.

The grant will be a maximum of \$9.930 million.

As this is a closed, 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 the decisions will relate to the provision of a one-off grant to a certain service provider, over other service providers. 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/publications/what-decisions-should-be-subject-merit-review-1999>).

The application will be reviewed by the Business Grants Hub against the eligibility criteria and assessed against the merit criteria set out in the Program guidelines. If eligible, the application will be assessed further by the Business Grants Hub against the assessment criteria and scored out of 100. The Business Grants Hub may engage external experts/advisors to inform the assessment process, as required.

The applicant must address all eligibility and assessment criteria, provide all the information requested and include all necessary attachments. The Department will only award funding if the application scores at least 50 per cent against each assessment criterion.

The Business Grants Hub will provide advice to the Program Delegate on the merit of the application. The Program Delegate then decides if the grant will be approved.

The applicant will be advised of the outcome of the application in writing. If unsuccessful, the applicant will have an 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 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.

Statement of the Relevance and Operation of Constitutional Heads of Power

The Legislative Instrument specifies that the legislative power in respect of which it is made is the Commonwealth trade and commerce power (paragraph 51(i) of the Constitution).

Paragraph 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the states’. In that regard, the Program prescribed by the Legislative Instrument will provide funding to foster interstate and overseas trade and commerce in the battery industry, noting that supply chains for the battery industry in Australia extend across state and national borders.

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

The Department engaged with over 100 stakeholders, including industry representatives, academics, unions, state, territory and local governments, and the community, to inform the development of the National Battery Strategy. This engagement was facilitated through the release of a public issues paper, and targeted roundtable discussions to identify key issues.

The findings from these extensive public consultations then led to the development of several initiatives under the National Battery Strategy, including the Building Future Battery Capabilities measure.

The design principles of the Program are underpinned by feedback received from stakeholders, specifically to identifying domestic supply chain capabilities and gaps; commercialisation of new and emerging battery technologies in Australia; certification and standardisation barriers to ensure battery safety, performance, and reliability in both primary and secondary markets, and the need to bolster battery manufacturing capabilities. These findings were among the key insights that shaped the Program's development.

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department has been consulted on the Legislative Instrument.

Regulatory Impact

It is estimated that the regulatory burden is likely to be minor (Office of Impact Analysis (OIA) reference number OIA23-05591).

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 (Future Battery Industries Demonstrator Program) Instrument 2025*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Future Battery Industries Demonstrator Program) Instrument 2025* (the Legislative Instrument).

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 – Prescribed Program

This section prescribes the Program for the purposes of section 33 of the IR&D Act.

The Program provides funding to support mapping of Australian battery capability and value chains; the driving of battery innovation and scale-up; and delivery of best practice guidelines and standards for the battery industry, for the purposes of section 33 of the IR&D Act.

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 trade and commerce with other countries and among the States (paragraph 51(i) 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 (Future Battery Industries Demonstrator Program)
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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 (Future Battery Industries Demonstrator Program) Instrument 2025* (the Legislative Instrument) provides legislative authority to commit Commonwealth funding for the Future Battery Industries Demonstrator Program (the Program) of the Building Future Battery Capabilities measure. The Program will map Australian battery capability and value chains, drive battery innovation and scale-up and deliver best practice guidelines and standards for the battery industry.

Human rights implications

The Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The 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