

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Minister for Housing, Minister for Homelessness and Minister for Small Business**

#### *Industry Research and Development Act 1986*

#### *Industry Research and Development (Small Business Cyber Resilience Service Program) Instrument 2024*

Subsection 33(1) of the *Industry Research and Development Act 1986* (the Act) provides that the Minister for Industry and Science may, by disallowable legislative instrument, prescribe programs in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

Section 33 of the Act provides for a statutory framework 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 the administrative burden on the Commonwealth.

Once a program is prescribed by the Minister under section 33, subsection 34(1) of the Act 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 of the Act).

Subsection 33(6) of the Act provides that the Minister may delegate, to another Minister, the Minister's power under subsection 33(1) of the Act to prescribe a program. Delegations under subsection 33(6) of the Act are in place for the Small Business Cyber Resilience Service program (the Program) that empower the Minister for Housing, Minister for Homelessness and Minister for Small Business to prescribe (and, by virtue of subsection 33(3) of the *Acts Interpretation Act 1901*, amend) the Program.

The purpose of the *Industry Research and Development (Small Business Cyber Resilience Service Program) Instrument 2024* (the Instrument) is to prescribe the Program.

The Program will improve the cyber resilience of small businesses by providing a free service, delivered by phone or by way of the internet, that small businesses may call or access to receive specific and individualised advice and assistance relating to navigating the cyber security landscape, improving cyber security resilience to prevent attacks, and to obtain support following a cyber incident.

A grant of up to a total of \$8.1 million will be provided to a service provider through an open, competitive grant process to deliver the Program. The final funding amount will be dependent on an assessment of eligible expenses against the Program's grant guidelines. Administration of the grant will be delegated to the Business Grants Hub.

For the purposes of subsection 33(3) of the Act, the Instrument specifies that the legislative power in respect of which the Instrument is made is the communications power (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 this regard, funding provided under the Instrument will support the service provider to deliver advice and assistance by telephone or by way of the internet.

The Act does not specify any conditions that need to be satisfied before the power to prescribe programs can be exercised.

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 Instrument.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Instrument commenced on the day after registration on the Federal Register of Legislation.

Details of the Instrument are set out in Attachment A.

A statement of Compatibility with Human Rights is at Attachment B.

The Office of Impact Analysis has been (OIA) has been consulted (OIA ref: OBPR22-03270) and agreed that an Impact Analysis is not required.

**Details of the *Industry Research and Development (Small Business Cyber Resilience Service Program) Instrument 2024***

**Section 1 – Name**

This section provides that the name of Instrument is the *Industry Research and Development (Small Business Cyber Resilience Service Program) Instrument 2024* (the Instrument).

**Section 2 – Commencement**

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

**Section 3 – Authority**

The Instrument is made under the *Industry Research and Development Act 1986* (the Act).

**Section 4 – Definitions**

This section provides definitions for the purposes of the Instrument.

**Section 5 – Prescribed program**

This section prescribes the *Small Business Cyber Resilience Service Program* for the purposes of subsection 33(1) of the Act.

The program provides funding, by way of a grant to a service provider, for the provision of expert advice and assistance delivered by telephone or by way of the internet to small businesses on matters relating to cyber security. The program has the purposes of helping to build the cyber security capability and resilience of small businesses, and also to support the recovery of small businesses after experiencing a cyber incident.

**Section 6 – Specified legislative power**

This section specifies that the legislative power in respect of which the Instrument is made are the powers 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 (Small Business Cyber Resilience Service Program) Instrument 2024***

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 (Small Business Cyber Resilience Service Program) Instrument 2024* (the Instrument) is to prescribe the *Small Business Cyber Resilience Service Program* (the Program). The program provides funding, by way of a grant to a service provider, for the provision of expert advice and assistance delivered by telephone or by way of the internet to small businesses on matters relating to cyber security.

**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.