

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Employment, Skills, Small and Family Business

Industry Research and Development Act 1986

Industry Research and Development (BusinessBalance Program) Instrument 2020

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

The purpose of the *Industry Research and Development (BusinessBalance Program) Instrument 2020* (the Legislative Instrument) is to prescribe the BusinessBalance Program (the Program). The funding for the Program has been secured through the 2020-21 Appropriation Bills. The Program provides \$6.5 million in grant funding as part of the Australian Government's commitment to small business mental health. The aim of the Program is to increase the number of small business owners taking proactive, preventative and early steps to improve their mental health through tailored business and mental health supports. The Program has the purpose of providing immediate, short term support for small business owners' mental and financial well-being through the response and recovery phases of the COVID-19 pandemic. Activities that will be supported under the Program include:

- building the 'mental health literacy' of trusted business advisers (e.g. accountants and financial advisers), by expanding a free accredited professional development program to be delivered online by Deakin University; and

- providing free, accessible and tailored support for small business owners by expanding Beyond Blue's NewAccess program, which is delivered online and over the phone.

Funding will be available to Beyond Blue and Deakin University to undertake eligible projects to expand and tailor Beyond Blue's NewAccess program to small business owners; and expand a pilot program run by Deakin University which focuses on mental health and business skills. The NewAccess program will be delivered over the phone or via videoconferencing, and the Deakin University pilot program will be delivered online.

Funding authorised by this Legislative Instrument comes from Program 4.1: Support for Small Business, Outcome 4. Details are set out in the *Portfolio Budget Statements 2020-21, Industry, Science, Energy and Resources Portfolio*.

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

The Program is an ad hoc grants program. The Program is administered by the Department in accordance with the *Commonwealth Grant Rules and Guidelines 2017* (<http://www.finance.gov.au/sites/default/files/commonwealth-grants-rules-and-guidelines.pdf>).

Spending decisions will be made by a program delegate of the Department of Industry, Science, Energy and Resources.

One grant will be provided to Beyond Blue up to the amount of \$4.26 million, to be paid in three instalments. One grant will be provided to Deakin University up to the amount of \$2.24 million, to be paid in three instalments. The final funding amount will be dependent on an assessment of eligible expenses against the ad hoc grant Program guidelines.

The Program will not be subject to merits review as funding decisions:

- involve the allocation of finite resources and overturning the original decision could affect an allocation to another party;
- support the implementation of policy decisions made by government about the delivery of the Program;
- involve funds being provided on an ad hoc basis designed to meet the need for immediate short term support for small business owners' mental and financial well-being through the response and recovery phases of the COVID-19 pandemic.

The grant agreement with Beyond Blue and Deakin University will contain the conditions of the grant, key project deliverables and formal reporting mechanisms to measure performance, including the collection of qualitative and quantitative data to track progress against the deliverables.

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.

Communications power

The Legislative Instrument specifies that the legislative power in respect of which it is made is the communications power (section 51(v) of the Constitution). Section 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:

- support Deakin University to deliver an accredited free online professional development program aimed at building the 'mental health literacy' of trusted business advisers (e.g. accountants and financial advisers) used by small business owners; and
- support Beyond Blue to expand its NewAccess program, which will be delivered both online and over the phone to small business owners.

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.

In the development of the BusinessBalance initiative the Department consulted with the Office of Best Practice Regulation, Department of Infrastructure, Transport, Cities and Regional Development, Department of Health, Department of Education, Skills and Employment, Beyond Blue, Deakin University and the Australian Small Business and Family Enterprise Ombudsman.

Regulatory Impact

It is estimated that the regulatory burden is likely to be minor (OBPR ID: 42978).

Details of the *Industry Research and Development (BusinessBalance Program) Instrument 2020*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (BusinessBalance Program) Instrument 2020*.

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) 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 BusinessBalance Program (the Program) for the purposes of section 33 of the IR&D Act.

The purpose of the program is to provide immediate, short-term support for the mental health and financial wellbeing of small business owners through the response and recovery phases of the COVID-19 pandemic. The Program provides \$4.26 million and \$2.24 million in grant funding to Beyond Blue and Deakin University, respectively, to undertake eligible projects to:

- provide free, accessible and tailored support for small business owners by expanding Beyond Blue’s NewAccess program, which is delivered online and over the phone; and
- build the ‘mental health literacy’ of trusted business advisers by expanding a free accredited professional development program delivered online by Deakin University.

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 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 (BusinessBalance Program) Instrument 2020

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 BusinessBalance Program (the Program) provides \$4.26 million and \$2.24 million in grant funding to Beyond Blue and Deakin University, respectively. The Program will increase the number of small business owners taking proactive, preventative and early steps to improve their mental health through tailored business and mental health supports. The Program comprises the following elements:

- a) building the ‘mental health literacy’ of trusted business advisers (e.g. accountants and financial advisers), by expanding a free accredited professional development program to be delivered online by Deakin University; and
- b) providing free, accessible and tailored support for small business owners by expanding Beyond Blue’s NewAccess program, which is delivered online and over the phone.

Human rights implications

The Instrument engages the following rights:

Right to health

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right to the enjoyment of the highest attainable standards of physical and mental health.

Right to health

The Program has been designed to improve awareness of mental health issues within small businesses, and is targeted to the specific needs of small business owners. The Program will encourage small business owners and business advisers to engage early with mental health interventions and to integrate good mental wellness practices into their lifestyle.

The Program will also promote within small businesses the creation of safe and healthy working conditions. Through engagement with the Program, small business owners will benefit through the use of tailored business and mental health supports to meet their mental health needs.

Conclusion

This Legislative Instrument is compatible with human rights as it has a positive effect on the applicable human rights.

Senator the Hon Michaelia Cash
Minister for Employment, Skills, Small and Family Business