EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry and Innovation.

Australian Jobs Act 2013

Australian Jobs (Australian Industry Participation) Rules 2026

Purpose and Operation

Section 128 of the *Australian Jobs Act 2013* (Jobs Act) allows the Minister to make rules, by legislative instrument (***legislative rules***) prescribing matters required or permitted by the Jobs Act to be prescribed by the legislative rules or necessary or convenient to be prescribed for carrying out or giving effect to the Jobs Act.

The Jobs Act was enacted to support the creation and retention of Australian jobs. It established the Australian Industry Participation (AIP) Authority, which:

- requires AIP plans for major projects; and
- ensures that Australian entities have full, fair and reasonable opportunity to bid for the supply of key goods or services for the project and the supply of key goods and services if the project involves establishing, expanding, improving or upgrading a new facility.

The *Australian Jobs (Australian Industry Participation) Rules 2026* (Jobs Rules) repeals and replaces the *Australian Jobs (Australian Industry Participation) Rule 2014* (Jobs Rule 2014) which will sunset on 1 April 2026 by operation of subsection 50(1) of the *Legislation Act 2003*.

The new Jobs Rules replaces the Jobs Rule 2014 with minor amendments which are machinery in nature and remove outdated measures and better reflect current enhancements in reporting.

The new Jobs Rules will:

- enable better understanding of Australian industry capabilities and capacity for project reporting under an AIP plan to advance the government's Future Made in Australia agenda;
- improve the efficiency and effectiveness of the AIP Authority’s compliance monitoring of AIP plan implementation activities;
- better describe the documentation required to be provided by a project proponent as evidence of actions taken implementing their AIP plan to comply with the Jobs Act; and
- remove references to outdated programs and schemes.

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AIP aims to improve Australian industry's access to major project supply chains. In accordance with the Jobs Act:

- Proponents are required to prepare and implement an AIP plan, and provide compliance reports every six months to the AIP Authority, the regulator of the Jobs Act.
- The AIP Authority assists project proponents to understand their obligations under the Jobs Act as they develop their AIP plan and prepare compliance reports for eligible major projects (with capital expenditure totalling $500 million or more).
- The AIP Authority monitors and evaluates the actions undertaken by the project proponents for procurement of key goods and services.

The Jobs Act requires an AIP plan to be prepared before the trigger date as defined in the Jobs Act. The Jobs Act imposes minimum requirements on the project proponent or a facility operator to demonstrate in an AIP plan the actions and activities they will take to ensure that Australian firms have an opportunity to bid for work on eligible major projects.

The new Jobs Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The new Jobs Rules will commence on the day after registration.

Further details of the new Jobs Rules are outlined in Attachment A.

Authority

Section 128 of the Jobs Act provides that the Minister may, by legislative instrument, make legislative rules prescribing matters:

a) required or permitted by the Jobs Act to be prescribed by the legislative rules; or
b) necessary or convenient to be prescribed for carrying out or giving effect to the Jobs Act.

Consultation

The proposed replacement of the Jobs Rule 2014 by the new Jobs Rules has been informed by feedback from the Australian National Audit Office's Annual Performance Statements Audit 2022-2023, the AIP Impact Evaluation 2023 (including feedback from unions, suppliers and industry organisations) and the AIP Authority's recent regulatory experience.

Further consultation was not conducted because the changes that the new Jobs Rules will give effect to are minor and machinery in nature and are focused on removing outdated measures and enhance reporting.

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

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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.

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Attachment A

Details of the *Australian Jobs (Australian Industry Participation) Rules 2026*

Part 1—Preliminary

Section 1 - Name

This section provides that the name of the Jobs Rules is the *Australian Jobs (Australian Industry Participation) Rules 2026*.

Section 2 - Commencement

This section provides that the Jobs Rules commences on the day after registration.

Section 3 - Authority

This section provides that the Jobs Rules are made under section 128 of the *Australian Jobs Act 2013*.

Section 3A - Schedules

This section is a machinery clause that provides for instruments specified in a Schedule to the Jobs Rules to be amended or repealed as specified in the Schedule, and allows any other items in a Schedule to the Jobs Rules to operate according to their terms.

Section 4 - Definitions

This item provides for definitions of terms used in the Jobs Rules.

Part 2—Exception to giving draft Australian Industry Participation plan

Section 5 - Exception to giving draft AIP plan to the Authority—specified conditions in relation to a plan

This section specifies, for the purposes of paragraph 17(5)(b) of the Act, conditions relating to a plan prepared by a project proponent that has been given to a State of Territory.
The conditions are as follows:

1. The key objective of the plan must be to ensure that Australian entities have full, fair and reasonable opportunity to bid for the supply of goods or services for the project.
2. The plan must not give preference to suppliers of goods or services located in one State or Territory over suppliers located in another State or Territory.
3. The plan must include arrangements to ensure that the project proponent notifies the Authority when giving the plan to the State or Territory and when the State or Territory notifies the project proponent of any decision it makes on the plan.

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Part 3—Compliance reports

Section 6 - Information to accompany compliance report—project proponent

This section specifies the required information that a project proponent must provide as part of their compliance reports that are required to be given under the Act. A compliance report for a project must be given to the AIP Authority within 3 months after the end of each reporting period (as defined under the Act). The range of supporting evidence proponents can provide to support the information describing their compliance actions has been broadened, and project proponents are now required to indicate when a supplier engaged on the project is new to their supply chain.

Section 7 - Information to accompany compliance report—operator of new relevant facility

This section specifies the required information that a facility operator must provide as part of their compliance reports that are required to be given under the Act. A compliance report for a project must be given to the AIP Authority within 3 months after the end of each reporting period (as defined under the Act). The range of supporting evidence proponents can provide to support the information describing their compliance actions has been broadened, and project proponents are now required to indicate when a supplier engaged on the project is new to their supply chain.

Part 4 - Categories of goods or services

Section 8 - Categories of goods or services

Key goods and services that are likely to be acquired for a project must be published on the project proponent's website. The rules in this section specify that the goods and services must be broken down into the most reasonable and appropriate size work packages that accurately reflects how the project proponent or any procurement entity for the project will acquire or supply those goods and services. The categories for the AIP plan reporting should be the work packages made up by the proponent or the procurement entity.

The work packages advertised must be reasonable and appropriate for the goods and services being acquired, which should be balanced against how well the work packages align with the key objective to give full, fair and reasonable opportunity to Australian industry.

It is up to the project proponent or the operator to decide what the appropriate work packages should be for their particular project and report in their AIP plan accordingly. The Authority can assist proponents and operators to choose appropriate work packages that meet the key objective of an AIP plan.

Part 5—Notification obligations

Section 9 - Notification of preliminary trigger day for major projects

This section specifies the required information that a project proponent must provide when they notify the Authority of a preliminary trigger day for a major project. Project proponents are now required to include the amount of government funding has received or will receive for the project in their notification to the AIP Authority.

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Part 6—Functions of the Authority

Section 10 - Functions of the Authority

This section specifies, for the purposes of paragraph 68(1)(n) of the Act, other functions of the Authority. Those functions are:

(a) to provide advice on the preparation of draft AIP plans and AIP plan requirements for major Australian Government procurements, loans and grants; and
(b) to represent the Department in relation to the Department's company membership in Industry Capability Network Limited; and
(c) to represent the Department on Australian industry participation matters; and
(d) to provide advice on Australian industry participation matters; and
(e) to manage funding for the Industry Capability Network Limited; and
(f) to engage on the development and delivery of initiatives which have a focus on improving Australian industry participation, including:
    (i) the National Reconstruction Fund Corporation; and
    (ii) the Future Made in Australia agenda, including the delivery of the community benefit principles.

Part 7—Application, saving and transitional provisions

Section 11 – Definitions

Section 11 includes definitions for the purposes of Division 1 of Part 7, which contains transitional provisions relating to the commencement of this instrument. The term ***old rules*** is defined to mean the *Australian Jobs (Australian Industry Participation) Rule 2014*, as in force immediately before the commencement of section 11 of this instrument.

Section 12 – Compliance reports

Section 12 provides that, if a project proponent was required to give the Authority a report under subsection 25(6) of the Act before this instrument commences and the report had not been given before that day, then despite the repeal of the old rules, those rules continue to apply in relation to the report as if those rules had not been repealed.

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Schedule 1 – Repeals

Australian Jobs (Australian Industry Participation) Rule 2014

Item 1 – The whole of the instrument

This Schedule repeals the *Australian Jobs (Australian Industry Participation) Rule 2014*.

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Attachment B

Statement of Compatibility with Human Rights

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

Australian Jobs (Australian Industry Participation) Rules 2026

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 *Australian Jobs (Australian Industry Participation) Rules 2026* (Jobs Rules) is made under section 128 of the *Australian Jobs Act 2013*. The Jobs Rules enable the Australian Industry Participation (AIP) Authority to conduct a range of activities, including compliance, which are essential to the effective implementation of the legislation.

The Jobs Rules set enhanced reporting requirements for AIP plans, focusing on project compliance and supply chain transparency. Personal information is not required to be provided, however, some personal information may appear in internal compliance reports. Proponents can de-identify evidence to remove any personal information. Personal information obtained in the course of reporting will be handled in accordance with the *Privacy Act 1988*.

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 Tim Ayres

Minister for Industry and Innovation

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