

EXPLANATORY STATEMENT

Select Legislative Instrument No. 45, 2015

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(2015 Measures No. 3) Regulation 2015*

The *Financial Framework (Supplementary Powers) Act 1997* (the FF(SP) Act) confers on the Commonwealth, in certain circumstances, powers to: make arrangements under which money can be spent; or to make grants of financial assistance; and to form, or otherwise be involved in, companies. The arrangements, grants, programmes and companies (or classes of arrangements or grants in relation to which the powers are conferred) are specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations). The FF(SP) Act applies to Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

Section 65 of the FF(SP) Act provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

Section 32B of the FF(SP) Act authorises the Commonwealth to make, vary and administer arrangements and grants specified in the Principal Regulations. Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programmes specified in the Principal Regulations. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programmes.

Schedule 1 to the Regulation amends the Principal Regulations to establish legislative authority in Schedule 1AB for spending by the Government to:

- provide support under the Sector Development Fund for activities to assist the disability sector (including people with disability, their families, carers and service providers) in transitioning to the National Disability Insurance Scheme (Social Services portfolio)
- fund four initiatives to restore the focus on science, technology, engineering and mathematics (STEM) in schools, a commitment under the Government's *Students First* policy (Education and Training portfolio).

Details of the Regulation are set out at [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on the day after registration on the Federal Register of Legislative Instruments.

Consultation

In accordance with section 17 of the *Legislative Instruments Act 2003*, consultation has taken place with the Department of Education and Training and the Department of Social Services.

A regulation impact statement is not required as the Regulation only applies to non-corporate Commonwealth entities and does not adversely affect the private sector.

Details of the *Financial Framework (Supplementary Powers) Amendment (2015 Measures No. 3) Regulation 2015*

Section 1 – Name

This section provides that the title of the Regulation is the *Financial Framework (Supplementary Powers) Amendment (2015 Measures No. 3) Regulation 2015*.

Section 2 – Commencement

This section provides that the Regulation commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 – Authority

This section provides that the Regulation is made under the *Financial Framework (Supplementary Powers) Act 1997*.

Section 4 – Schedules

This section provides that the *Financial Framework (Supplementary Powers) Regulations 1997* is amended as set out in the Schedules to the Regulation.

Schedule 1 – Amendments

Item 1 – Part 4 of Schedule 1AB (at the end of the table)

This item adds five new items to Part 4 of Schedule 1AB to establish legislative authority for Government spending for certain activities administered by the Department of Education and Training and the Department of Social Services.

New **table item 74** establishes legislative authority for the Government to provide support under the Sector Development Fund for activities to assist the disability sector (including people with disability, their families, carers and service providers) in transitioning to the new National Disability Insurance Scheme (NDIS). Responsibility for the Sector Development Fund, which was established in 2012-13, has been transferred from the National Disability Insurance Agency to the Department of Social Services.

Sector Development Fund initiatives will be targeted to assist participants and service providers to develop the market and prepare for the implementation of the NDIS.

People with disability, the disability services sector and its workforce are assisted with the transition to the NDIS, including through:

- building community capacity and engagement
- increasing individual support capacity and the development of new forms of support to meet the needs of people with disability
- building disability sector capacity and service provider readiness to manage the transition
- assistance with the required expansion and diversification of the workforce
- building the evidence base.

Grants under the Sector Development Fund will be made in accordance with the *Commonwealth Grants Rules and Guidelines*. Grant selection processes will utilise the standard grant model of the Department of Social Services including the use of selection processes such as restricted competitive, direct and expression of interest selection processes. Information on grant availability and processes, including eligibility criteria and the application process, will be published on both the website of the Department of Social Services at www.dss.gov.au/grants and the NDIS website at www.ndis.gov.au. The decision-maker for grants made under the Sector Development Fund is the Assistant Minister for Social Services (or his delegate).

A complaints service is available for applicants and grant recipients. They can contact the complaints service listed on the website with complaints about the Department's service(s), the selection process or the service of another of the Department's grant recipients. Details of what constitutes an eligible complaint can be provided upon request by the Department of Social Services. Information on the Sector Development Fund will be published on the NDIS website at www.ndis.gov.au.

The Sector Development Fund comes under Programme 5.2: National Disability Insurance Scheme – To improve the wellbeing and social and economic participation of people with disability, and their families and carers, by building a National Disability Insurance Scheme that delivers individualised support through an insurance approach. This programme also includes existing supports that are transitioning in to the Scheme in a phased approach and the Sector Development Fund.

Programme 5.2 is part of Outcome 5: Disability and Carers – improved independence of, and participation by, people with disability, including improved support for carers, by providing targeted support and services. Details are set out in the *Portfolio Additional Estimates Statements 2014-15: Social Services Portfolio* at pages 87 to 88.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- external affairs power (section 51 (xxix))
- medical services, sickness benefits and hospital benefits powers (section 51(xxiiiA))
- Commonwealth executive power (section 61).

New **table item 75** establishes legislative authority for the Government to fund Mathematics by Inquiry, an initiative which will provide innovative mathematics curriculum resources for primary and secondary school students, and for use by teachers. The Department of Education and Training will administer the initiative.

This initiative supports the Government's *Students First* policy commitment to restore the focus on science, technology, engineering and mathematics (STEM) in schools. Mathematics by Inquiry is one of four STEM education initiatives announced on 14 October 2014 by the Prime Minister, the Hon Tony Abbott MP, the Minister for Education, the Hon Christopher Pyne MP, and the Minister for Industry, the Hon Ian Macfarlane MP, as part of the Industry Innovation and Competitiveness Agenda. The Government has allocated \$12.0 million in total to the four STEM initiatives, with funding details set out in the *Mid-year Economic and Fiscal Outlook 2014-15* at page 154.

In the September 2014 report *Science, Technology, Engineering and Mathematics: Australia's Future*, Australia's Chief Scientist, Professor Ian Chubb AC, has identified a critical need for innovative teaching and learning resources that will engage school students in mathematics, particularly in order to help expand the number of students undertaking advanced mathematics studies in senior secondary school years. To this end, the Government has committed \$7.4 million over four financial years from 2014-15 for the Mathematics by Inquiry initiative for the development and implementation of innovative mathematics curriculum resources for school students.

With a focus on inquiry-based learning and practical, real-world problem solving approaches, teaching and learning resources that are fully aligned with the Australian Curriculum: Mathematics will be developed in order to better engage and enthuse primary and secondary school students.

All funding decisions for this initiative will be made in accordance with the Department of Education and Training's Secretary Instructions and delegations on the expenditure of relevant monies in accordance with the *Public Governance, Performance and Accountability Act 2013*.

Funding will be provided to one or more organisations selected through procurement processes which will comply with the *Commonwealth Procurement Rules* and the Department's associated procurement rules and guidelines.

An open tender process will be conducted to select one or more organisations to undertake the main components of the initiative, that is, the development of innovative mathematics curriculum resources for school students. Some funding will be allocated to an evaluation of the initiative.

There will be no merits review of any funding decisions as funding will be provided via tender processes where merits review is not normally available.

The initiative comes under Programme 2.3: Schools Support, which is part of Outcome 2: Improved learning, and literacy, numeracy and educational attainment for school students, through funding for quality teaching and learning environments, workplace learning and career advice. Funding details are set out in the *Portfolio Additional Estimates Statements 2014-15: Education and Training Portfolio* at page 34.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the external affairs power (section 51(xxix))
- Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

New **table item 76** establishes legislative authority for the Government to fund Coding across the Curriculum, an initiative which will support the introduction of algorithmic thinking and computer coding across different year levels in Australian schools and support the implementation and teaching of the Australian Curriculum: Technologies in classrooms. The Department of Education and Training will administer this initiative.

This initiative supports the Government's *Students First* policy commitment to restore the focus on STEM in schools. Coding across the Curriculum is one of four STEM education initiatives announced by the Government on 14 October 2014.

Through the Coding across the Curriculum initiative, innovative teaching and learning resources that align to the Australian Curriculum: Technologies will be developed and made available for schools and school students. These resources will help engage students in computer coding and problem solving across all year levels in primary and secondary schools, including by accounting for the differing computer science skills of teachers. The algorithmic thinking processes that are able to be developed through these resources support the study of both STEM and non-STEM subjects and will help ensure the workforce of the future has the skills and confidence to harness the potential of information and communication technology in all disciplines.

The initiative will assist in addressing the concerns of the Chief Scientist that there are insufficient STEM skilled workers to support future demands in a globally competitive economy (*Science, Technology, Engineering and Mathematics: Australia's Future*, published in September 2014).

Funding of \$3.5 million has been allocated to this initiative for four years from 2014-15 to 2017-18. All funding decisions for this measure will be made in accordance with the Department's Secretary Instructions and delegations on the expenditure of relevant monies in accordance with the *Public Governance, Performance and Accountability Act 2013*.

Funding under this initiative will be provided to one or more organisations selected through procurement processes which will comply with the *Commonwealth Procurement Rules* and the Department's associated procurement rules and guidelines.

An open tender process will be conducted to select one or more organisations to undertake the main components of the initiative, that is, the development of innovative teaching and learning resources. Some funding will be allocated to an evaluation of the initiative. There will be no merits review of any funding decisions as funding will be provided via tender processes where merits review is not normally available.

The initiative comes under Programme 2.3: Schools Support, which is part of Outcome 2: Improved learning, and literacy, numeracy and educational attainment for school students, through funding for quality teaching and learning environments, workplace learning and career advice. Funding details are set out in the *Portfolio Additional Estimates Statements 2014-15: Education and Training Portfolio* at page 34.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the external affairs power (section 51(xxix))
- Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

New **table item 77** establishes legislative authority for the Government to fund the pilot of an Australian secondary education facility based on the 'Pathways in Technology Early College High School' (P-TECH) model in the United States of America. The Department of Education and Training will administer this initiative.

The initiative, Piloting a P-TECH Styled Education Facility, supports the Government's *Students First* policy commitment to restore the focus on STEM in schools. The initiative also supports the Government's commitment to stronger collaboration between industry and secondary schools, as outlined in the national framework for vocational learning and vocational education and training delivered to secondary students, *Preparing Secondary Students for Work*.

Piloting a P-TECH Styled Education Facility is one of four STEM education initiatives announced by the Government on 14 October 2014. Funding of \$0.5 million has been allocated to this initiative for two years for 2015-16 and 2016-17.

The initiative will enable students studying for their senior secondary certificate to pursue an industry supported education pathway to a STEM related diploma, advanced diploma or associate degree. Students then have the option to continue their study at the tertiary level or pursue employment in a STEM related field, including possible job opportunities with their school's industry partners.

The pilot location for this initiative will be determined by the Assistant Minister for Education and Training in consultation with school education authorities. All funding decisions for this initiative will be made in accordance with the Department of Education and Training's Secretary Instructions and delegations on the expenditure of relevant monies in accordance with the *Public Governance, Performance and Accountability Act 2013*. A final decision on the mechanism for allocating funding under this initiative is to be made by the Assistant Minister for Education and Training. Given the targeted, non-competitive, nature of the funding, merits review is not applicable.

This initiative comes under Programme 2.3: Schools Support, which is part of Outcome 2: Improved learning, and literacy, numeracy and educational attainment for school students, through funding for quality teaching and learning environments, workplace learning and career advice. Funding details are set out in the *Portfolio Additional Estimates Statements 2014-15: Education and Training Portfolio* at page 34.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the social welfare power (section 51(xxiiiA))
- the external affairs power (section 51(xxix)).

New **table item 78** establishes legislative authority for the Government to fund the initiative, Summer Schools for STEM, which will assist female school students, including disadvantaged and Indigenous students and those living in regional or remote areas, to attend national science and mathematics summer schools. The Department of Education and Training will administer this initiative.

This initiative supports the Government's *Students First* policy commitment to restore the focus on STEM in schools and is one of four STEM education initiatives announced by the Government on 14 October 2014. Funding of \$0.6 million has been allocated to this initiative for two years from 2015-16.

Building on the summer school model currently conducted for the Science and Mathematics Olympiads, under-represented student cohorts in science and mathematics school subjects will be given the chance to learn about STEM and undertake mentoring programmes aimed at giving them confidence and building up their STEM skills.

This initiative focuses on female students in response to the Chief Scientist's concerns about the unacceptably high number of women leaving STEM studies at all levels of education (*Science, Technology, Engineering and Mathematics: Australia's Future*, published in September 2014).

All funding decisions for this initiative, including the development and approval of grant guidelines, will be made in accordance with the *Commonwealth Grants Rules and Guidelines*, the Department's Secretary Instructions and delegations on the expenditure of relevant monies in accordance with the *Public Governance, Performance and Accountability Act 2013*.

Funding is only being made available to selected organisations that have experience and expertise in conducting summer schools for STEM subjects, and that have been previously provided funding by the Government to conduct similar summer schools as part of the Science and Mathematics Olympiads. Given the targeted, non-competitive, nature of the funding, merits review is not applicable.

This initiative comes under Programme 2.3: Schools Support, which is part of Outcome 2: Improved learning, and literacy, numeracy and educational attainment for school students, through funding for quality teaching and learning environments, workplace learning and career advice. Funding details are set out in the *Portfolio Additional Estimates Statements 2014-15: Education and Training Portfolio* at page 34.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the social welfare power (section 51(xxiiiA))
- the external affairs power (section 51(xxix)).

Statement of Compatibility with Human Rights

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

Financial Framework (Supplementary Powers) Amendment (2015 Measures No. 3) Regulation 2015

This Regulation 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

Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* (the FF(SP) Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the FF(SP) Regulations) and to make, vary and administer arrangements and grants for the purposes of programmes specified in the Regulations. Schedule 1AA and Schedule 1AB to the FF(SP) Regulations specify the arrangements, grants and programmes.

The FF(SP) Act applies to Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The Regulation amends Schedule 1AB to the FF(SP) Regulations to establish legislative authority for the Government to spend on the following activities to:

- provide support under the Sector Development Fund for activities to assist the disability sector (including people with disability, their families, carers and service providers) in transitioning to the National Disability Insurance Scheme (Social Services portfolio)
- fund four initiatives to restore the focus on science, technology, engineering and mathematics (STEM) in schools, a commitment under the Government's *Students First* policy (Education and Training portfolio).

The STEM initiatives relate to:

- the development and implementation of innovative mathematics curriculum resources for school students and teachers
- the introduction of computer coding across different year levels in Australian schools
- funding a pilot of an Australian secondary education facility based on the 'Pathways in Technology Early College High School' model in the United States of America which would enable students studying for their senior secondary certificate to pursue an industry supported education pathway to a STEM related diploma, advanced diploma or associate degree
- assist female school students, including disadvantaged and Indigenous students and those living in regional or remote areas, to attend national science and mathematics summer schools.

The items specified in Schedule 1AB are the responsibility of the relevant Ministers who have portfolio responsibility for the matters.

Human rights implications

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

Conclusion

This Regulation is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon Mathias Cormann
Minister for Finance**