**EXPLANATORY STATEMENT**

**Issued by the Authority of the Minister for Finance**

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment*

*(Education and Training Measures No. 2) Regulation 2016*

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, programs 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 programs specified in the Principal Regulations. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Schedule 1 to the Regulation amends the Principal Regulations to establish legislative authority in Schedule 1AB for government spending on a number of initiatives under the National Innovation and Science Agenda, which was announced by the Prime Minister, the Hon Malcolm Turnbull MP, and the Minister for Industry, Innovation and Science, the Hon Christopher Pyne MP, on 7 December 2015.

The initiatives support the measure ‘Inspiring all Australians in science, technology, engineering and mathematics (STEM)’ and include: engaging with STEM in the early years; inspiring school students to engage in STEM-related activities; and tackling the digital divide. The initiatives will be administered by the Department of Education and Training. Funding details were included in the *Mid-Year Economic and Fiscal Outlook 2015‑16*, which was released on 15 December 2015.

Funding will be provided for:

* the Early Learning STEM Australia Trial which will provide preschool aged children with opportunities to engage with STEM concepts;
* the Little Scientists program which will facilitate children’s natural curiosity for STEM;
* the Little Mathematics program which will support children in developing appropriate mathematics knowledge;
* building partnerships between STEM professionals and schools;
* providing travelling information and communications technology (ICT) teachers to support the implementation of the Digital Technologies Curriculum in disadvantaged schools;
* the expansion of teacher professional learning through online courses to develop teaching skills and knowledge relating to the digital technologies component of the new Australian Curriculum: Technologies;
* ICT summer schools which will engage students in Years 9 and 10 in computer science and encourage students to aspire to careers that harness such skills;
* enhancing digital literacy through a whole of school approach which will enable principals and ICT school champions to embed digital literacy throughout the school community and across the Australian Curriculum;
* Cracking the Code which will deliver a national program of computing challenges and activities aimed at Years 4 to 12; and
* computing challenges for Years 5 and 7 students which will develop an online set of graduated coding challenges with teaching resources.

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 *Legislation Act 2003.* The Regulation commences on the day after registration on the Federal Register of Legislation.

**Consultation**

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

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 (Education and Training Measures No. 2) Regulation 2016***

**Section 1 – Name**

This section provides that the title of the Regulation is the *Financial Framework (Supplementary Powers) Amendment (Education and Training Measures No. 2) Regulation 2016*.

**Section 2 – Commencement**

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

**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* are amended as set out in the Schedules to the Regulation.

**Schedule 1 – Amendments**

**Item 2 – Part 4 of Schedule 1AB (table)**

This item adds three new table items to Part 4 of Schedule 1AB that establish legislative authority for government spending on certain initiatives which support the National Innovation and Science Agenda, particularly the *Inspiring all Australians in digital literacy and STEM* measure. The initiatives, which will be administered by the Department of Education and Training, relate to:

* engaging with science, technology, engineering and mathematics (STEM) in the early years;
* inspiring school students to engage in STEM-related activities; and
* tackling the digital divide.

New **table item 149** establishes legislative authority for the Government to provide funding to organisations to deliver the initiative, Engaging with STEM in the early years.

The initiative comprises the following:

* the Early Learning STEM Australia (ELSA) Trial,
* the Little Scientists program; and
* the Little Mathematics program.

Details are set out in the *Mid-Year Economic and Fiscal Outlook 2015-16*, under the measure ‘*National Innovation and Science Agenda — inspiring all Australians in STEM’* at page 196.

*ELSA Trial*

The ELSA Trial, with funding of $6 million over three years from 2016-17, will provide preschool aged children with opportunities to engage with STEM concepts in a play‑based learning environment. Funding for the Trial will be provided to a selected organisation(s) via a procurement process to manage the development of applications (apps) for tablet devices, and the provision of technical and teaching support to early childhood education and care centres to provide learning experiences based around the apps.

*Little Scientists program*

The Little Scientists program will facilitate children’s natural curiosity for STEM in the early years through child-appropriate, fun and playful experiments, and inquiry‑based learning.

Funding of $4 million over three years from 2016-17 will be provided to a selected organisation to provide face-to-face training in how to make science engaging for the early years, targeted for childcare centre directors, pre-service preschool teachers and early childhood educators; and will provide online teaching and learning resources.

*Little Mathematics program*

The Little Mathematics program will support children in developing appropriate mathematics knowledge, skills and positive dispositions as they prepare to start school.

Funding of $4 million over four years from 2016-17 will be provided to a selected organisation to provide face-to-face training about how educators can work with parents to increase familiarity with mathematics concepts in the early years. This training will be targeted at childcare centre directors, pre-service preschool teachers and early childhood educators; and will provide online teaching and learning resources. The key focus will be on supporting educators in low socioeconomic status communities, with resources being available over time for use by a broad range of early childhood educators.

Decisions as to funding for the ELSA Trial will be made by the relevant delegate of the Secretary of the Department. Merits review will not be available for grants for the Little Scientists and Little Mathematics programs as it is not appropriate due to the non‑competitive, targeted and discretionary nature of the grants. Merits review would not apply to the procurement relating to the ELSA Trial as it involves the awarding of contracts. However, all general obligations to act fairly, including with probity and consistency, in the conduct of the procurement process will be observed.

Funding decisions will be made in accordance with the *Commonwealth Procurement Rules* where applicable, the *Commonwealth Grants Rules and Guidelines* (CGRGs) where applicable, the Department’s Secretary Instructions and delegations on the expenditure of relevant monies, in accordance with the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act).

This initiative will come under Program 1.3: Early Learning and Schools Support, which is part of Outcome 1: Improved early learning, schooling, student educational outcomes and transitions to and from school through access to quality support, parent engagement, quality teaching and learning environments. Funding details are set out in the *Portfolio Additional Estimates Statements 2015-16, Education and Training Portfolio* at page 32.

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 communications power (section 51(v)); and
* the external affairs power (section 51(xxix)).

New **table item 150** establishes legislative authority for the Government to fund organisations to deliver the initiative, Inspiring school students to engage in STEM-related activities.

This initiative comprises the following programs:

* inspiring schools through partnerships with STEM industries; and
* the provision of peripatetic information and communications technology (ICT) teachers to support the implementation of the Digital Technologies Curriculum in disadvantaged schools.

Details are set out in the *Mid-Year Economic and Fiscal Outlook 2015‑16*, under the measure ‘*National Innovation and Science Agenda ‑ inspiring all Australians in STEM*’ at page 196.

*Inspiring schools through partnerships with STEM industries program*

Under the ‘Inspiring schools through partnerships with STEM industries’ program, funding of $7.5 million over three years from 2016-17 will be provided to the Commonwealth Scientific and Industrial Research Organisation (CSIRO). The objective of the funding is to build flexible partnerships between STEM professionals and schools to enable students and teachers in both primary and secondary schools to understand how STEM is applied in the real world; introduce them to emerging STEM innovations and potential career paths; provide student mentoring opportunities; and better match industry expectations and aspirations.

The program, ‘Inspiring schools through partnerships with STEM industries’, will be delivered through a funding agreement with the CSIRO, for the continuation of its Scientists and Mathematicians in Schools program, which has been funded by the Government since July 2007.

*Provision of peripatetic ICT teachers*

The provision of peripatetic (travelling) ICT teachers to support the implementation of the Digital Technologies Curriculum in disadvantaged schools will up-skill teachers in the teaching of digital technologies. Funding of $7.9 million will be provided over four years from 2016-17 to an organisation(s) to provide for specialist peripatetic ICT teachers to deliver support, such as face-to-face training in the classroom, to teachers in disadvantaged schools.

A decision as to whether the selection of an organisation(s) to conduct the provision of peripatetic ICT teachers to support the implementation of the Digital Technologies Curriculum in disadvantaged schools will be via a grants or procurement process is yet to be determined. Regardless of whether a procurement or grants process is undertaken, the decision as to funding will be made by the relevant delegate of the Secretary of the Department. Merits review will not be available for any grant, if applicable, as it is not appropriate due to the non-competitive, targeted and discretionary nature of the grant. Merits review would not apply to any procurement, if applicable, as it involves the awarding of contracts. However, all general obligations to act fairly, including with probity and consistency, in the conduct of the procurement process will be observed.

Funding decisions will be made in accordance with the *Commonwealth Procurement Rules* where applicable, the CGRGs where applicable, the Department’s Secretary Instructions and delegations on the expenditure of relevant monies, in accordance with the PGPA Act. If required, grant guidelines will be available on the Department’s website (www.education.gov.au).

This initiative will come under Program 1.3: Early Learning and Schools Support, which is part of Outcome 1: Improved early learning, schooling, student educational outcomes and transitions to and from school through access to quality support, parent engagement, quality teaching and learning environments. Funding details for this initiative are set out in the *Portfolio Additional Estimates Statements 2015-16, Education and Training Portfolio* at page 32.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the external affairs power (section 51(xxix)) of the Constitution.

New **table item 151** establishes legislative authority for government spending on the initiative, Tackling the digital divide.

The initiative comprises the following five programs:

* expansion of teacher professional learning through online courses;
* ICT summer schools;
* enhancing digital literacy through a whole of school approach;
* Cracking the Code; and
* computing challenges for Years 5 and 7 students.

Details are set out in the *Mid-Year Economic and Fiscal Outlook 2015‑16*, under the measure ‘*National Innovation and Science Agenda ‑ inspiring all Australians in STEM*’ at page 196.

*Expansion of teacher professional learning through online courses*

Under the program, ‘Expansion of teacher professional learning through online courses’, funding of $6.9 million will be provided over four years from 2016-17 to expand the teacher professional learning Digital Technologies Massively Open Online Course (MOOC). The MOOC supports primary school teachers and early secondary teachers to develop fundamental teaching skills and knowledge relating to the digital technologies component of the new Australian Curriculum: Technologies. Funding will be provided to the University of Adelaide to roll out the MOOC nationally, and employ project officers in each state and territory to raise awareness about, and support, the MOOC, including the delivery of training, start up equipment and ongoing support to participants with a focus on disadvantaged schools.

*ICT summer schools*

Funding of $1 million over four years from 2016-17 will be provided to an organisation(s) to run summer schools specifically designed to engage students in Years 9 and 10 (and in particular students from disadvantaged areas) in computer science and to encourage students to aspire to careers that harness such skills.

*Enhancing digital literacy through a whole of school approach*

Under the ‘Enhancing digital literacy through a whole of school approach’ program, funding of $4 million over two years from 2016-17 will be provided for grants to schools for projects through which principals and ICT school champions aim to embed digital literacy throughout the school community, including across the teaching of the Australian Curriculum. This may include projects which promote best practice and change management, establish school‑to‑school digital literacy partnerships, or embed digital literacy across a range of learning areas. The Department of Education and Training will deliver this program through a grants application process in accordance with applicable grant guidelines.

*Cracking the Code*

Under the Cracking the Code program, funding of $800,000 over four years from 2016-17 will be provided to an organisation(s) to deliver a national program of fun and engaging computing challenges and activities aimed at Years 4 to 12. The challenges and activities will be held each year during National Literacy and Numeracy Week, commencing in 2016. It is anticipated that ‘Cracking the Code’ will comprise a one week festival of coding and computer science activities for school students and may also involve lead-up activities held earlier in the year (for example, application building and robotics), with the aim of introducing students to coding and computational challenges.

*Computing challenges for Years 5 and 7 students*

The computing challenge for Years 5 and 7 students program will provide funding over four years from 2016-17 to an organisation(s) to develop an online set of graduated computer science, computing and coding challenges, with teaching and learning resources, for every Year 5 and Year 7 school student and their teachers in Australia. The online activities and challenges will be run by teachers during class time, and will support the delivery of the Digital Technologies Curriculum. Teachers will be supported through a moderated online community.

An organisation(s) will be contracted to run both Cracking Code and the National Computing Challenge for Year 5 and 7 students via a single open tender process. The procurement for Cracking the Code and Computing Challenge for Year 5 and 7 students will not entail a merits review process, as these involve the awarding of contracts. However, all general obligations to act fairly, including with probity and consistency in the conduct of the procurement process will be observed. Enhancing digital literacy through a whole of school approach will be undertaken through a competitive grants process, and may include a merits review process that, if applicable, will be made clear in any applicable grant guidelines. A decision as to whether funding for the ICT summer schools will be on the basis of a grant to an appropriately skilled organisation or via a procurement process is yet to be made, any such decision will be made by the relevant delegate of the Secretary of the Department of Education and Training.

All funding decisions for this initiative will be made by the relevant delegate of the Secretary of the Department. Funding decisions will be made in accordance with the *Commonwealth Procurement Rules* where applicable, the CGRGs where applicable, the Department’s Secretary Instructions and delegations on the expenditure of relevant monies, in accordance with the PGPA Act. If required, grant guidelines will be available on the Department’s website (www.education.gov.au).

This initiative will come under Program 1.3: Early Learning and Schools Support, which is part of Outcome 1: Improved early learning, schooling, student educational outcomes and transitions to and from school through access to quality support, parent engagement, quality teaching and learning environments. Funding details are set out in the *Portfolio Additional Estimates Statements 2015-16, Education and Training Portfolio* at page 32.

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 communications power (section 51(v)); and
* 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 (Education and Training Measures No. 2) Regulation 2016***

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 programs specified in the Regulations. Schedule 1AA and Schedule 1AB to the FF(SP) Regulations specify the arrangements, grants and programs.

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*.

Schedule 1 to the Regulation amends the Principal Regulations to establish legislative authority in Schedule 1AB for government spending on a number of initiatives under the National Innovation and Science Agenda, which was announced by the Prime Minister, the Hon Malcolm Turnbull MP, and the Minister for Industry, Innovation and Science, the Hon Christopher Pyne MP, on 7 December 2015.

The initiatives support the measure ‘Inspiring all Australians in science, technology, engineering and mathematics (STEM)’ and include: engaging with STEM in the early years; inspiring school students to engage in STEM-related activities; and tackling the digital divide. The programs will be administered by the Department of Education and Training. Funding details were included in the *Mid-Year Economic and Fiscal Outlook 2015‑16*, which was released on 15 December 2015.

Funding will be provided for:

* the Early Learning STEM Australia Trial which will provide preschool aged children with opportunities to engage with STEM concepts;
* the Little Scientists program which will facilitate children’s natural curiosity for STEM;
* the Little Mathematics program which will support children in developing appropriate mathematics knowledge;
* building partnerships between STEM professionals and schools;
* providing travelling information and communications technology (ICT) teachers to support the implementation of the Digital Technologies Curriculum in disadvantaged schools;
* the expansion of teacher professional learning through online courses to develop teaching skills and knowledge relating to the digital technologies component of the new Australian Curriculum: Technologies;
* ICT summer schools which will engage students in Years 9 and 10 in computer science and encourage students to aspire to careers that harness such skills;
* enhancing digital literacy through a whole of school approach which will enable principals and ICT school champions to embed digital literacy throughout the school community and across the Australian Curriculum;
* Cracking the Code which will deliver a national program of computing challenges and activities aimed at Years 4 to 12; and
* computing challenges for Years 5 and 7 students which will develop an online set of graduated coding challenges with teaching resources.

The Minister for Education and Training has portfolio responsibility for these programs.

**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**