

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio Measures No. 1) 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 the Government to fund the Countering Violent Extremism (CVE) Programme. The programme is part of the Government's \$630 million Counter-Terrorism package that was announced in August 2014 by the former Prime Minister, the Hon Tony Abbot MP, and the Attorney-General, Senator the Hon George Brandis QC. The programme aims to reduce the risk of home-grown terrorism by acting domestically and internationally to strengthen Australia's resilience to violent extremism, assist individuals to disengage from violent extremist influences, and address the impacts of violent extremism.

The CVE Programme includes:

- the Living Safe Together Programme, announced in August 2014, with funding of \$13.4 million, with the aim of strengthening countering violent extremism efforts in Australia with an emphasis on preventing Australians from becoming involved with extremist groups;
- the Combating Terrorist Propaganda in Australia initiative, announced in February 2015, with funding of \$21 million, to limit the impact of extremist narratives on domestic audiences by reducing the support that terrorist groups garner on the internet and social media; and
- the provision of support and advice services with the development of a telephone advice and support line and online services for families, friends and communities

impacted by violent extremism, with funding of \$4 million over one year included in the 2016-17 Budget.

The CVE Programme is administered by the Attorney-General's Department.

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 Attorney-General's Department.

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 (Attorney-General's Portfolio Measures No. 1) Regulation 2016*

Section 1 – Name

This section provides that the title of the Regulation is the *Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio Measures No. 1) 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 1 – Part 4 of Schedule 1AB (table)

This item adds a new table item to Part 4 of Schedule 1AB to establish legislative authority for government spending for certain activities administered by the Attorney-General's Department.

New **table item 164** establishes legislative authority for the Government to fund the Countering Violent Extremism (CVE) Programme.

The objective of Australia's CVE Programme is to reduce the risk of home-grown terrorism by acting domestically and internationally to strengthen Australia's resilience to violent extremism, to assist individuals to disengage from violent extremist influences, and address the impacts of violent extremism. The key tiers of activity underpinning this work are prevention; early detection; challenging the ideology; and intervention and diversion. The Attorney-General's Department has been appropriated funding from 2014-15 to 2018-19 for countering violent extremism measures to which this item relates.

On 26 August 2014, counter-terrorism measures for a safer Australia were announced by the former Prime Minister, the Hon Tony Abbott MP, and the Attorney-General, Senator the Hon George Brandis QC, as part of the Government's \$630 million Counter-Terrorism package, with funding directed across government. The Attorney-General's Department received \$13.4 million of this funding for the Living Safe Together Programme, with the aim of strengthening countering violent extremism efforts in Australia with an emphasis on

preventing Australians from becoming involved with extremist groups. This funding is being directed towards the objectives of the programme, including through the following activities:

- awareness and education initiatives to help build greater understanding of radicalisation to violent extremism;
- intervention and diversion programmes, including support for individuals, families, and others at risk of radicalisation to violent extremism;
- information, advice, support and services to individuals, families, organisations and communities; and
- capacity building, research and evaluation activities.

On 19 February 2015, funding of \$21 million was announced by the Attorney-General, Senator the Hon George Brandis QC, for the Combating Terrorist Propaganda in Australia initiative, to be administered by the Attorney-General's Department, under the CVE Programme. Measures under this initiative will limit the impact of extremist narratives on domestic audiences by reducing the support that terrorist groups garner on the internet and social media. Funding is being directed towards the objectives of the programme, including the following activities:

- building greater understanding of terrorist propaganda and an evidence base on how to counter its effect;
- limiting access to extremist propaganda online through content removal and digital advertising;
- undermining the appeal of extremist messages through leadership messaging and community-led communications activity; and
- capacity building, research and evaluation activities.

The 2016-17 Budget included additional funding of \$4 million over one year for new CVE measures. This funding complements existing activities and is to address the significant need for support and advice services by supporting the development of a telephone advice and support line and online services for families, friends and communities impacted by violent extremism. The measures will support a national advice and support service and ensure that frontline workers and communities get the training and resources needed.

The Minister for Justice and the Minister Assisting the Prime Minister on Counter-Terrorism, or a departmental officer holding the relevant departmental delegation as directed by the Minister, are the decision-makers for the CVE Programme. Delegations are in accordance with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Funding to support these initiatives is made through a range of arrangements including payments to states and territories, procurement processes and grant activities. All funding decisions for this program are made in accordance with the PGPA Act and the department's Secretary's Instructions. Grants may be provided through both competitive and targeted processes.

Any grants provided will be made in accordance with the *Commonwealth Grants Rules and Guidelines* and will utilise appropriate selection processes. Where appropriate, grant guidelines and selection processes will be published on the department's website (www.ag.gov.au) and feedback on applications will be made available. Competitive grants processes are not suitable for merits review as they allocate finite resources between competing applicants. As grants funding is limited, only a proportion of applications can be met. Therefore an allocation that has already been made to another party would be affected

by overturning the original decision. Procurement-based funding is provided under tender processes, in accordance with the Commonwealth Procurement Rules, where merits review is not applicable. Where targeted or non-competitive processes are undertaken, funding is provided to select and trusted organisations that have demonstrated experience and expertise in countering violent extremism. Given the targeted and non-competitive nature of this funding, merits review is not applicable.

The CVE Programme comes under Program 1.7: National Security and Criminal Justice, Countering Violent Extremism to Prevent Terrorism which is part of Outcome 1: A just and secure society through the maintenance and improvement of Australia's law and justice framework and its national security and emergency management system. Funding details are set out in the *Portfolio Budget Statements 2015-16, Budget Related Paper No 1.2, Attorney-General's Portfolio* at page 34; the *Portfolio Additional Estimates Statements 2015-16, Attorney-General's Portfolio* at page 26; and the *Portfolio Budget Statements 2016-17, Attorney-General's Portfolio*.

The following announcements relate to the CVE Programme and are available at:

- 26 August 2014 - Counter-Terrorism measures for a safer Australia;
- 19 February 2015 – Combatting terrorist propaganda online; and
- 11 December 2015 – COAG Communique December meeting.

Additional information on the broad range of CVE initiatives is available on the department's website at www.ag.gov.au.

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 defence power (section 51(vi));
- the communications power (section 51(v));
- the aliens power (section 51(xix));
- the migration power (section 51(xxvii));
- the external affairs power (section 51(xxix));
- the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix));
- the territories power (section 122); and
- grants of financial assistance to the States (section 96).

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 (Attorney-General's Portfolio Measures No. 1) 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*.

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- the provision of support and advice services with the development of a telephone advice and support line and online services for families, friends and communities impacted by violent extremism, with funding of \$4 million over one year included in the 2016-17 Budget.

The CVE Programme is administered by the Attorney-General's Department.

The Minister for Justice and Minister Assisting the Prime Minister for Counter-Terrorism has portfolio responsibility for this program.

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**