

## **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. 3) 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 Australian International Education: Enabling Growth and Innovation initiative. Funding will be provided for targeted activities to meet commitments outlined in the National Strategy for International Education (the National Strategy), which was launched by the Minister for Tourism and International Education, Senator the Hon Richard Colbeck, on 30 April 2016. The targeted activities aim to promote, strengthen and grow Australia's international education sector, and are aligned with the three pillars of the National Strategy:

- strengthening the fundamentals;
- making transformative partnerships; and
- and competing globally.

The types of targeted activities that will be funded include:

- developing a national employability framework;
- holding thematic forums;
- enhanced data collection and analysis;
- developing country strategies;
- communicating the benefits of international education;
- identifying opportunities to grow borderless education; and
- supporting new and innovative partnerships.

The activities will be administered by the Department of Education and Training. Funding was included in the 2016-17 Budget.

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. 3) 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. 3) 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 on certain activities administered by the Department of Education and Training.

New **table item 165** establishes legislative authority for government spending on the Australian International Education: Enabling Growth and Innovation initiative.

The initiative will deliver targeted activities to meet commitments outlined in the National Strategy for International Education (the National Strategy), launched by the Minister for Tourism and International Education, Senator the Hon Richard Colbeck, on 30 April 2016. The targeted activities are also aligned with *Australian International Education 2025* (AIE 2025), Australia's 10-year market development roadmap for international education. The funding will be administered by the Department of Education and Training, in coordination with the Australian Trade and Investment Commission, the agency responsible for the AIE 2025. An Australian Council for International Education will also provide leadership and coordination for initiatives to be funded.

Funding of \$12 million over four years from 2016-17 was included in the 2016-17 Budget for the initiative. The objective of the funding is to promote, strengthen and grow Australia's international education sector, which is one of Australia's largest services exports. The funding will ensure Australia remains competitive in attracting international students and is

well positioned to grow its share of the global international education market. Targeted activities will align with the three pillars of the National Strategy:

- strengthening the fundamentals;
- making transformative partnerships; and
- competing globally.

This measure will strengthen the fundamentals of Australia's international education system by developing a national employability framework to improve skills for international students, further enhancing Australia's reputation for quality education. At least three annual workshops will be convened in key areas of interest for the sector. These forums will marshal key stakeholders across government, peak bodies, education providers, business and industry, students and community groups to inform policy and drive strategic activity. This will enable Australia to remain competitive in attracting students. Improvements to the Government's collection and analysis of international education data will better inform policy and enable a more effective promotion of the value of an Australian qualification and Australia as a study destination.

The funding will support transformative partnerships by developing country-specific international education strategies. Communicating the benefits of international education through awareness raising and community hosted activities will improve engagement with international students, enhancing their living and learning experiences and bringing reputational benefits.

Targeted activities will assist Australia to compete globally by assessing opportunities for Australian borderless education, then implementing initiatives to grow borderless education partnerships in key economies around the world. These initiatives will respond to demands for new and innovative education delivery platforms. New education delivery pilot projects, for example, involving consortia or partnerships with the potential for large scale application, will be trialled for new, cost-effective and high quality products and services. The establishment of international student hubs will further enhance Australia's reputation for supporting international students. The implementation of an industry-led quality framework for international education agents will support the integrity of the sector and further position Australia to grow and diversify its share of the global international education market.

Funding will be drawn from the International Education Support sub-program under Program 2.7: International Education Support, which is part of Outcome 2: Promote growth in economic productivity and social wellbeing through access to quality higher education, international education, and international quality research, skills and training. Details are set out in the *Portfolio Budget Statements 2016-17, Education and Training Portfolio*. The International Education Support sub-program is a discretionary grants program. The Minister for Education and Training approves funding allocations for initiatives under the International Education Support sub-program.

Funding will be provided in accordance with the *Commonwealth Grants Rules and Guidelines* (for grants), the *Commonwealth Procurement Rules* (CPRs) (for procurements), the Department Secretary's Accountable Authority Instructions and delegations on the expenditure of relevant monies, in accordance with the *Public Governance, Performance and Accountability Act 2013*. Grant guidelines relating to this initiative will be available on the department's website ([www.education.gov.au](http://www.education.gov.au)). The funding for grants will be a combination of merit-based, competitive grants processes as well as targeted, non-competitive grants.

Procurements over the reporting threshold will be published on the AusTender website. Under the Senate Procedural Order of Continuing Effect, departmental and agency contracts are published on AusTender in accordance with the CPRs. All grants will be published on the department's website within 14 working days from when the grants take effect and will remain on the website for a minimum of two financial years.

Regardless of whether a procurement or grant process is undertaken, the decision to award funding will be made by the relevant delegate of the Secretary of the department. Merit reviews will not be available for procurements and competitive grants as they involve the awarding of contracts which will go through competitive tender processes.

Merit reviews will not be available for targeted grants as it is not appropriate due to the non-competitive and discretionary nature of the grants. All general obligations to act fairly, including with probity and consistency, in the conduct of the grants process will be observed.

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 trade and commerce power (section 51(i));
- the external affairs power (section 51(xxix));
- the social welfare power (section 51(xxiiiA));
- the aliens power (section 51(xix));
- the census and statistics power (section 51(xi));
- the communications power (section 51(v)); and
- the Commonwealth executive power (section 61).

## **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. 3) 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 the Government to fund the Australian International Education: Enabling Growth and Innovation initiative. Funding will be provided for targeted activities to meet commitments outlined in the National Strategy for International Education (the National Strategy), which was launched by the Minister for Tourism and International Education, Senator the Hon Richard Colbeck, on 30 April 2016. The targeted activities aim to promote, strengthen and grow Australia's international education sector, and are aligned with the three pillars of the National Strategy:

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The types of targeted activities that will be funded include:

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- enhanced data collection and analysis;
- developing country strategies;
- communicating the benefits of international education;
- identifying opportunities to grow borderless education; and
- supporting new and innovative partnerships.

The Minister for Tourism and International Education has portfolio responsibility for this initiative, and these programs, which will be administered by the Department of Education and Training.

**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**