

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Industry, Innovation and Science 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 Exploring for the Future Programme (the Programme).

The Programme is a \$100.5 million programme which will collect and release geoscience data publicly to encourage exploration investment by the resources sector for the identification of new major petroleum and minerals resources and to identify groundwater resources for agricultural and resource development.

The Programme was included in the 2016-17 Budget and will be administered by Geoscience Australia.

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 Geoscience Australia and the Department of Industry, Innovation and Science.

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 (Industry, Innovation and Science Measures No. 3) Regulation 2016*

Section 1 – Name

This section provides that the title of the Regulation is the *Financial Framework (Supplementary Powers) Amendment (Industry, Innovation and Science 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 – In the appropriate position in 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 an activity administered by Geoscience Australia.

New **table item 167** establishes legislative authority for the Government to fund the Exploring for the Future Programme.

The Exploring for the Future Programme (the Programme) is a \$100.5 million programme which will collect and release geoscience data publicly to encourage exploration investment by the resources sector for the identification of new major petroleum and minerals resources, and to identify groundwater resources for agricultural and resource development.

Funding for the Programme, which is planned to run for four years (2016-17 to 2020-21), was included in the 2016-17 Budget. Further detail is in the measure ‘National Resources Development Strategy - exploring for the future’ set out in *Budget 2016-17, Budget Measures, Budget Paper No. 2 2016-17* at page 129. The then Minister for Resources and Northern Australia, the Hon Josh Frydenberg MP, made a public announcement about the Programme on 3 May 2016.

The pre-competitive geoscience data delivered by the Programme will support a prospectus of resource assets to attract investment. Pre-competitive data is data which will be released into the public domain to inform the geological make up and resource potential of a particular area.

In the long-term, the Programme will:

- attract investments through the new pre-competitive data collection and compilation of existing data holdings;
- improve the Government's national knowledge of the geological endowment of minerals, energy and water resources;
- support exploration investment by reducing onshore investment risks and costs;
- address declining onshore and in particular greenfield or frontier exploration;
- support infrastructure development and generate employment opportunities associated with future resources projects; and
- reduce the technical risk of exploration in areas that have resource potential, but require new geoscience data to reduce geological uncertainty and risk.

The Programme will be administered by Geoscience Australia, Australia's national geological survey research institution, with support from the Department of Industry, Innovation and Science. Geoscience Australia will coordinate a programme of procurements to deliver data using innovative tools and techniques, including major airborne electromagnetic (AEM) grids across about 40 per cent of Northern Australia, stratigraphic drilling, seismic surveys, gravity surveys (which map undercover geology according to changes in density), geochemistry, and magnetotelluric data (to map the electrical conductivity structure of the crust and lithosphere).

The Programme will use a wide range of private sector suppliers, such as geophysical service companies. This will provide the national benefit of maintaining a range of private sector service capabilities within Australia through the current downturn in the resources sector.

The data acquired through the Programme will be integrated into Geoscience Australia's existing national geoscientific databases. Geoscience Australia will analyse and assess the data, and develop state-of-the-art geological modelling to underpin a resources prospectus for targeted areas of Northern Australia. Data and associated scientific products will be released to industry on an annual basis and online through the recently redeveloped Geoscience Australia information portal (<http://portal.geoscience.gov.au/gmap.html>).

The Programme is expected to commence in October 2016 to take advantage of the end of the 'dry season'. As the programme is field based, the 'wet season' summer months in Northern Australia preclude most activities until at least March/April.

Spending decisions will be made by a Programme Board on recommendation of subject matter experts at Geoscience Australia. The Programme Board will be chaired by the Deputy CEO of Geoscience Australia, and will include the General Managers of the Minerals, Energy and Groundwater Branches, as well as the Division Chiefs of Resources and Environmental Geoscience Divisions. All procurement spending decisions will be made in accordance with the *Commonwealth Procurement Rules*.

Selection criteria for each project and all procurement-related spending decisions will be made publicly available on AusTender (<https://www.tenders.gov.au/>).

The Programme will not be subject to merits review arrangements as it will consist of procurement activities to be conducted in accordance with the *Commonwealth Procurement Rules*. Participants or tenderers will be selected on the basis of technical expertise, capability and value for money.

Funding will come from Geoscience Australia's Program 1: Geoscientific and spatial information services, which is part of Outcome 1: Informed government, industry and community decisions on the economic, social and environmental management of the nation's natural resources through enabling access to geoscientific and spatial information. Details are set out in the *Portfolio Budget Statements 2016-2017, Budget Related Paper No. 1.12, Industry, Innovation and Science Portfolio* at page 149.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)) of the Constitution.

Further information is available at:

- <http://www.industry.gov.au/resource/Programs/Pages/Exploring-for-the-Future.aspx>;
and
- <http://www.ga.gov.au/news-events/news/latest-news/exploring-for-the-future>.

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 (Industry, Innovation and Science 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 adds a new item to Schedule 1AB to establish legislative authority for the Government to fund the Exploring for the Future Programme (the Programme) which was announced in the 2016-17 Budget.

The Programme is a \$100.5 million programme which will collect and release geoscience data publicly to encourage exploration investment by the resources sector for the identification of new major petroleum and minerals resources and to identify groundwater resources for agricultural and resource development.

The Minister for Resources and Northern Australia has portfolio responsibility for the Programme which will be administered by Geoscience Australia.

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**