**EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment*

*(Health Measures No. 4) 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 in the Health Portfolio that arise from Budget decisions in 2015-16 and 2016-17.

The initiatives will be administered by the Department of Health. Funding details were included in the 2016-17 Budget Papers.

Funding is provided for:

* the Rural General Practice Grants Program for the delivery of improved rural health services and healthy living education with the provision of additional infrastructure in rural communities;
* the development and delivery of a perinatal depression online support tool and smartphone application to provide confidential, self-paced self-help for women at risk of, or suffering from, perinatal depression;
* protecting Australians from antimicrobial resistance to improve Australia’s capacity to detect, prevent and respond to antimicrobial resistance in support of the *National Antimicrobial Resistance Strategy 2015-2019*;
* the Drug and Alcohol Program to achieve improved health and social outcomes for individuals, families, and communities at risk of, or currently affected by, substance misuse in Australia;
* the Primary Health Care Development Program to strengthen primary health care outcomes by supporting activities that improve access to quality primary health and medical services in the community;
* the Health Policy Research and Data Program to support the provision of information to the Commonwealth to assist in improving the capacity, quality and safety of the Australian health care system to meet current and future needs;
* the Health Protection Program to address matters related to the nation’s capacity and capability to detect, prepare and respond to health emergencies and communicable diseases; and
* the Public Health and Chronic Disease Program to address matters related to disease prevention, treatment and control, palliative care, community knowledge and awareness of key risk factors for chronic disease and non-communicable diseases, reproductive health and food nutrition.

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 Health.

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 (Health Measures No. 4) Regulation 2016***

**Section 1 – Name**

This section provides that the title of the Regulation is the *Financial Framework (Supplementary Powers) Amendment (Health Measures No. 4) 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 itemadds eight new table items to Part 4 of Schedule 1AB to establish legislative authority for government spending on a number of initiatives in the Health Portfolio that arise from Budget decisions in 2015-16 and 2016-17. The initiatives, which will be administered by the Department of Health, relate to:

* the Rural General Practice Grants Program;
* the perinatal depression online support tool;
* protecting Australians from antimicrobial resistance;
* the Drug and Alcohol Program;
* the Primary Health Care Development Program;
* the Health Policy Research and Data Program;
* the Health Protection Program; and
* the Public Health and Chronic Disease Program.

New **table item 176** establishes legislative authority for government spending on the Rural General Practice Grants Program for the delivery of improved rural health services and healthy living education through additional infrastructure in rural communities.

The objectives of the Program are to:

* provide additional infrastructure and appropriate space to enable rural and regional health practitioners to maintain and increase the level of services locally;
* enable existing health facilities to provide teaching and training opportunities for a range of health professionals within the practice; and
* enable existing health facilities to provide an environment for patient education to increase health literacy within the community.

The new program extends funding availability for the purpose of teaching and training allied health professionals, Aboriginal health practitioners and nursing practitioners. This would allow the existing general practices to deliver holistic health services to their communities through expanded multi-disciplinary teams and opportunities for patient education.

Details of this initiative are set out under Program 1.3: Health Infrastructure, Outcome 1: Health System Policy, Design and Innovation, in the *Portfolio Budget Statements 2016-17, Budget Related Paper No. 1.10, Health Portfolio* at pages 49 and 50 and the Budget measure entitled ‘Rural General Practice Grants Program’ in *Budget 2016-17, Budget Measures, Budget Paper No. 2 2016-17* at pages 118 to119.

Funding for this item comes from Program 1.3: Health Infrastructure, Outcome 1: Health System Policy, Design and Innovation, as set out in the *Portfolio Budget Statements 2016-17, Budget Related Paper No. 1.10,* Health Portfolioat page 23 and 42.

Spending decisions will be made by the Minister for Health and Aged Care following a comprehensive grants assessment process.

The process will be managed in accordance with the *Commonwealth Grants Rules and Guidelines* and spending decisions will be made in accordance with the *Public Governance, Performance and Accountability Act 2013*.

Selection criteria will be provided with application documentation once the funding round opens. These will be accessible from:

http://www.health.gov.au/internet/main/publishing.nsf/Content/Listing+of+Tenders+and+Grants-1; and https://www.tenders.gov.au*.*  Spending decisions will not be published.

Grants will be awarded to successful applicants following a comprehensive grant assessment process.

Given the funding is for the specific purpose of providing infrastructure grants to general practices in rural and regional locations, and funding for the program is targeted at a small proportion of these general practices, the program is not appropriate for merits review.

However, applicants may seek an independent internal review of the assessment process and the Department has a complaints and dispute mechanism for grants and funding processes which is available at http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-complaints*.*

If applicants are unsatisfied with the outcome of the independent internal review, they may lodge a complaint with the Commonwealth Ombudsman.

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

New **table item 177** establishes legislative authority for government spending on the development and delivery of a perinatal depression online support tool and smartphone application to provide confidential, self-paced self-help for women at risk of, or suffering from, perinatal depression.

The objective of this project is to enable Australian women to more easily identify and manage their perinatal depression, through leveraging off a self-help and self-paced program delivered both through an online tool and a smartphone app, but still providing for professional assistance when needed. New mothers who lack support networks and those in rural and regional Australia will particularly benefit.

Details of this initiative are set out under Program 2.1: Mental Health, Outcome 2: Health Access and Support Services, in the *Portfolio Budget Statements 2016-17,* *Budget Related Paper No 1.10, Health Portfolio* at page 60 and the Budget measure entitled ‘Perinatal Depression Online Support’ in *Budget 2016-17, Budget Measures, Budget Paper No. 2 2016‑17* at page 114.

Funding for this item comes from Program 2.1: Mental Health, Outcome 2: Health Access and Support Services, as set out in the *Portfolio Budget Statements 2016-17,* *Budget Related Paper No 1.10, Health Portfolio* at pages 24 and 56.

Total funding of $0.8 million was included in the 2016-17 Budget for a period of a year.

The Department of Health conducted a competitive procurement process to select the successful tenderer for delivery of the perinatal depression online support tool and smart phone application in accordance with the *Commonwealth Procurement Rules*. A contract for services will be offered to the successful tenderer. Expenditure for the activity will be made by the relevant delegate of the Secretary in accordance with the *Public Governance, Performance and Accountability Act 2013*.

Details regarding the tender for the program are available at www.tenders.gov.au*.* Details regarding the supplier of the service will also be available on www.tenders.gov.au*.*

The Department has a complaints mechanism for grants and procurement processes that allows for a merits review of decisions which is available at

http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-complaints. Applicants are also able to lodge a complaint with the Commonwealth Ombudsman. No further merits review is provided for given these available avenues for review.

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

New **table item 178** establishes legislative authority for government spending on protecting Australians from antimicrobial resistance with the aim of improving Australia’s capacity to detect, prevent and respond to antimicrobial resistance (AMR) in support of the *National Antimicrobial Resistance Strategy 2015-2019.*

This will be achieved by the enhancement and continuation of the national surveillance of antimicrobial resistance and antimicrobial usage; addressing the high use of antibiotics in the community; developing a website to provide a trusted source of information on antimicrobial resistance and the prescription of antibiotics; and supporting the continued work of the Australian Strategic and Technical Advisory Group on Antimicrobial Resistance.

Activities include:

* continuing and enhancing existing surveillance activities; supporting national integration of surveillance data on antimicrobial resistance and the use of antibiotics; and identifying risks and trends relating to antimicrobial resistance;
* developing a plan and resources for general practitioners to support improved antimicrobial stewardship in general practice to address Australia’s high use of antibiotics in the community, which is 20 per cent above the OECD average. Bringing prescribing rates down is critical, as high antibiotic use is the number one driver of increasing antimicrobial resistance;
* developing, including developing content for, and maintaining a website to improve public knowledge about antimicrobial resistance and the prescription of antibiotics; and
  + supporting the work of the Australian Strategic and Technical Advisory Group on AMR.

Details for this initiative are set out under Program 5.2: Health Protection and Emergency, Outcome 5: Regulation, Safety and Protection, in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper No. 1.10*, *Health Portfolio* at page 125 and the Budget measure entitled ‘Protecting Australians from Antimicrobial Resistance’ in *Budget 2016-17, Budget Measures, Budget Paper No. 2 2016‑17* at page 116.

Funding for this item comes from Program 5.2: Health Protection and Emergency, Outcome 5: Regulation, Safety and Protection, as set out in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper No. 1.10*, Health Portfolio at pages 29 and 114.

Total funding of $9.4 million for this item was part of the 2016-17 Budget. Funding for this four-year program commences in 2016-17.

The Department will undertake procurement processes to engage suitably qualified service providers to deliver and implement each of the activities under this item. Procurement processes will be managed in accordance with the *Commonwealth Procurement Rules*, and methods will be tailored to the specific activity to be undertaken (e.g. AMR surveillance, antimicrobial stewardship plan/resources for general practice, and the development of the AMR website). Support for meetings of the Australian Strategic and Technical Advisory Group on AMR will be administered via the Department’s committee support system.

All expenditure under this item will be made in accordance with the *Public Governance, Performance and Accountability Act* *2013* by a delegate of the Secretary.

The invitation to apply for tenders for activities under this item, and successful applicants, will be made available at www.health.gov.au and www.austender.gov.au*.*

The Department of Health has a complaints mechanism for grants and procurement processes that allows for a merits review of decisions, which is available at: http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-complaints*.* Applicants are also able to lodge a complaint with the Commonwealth Ombudsman. No further merits review is provided for given these available avenues for review.

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 telecommunications power (section 51(v));
* the census and statistics power (section 51(xi));
* the social welfare power (section 51(xxiiiA));
* the external affairs power (section 51(xxix)); and
* the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

New **table item 179** establishes legislative authority for government spending on the Drug and Alcohol Program. The objectives of the Program are to:

* support drug and alcohol treatment services across Australia to reduce the impact of substance misuse on individuals, families, carers and communities;
* support prevention and early intervention activities and promote evidence-based information about drug and alcohol through education;
* support the development of drug and alcohol data to support evidence-based treatment, national policy and service delivery; and
* support service linkages between drug and alcohol treatment services and mental health services, as well as with social, educational and vocational long-term support services.

Activities to be funded include:

*Drug and Alcohol Treatment Services*

The Drug and Alcohol Treatment Services Activity aims to:

* provide increased access to a range of evidence-based drug and alcohol treatment services;
* strengthen the capacity of the drug and alcohol sector to achieve improved health and social outcomes for those seeking treatment for drug and/or alcohol misuse; and
* reduce the impact associated with substance misuse for individuals, families and communities.

*Drug and Alcohol Prevention*

The Drug and Alcohol Prevention Activity aims to:

* build knowledge, awareness and capacity of the drug and alcohol sector and community to respond to substance misuse and related health and social issues amongst the drug and alcohol sector and broader communities;
* improve access to early intervention and information support for individuals (and their families) at risk – or in the early stages – of developing problematic use of drugs and/or alcohol;
* reduce the prevalence and severity of drug and/or alcohol misuse in Australian communities;
* enhance the capacity of the sector to undertake drug and alcohol research, informing national efforts to address substance misuse;
* monitor trends in drug and alcohol use and harms and community attitudes through regular national and targeted data collections to inform evidence based drug and alcohol policy and prevention activities;
* identify early intervention and preventative health needs through evidence-based approaches which encompass research and formative evaluation (i.e. evaluations are conducted through the study);
* enhance knowledge on treatment approaches for emerging drugs of concern, including supporting research on innovative treatment models;
* increase community awareness of substance misuse and related health and social impacts;
* meet current and emerging Government priorities related to drug and alcohol misuse through procurement activities as required;
* support clinical research into new treatment options, including training health professionals in new treatment methods and evaluating new treatment methods for emerging drugs of concern; and
* provide outcomes of key research projects to the drug and alcohol treatment research to the sector.

*Drug and Alcohol National Leadership*

The Drug and Alcohol National Leadership Activity aims to:

* improve the development of national policies, strategic frameworks, and planning tools related to drug and alcohol treatment service delivery, early intervention and prevention of drug and/or alcohol misuse, ensuring policy-making is informed by evidence and experts from the drug and alcohol sector.

Details for this initiative are set out under Program 2.4: Preventative Health and Chronic Disease, Outcome 2: Health Access and Support, in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper No.1.10*, *Health Portfolio* at pages 72 to 73.

Funding for this item comes from Program 2.4: Preventative Health and Chronic Disease, Outcome 2: Health Access and Support, as set out in the *Portfolio Budget Statements 2016‑17*, *Budget Related Paper No.1.10*, *Health Portfolio* at page 56.

Total funding of up to $686.32 million over four years is available for the Program commencing in 2016-17. The new Program and associated funding was included in the 2016-17 Budget.

The Department may undertake various types of selection processes in order to award grants under the Program. In selecting the appropriate type of selection process, the Department will consider the market for the specific activities to be funded as well as applying proportionality based on the complexity, value and urgency of available grants.

The Department may use any of the following types of selection process to award grants under the Program. The Annexures in the Drug and Alcohol Program Guidelines identify the types of selection process that may be used for particular activities:

* open competitive grant opportunities;
* targeted or restricted competitive grant opportunities;
* non-competitive open processes;
* demand driven processes;
* closed non-competitive processes;
* one-off grants; and
* procurement.

The Minister for Health and Aged Care, or her delegate, is responsible for making spending decisions for the Program.

A subset of selection criteria is available in the Program Guidelines under each Annexure. Specific selection criteria will be available publicly when an approach to market for an activity is being advertised.

Relevant details of successful applicants’ activities will be made public and posted on the Department’s Tenders and Grants website as part of the Department’s legislative reporting obligations under the *Commonwealth Grants Rules and Guidelines*.

The Program Guidelines provide details on merits review and the complaints process.

The Department’s Grant and Procurement Complaints Procedures apply to complaints that arise in relation to grant and procurement processes. It covers events that occur between the time the funding round documentation is released to potential applicants and the date of contract execution, regardless of when the actual complaint is made. The Department requires that all complaints relating to a grant or procurement process must be lodged in writing within 6 months from the announcement of the outcome of the process.

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));
* the social welfare power (section 51(xxiiiA));
* the races power (section 51(xxvi));
* the telecommunications power (section 51(v));
* the Territories power (section 122); and
* the power to grant financial assistance to the States (section 96).

New **table item 180** establishes legislative authority for government spending on the Primary Health Care Development Program.

Program activities include:

* continued improvement in general practice, allied health and other activities that will increase capacity, enhance quality care and improve access and health outcomes for patients;
* improved access to the range and choice of medical and health care services available to target population groups including children, disadvantaged groups, Indigenous populations, and people in regional, rural and remote locations;
* improved coordination and integration of primary and ambulatory health care;
* enhanced education, training opportunities, and dissemination of information aimed at improving the quality and efficacy of primary health care services;
* provision of innovative and cost-effective health and medical care, accurate advice and information about health, illness and available services, to assist people in caring for themselves and their families;
* provision of the use of current and emerging interactive communication technology such as telephone advice lines, interactive websites and video conferencing, including telehealth;
* supporting the establishment of the Health Care Home model, to provide continuity of care, coordinated services and a team-based approach to take care of the patient; and
* improved collaboration of health information and services to assist people living with complex conditions to help maintain good health.

Funding is for the following:

*Primary Health Networks*

A total of 31 Primary Health Networks (PHNs) were established from 1 July 2015.

The Program objectives are to increase the efficiency and effectiveness of medical services for patients, particularly those at risk of poor health outcomes and improving coordination of care. This will be achieved through understanding the health care needs of individual PHN communities through analysis and planning and purchasing or commissioning health and medical/clinical services to address service gaps where needed.

*Health Information, Advice and Counselling Network*

The Health Information, Advice and Counselling Network provides healthcare information, advice and counselling services through selected service providers, including Healthdirect Australia Ltd (HDA).

The Health Information, Advice and Counselling Network aims to:

* deliver to the Australian community, health advice, information and support through multiple communication channels, including telehealth, face-to-face and through emerging online interactive communication technologies such as social media. This reflects the rapidly evolving technologies enabling greater connectivity and ease of use;
* support Australians to make informed decisions over their health and the ways they access medical and health related services. Support includes guiding each consumer to use the most appropriate health service for their needs, based on their location and the availability of local health services;
* provide access to expert advice and support for health professionals outside of standard business hours and/or in areas where there is no general practitioner or other specialist support available;
* manage the pressure on the health care system, particularly public hospital emergency departments, by reducing avoidable demand on face-to-face health care services and by steering people to the right care, in the right place, at the right time, whilst safeguarding patient safety;
* improve access to health practitioners through increased use of telehealth and video‑conferencing, particularly for appointments outside of normal business hours, people living with chronic and complex conditions and those living in rural and remote areas; and
* improve access to health services by marginalised and special needs groups, Indigenous people and people from culturally and linguistically diverse (CALD) background through targeted and responsive technology solutions.

Funding would be directly paid to select service providers including HDA Australia Ltd (formerly known as the National Health Call Centre Network Ltd). HDA is a public company limited by shares, established and jointly funded by the Australian Government and the governments of the Australian Capital Territory, New South Wales, Northern Territory, South Australia, Tasmania and Western Australia to deliver healthcare information, advice and counselling services.

*The Primary Health Collaboration and Complex Conditions*

The Primary Health Collaboration and Complex Conditions aims to help people living with chronic and complex conditions maintain good health and quality of life by supporting primary health care organisations and health care providers to improve care and collaboration.

The outcomes include:

* improved patient outcomes through better management of chronic and complex conditions through integrated, multidisciplinary team based care;
* improved protocols, procedures and service delivery methods to increase efficiency within primary health care organisations and care providers;
* better use of evidence based research and data, to support best practice care through the development and implementation of guidelines and policy advice;
* enhanced clinical reporting and functionality (for example, data cleaning to produce valid registers and reports);
* development of proactive, population based care initiatives in local communities;
* increased knowledge about health care and health services amongst patients, carers and families; and
* strengthening health care professionals’ knowledge and capacity to manage chronic and complex conditions through education and training.

Funding is to be made available through a range of funding processes, such as open competitive funding rounds, targeted or restricted competitive funding rounds, non‑competitive open processes, demand driven processes, closed, non-competitive processes, one-off grants and procurement. Applications are assessed against the selection criteria outlined in the funding round summary and application form.

*Health Care Homes*

Stage 1 implementation of Health Care Homes (HCH) would commence in 2017 in 10 Primary Health Network (PHN) regions across Australia. Under this model, eligible patients with chronic and complex health conditions will be able to voluntarily enrol with a participating medical practice known as their HCH.  This practice will provide enrolled patients with a ‘home base’ for the ongoing team-based coordination, management and support of their chronic conditions.

Medicare funding for HCH services would be bundled together into periodic payments.  This will encourage HCH to be flexible and innovative in how they deliver care to eligible patients with chronic and complex conditions, including through non-face-to-face services where clinically appropriate and effective.

Stage 1 will be comprehensively evaluated and will build an evidence base that will be used to inform government consideration of a national rollout of health care homes from 1 July 2019.

Expenditure for the HCH measure would be made up of three elements:

* one-off grant payment, with expenditure decisions to be made following an open and competitive application process;
* procurement of infrastructure and development services, with expenditure decisions to be made following approaches to market that are commensurate with the value of the procurement in line with the *Commonwealth Procurement Rules*. Payments will also be paid directly to other organisations such as PHNs or the Department of Human Services in the context of provision of support services and/or infrastructure; and
* bundled payments for HCH services, which would be paid to participating medical practices periodically based on the number of enrolled patients and each patient’s level of complexity.

Details for this initiative are set out under Program 2.5: Primary Health Care Quality and Coordination, Outcome 2: Health Access and Support Services, in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper 1.10*, *Health Portfolio* at page 74 and 75. That part of the Program that deals with HCH is a 2016-17 Budget measure entitled ‘Healthier Medicare – trial of health care homes’ in *Budget 2016-17, Budget Measures, Budget Paper No. 2 2016-17* at page 105.

Funding for this item comes from Program 2.5: Primary Health Care Quality and Coordination, Outcome 2: Health Access and Support Services, as set out in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper 1.10*, *Health Portfolio* at pages 23 and 57.

Total funding of up to $1.456 billion is available over four years starting in 2016-17 to support the Program.

The Primary Health Care Development Program consolidates activities from the former Chronic Disease Prevention and Service Improvement Grants Fund, the Primary Health Networks, the former Single Point of Contact for Health Information Advice and Counselling Fund and the Health Care Homes Program.

Access to funding under the Program will be provided through a variety of means, including open competitive funding rounds, closed non-competitive funding rounds, targeted funding rounds, unsolicited proposals, one-off funding opportunities and procurement activities.

All expenditure under this item will be made in accordance with conditions and delegations in line with the *Public Governance, Performance and Accountability Act 2013* and either the *Commonwealth Procurement Rules* or the *Commonwealth Grants Rules and Guidelines* as appropriate.

Spending decisions will be made by the Minister for Health and Aged Care or an Australian Public Service staff member with appropriate financial delegation. In approving the expenditure of funds, the approver shall consider whether the activity will make an efficient, effective, ethical and economical use of Australian Government resources, as required by Commonwealth legislation.

Spending decisions in relation to grants will be published on the departmental website no later than 14 working days after a grant agreement takes effect as per the *Commonwealth Grant Rules and Guidelines*. The website is as follows: http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-grantsreporting.

Information on the merits review is provided in the Primary Health Care Development Program Guidelines. Where a merits review is requested, the Department of Health has a complaints mechanism for grants and funding processes which is provided publicly on the internet at: http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-complaintsprocedures. Applicants are also able to lodge a complaint with the Commonwealth Ombudsman.

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 telecommunications power (section 51(v));
* the census and statistics power (section 51(xi));
* the social welfare power (section 51(xxiiiA));
* the races power (section 51(xxvi));
* the external affairs power (section 51(xxix));
* the Territories power (section 122);
* the power to grant financial assistance to the States (section 96); and
* the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

New **table item 181** establishes legislative authority for government spending on the Health Policy Research and Data Program (R&D Program) which will provide funding for activities that come within the Program’s objectives.

The objectives of the Program are to:

* provide a mechanism for driving improvements in the way the Department uses and manages its research and analytical agenda including enabling prioritisation of funding according to changing needs;
* fund entities such as universities, research organisations, and public companies to undertake research, evaluation or data activities and report the results of that research to the Commonwealth to support policy development for safe, high quality health care systems and services; and
* help build a strong evidence base and access to data to inform the development, implementation, monitoring and evaluation of health policy and improve practice in Australia.

Examples of the types of activities that may be eligible for grant funding under the Program:

a) Research:

* strategic, priority driven evidence-based research;
* knowledge exchange and knowledge translation;
* capacity building;
* supporting research partnerships/networks; and
* development and promotion of research methodologies.

b) Data:

* improving access to data;
* data collection, acquisition and analysis (including surveys);
* development and management of data;
* developing data definitions;
* data analysis and interpretation;
* data dissemination, reporting and use;
* developing and operating data infrastructure; and
* data governance.

c) Evaluation:

* formative and summative evaluations; and
* feasibility studies.

Funds appropriated for the purpose of the Program may also be used for the procurement of work directly related to the purpose of this Program, such as feasibility studies and providing options to the Department to inject research and analytics into policy insight and making.

Funds may also be set aside for emerging priorities and issues as determined by the Commonwealth.

Examples of projects that would be funded are:

* research on blood borne viruses and sexually transmitted infections:
* multiple sclerosis research:
* the National Maternal and Perinatal Mortality and Morbidity Data Collection; and
* primary health care research.

Details about the initiative are set out under Program 1.1: Health Policy Research and Analysis, Outcome 1: Health System Policy, Design and Innovation, in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper* *No. 1.10,* *Health Portfolio* at page 44.

Funding for this item comes from Program 1.1: Health Policy Research and Analysis, Outcome 1: Health System Policy, Design and Innovation, as set out in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper* No. 1.10, *Health Portfolio* at page 41.

Total funding of up to $22.65 million over three years is available commencing from 2016‑17.

There are a number of types of selection process that the Department may undertake in order to award grants under the Program. In selecting the appropriate type of selection process, the Department will consider the market for the specific activities to be funded as well as applying proportionality based on the complexity, value and urgency of available grants.

The Department may use any of the following types of selection process to award grants under the R&D Program. The Annexures in the Health Policy Research and Data Program Guidelines identify the types of selection process that may be used for particular activities:

* open competitive grant opportunities;
* targeted or restricted competitive grant opportunities;
* non-competitive open processes;
* demand driven processes;
* closed non-competitive processes;
* one-off grants; and
* procurement.

The Minister for Health and Aged Care, or her delegate, is responsible for making spending decisions for the R&D Program.

The Program Guidelines and further details about the Program will be hosted on the Department of Health’s website (www.health.gov.au) once the Program Guidelines have been approved. For any open grant opportunities information will be available on the Department’s Tenders and Grants webpage.

Program grant funding will be provided in accordance with the *Commonwealth Grants Rules and Guidelines* and the details of the merits review associated with funding from the Program will be dependent on the type of activity funded. Details and templates for the merit review processes likely to be used in the Program will be included in the Program Guidelines. For any open grant opportunities information will be available on the Department’s Tenders and Grants webpage.

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));
* the census and statistics power (section 51(xi));
* the telecommunications power (section 51(v));
* the races power (section 51(xxvi));
* the naturalization and aliens power (section 51(xix));
* the Territories power (section 122);
* the power to grant financial assistance to the States (section 96); and
* the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

New **table item 182** establishes legislative authority for the Government to fund the delivery of activities under the Health Protection Program. These are prevention, preparedness and response activities that protect the health of all Australians from threats posed by communicable disease outbreaks, natural disasters, environmental hazards, acts of terrorism and other incidents that may lead to mass casualties.

Under this Program:

* prevention activities include the prevention, elimination or reduction of the occurrence or severity of communicable disease outbreaks, environmental hazards, and acts of terrorism; and/or minimise the health impacts on the Australian community of unavoidable natural disasters and other emergencies. This includes:
  + communicable disease surveillance data collection, analysis and reporting to inform public health responses and to support evidence-based preventive health policy development; and
  + supporting activities that promote awareness and prevention, and also appropriate management of communicable diseases in particular blood borne viruses and sexually transmissible infections;
* preparedness activities include building and strengthening Australia’s preparedness to prevent and minimise the impact from events such as communicable disease outbreaks, natural disasters, environmental hazards and acts of terrorism; and
* response activities include the development and maintenance of response systems to ensure an effective, coordinated and timely response to health emergencies.

Details about the initiative are set out under Program 5.2: Health Protection and Emergency Response, Outcome 5: Regulation, Safety and Protection, in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper No. 1.10*, *Health Portfolio* at pages 123 to 126.

Funding for this item comes from Program 5.2: Health Protection and Emergency Response, Outcome 5: Regulation, Safety and Protection, as set out in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper No. 1.10*, *Health Portfolio* at page 114.

Total funding of up to $211.16 million over four years is available for the Program commencing in 2016-17.

Spending decisions and selection processes will be in accordance with the *Public Governance and Accountability Act 2013* and either the *Commonwealth Grants Rules and Guidelines* or the *Commonwealth Procurement Rules* as appropriate.

When undertaking a selection process the Department of Health will consider the proportionality of scale, nature, funding amount, complexity and risks involved in the funding round as outlined in the *Commonwealth Grants Rules and Guidelines*. The Department will consider proportionality to inform the choice of the application and selection process, the type of grant agreement to be used and the reporting and acquittal requirements.

Access to funding will be available through a variety of means and at various times throughout the funding period. The Department proposes to undertake a mix of the following selection processes depending on the urgency, market and expertise availability, and services required to achieve the objectives of the program:

* open competitive;
* targeted or restricted competitive;
* closed non-competitive; and
* one-off.

The Department will establish an assessment committee and make recommendations to the decision maker. The assessment committee will comprise representatives of the policy division, specialist grant application assessors and grant managers.

Who the decision-maker is may vary for each activity based on the profile and value of the activity. Where the Department has invited applications for grants, the decision‑maker will be the Minister for Health and Aged Care or the departmental delegate.

The Health Protection Program Guidelines, program summary, and selection criteria will be publicly available on the Department’s website (www.health.gov.au) prior to any open grant round. Spending decisions can be accessed at http://www.health.gov.au/internet/main/publishing.nsf/Content/health-contracts-index.htm.

The Department of Health has a complaints mechanism for grants and funding processes that allows for a merits review of decisions, which is available at: http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-complaintsprocedures.

Applicants are also able to lodge a complaint with the Commonwealth Ombudsman. No further merits review is provided for given these available avenues for review.

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 telecommunications power (section 51(v));
* the defence power (section 51(vi));
* the quarantine power (section 51(ix));
* the census and statistics power (section 51(xi));
* the naturalization and aliens power (section 51(xix));
* the social welfare power (section 51(xxiiiA));
* the races power (section 51(xxvi));
* the immigration power (section 51(xxvii));
* the external affairs power (section 51(xxix));
* the Territories power (section 122);
* the power to grant financial assistance to the States (section 96); and
* the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

New **table item 183** establishes legislative authority for the Government to fund delivery of activities under the Public Health and Chronic Disease Program that come within the Program’s objectives.

The objectives of the Program are to:

* increase the effectiveness and efficiency of the prevention, treatment, control and management of diseases, including through screening and palliative care;
* develop and enhance effective disease prevention, treatment, control and management measures;
* improve access to high quality palliative care, end of life and advance care planning;
* improve quality service provision, increase service capacity and support activities that increase compliance with legislative frameworks;
* increase the community’s knowledge and awareness of the key risk factors for chronic disease and non-communicable diseases and how individuals can lead healthier lives to address these risk factors;
* improve the health of targeted populations that experience health inequalities or social disadvantage including those based on gender, culture, age and disability;
* address population group issues such as breastfeeding, family planning and reproductive health, men’s, women’s and children’s health;
* develop and implement food and nutrition policy which protects and enhances the health of Australians; and
* inform health policy and/or improve practice through the establishment and use of disease registers, monitoring and surveillance activities, research and the development of evidence based information.

Activities that are funded include:

*Cancer Control*

The Cancer Control Activity aims to improve Australia’s capacity to control cancer through evidence-based interventions across the cancer control continuum.

*Chronic Conditions Prevention and Management*

The Chronic Conditions Prevention and Management Activity aims to reduce the incidence of preventable mortality and morbidity caused by chronic conditions.

*Family Planning*

The Family Planning Activity aims to address family planning and reproductive health issues to allow individuals and couples to anticipate and attain their desired number of children and the spacing and timing of their births through the use of contraceptive methods and the prevention and treatment of involuntary infertility.

*National Palliative Care Projects*

The National Palliative Care Projects Activity aims to improve the quality of palliative care service delivery in Australia.

*Population Health Improvement*

The Population Health Improvement Activity aims to reduce the incidence of preventable mortality and morbidity caused by health inequalities and specific population group health issues.

Details about the initiative are set out under Program 2.4: Preventative Health and Chronic Disease, Outcome 2: Health Access and Support, in the *Portfolio Budget Statements 2016-17*, *Budget Related Paper No. 1.10*, *Health Portfolio* at page 67.

Funding for this item comes from Program 2.4: Preventative Health and Chronic Disease, Outcome 2: Health Access and Support, as set out in the *Portfolio Budget Statements 2016‑17*, *Budget Related Paper No. 1.10*, *Health Portfolio* at page 56.

Total funding of up to $213.3 million over four years is available for the Program commencing in 2016-17.

There are a number of types of selection process that the Department may undertake in order to award grants under the Program. In selecting the appropriate type of selection process, the Department will consider the market for the specific activities to be funded as well as applying proportionality based on the complexity, value and urgency of available grants.

The Department may use any of the following types of selection process to award grants under the Program. The Annexures in the Program Guidelines identify the types of selection process that may be used for particular activities, including:

* open competitive grant opportunities;
* targeted or restricted competitive grant opportunities;
* non-competitive open processes;
* demand driven processes;
* closed non-competitive processes;
* one-off grants; or
* procurement.

The Minister for Health and Aged Care, or her delegate, is responsible for making spending decisions for the Program.

A subset of selection criteria is available in the Program Guidelines under each Annexure. Specific selection criteria will be publicly available when an approach to market for an activity is being advertised.

Some details of successful applicants’ activities will be made public and posted on the department’s website as part of the department’s legislative reporting obligations under the *Commonwealth Grant Rules and Guidelines*.

Website – the Department's [Tenders and Grants webpage](http://www.health.gov.au/internet/main/publishing.nsf/Content/Listing+of+Tenders+and+Grants-1) - http://www.health.gov.au/internet/main/publishing.nsf/Content/Listing+of+Tenders+and+Grants-1.

The Program Guidelines provide detail on merits review and provides that any complaints that arise in relation to grant or procurement processes must be lodged in writing. Further information can be found at: http://www.health.gov.au/internet/main/publishing.nsf/Content/pfps-complaintsprocedures.

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 telecommunications power (section 51(v));
* the census and statistics power (section 51(xi));
* the social welfare power (section 51(xxiiiA));
* the races power (section 51(xxvi));
* the external affairs power (section 51(xxix)); and
* the Commonwealth executive power and the express incidental power (sections 61 and 51(xxxix)).

**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 (Health Measures No. 4) 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 FF(SP) Regulations to establish legislative authority in Schedule 1AB for government spending on a number of initiatives in the Health Portfolio that arise from Budget decisions in 2015-16 and 2016-17.

The initiatives will be administered by the Department of Health. Funding details were included in the 2016-17 Budget Papers.

Funding is provided for:

* the Rural General Practice Grants Program for the delivery of improved rural health services and healthy living education with the provision of additional infrastructure in rural communities;
* the development and delivery of a perinatal depression online support tool and smartphone application to provide confidential, self-paced self-help for women at risk of, or suffering from, perinatal depression;
* protecting Australians from antimicrobial resistance to improve Australia’s capacity to detect, prevent and respond to antimicrobial resistance in support of the *National Antimicrobial Resistance Strategy 2015-2019*;
* the Drug and Alcohol Program to achieve improved health and social outcomes for individuals, families, and communities at risk of, or currently affected by, substance misuse in Australia;
* the Primary Health Care Development Program to strengthen primary health care outcomes by supporting activities that improve access to quality primary health and medical services in the community;
* the Health Policy Research and Data Program to support the provision of information to the Commonwealth to assist in improving the capacity, quality and safety of the Australian health care system to meet current and future needs;
* the Health Protection Program to address matters related to the nation’s capacity and capability to detect, prepare and respond to health emergencies and communicable diseases; and
* the Public Health and Chronic Disease Program to address matters related to disease prevention, treatment and control, palliative care, community knowledge and awareness of key risk factors for chronic disease and non-communicable diseases, reproductive health, and food nutrition.

The Minister for Health and Aged Care 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**