

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. 1) Regulations 2017*

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 Regulations amends Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on an initiative that arises from decisions in the 2016-17 Mid-Year Economic and Fiscal Outlook which was released on 19 December 2016. The initiative will be administered by the Department of Education and Training.

Funding will be provided for the Commonwealth Scholarships Program for South Australia to improve skills and employment opportunities linked to economic priority industries for South Australia.

Details of the Regulations are set out at [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Regulations commence 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 Regulations only apply to non-corporate Commonwealth entities and do not adversely affect the private sector.

Details of the *Financial Framework (Supplementary Powers) Amendment (Education and Training Measures No. 1) Regulations 2017*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Education and Training Measures No. 1) Regulations 2017*.

Section 2 – Commencement

This section provides that the Regulations commence on the day after they are registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulations are 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 Regulations.

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 on a program that will be administered by the Department of Education and Training.

New **table item 209** establishes legislative authority for government spending on the Commonwealth Scholarships Program for South Australia.

The Program aims to improve skills and employment opportunities linked to economic priority industries for South Australia. Over four years to 2020, the Program will provide up to 1,200 scholarships for vocational education and training (VET), undergraduate and postgraduate students to undertake study in South Australia. The scholarships will include an internship which provides students with industry-based work placements to connect study to real jobs.

Scholarships of up to \$20,000 will be available for one, two or three years, reflecting varying durations of study at the VET, undergraduate and postgraduate levels. Scholarships will be available for students studying from Certificate III to Doctoral Degree (PhD) level.

The maximum scholarship amount (for a three-year qualification) will include up to:

- \$14,500 for the student to contribute to educational and training related expenses including, but not limited to, tuition fees, textbooks, and tools and equipment;
- \$3,000 for the student for a paid internship;
- \$500 to the host employer as a one-off administration payment; and

- \$2,000 (or 10 per cent of the total scholarship amount) to contribute to the service delivery fee for the contracted service provider who will administer the Program.

Students will be required to undertake a paid internship equivalent to 20 business days. While undertaking an internship, students will be employed by host employers on a contract for the duration of their internship. Students will receive \$3,000 for a completed internship.

Internships will provide real world experience and an opportunity to build partnerships with host employers to support their learning and experiences. Internships will prepare scholars for long-term employment following the completion of their study. Where a student's study includes a mandatory work placement (for example, apprenticeships, allied health, nursing or engineering), the student will not be required to participate in an additional work placement.

Employers who host an intern will receive a one-off payment of \$500 as a contribution towards the costs of providing students with an internship (for example, administration and WorkCover expenses).

Funding of \$24 million was included in the 2016-17 Mid-Year Economic and Fiscal Outlook as part of the measure 'Jobs and Growth in South Australia' for a period of four years commencing in 2016-17. Details are set out in Appendix A: Policy decisions taken since the 2016 PEFO at page 146.

The scholarships are part of 'The Coalition's Policy for Jobs and Growth in South Australia' released on 4 June 2016 which is available at <https://www.liberal.org.au/coalitions-policy-jobs-and-growth-south-australia>.

The Department of Education and Training will run an open tender process to procure the services of a provider who will administer aspects of the Program. The services will include coordinating scholarship application rounds (including shortlisting scholarship applications), recruiting students, administering scholarship funding, monitoring student enrolments, sourcing host employers for internships, coordinating internship placements, providing support to students during internship placements and monitoring and reporting on program implementation to the Department of Education and Training.

The tender will be published on AusTender at <https://www.tenders.gov.au>. The resultant contract will be available on the AusTender website after signing. The procurement processes will be undertaken in accordance with applicable requirements under the *Public Governance, Performance and Accountability Act 2013*, the *Commonwealth Procurement Rules*, and the Department of Education and Training's Secretary Instructions, to ensure a robust and transparent procurement decision that provides value for money to the Commonwealth.

The decision on the successful tenderer will be made by a departmental official, the delegate of the Secretary of the Department of Education and Training. As it will not be a decision under an enactment that affects any person's legal rights or liabilities, it will not be subject to external merits review. The re-making of a procurement decision after entering into a contract with a successful tenderer is legally complex, impractical, and would result in unacceptable delays in implementation of the Program. However, the Department of Education and Training will provide an opportunity for tenderers to make inquiries and complaints, and provide feedback to unsuccessful tenderers.

The service provider will run competitive funding rounds to identify scholarship recipients. The promotion and marketing of each scholarship round will be conducted by the service provider. Applications for scholarships will be initially assessed by the service provider against the selection criteria in the program guidelines which will be published on the Department of Education and Training's website at www.education.gov.au in early 2017. The service provider will shortlist applications for the Department's consideration. The Department will then receive advice from the Industry Reference Group on the spread of industries and qualifications among shortlisted applicants. Final scholarship decisions will be made by a departmental official, the delegate of the Secretary of the Department of Education and Training.

The service provider will notify the successful and unsuccessful applicants of the outcome of their application in writing. The Department of Education and Training will post information about the most common reasons why applicants were not successful on its website. Unsuccessful applicants may contact the service provider and the Department to make inquiries, seek feedback and make complaints in relation to their application for funding. Unsuccessful applicants from a competitive funding round may apply in subsequent funding rounds for a scholarship. The Department will publish decisions about successful scholarship applicants on its website.

The scholarship decisions will be made in accordance with applicable requirements under the *Public Governance, Performance and Accountability Act 2013*, the *Commonwealth Grants Rules and Guidelines*, and the Department of Education and Training's Secretary Instructions, to ensure that they are robust and transparent.

Scholarship decisions will not be subject to external merits review. The scholarships will not be legal entitlements, and scholarship decisions will not be decisions under an enactment that affects any person's legal rights or liabilities. Decisions for each round of scholarships will be final, although unsuccessful applicants will be able to apply for future rounds should they still be eligible. The amount of scholarship funding will be limited in each round, and it will not be practicable to review decisions once they have been made. The re-making of a decision would affect allocation of scholarships to other parties. An application for merits review may also result in delays in finalising the decisions of an entire scholarship round which would affect the timely provision of scholarship support to recipients by way of financial assistance.

Further information about the Program, including eligibility criteria and timing of each application round, will be in the guidelines which will be made available at www.education.gov.au early in 2017.

Funding for this item will come from Sub-program 2.8.2: Skills Development, which is part of Program 2.8: Building Skills and Capability under Outcome 2. Details are set out in the *Portfolio Additional Estimates Statements 2016-17, Education and Training Portfolio* at page 41.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the benefits to students power (section 51(xxiiiA)) of the Constitution.

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. 1) Regulations 2017

These Regulations are 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 Regulations amends Schedule 1AB to the FF(SP) Regulations to establish legislative authority for government spending on an initiative that will be administered by the Department of Education and Training.

Funding will be provided for the Commonwealth Scholarships Program for South Australia to improve skills and employment opportunities linked to economic priority industries for South Australia.

The Minister for Education and Training has portfolio responsibility for this matter.

Human rights implications

The Regulations do not engage any of the applicable rights or freedoms.

Conclusion

These Regulations are compatible with human rights as they do not raise any human rights issues.

**Senator the Hon Mathias Cormann
Minister for Finance**