

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Agriculture and Water Resources Measures No. 3) 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 the Government to fund the establishment and maintenance of a commodity milk price index and associated educational tools and resources. The commitment to establish a commodity milk price index was announced during the 2016 federal election. The Department of Agriculture and Water Resources has responsibility for this initiative.

Funding of \$2 million over four years from 2016-17 will be provided to develop a commodity milk price index and associated educational tools and resources to assist Australian dairy farmers to anticipate and prepare for fluctuations in the price they receive for their milk.

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 Agriculture and Water Resources.

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 (Agriculture and Water Resources Measures No. 3) Regulations 2017*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Agriculture and Water Resources Measures No. 3) Regulations 2017*.

Section 2 – Commencement

This section provides that the Regulations commence on the day after registration 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 item to Part 4 of Schedule 1AB to establish legislative authority for government spending on an initiative that will be administered by the Department of Agriculture and Water Resources.

New **table item 220** establishes legislative authority for the Government to fund the establishment and maintenance of a commodity milk price index and associated educational tools and resources.

This item will support implementation of the Government's election commitment to establish a commodity milk price index to deliver greater transparency and improve the clarity of market signals for Australian dairy farmers. Extensive industry consultation has highlighted the importance of education and training to assist dairy farmers to understand and use an index to improve their business decisions.

Funding of \$2 million was included in the 2016-17 Mid-Year Economic and Fiscal Outlook under the measure 'Dairy Industry Assistance Package' for a period of four years commencing in 2016-17. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2016-17*, Appendix A: Policy decisions taken since the 2016 PEFO at page 131.

On 25 May 2016, the Deputy Prime Minister and Minister for Agriculture and Water Resources, the Hon Barnaby Joyce MP, and the Minister for Human Services, the Hon Alan Tudge MP, announced a support package for Australian dairy farmers that included a commitment to invest \$2 million to establish a commodity milk price index.

On 23 June 2016, the Government re-affirmed this commitment as part of ‘The Coalition’s Policy for a Stronger Agriculture Sector’ which is available at <https://www.liberal.org.au/coalitions-policy-stronger-agriculture-sector>.

The Department of Agriculture and Water Resources will conduct an open tender process to seek proposals from potential service providers for the development and maintenance of a commodity milk price index, and the development of educational tools and resources to support the use of the index.

Tenderers may bid to provide one or both aspects of the request for tender. It is expected that the index and the associated tools and resources will be made available to Australian dairy farmers in 2017-18.

Decisions about Commonwealth expenditure supported by the proposed item will be made through an open tender procurement process. Once the request for tender has been issued, information about the open tender process will be published on the AusTender website at www.tenders.gov.au.

Information about successful tenderer(s) will be published at www.tenders.gov.au.

The procurement will not be subject to merits review arrangements as it will be conducted in accordance with the *Commonwealth Procurement Rules*. An open tender process will be used to select tenderer(s) on the basis of price, risk and value for money.

Tenderers must address specified evaluation criteria and each tender submission will be assessed on its merit by the tender evaluation panel which will make recommendations to the Minister for Agriculture and Water Resources as the final decision-maker.

At the conclusion of the tender process, tenderers will be notified and offered an opportunity for debriefing. Tenderers who have complaints about the tender process also have recourse to the Department. The Department will investigate any complaints about the tender process in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

Funding for this item will come from Program 1.10: Agricultural Resources, which is part of Outcome 1. Details are set out in the *Portfolio Additional Estimates Statements 2016-17, Agriculture and Water Resources* at page 15.

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 census and statistics power (section 51(xi)); and
- the communications power (section 51(v)).

With respect to the census and statistics power, the milk price index initiative involves the collection, compilation and analysis of numerical facts and data bearing on the dairy trade to create statistical information intended to deliver greater transparency across the dairy industry and improve the clarity of market signals for farmers.

With respect to the communications powers, dairy farmers will have access to a range of educational tools and resources, including online tools and resources, to support the engagement of dairy farmers with the milk price index in their business decisions. This will ensure that information about the milk price index is communicated broadly.

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 (Agriculture and Water Resources Measures No. 3) 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*.

The Regulations amend Schedule 1AB to the FF(SP) Regulations to establish legislative authority for the Government to fund the establishment and maintenance of a commodity milk price index and associated educational tools and resources. The commitment to establish a commodity milk price index was announced during the 2016 federal election. The Department of Agriculture and Water Resources has responsibility for this initiative.

Funding of \$2 million over four years from 2016-17 will be provided to develop a commodity milk price index and associated educational tools and resources to assist Australian dairy farmers to anticipate and prepare for fluctuations in the price they receive for their milk.

The Minister for Agriculture and Water Resources has portfolio responsibility for this initiative.

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**