

## **EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment  
(Agriculture, Water and the Environment Measures No. 1) Regulations 2020*

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 the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the 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.

The *Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 1) Regulations 2020* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Traceability Grants Program (the program). The Department of Agriculture, Water and the Environment (the department) has responsibility for the program.

The program will fund projects that will enhance the supply chain traceability systems and arrangements that support the export of our agricultural commodities. The program will be of benefit to agricultural and food producers, exporters and related businesses who will implement traceability systems.

Funding of \$7 million over four years from 2019-20 will come from Program 2.1: Biosecurity and Export Services, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2019-20, Budget related paper No.1.1, Agriculture and Water Resources Portfolio* at page 46.

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 the instrument is registered 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, Water and the Environment.

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, Water and the Environment Measures No. 1) Regulations 2020***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 1) Regulations 2020*.

**Section 2 – Commencement**

This section provides that the Regulations commence on the day after the instrument is 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 Schedule 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 which will be administered by the Department of Agriculture, Water and the Environment (the department).

New **table item 394** establishes legislative authority for government spending on the Traceability Grants Program (the program). The program will provide grants for projects that will enhance the supply chain traceability systems and arrangements that support the export of our agricultural commodities.

Traceability is the ability to follow the movement of a product through stages of production, processing and distribution. Australia's agricultural traceability systems include all government regulation and industry arrangements that enable tracing of agricultural production and products, back and forward along entire supply chains. At each step in the supply chain, participants should be able to trace one step forward and one step back.

Effective traceability systems are critical for continued access to export markets, responding to demand for consumers domestically and internationally for greater transparency and real time convenience around the origins and safety of food in modern digital marketplaces.

The program will enhance traceability systems and is part of the Modernising Agricultural Trade initiative announced as part of the 2018-19 Mid-Year Economic and Fiscal Outlook.

The program will build on the work led by the department through the National Traceability Project which concluded in October 2019.

The objectives of the program are to:

- support industry projects that will enhance our agricultural supply chain traceability systems, including developing and trialling technologies that digitise information flow;
- provide an advantage for our exporters in overseas markets to assist them in maintaining their competitive edge; and
- increase opportunities to export Australian commodities.

The intended outcomes of the program are to:

- broaden the enhancement of the traceability systems that support our agricultural export supply chains;
- provide exporters the ability to use the enhancement of our traceability systems to assist in maintaining their competitive edge in export markets;
- enable more farmers, producers and processes consider exporting, especially those involved in exporting high risk commodities; and
- provide a cost effective traceability system because they utilise existing systems and technologies where possible.

The types of projects that may be funded would, for example, explore scientific options to provide assurances about the provenance of agricultural commodities or develop and trial technology to trace various goods.

The department will fund projects that will be of benefit to agricultural and food producers, exporters and related businesses who will implement traceability systems. The program will have two competitive grant funding rounds. An initial \$4 million round will be available in 2019-20 to individuals, communities, government or private sector organisations, as well as agricultural export industries, to enhance traceability in supply chains.

The department will deliver the program through a grant process undertaken in accordance with the *Commonwealth Grants Rules and Guidelines 2017* (CGRGs). Grant funding will be delivered by a competitive grants process to support program outcomes and objectives.

The program guidelines will be developed and published on the GrantConnect website at [www.grants.gov.au](http://www.grants.gov.au) and the administered grant components will be delivered through the Department of Social Services' Community Grants Hub.

The department will be assessing and approving grant applications to fund based on meeting program outcomes and objectives. An assessment panel will be used to assess all eligible applications on merit using the selection criteria as published on the grant guidelines. The panel will then make a recommendation to the appropriate delegate in the department, who will consider the recommendations of the panel and will approve the successful applications.

The funding will be expended in accordance with the CGRGs and the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act). All funding decisions will be made by the First Assistant Secretary of the Trade and Market Access Division, within the department. The decision of the delegate is final in all matters, including the approval of the grant, the grant funding amount to be awarded, and the terms and conditions of the grant.

Spending decisions will be made public as required under the CGRGs on the GrantConnect website at [www.grants.gov.au](http://www.grants.gov.au).

Where funds are allocated under a competitive selection process, with a finite allocation of funding available only a proportion of eligible applicants may receive funding, such decisions are not considered suitable for merits review. The remaking of a decision under merits review would necessarily affect funding already allocated to other parties and would delay the implementation of the program. Further information on review mechanisms and complaints and how they will be dealt with forms part of the grant guidelines.

Funding of \$7 million over four years from 2019-20 will come from Program 2.1: Biosecurity and Export Services, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2019-20, Budget related paper No.1.1, Agriculture and Water Resources Portfolio* at page 46.

Noting that it is not a comprehensive statement of the relevant constitutional considerations the objective of the item references the trade and commerce power of the Constitution (section 51(i)).

#### Trade and commerce power

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the states’.

The program will provide funding to improve traceability for agricultural exports to improve Australia’s competitive advantage and to manage incidents that would disrupt export trade. In this way, the program would support the export of agricultural commodities and foster and encourage overseas trade and commerce.

## **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, Water and the Environment No. 1) Regulations 2020***

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 *Financial Framework (Supplementary Powers) Amendment (Agriculture, Water and the Environment Measures No. 1) Regulations 2020* amends Schedule 1AB to the FF(SP) Regulations to add a new table item 394 to Part 4 of that schedule. The new table item establishes legislative authority for government spending for the Traceability Grants Program (the program) that will be administered by the Department of Agriculture, Water and the Environment (the department).

Government funding will be provided for projects that enhance the supply chain traceability systems and arrangements that support the export of our agricultural commodities. Traceability is the ability to follow the movement of a product through stages of production, processing and distribution. Australia's agricultural traceability systems include all government regulation and industry arrangements that enable tracing of agricultural production and products, back and forward along entire supply chains.

The objectives of the program are to:

- support industry projects that will enhance our agricultural supply chain traceability systems, including developing and trialling technologies that digitise information flow;
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The intended outcomes of the program are to:

- broaden the enhancement of the traceability systems that support our agricultural export supply chains;
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- enable more farmers, producers and processes consider exporting, especially those involved in exporting high risk commodities; and
- provide a cost effective traceability system because they utilise existing systems and technologies where possible.

The program will be of benefit to agricultural and food producers, exporters and related businesses who will implement traceability systems.

### **Human rights implications**

This instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This instrument is compatible with human rights as it does not raise any human rights issues.

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