

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Veterans' Affairs Measures No. 2) Regulations 2022*

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 powers in the FF(SP) Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by 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 Principal Regulations are exempt from sunseting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunseting regime under the *Legislation Act 2003*, this would generate uncertainty about the continuing operation of existing contracts and funding agreements between the Commonwealth and third parties (particularly those extending beyond 10 years), as well as the Commonwealth's legislative authority to continue making, varying or administering arrangements, grants and programs.

Additionally, the Principal Regulations authorise a number of activities that form part of intergovernmental schemes. It would not be appropriate for the Commonwealth to unilaterally sunset an instrument that provides authority for Commonwealth funding for activities that are underpinned by an intergovernmental arrangement. To ensure that the Principal Regulations continue to reflect government priorities and remain up to date, the Principal Regulations are subject to periodic review to identify and repeal items that are redundant or no longer required.

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. Section 32D of the FF(SP) Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the Act. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

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.

The *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 2) Regulations 2022* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on certain activities administered by the Department of Veterans' Affairs.

Funding is provided for:

- grants to Australian Kookaburra Kids Foundation Incorporated to further develop, deliver and evaluate a national support, respite and education program specifically for children of current and ex-serving members of the Australian Defence Force (ADF) who are affected by mental illness as a result of their military service (\$13.7 million over three years from 2022-23);
- a grant to Australian International Military Games to support the needs of veterans and their families as they transition out of the ADF and establish themselves into civilian life through sport and recreation (\$9 million over three years from 2022-23); and
- the Veterans' Chaplaincy Program – Pilot to trial and evaluate a new approach to support at-risk cohorts of veterans by extending the effects of chaplaincy support, post-transition from the ADF (\$1.9 million over two years from 2022-23).

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 Veterans' Affairs.

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 (Veterans' Affairs Measures No. 2) Regulations 2022*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 2) Regulations 2022*.

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 Schedule to the Regulations.

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

Item 1 – Part 3 of Schedule 1AB (table item 11, column headed “Name”)

This item amends table item 11 in Part 3 of Schedule 1AB by omitting “Grant” and substituting “Grants” in the column headed “Name”. The amended table item 11 establishes legislative authority for the Government to provide grants funding to Australian Kookaburra Kids Foundation Incorporated (Kookaburra Kids), instead of a grant to Kookaburra Kids, which was initially established as a pilot program. The grants are administered by the Department of Veterans' Affairs (the department).

The Australian Government is continuing to support Kookaburra Kids to further develop, deliver and evaluate a national support, respite and education program specifically for children of current and ex-serving members of the Australian Defence Force (ADF) who are affected by mental illness as a result of their military service.

Kookaburra Kids is a non-government organisation launched in March 2017 that runs recreational and educational camps, activities, and events for eight to eighteen year-old participants whose have a parent with a mental health condition. It provides age-appropriate mental health education focusing on developing coping skills and resilience, while also allowing children to bond with peers who are facing similar challenges.

Kookaburra Kids programs are available to the children of current or ex-serving members of the Australian Defence Force who may be experiencing mental health issues. Kookaburra Kids staff are trained to deliver age-appropriate psychosocial education programs designed to

build mental health literacy and develop skills and strategies to seek help. The programs are designed and overseen by mental health clinicians.

Programs include recreational and educational camps, activities and events designed to encourage thought leadership, friendship and camaraderie. An online program, Kookaburra Kids CONNECT is also available for registered participants to join facilitated chat room sessions to remain socially connected to their peers. Young people participating in the program are provided with an opportunity to engage in fun and lively conversations, to experience respite from their daily lives. They are given a unique opportunity to form strong social networks with peers who may share similar family and life experiences. This is aimed at building their sense of connectedness and to strengthen their psychological well-being.

The specific program for children of serving and former serving members of the ADF would replicate the program already being delivered in New South Wales (NSW) by Kookaburra Kids, with enhancements where necessary to support the unique needs of the Defence and ex-serving community. Grants funding will continue to support the program in existing locations in NSW, the Australian Capital Territory, Queensland, the Northern Territory, South Australia, Victoria and Western Australia, while expanding into new regional centres and in Tasmania.

Grants funding of \$13.7 million over three years from 2022-23 will enable Kookaburra Kids to continue deliver the following objectives:

- deliver quality respite and recreational programs for children of serving and former serving members of the ADF affected by mental illness;
- educate children of serving and former serving members of the ADF on mental illness to facilitate greater understanding and empathy, and to encourage open communication within families;
- decrease these children's feelings of isolation, by providing a safe environment for them to share their experiences;
- develop skills in children of serving and former serving members of the ADF to cope within their family situation and to build resilience, focusing on unique issues related to Defence and ex-serving families;
- ensure regular contact with these children through a range of access points, and connect them with relevant support services to meet their needs, and regularly monitor progress; and
- reduce future costs to the health and social service sectors by delivering early intervention, increasing the likelihood of these children having healthy and productive futures.

The national Kookaburra Kids program would complement clinical and non-clinical mental health services already provided by Open Arms - Veterans Families Counselling Service and the Defence Community Organisation.

Funding to Kookaburra Kids will be undertaken through a closed non-competitive grants process in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Commonwealth Grants Rules and Guidelines 2017* (CGRGs).

The grants will be administered by the Community Grants Hub, which is part of the Department of Social Services. Grant guidelines will be developed to align with the current program.

Information about the grants will be available on the Community Grants Hub and GrantConnect websites (www.communitygrants.gov.au and www.grants.gov.au). Final decisions about grants will be made by the Minister for Veterans' Affairs, and the grants recipient will be published on GrantConnect.

Decisions made in connection with the program are not considered appropriate for merits review as they relate to the provision of closed non-competitive grants to a certain service provider, over other service providers. Kookaburra Kids has a history of providing services to children of serving and ex-serving members of the ADF and contributing to positive mental health and wellbeing outcomes for children. There are a limited number of organisations that provide these specific services. The Administrative Review Council (ARC) has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the guide, *What decisions should be subject to merit review?* (ARC's guide)).

The department consults with Kookaburra Kids on an ongoing basis, who are required to regularly report to the department under the terms of their contract.

Funding of \$13.7 million for the program was included in the 2022-2023 Budget under the measure 'Support for Veterans and their Wellbeing' for a period of three years commencing in 2022-23. Details are set out in *Budget 2022-2023, Budget Measures, Budget Paper No. 2 2022-23* at page 176.

Funding for this item will come from Program 2.5: Veterans' Counselling and Other Health Services, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2022-23, Budget Related Paper No. 1.3B, Defence Portfolio (Department of Veterans' Affairs)* at page 47.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the purpose of the item references the defence power (section 51(vi)) of the Constitution.

Defence power

Section 51(vi) of the Constitution empowers the Parliament to make laws with respect to 'the naval and military defence' of the Commonwealth and States, and the 'control of the forces to execute and maintain the laws of the Commonwealth'.

The purpose of the funding is to provide additional funding for Kookaburra Kids program for targeted support to children of current and ex-serving ADF members who are experiencing mental health issues due to their ADF service.

Item 2 – In the appropriate position in Part 3 of Schedule 1AB (table)

This item adds one new table item to Part 3 of Schedule 1AB to establish legislative authority for government spending on an activity administered by the department.

New **table item 56** establishes legislative authority for the Government to provide a grant funding to the Australian International Military Games to support the needs of veterans and their families as they transition out of the ADF and establish themselves into civilian life through sport and recreation.

Australian International Military Games, also publicly operating as Invictus Australia, is a not-for-profit registered charity. Invictus Australia has a strong history of supporting the defence and veteran community, promoting, and creating sport and recreation opportunities for improved health and wellbeing and supporting wounded, injured or ill veterans through their recovery journey.

Invictus Australia works collaboratively with the ADF to support former serving members and their families to attend the Invictus Games, Warrior Games and to deliver adaptive sport programs for wounded, injured or ill military personnel. Invictus Australia also engages and helps community sporting clubs on how to support veterans, provide safe and accessible environments for veterans and their families to enable social connection through recreational activities and positive engagement to improve wellbeing.

Grant funding of up to \$8.1 million over three years from 2022-23 will enable Invictus Australia to:

- support the Australian teams' attendance at the Invictus Games, including Dusseldorf in 2023 and the annual Warrior Games in 2022 and 2024. The funding will support the Australian teams, their families and administration staff to supplement the costs of their travel expenses, including flights and accommodation, and cover the costs of uniforms and incidentals;
- deliver the supporting Adaptive Sports Program in partnership with the ADF (Invictus Australia is responsible for the veteran contingent), which is a multi-sport program for wounded, injured or ill serving and former serving military personnel. The sporting activity has either been adapted specifically for persons or created specifically for persons with either an injury or a disability.
- engage and encourage veterans' involvement in sport and local community clubs in all states and territories. Invictus Australia will recruit Veteran Engagement Specialists who would provide support to the veterans community, including the 100-150 applicants who do not make selection for the international military games, to assist them to engage with the local sporting and community clubs, and wider veteran communities within their state or region;
- develop the evidence base around the benefits of sports and community interaction for improved mental health and wellbeing outcomes within the veteran community. The research report, undertaken by a PhD scholar before 30 June 2025, will evaluate impact of physical and social-community led activities on former ADF members post transition into civilian life. This will also provide evidence for future government responses in addressing mental health and suicide prevention strategies; and
- augment Invictus Australia's commercial fundraising that could not be undertaken during the natural disasters and pandemic. This would support Invictus Australia's ongoing administration and operating costs.

Invictus Australia will also expand their network of local Invictus ‘Veteran Engagement Specialists’ by 7-8 positions to connect with individuals and reduce social isolation in the veteran community and collaborate with local sport and recreation organisations (including Ex-Service Organisations) to generate opportunities for veterans and their families to participate in meaningful physical activity, for improved health and wellbeing outcomes.

Funding to Invictus Australia will be undertaken through a closed non-competitive grant process, administered in accordance with the Commonwealth resource management framework, including the PGPA Act and the CGRGs. The grant will be administered by the Community Grants Hub with grant guidelines to be developed to align with the current program.

Information about the grant, including the grant recipient will be available on the Community Grants Hub and GrantConnect websites (www.communitygrants.gov.au and www.grants.gov.au). Final decisions about grants will be made by the Minister for Veterans’ Affairs or an appropriate delegate of the Secretary of the department. The delegate, at the SES level will have the relevant skills, qualifications and expertise, and is able to perform relevant functions in accordance with the Commonwealth resource management framework.

Funding decisions made in connection with the grant are not considered appropriate for merits review as they relate to the provision of a certain service provider, over other service providers. Invictus Australia has a strong history of supporting the veteran community, promoting, and creating sport and recreation opportunities for improved health and wellbeing and supporting wounded, injured or ill veterans through their recovery journey. Invictus Australia has the skills and experience to deliver the funding activities. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the ARC’s guide).

The department has consulted with Invictus Australia on the implementation of the grant and will consult on an ongoing basis after the first funding is administered. Invictus Australia will be required to regularly report to the department under the terms of their contract.

Funding of \$9 million to Invictus Australia was included in the 2022-23 Budget under the measure ‘Support for Veterans and their Wellbeing’ for a period of three years commencing in 2022-23. Details are set out in *Budget 2022-23, Budget Measures, Budget Paper No. 2 2022-23* at pages 176-177.

Funding for this item will come from Program 2.4: Veterans’ Community Care and Support, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2022-23, Budget Related Paper No. 1.3B, Defence Portfolio (Department of Veterans’ Affairs)* at page 43.

Noting that it is not a comprehensive statement of relevant constitutional considerations, the purpose of the item references the defence power (section 51(vi)) of the Constitution.

Defence power

Section 51(vi) of the Constitution empowers the Parliament to make laws with respect to ‘the naval and military defence’ of the Commonwealth and States, and ‘the control of the forces to execute and maintain the laws of the Commonwealth’.

The purpose of the grant program will be to support the needs of veterans and their families by funding projects that assist veterans’ transition to civilian life, reduce their social isolation and improve their mental health and wellbeing outcomes.

Item 3 – In the appropriate position in Part 4 of Schedule 1AB (table)

This item adds one new table item to Part 4 of Schedule 1AB to establish legislative authority for government spending on an activity administered by the department.

New **table item 555** establishes legislative authority for government spending on the Veterans’ Chaplaincy Program – Pilot (pilot program).

The pilot program will extend the effects of chaplaincy support post-transition and will focus on supporting transitioning ADF personnel and their families to deal with the challenges that some face throughout transition and work to maintain the protective factors present during service.

Chaplains have long been a feature of the Australian military, and they have played an important role providing spiritual and pastoral support to serving ADF personnel and their families. The Pathways to Care Report from the Transition and Wellbeing Research Programme (<https://www.dva.gov.au/documents-and-publications/transition-and-wellbeing-research-programme-pathways-care-report-2018>) highlighted that 15 per cent of regular serving ADF members accessed chaplaincy support and 84 per cent of them found this support useful. However, access to chaplains was lower in ex-serving members, with only half the proportion (i.e. seven per cent) accessing support from chaplains following transition.

This research and subsequent data from the Australian Institute of Health and Welfare also highlighted that those discharging on medical and disciplinary grounds are at particular risk for suicide. The pilot program aligns with the recommendation by the interim *National Commissioner for Defence and Veteran Suicide* report to “improve service continuity between Defence and the Department of Veterans’ Affairs”, and to provide “a holistic and tailored approach that can adapt to the diverse needs of all veterans”.

The pilot program will trial and evaluate a new approach to supporting at-risk cohorts of veterans by extending the effects of chaplaincy support beyond the 12 months currently provided after they leave the ADF with a particular focus on spiritual health and wellbeing and treatment of emerging conditions such as moral injury. Specifically, the pilot will test the best ways to:

- facilitate spiritual health support, and provide referral support to the department’s health and mental health programs;
- provide mentoring and education through transition and into civilian life; and
- provide pastoral care and spiritual support to help with adjustment, grief, and recovery.

Funding of \$1.9 million over two years from 2022-23 will support the recruitment and placement of a senior chaplain to design and lead the pilot, implement chaplaincy support in high-need locations, develop and conduct the proposed research project, and to consider the design of an ongoing program following completion of the pilot. Priority will be given to recruitment in high-needs locations (for example, Perth and North and Southeast Queensland).

The pilot will leverage the existing retired ADF chaplain workforce by recruiting three chaplains to deliver veteran-specific chaplaincy services. Opportunities to integrate service delivery through the existing Wellbeing Centre network will be explored. Referrals to the service would be promoted through Open Arms – Veterans & Families Counselling, the Open Arms Community and Peer Program, Veteran Wellbeing Centres, and Ex-Service Organisations.

A research project will be undertaken to look at the effectiveness of Chaplaincy as an adjunct to other supports, such as Peer Support and Clinical Care, for clients presenting with moral injury/moral trauma. The research will be undertaken alongside the pilot, using data gathered from the pilot to inform the findings.

The pilot will also include an embedded independent evaluation in the design to support measurement of the effectiveness of the program. An independent post-implementation evaluation will be conducted to determine effectiveness and sustainability of the program. The evaluation will also help identify longer-term options, such as broader implementation, and approaches to increase veteran mental health awareness in civilian chaplaincy supports.

The department will procure the services of the chaplains through a limited tender procurement process, undertaken in accordance with applicable legislative requirements under the PGPA Act, the *Commonwealth Procurement Rules* (CPRs) and the department's Accountable Authority Instructions. Final spending decisions will be made by the Secretary of the department or an appropriate SES officer in the department who has the relevant skills, qualifications and expertise, and is able to perform relevant functions in accordance with the Commonwealth resource management framework.

The department will provide an opportunity for suppliers and tenderers to make complaints if they wish, and to receive feedback. These complaints and inquiries can be made at any time during the procurement process, and will be handled in accordance with probity requirements. Information about the tender and the resultant contracts will be made available on AusTender (www.tenders.gov.au) once the contracts are signed. Procurement decisions will be based on value for money, including capability and capacity to deliver, and price and risk considerations.

The program will pilot the provision of veteran-specific chaplaincy services and to evaluate the effectiveness of this in supporting veterans. As a pilot, the program is not suitable for merits review as the program has limited funds and a two-year timeframe. A successful application for review would result in funding delays that would affect the successful and timely provision of support to veterans.

In addition, funding decisions made in connection with procurements will not be subject to independent merits review, as they are decisions relating to the allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. Any funding that has already been allocated would be affected if the original decision was

overturned. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the ARC's guide).

The re-making of a procurement decision after entry into a contractual arrangement with a successful provider is legally complex and could result in delays to providing services. The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress (compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

The department consults internally, and the conception of the pilot program was informed by feedback from Ex-Service Organisations.

Funding of \$1.9 million for the pilot program was included in the 2022-23 Budget under the measure 'Support for Veterans and their Wellbeing' for a period of two years commencing in 2022-23. Details are set out in *Budget 2022-23, Budget Measures, Budget Paper No. 2 2022-23* at pages 176-177.

Funding for this item will come from Program 2.5: Veterans' Counselling and Other Health Services, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2022-23, Budget Related Paper No. 1.3B, Defence Portfolio (Department of Veterans' Affairs)* at page 47.

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

Defence power

Section 51(vi) of the Constitution empowers the Parliament to make laws with respect to 'the naval and military defence' of the Commonwealth and States, and the 'control of the forces to execute and maintain the laws of the Commonwealth'.

The objective of the pilot program will be to support the needs of veterans and their families by providing chaplaincy support that assist veterans' transition to civilian life.

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 (Veterans' Affairs Measures No. 2) Regulations 2022

This disallowable legislative instrument 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 powers in the FF(SP) Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by 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 (Veterans' Affairs Measures No. 2) Regulations 2022* amend Schedule 1AB to the FF(SP) Regulations to establish legislative authority for Government spending on certain activities administered by the Department of Veterans' Affairs.

This disallowable legislative instrument makes the following amendments to Part 3 of Schedule 1AB:

- amends table item 11 'Grants to Australian Kookaburra Kids Foundation Incorporated'; and
- adds table item 56 'Grant to Australian International Military Games'.

This disallowable legislative instrument also makes the following amendments to Part 4 of Schedule 1AB:

- adds table item 555 'Veterans' Chaplaincy Program – Pilot'.

Amended table item 11 – Grants to Australian Kookaburra Kids Foundation Incorporated

The amended table item 11 establishes legislative authority for the Government to provide grants funding to Australian Kookaburra Kids Foundation Incorporated (Kookaburra Kids), instead of a grant to Kookaburra Kids, which was initially established as a pilot program.

The Australian Government is continuing to support Kookaburra Kids to further develop, deliver and evaluate a national support, respite and education program specifically for children of current and ex-serving members of the Australian Defence Force (ADF) who are affected by mental illness as a result of their military service.

Grants funding of \$13.7 million over three years from 2022-23 will enable Kookaburra Kids to continue deliver the following objectives:

- deliver quality respite and recreational programs for children of serving and former serving members of the ADF affected by mental illness;
- educate children of serving and former serving members of the ADF on mental illness to facilitate greater understanding and empathy, and to encourage open communication within families;
- decrease these children’s feelings of isolation, by providing a safe environment for them to share their experiences;
- develop skills in children of serving and former serving members of the ADF to cope within their family situation and to build resilience, focusing on unique issues related to Defence and ex-serving families;
- ensure regular contact with these children through a range of access points, and connect them with relevant support services to meet their needs, and regularly monitor progress; and
- reduce future costs to the health and social service sectors by delivering early intervention, increasing the likelihood of these children having healthy and productive futures.

Human rights implications

The amended table item 11 engages the following rights:

- the right to the highest standard of physical and mental health – Article 12 of the *International Covenant of Economic, Social and Cultural Rights* (ICESCR), read with Article 2, and Article 25 of the *Convention on the Rights of Persons with Disabilities* (CRPD), read with Article 4;
- the right to live, take part and be included in the community – Articles 19 and 26 of the CRPD; and
- the right to participation in cultural life, recreation, leisure and sport – Article 30 of the CRPD.

Right to the highest attainable standard of physical and mental health

Article 2 of the ICESCR provides that each State Party undertakes to take steps to the maximum of its available resources with a view to achieving progressively the full realisation of the rights recognised in the Covenant, by all appropriate means.

Article 4 of the CRPD requires States Parties to undertake to ensure and promote the full realisation of all human rights for those with a disability without discrimination.

Article 12(1) of the ICESCR promotes the right to the highest attainable standard of physical and mental health. Article 25 of the CRPD also states that “States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability”.

The Office of the United Nations High Commissioner for Human Rights and the World Health Organization (WHO) has stated that the right to health entails a right of access to a variety of public health and health care facilities, goods, services, programs and conditions necessary for the realisation of the highest attainable standard of health. The 1946

Constitution of the WHO defines health in its preamble as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity”.

The funding enables the children of current and former ADF members to attend residential camps, where they receive age-appropriate psychosocial education and develop skills and strategies to deal with issues presented by growing up with parents with mental illness.

The Kookaburra Kids program supports the children, including those with disabilities, to develop resilience and build support networks that improve their mental health and wellbeing.

Right to live, take part and be included in the community

Article 19 of the CRPD requires States Parties to ‘recognise the equal right of all persons with disabilities to live in the community, with choices equal to others’ and to ‘facilitate full enjoyment by persons with disabilities and their full inclusion and participation in the community’.

Article 19(b) of the CRPD goes on to say, including by ensuring ‘that persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community’.

This is complemented by Article 26(1) of the CRPD which requires States Parties to take effective and appropriate measures ‘to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life’.

Kookaburra Kids will work collaboratively and help refer veterans and families to service providers when needed, such as to Open Arms Veterans and Families Counselling, community based social workers and psychologists that will have a strong focus on children of ex-serving ADF members, including those with disabilities.

Right to participation in cultural life, recreation, leisure and sport

Article 30(5)(c) of the CPRD states that ‘with a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to ensure that persons with disabilities have access to sporting, recreational and tourism venues.

The Kookaburra Kids program will support children and dependents of veterans with disabilities with mental health support and other health services to enable participation in cultural life, recreation, leisure and sport. Camp participants receive psychosocial education designed to build mental health literacy and help children to develop skills and strategies in seeking help when they need it.

Conclusion

The amended table item 11 is compatible with human rights because it promotes the protection of human rights.

Table item 56 – Grant to Australian International Military Games

Table item 56 establishes legislative authority for the Government to provide a grant funding to Australian International Military Games to support the needs of veterans and their families as they transition out of the ADF and establish themselves into civilian life through sport and recreation.

Australian International Military Games, also publicly operating as Invictus Australia, is a not-for-profit registered charity. Invictus Australia has a strong history of supporting the defence and veteran community, promoting, and creating sport and recreation opportunities for improved health and wellbeing and supporting wounded, injured or ill veterans through their recovery journey.

Invictus Australia also engages and helps community sporting clubs on how to support veterans, provide safe and accessible environments for veterans and their families to enable social connection through recreational activities and positive engagement to improve wellbeing.

A grant of up to \$8.1 million over three years from 2022-23 will be provided to Invictus Australia to work collaboratively with the ADF to support former serving members and their families to attend the Invictus Games, Warrior Games and to deliver sport programs for wounded, injured or ill military personnel.

Human rights implications

Table item 56 engages the following rights:

- the right to the highest standard of physical and mental health – Article 12 of the ICESCR, read with Article 2, and Article 25 of the CRPD, read with Article 4;
- the right to live, take part and be included in the community – Articles 19 and 26 of the CRPD; and
- the right to participation in cultural life, recreation, leisure and sport – Article 30 of the CRPD.

Right to the highest attainable standard of physical and mental health

Article 2 of the ICESCR provides that each State Party undertakes to take steps to the maximum of its available resources with a view to achieving progressively the full realisation of the rights recognised in the Covenant, by all appropriate means.

Article 4 of the CRPD requires States Parties to undertake to ensure and promote the full realisation of all human rights for those with a disability without discrimination.

Article 12(1) of the ICESCR promotes the right to the highest attainable standard of physical and mental health. Article 25 of the CRPD also states that “States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability”.

The Office of the United Nations High Commissioner for Human Rights and the World Health Organization (WHO) has stated that the right to health entails a right of access to a variety of public health and health care facilities, goods, services, programs and conditions necessary for the realisation of the highest attainable standard of health. The 1946 Constitution of the WHO defines health in its preamble as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity”.

Funding provided to Invictus Australia is for the purpose of undertaking activities and projects that facilitate the mental health and wellbeing of veterans and their families. These includes Adaptive Sports program and Veteran Engagement Specialists to engage with veterans, reduce social isolation and programs that focus on supporting the mental health of veterans.

The grant program supports veterans and their families, including those with disabilities, to achieve better mental health and wellbeing outcomes set out in the grant opportunity guideline criteria.

Right to live, take part and be included in community

Article 19 of the CRPD requires States Parties to ‘recognise the equal right of all persons with disabilities to live in the community, with choices equal to others’ and to ‘facilitate full enjoyment by persons with disabilities and their full inclusion and participation in the community’.

Article 19(b) of the CRPD goes on to say, including by ensuring ‘that persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community’.

This is complemented by Article 26(1) of the CRPD which requires States Parties to take effective and appropriate measures ‘to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life’.

Table item 56 promotes this right by providing grants to programs run with the intent of preventing social isolation from the community. The program includes grants that deliver programs for persons with disabilities.

Right to participation in cultural life, recreation, leisure and sport

Article 30(5)(c) of the CPRD states that ‘with a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to ensure that persons with disabilities have access to sporting, recreational and tourism venues.

Funding to Invictus Australia will support veterans with disabilities to have access to sporting, recreational and international competitions with the aim of reducing social isolation and facilitating the mental health and wellbeing of those veterans.

Conclusion

Table item 56 is compatible with human rights because it promotes the protection of human rights.

Table item 555 – Veterans’ Chaplaincy Program – Pilot

Table item 555 establishes legislative authority for government spending on the Veterans’ Chaplaincy Program- Pilot (pilot program) to trial the provision of veteran-specific chaplaincy services to support veterans and their families following a transition from the ADF.

The pilot program will extend the effects of chaplaincy support post-transition and will focus on supporting transitioning ADF personnel and their families to deal with the challenges that some face throughout transition and work to maintain the protective factors present during service.

The pilot program will trial and evaluate a new approach to supporting at-risk cohorts of veterans by extending the effects of chaplaincy support beyond the 12 months currently provided after they leave the ADF with a particular focus on spiritual health and wellbeing and treatment of emerging conditions such as moral injury. Specifically, the pilot will test the best ways to:

- facilitate spiritual health support, and provide referral support to the department’s health and mental health programs;
- provide mentoring and education through transition and into civilian life; and
- provide pastoral care and spiritual health support to help with adjustment, grief, and recovery.

Funding of \$1.9 million over two years from 2022-23 will support the recruitment and placement of a senior chaplain to be engaged by the department to design and lead the pilot, implement chaplaincy support in high-need locations, develop and conduct the proposed research project, and to consider the design of an ongoing program following completion of the pilot. Priority will be given to recruitment in high-needs locations (for example, Perth and North and Southeast Queensland).

Human rights implications

Table item 555 engages the following rights:

- the right to the highest standard of physical and mental health – Article 12 of the ICESCR, read with Article 2, and Article 25 of the CRPD, read with Article 4;
- the right to live, take part and be included in the community – Articles 19 and 26 of the CRPD; and
- the right to participation in cultural life, recreation, leisure and sport – Article 30 of the CRPD.

Right to the highest attainable standard of physical and mental health

Article 2 of the ICESCR provides that each State Party undertakes to take steps to the maximum of its available resources with a view to achieving progressively the full realisation of the rights recognised in the Covenant, by all appropriate means.

Article 4 of the CRPD requires States Parties to undertake to ensure and promote the full realisation of all human rights for those with a disability without discrimination.

Article 12(1) of the ICESCR promotes the right to the highest attainable standard of physical and mental health. Article 25 of the CRPD also states that “States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability”.

The Office of the United Nations High Commissioner for Human Rights and the World Health Organization (WHO) has stated that the right to health entails a right of access to a variety of public health and health care facilities, goods, services, programs and conditions necessary for the realisation of the highest attainable standard of health. The 1946 Constitution of the WHO defines health in its preamble as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity”.

The pilot program supports the spiritual and wellbeing health of veterans and their families. Chaplains have long been a feature of the Australian military, and they have played an important role providing counselling, spiritual, religious, and pastoral support to serving ADF personnel and their families, regardless of their faith or religious beliefs.

The pilot program will support veterans and their families, including those with disabilities, to achieve better spiritual health and wellbeing.

Right to live, take part and be included in the community

Article 19 of the CRPD requires States Parties to ‘recognise the equal right of all persons with disabilities to live in the community, with choices equal to others’ and to ‘facilitate full enjoyment by persons with disabilities and their full inclusion and participation in the community’.

Article 19(b) of the CRPD goes on to say, including by ensuring ‘that persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community’.

This is complemented by Article 26(1) of the CRPD which requires States Parties to take effective and appropriate measures ‘to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life’

Table item 555 promotes the right by providing spiritual support and pastoral care to any veteran with the impact of moral injury. The pilot program includes pastoral care that deliver programs for persons with disabilities, with referral support to other department’s health and mental health programs.

Right to participation in cultural life, recreation, leisure and sport

Article 30(5)(c) of the CPRD states that ‘with a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to ensure that persons with disabilities have access to sporting, recreational and tourism venues.

The pilot program will support veterans with disabilities as an adjunct to traditional mental health treatment and other health and support services to enable participation in cultural life, recreation, leisure and sport.

Conclusion

Table item 555 is compatible with human rights because it promotes the protection of human rights.

**Senator the Hon Katy Gallagher
Minister for Finance**