

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. 1) Regulations 2023*

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. 1) Regulations 2023* (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 the:

- Additional Employment Support for Veterans program to provide greater support to Australian Defence Force personnel as they transition to civilian life by funding measures to help veterans and other former defence force members find employment (\$24 million over four years from 2022-23); and
- Grants-in-Aid program to support the role of national ex-service organisations which provide coordinating and representational support within the veteran and Defence community (ongoing \$145,000 per year).

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. 1) Regulations 2023*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2023*.

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

Financial Framework (Supplementary Powers) Regulations 1997

Item 1 – Part 4 of Schedule 1AB (table item 361)

This item amends **table item 361** in Part 4 of Schedule 1AB by repealing and substituting the full text of the item. The amended table item 361 establishes legislative authority for government spending on the Additional Employment Support for Veterans program (the program) which is administered by the Department of Veterans' Affairs (the department).

The program delivers on the Government's election commitment included in *Labor's Plan for a Better Future* to support Australian Defence Force (ADF) personnel and veterans' transitioning to civilian life by funding measures to help veterans and other former defence force members find employment.

Having good employment outcomes is acknowledged as contributing positively to overall wellbeing. Whilst the Australian Institute of Health and Welfare's, *Understanding the wellbeing characteristics of ex-serving ADF members* report indicated that the majority of ex-serving ADF members were employed, this is not true of all veterans. Factors that increase the likelihood of ex-serving ADF members not being employed include those who separate involuntarily from the ADF (for medical reasons or other reasons), those who have served less than five years, being at a rank other than Commissioned Officer and separating from the Navy rather than from the Air Force or Army.

Some veterans with mental health conditions report that civilian employers have misperceptions about their needs, including employers' reactions when told of mental health conditions of individual veteran employees. Two Veteran Employment Roundtables were held in the lead-up to the Government's Jobs and Skills Summit (22 August 2022 – Melbourne; 29 August 2022 – Perth) and found that veterans can be overlooked for civilian employment due to the stigma associated with the psychological impacts of service on some, and a lack of understanding of how their defence skills and experience match to civilian roles.

The program responds to these concerns by providing a Communications Campaign to promote the benefits of employing veterans, particularly in areas of skills shortages, as well as providing a mainstream media campaign to include broader community awareness of veteran employment. Veterans will be further supported through the provision of Recognition of Prior Learning (RPL) which will enable new career pathways through the provision of micro-credentialling of vocational skills and support for tertiary institutions to develop or enhance veteran RPL frameworks and support within institutions for veterans. With increased awareness, employers who are interested in veteran employment but who may have limited understanding or awareness of the military lifestyle will be assisted to develop and enhance veteran and partner recruitment and retention mechanisms.

The program builds on the existing Prime Minister's National Veterans' Employment Program (PMNVEP) and will ensure veterans' skills and experience are valued and appreciated by the wider community.

The PMNVEP commenced in 2016 and has funding until 30 June 2025. It links employers and veterans to resources and advice through a website, social media, targeted engagement activity (including attendance at ADF transition seminars). The PMNVEP also includes various specific measures including the:

- Enhanced Employment Support for Veterans (EESV) Grants Program – which provided funding to Soldier On, RSL Australia and Disaster Relief Australia to help them establish and/or expand programs that provide direct support to veterans to translate their existing skills, build new skillsets and find civilian employment (measure terminates 30 June 2023). As at 30 June 2022, 961 veterans and family members have found paid employment as a result of this support; and
- Self-Employment: Prince's Trust Australia Enterprise Program – which provided funding to Prince's Trust Australia to expand the scope and delivery of its Enterprise Program, which assists veterans and their families to explore business ownership and to develop the skills required to be competitive (measure terminates 30 June 2024). As at 30 June 2022, 51 new veteran and/or partner-owned businesses have commenced.

The program expands the scope of activity commenced under the PMNVEP through a more comprehensive communication strategy. This underpins other measures in the program, but also supports existing measures (and that of state/territory efforts with veteran employment).

The program aims to:

- understand the nature of veterans who have difficulty finding employment when they transition from service (or subsequently), and why;
- raise community awareness of the benefits of employing veterans and family members;

- provide veterans with the opportunity for new or enhanced career pathways through expanded RPL and translating the experience of veterans to civilian employment; and
- help employers to attract, retain and support veterans, including those most in need of employment support.

The program's objectives will be achieved through the following measures:

Veteran Employment Value Proposition Campaign

A communication strategy will be delivered through the Veteran Employment Value Proposition Campaign (the Campaign), which aims to promote the benefits of employing veterans, including in areas experiencing skills shortages, as well as providing a mainstream media campaign to include broader community awareness of veteran employment. The Campaign will be tailored for businesses, employers, and veterans. In addition to broader communication channels (for example social media, print, radio etc), the Campaign will include public relations activity to reach industry associations and peak bodies to encourage an uptake in veteran employment.

The Campaign's objectives are to:

- educate prospective industries and employers who are less familiar with military service, about the extensive skills and experience veterans can bring to workplaces and the broader community. This will include targeted communications around promoting employment for veterans at greater risk of unemployment, such as those medically separated;
- demonstrate the majority of ADF members transitioning from active service to civilian life make a significant contribution to the nation, including through civilian employment; and
- counter any negative community perceptions about the negative impact of military service and through a strengths-based view of veterans to encourage employers to take a positive approach to considering and attracting this sometimes-underutilised talent pool.

A comprehensive timeline and implementation strategy will be developed by the department with clear agreement on the way forward.

Employer Support

With increased awareness, employers who are interested in veteran employment but who have limited understanding or awareness of the military lifestyle will require additional support to facilitate recruitment and retention of veterans. Tangible support to employers – through education, resources and advisory/support will support their efforts to develop or enhance strategies for veteran employment. This complements existing measures such as the Veteran Employment Commitment.

Employer Support will provide assistance through a number of initiatives, to businesses to develop and enhance veteran and partner recruitment and retention processes, strategies and/or mechanisms. The support, which includes education, technical assistance, education regarding the department support and resources, will be tailored for industries with skills shortages wherever possible.

Adjunct to awareness raising activity – with the ability to provide tangible support to employers to facilitate veteran employment opportunities. Employer support comprises a suite of activities including:

- workplace support – assisting employers, on non-technical aspects of recruitment and retention. With a focus on industry/ies with skills shortages – assisting employers to navigate available benefits and support across government, not-for-profit and private, in addition to educating industry around supports available to veteran employees; and
- Recruitment Advisory Support for employers of veterans– A three-year competitive grant program which will provide funding to an ex-service organisation to deliver a mechanism to target veteran recruitment and retention by developing policies and procedures applicable to workplaces and developing a suite of products to build capability to sustain veteran employment in the longer term. It is expected that the grant recipient will work with the department and other key stakeholders to adapt their offering as necessary over the life of the grant, to ensure that what is delivered continues to meet the needs of veterans. Additionally, it is expected that the grant will produce information and examples that can be used to educate employers in the long term. The intended outcomes of the grant are to:
 - provide employers with support to pursue or enhance their efforts to employ veterans;
 - provide advice and assistance to employers looking to update their policies and procedures concerning veteran employment and retention, ensuring that veteran skills and experience are recognised and valued; and
 - build employer capability to improve veteran employment outcomes in the longer terms by providing a suite of products on the Veteran Employment Program website.

Employer Education

Results from the Veteran Employment Commitment survey

(<https://www.veteranemployment.gov.au/show-your-commitment/sign-commitment>)

provide an insight into employment needs of veterans, from the employers' viewpoint. Comments include the need for flexibility around health and mental health appointments, flexible hours and working arrangements for partners and learning new ways of working.

The Employer Education measure will be available to all employers, with a focus on Veteran Employment Commitment signatories and industries with skills shortages, a program of education (predominantly online) to be coordinated by the department addressing evidenced barriers and enablers to veteran employment. Speakers may include contracted providers, prior Employment Award Winners, Government agencies, etc.

Recognition of Prior Learning Tertiary Grants (RPL Tertiary Grants)

The RPL Tertiary Grants will expand on and be complementary to the existing ADF RPL program, which has a strong vocational focus and assists veterans to validate transferable industry skills for employment opportunities. This measure will include RPL for micro-credentialling of vocational skills gained during service and the introduction of a higher education advanced standing program to map non-Australian Qualification Framework courses taken by ADF personnel during service to higher education courses. Further to this, the department will work with the tertiary sector to offer grant funding to

develop and enhance veteran RPL frameworks and support for veterans to encourage the uptake of higher education, creating new and diverse career pathways for veterans.

Activities to be delivered under the grant may:

- adapt and apply existing tertiary credit mapping frameworks;
- expand or establish micro-credential RPL for tertiary credits for veterans;
- adapt, expand or establish direct or assisted entry pathways and study support programs for veterans; and
- share learning from the program with other tertiary education facilities.

The program delivers RPL support provided through the Department of Defence and grant funding to assist the tertiary sector to develop/enhance veteran RPL frameworks and support within institutions (RPL and entry pathways currently offered by tertiary institutions may include providing ATAR ranking based on service, providing bridging courses and credit for identified course subjects). It also assists businesses to adopt targeted veteran and partner recruitment and retention mechanisms.

It is expected that the first round of grant funding will be taken up by universities either looking to adapt existing RPL pathways to veteran-specific needs, or to implement planned pathways. During the first year, the department will work with stakeholders to co-design the grants for rounds two and three to consider any different approaches to RPL and to accommodate suitable micro-credentials. Further details regarding the ADF recognition of RPL program can be found on their website (www.defence.gov.au/adf-members-families/transition/skill-recognition/recognition-prior-learning).

The department will deliver the program through a suite of grants and procurement processes in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Commonwealth Grants, Rules and Guidelines 2017* (CGRGs) and the *Commonwealth Procurement Rules* (CPRs).

Funding arrangements through grants will be required for:

- the Veteran Employment Program (targeted grant process);
- the Recognition of Prior Learning grant (open competitive grant process). The grant will be open to anyone for a set period of time each financial year; and
- the Recruitment Advisory Service grant (one-off targeted or restricted competitive grant process), limited to ex-service organisations partnering with a HR Specialist practitioner (minimum Qualifications – Career Development Association Australia standards and/or Australian HR Institute – or similar).

Grants funding will be delivered in accordance with the CGRGs and administered by the Community Grants Hub, which is part of the Department of Social Services. Applications will be assessed by the department against eligibility requirements, which will be provided in the grant opportunity guidelines. Final decisions about the grants will be made by the delegate of the Secretary of the department (Assistant Secretary, Community Policy Branch).

Information about the grants under the program will be available on the Community Grants Hub and GrantConnect websites (www.communitygrants.gov.au and www.grants.gov.au).

It is anticipated that procurement will be required for the purpose of the Value Proposition Campaign. A communication strategy is currently being developed and will include relevant budget options and expenditure projections for the program. As part of the strategy, ongoing discussions and liaison will occur with the Communications Advice Branch of the Department of Finance who are responsible for whole-of-government coordination of advertising. This ongoing communication will ensure these aspects of the program comply with the Guidelines on Information and Advertising campaigns.

Following relevant campaign approval processes (eg Communications Advice Branch of the Department of Defence and Independent Communications Committee), procurement decisions will be conducted in accordance with the CPRs and published on AusTender (www.tenders.gov.au). Final decisions about the procurement will be made by the delegate (First Assistant Secretary, Veteran and Family Policy Division) of the Secretary of the department.

Decisions made in connection with the program are not considered appropriate for merits review. This is because the funding is for ex-service community service providers to provide services for relating to veterans and their partners. Merits review on this basis would only promote competition among these service providers. In addition, no effective remedy could be provided, as a successful application for review by one service provide would require a reduction in funding to other service providers. There would also be resultant delays in channelling funds into service provision.

Decisions by government to allocate funding to programs as a whole are not suitable for merits review. Oversight under the grant opportunity guidelines will ensure the process of allocating funds are fair and clear and decisions to allocate funding are made objectively. Importantly, funding decisions are based on an allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. An allocation that has already been made to another party would be affected by overturning the original decision. The Administrative Review Council (ARC) has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the guide, *What decisions should be subject to merit review?* (ARC guide)).

The development of the program elements has been informed by consultation with and/or information gained from established working group and/or advisory group meetings including:

- Department of Defence – Defence College, Community Grants Hub and Universities Australia in relation to grants;
- Commonwealth State and Territory Veteran Employment Working Group;
- Industry Advisory Committee on Veteran Employment;
- Veteran Employment Roundtables (22 August 2022 and 29 August 2022);
- Five Eyes Veteran Employment Research Working Group;
- meetings with stakeholders including providers of employment support to veterans and employers as part of day-to-day business; and
- research/literature reviews including Romanuik, 2022 *Obtaining and retaining employment post military service: A qualitative Analysis of challenges experienced by Australian veterans*; Becker et al, 2021 *Making the Move: Veterans transitioning to a civilian workplace*; and 2022, *A Systematic review of veteran employment research* (Commissioned literature review).

Funding of \$24 million for the program was included in the 2022-23 October Budget under the measure ‘Veterans’ Wellbeing Package’ for a period of four years commencing in 2022-23. Details are set out in *Budget October 2022-23, Budget Measures, Budget Paper No. 2* at page 90.

Funding for this item will come from Program 1.4: Assistance and Other Compensation for Veterans and Dependents, which is part of Outcome 1, and Program 2.4: Veterans’ Community Care and Support, which is part of Outcome 2. Details are set out in *Portfolio Budget Statements 2022-23, Budget Related Paper No. 1.4B Defence Portfolio (Department of Veterans’ Affairs)* at Pages 31 and 46 respectively.

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 defence power (section 51(vi));
- the social welfare power (section 51(xxiiiA)); and
- the executive power (section 61).

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 defence power supports measures directed at assisting veterans and their families to transition from veteran to civilian life. The proposed expenditure will allow the program to improve employment opportunities for transitioning and former ADF personnel, recognising that employment is a contributing factor to wellbeing. This will be achieved through supporting recognition of prior learning for training undertaken by Defence members, raising awareness of the benefits of employing veterans and supporting employers to attract and retain veterans.

Social welfare power

The social welfare power in section 51(xxiiiA) of the Constitution empowers the Parliament to make laws with respect to the provision of certain social welfare benefits, maternity allowances, widows’ pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances.’

The proposed expenditure will facilitate the provision of benefits to veterans (through the provision of recognition of prior learning services and support) and indirectly through the education and support to employers to facilitate the employment opportunities for veterans.

Executive power

Section 61 of the Constitution states that ‘the executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen’s representative and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.’

The Campaign will promote the benefits of employing veterans, including in areas experiencing skills shortages. The Campaign will be tailored for businesses, employers and veterans. In addition, the program will include several policy development activities and the provision of services and support (through grant funded program).

Item 2 – 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 596** establishes legislative authority for government spending on the Grants-in-Aid (GIA) program, which will provide funding to national ex-service organisations to support veterans and their families.

The GIA program became the responsibility of the Minister for Veterans' Affairs in 1986, having previously been administered by the Special Minister of State. The program is a closed non-competitive program offering funding of \$145,000 per year. When the program was transferred to the department in 1986, the aim was to assist national ex-service organisations (ESOs) with administration costs. The objectives were to fund strategic initiatives including assisting organisations with major administrative costs/projects for which grants cannot be obtained through other funding streams. The initial aims and objectives have undergone little change with only minor enhancements.

The GIA program aims to support the role of ESOs to provide coordinating and representational support for the Australian veteran and Defence community. The program is open to national ESOs by invitation and provides funding to encourage cooperation and communication between the ex-service community, ESOs and the Australian Government. Funding for national ESOs aims to encourage the national advancement of the objectives of ESOs.

Due to the dispersed nature and regional focus of state and smaller sub-branches, ESOs are often separated from the national head office. As a result, additional solutions and supports are needed to build greater communication and collaborative efforts. For consistent service delivery and support of veterans, it is important that an ESO has an opportunity to reinforce its mission and collaborate with regional sub-branches to address their members' needs.

The intended outcomes of the program are to:

- assist national ESOs to support their branches, sub-branches and affiliated organisations in performing compensation or wellbeing advocacy or other welfare work;
- assist national ESOs to advance the objectives of all ESOs more generally;
- assist national ESOs to improve cooperation and communication between national bodies, branches, sub-branches and affiliated organisations on repatriation and military compensation matters; and
- encourage cooperation and communication between the ex-service community, ESOs and the Australian Government.

No additional funding will be provided. The program will continue offering funding of \$145,000 per year. The maximum grant an organisation can receive is \$10,000 for a 12-month period. Funding is intended to fund discrete projects or activities that address a

specific problem or issue, rather than everyday business-as-usual costs. Examples of discrete projects can include:

- a national conference to develop a 5-year business plan;
- training in representational skills for key spokespeople in the organisation;
- projects that help national ESOs further develop their capacity to support veterans and their families;
- advocates and wellbeing officers in state or sub-branches to attend formal training;
- workshops on performing compensation or wellbeing advocacy;
- purchase of software/licences to enable online meetings to allow more members to participate (increasing inclusivity);
- educational seminars focussing on issues faced by younger or female veterans;
- coordinating joint projects between ESOs and the ex-service community to identify needs; and
- conferences to address service gaps for veterans and their families.

The GIA program is the only grant program that helps defray the cost to ESOs of providing policy advice to the Government. Through national ESO consultative forums, advice is escalated to the Government. The needs and conditions for veterans and their families continue to evolve and change through each generation. ESOs have a direct connection with veterans and can inform government of the impacts of policies and programs on veterans and raise or highlight specific issues including mental health, homelessness and standards of living. ESO representation to provide this information through these forums is essential for veterans and the Government's policy cycle.

The GIA program will be undertaken through a targeted grants process, administered by the Community Grants Hub. It will be governed by the appropriate frameworks including the CGRGs. An eligible entity must meet the definition of an ESO, be the national head of a veteran organisation, with oversight of ESOs under their national agenda. The invitation list is reviewed prior to each grant round to ensure the ESO still meets the eligibility requirements. Once confirmed, the Community Grants Hub sends a specific link to the ESO which connects to GrantConnect and the grant opportunity guidelines.

Information about the program and the grant opportunity guidelines 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 a list of grant recipients will be published on GrantConnect.

Decisions made in connection with the GIA program are not considered appropriate for merits review as they relate to the provision of a one-off grant to a certain service provider, over other service providers. 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 guide).

The department facilitates several ESO consultative forums, including the Ex-Service Organisation Round Table (ESORT). ESORT provides a forum for discussion and consultation, including an ESORT Grants Working group to review grants objectives and any changes to the department grants programs. The Minister for Veterans' Affairs will either attend in person or is advised of discussions and matters raised in these forums.

Given there is no substantial change proposed to the GIA program and the same total funding will be available to existing potential applicants, further consultation is not considered necessary.

Funding of \$145,000 per year is included in Program 2.4: Veterans' Community Care and Support, which is part of Outcome 2. Details are set out in *Portfolio Budget Statements 2022-23, Budget Related Paper No. 1.4B, Defence Portfolio (Department of Veterans' Affairs)* at Page 46.

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 GIA program provides funding to national ESOs which support veterans, defence force members and their families. The proposed expenditure is to fund discrete projects or activities by ESOs that address a specific problem or issue and benefit the ex-service and Defence community. The expenditure will support ESOs who provide services and support to a wide range of veterans. This includes, for example, assisting veterans to lodge claims for compensation and other benefits.

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. 1) Regulations 2023

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. 1) Regulations 2023* 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 (the department).

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

- amends **table item 361** 'Additional Employment Support for Veterans'; and
- adds **table item 596** 'Grants-in-Aid'.

Amended table item 361 – Additional Employment Support for Veterans

The amended table item 361 establishes legislative authority for government spending on the Additional Employment Support for Veterans program (the program). The program aims to provide greater support to Australian Defence Force (ADF) personnel as they transition to civilian life.

The program builds on the existing Prime Minister's National Veterans' Employment Program (PMNVEP) and will ensure veterans' skills and experience are valued and appreciated in the wider community.

The program reflects a maturing of current activity to promote veteran employment. Drawing on insights gained around veteran wellbeing and evidence around veteran employment, the program provides for a more comprehensive and strategic promotion campaign and targeted mechanisms to support veteran employment.

Funding of \$24 million over four years from 2022-23 will expand the scope of the program which aims to:

- understand the nature of veterans who have difficulty finding employment when they transition from service or subsequently, and why;
- raise community awareness of the benefits of employing veterans and family members;
- provide veterans with the opportunity for new or enhanced career pathways through expanded recognition of prior learning and translating the experience of veterans to civilian employment; and
- help employers to attract, retain and support veterans, including those most in need of employment support.

Human rights implications

The amended table item 361 engages the following human right:

- the right to work – Article 6 of the *International Covenant of Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Right to the work

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 6.1 recognises the ‘right of everyone to gain his living by work which he freely chooses or accepts and will take appropriate steps to safeguard this right.’

Article 6.2 of the ICESCR further states ‘The steps to be taken by a State Party to the present Covenant to achieve the full realisation of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions of safeguarding fundamental political and economic freedoms to the individual.’

The amended table item 361 engages and promotes the right to work by significantly bolstering employment opportunities for veterans and partners through educating employers of the skills and experience that veterans and their partners bring to the workplace. The Veteran Employment Value Proposition Campaign will promote the benefits of employing veterans, including in areas experiencing skills shortages. Employer Support will provide assistance through a number of initiatives to businesses to develop and enhance veteran and partner recruitment and retention processes, strategies and/or mechanisms.

The support, which includes education, technical assistance, education regarding the department support and resources, will be tailored for industries with skills shortages wherever possible. Further, the Recognition of Prior Learning Tertiary Grants will expand on the existing ADF recognition of prior learning (RPL) program, which has a strong vocational focus, to include RPL for micro-credentialling of vocational skills gained during service, and the introduction of a higher education advanced standing program to map non-Australian Qualification Framework courses taken by ADF personnel during service to higher education courses, enabling potential new career pathways for veterans.

Conclusion

The amended table item 361 is compatible with human rights because it promotes the protection of human rights.

Table item 596 – Grants-in-Aid

Table item 596 establishes legislative authority for government spending on the Grants-in-Aid (GIA) program, which will provide funding to national ex-service organisations (ESOs) to support veterans and their families.

The GIA program aims to support the role of ESOs to provide coordinating and representational support for the Australian veteran and Defence community. The program is open to national ESOs by invitation and provides funding to encourage cooperation and communication between the ex-service community, ESOs and the Australian Government. Funding for national ESOs aims to encourage the national advancement of the objectives of ESOs.

Funding of \$145,000 per year is provided for discrete projects or activities to be undertaken by national ESOs to address a specific problem or issue. This may include, but is not limited to, projects that encourage cooperation between the ex-service community, ESOs and the Australian Government. Examples of discrete projects can include:

- a national conference to develop a 5-year business plan;
- training in representational skills for key spokespeople in the organisation;
- projects that help national ESOs further develop their capacity to support veterans and their families;
- advocates and wellbeing officers in state or sub-branches to attend formal training;
- workshops on performing compensation or wellbeing advocacy;
- purchase of software/licences to enable online meetings to allow more members to participate (increasing inclusivity);
- educational seminars focussing on issues faced by younger or female veterans;
- coordinating joint projects between ESOs and the ex-service community to identify needs; and
- conferences to address service gaps for veterans and their families.

Human rights implications

Table item 596 engages the following human 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 *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 – Article 19 of the CRPD; and
- the right to attain and maintain independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life – Article 26 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) have 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 well-being and not merely the absence of disease or infirmity”.

Table item 596 aims to support the role of national ESOs to provide coordinating and representational support for the Australian veteran and Defence community. This program is open to national ESOs by invitation and provides funding to encourage cooperation and communication between the ex-service community, ESOs and the Australian Government.

Funding for national ESOs aims to encourage the national advancement of the objectives of ESOs. GIA funding contributes directly to activities that bring ESOs together to promote cooperation on projects that facilitate the health and well-being of veterans and their families. These include projects to reduce social isolation and programs that focus on supporting the physical and/or mental health of veterans. GIA will provide funding to organisations that support people, including those with disabilities.

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) goes on to say ‘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’.

Table item 596 promotes this right by providing grants to promote connection and cooperation between ESO employees. Many ESO employees (paid and unpaid) are impacted by physical or mental disabilities themselves, as well as working to benefit people with disabilities in the community.

Right to habilitation and rehabilitation

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’.

GIA promotes this right by providing grants to promote connection and cooperation between ESO employees. Many ESO employees (paid and unpaid) are impacted by physical or mental disabilities themselves, as well as working to benefit people with disabilities in the community.

Conclusion

Table item 596 is compatible with human rights because it promotes the protection of human rights.

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