

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 2024*

The *Financial Framework (Supplementary Powers) Act 1997* (the FFSP 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 FFSP 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 FFSP 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 FFSP Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the FFSP Act. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Section 65 of the FFSP 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 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations in relation to activities administered by the Department of Veterans' Affairs.

The Regulations repeal table item 239 in Part 4 of Schedule 1AB relating to the Travel to Century of Service Domestic Commemorations program. Table item 239 is appropriate for repeal because the arrangements and grants made in reliance on the item have come to an end.

The Regulations also insert a new table item 654 in Part 4 of Schedule 1AB to establish legislative authority for government spending on the Veterans' Acute Housing – Specialist Services (the program).

The program responds to the Government's election commitment for a \$10.0 billion Housing Australia Future Fund published under the *Labor's Commitment to Affordable Housing* policy. The commitment includes \$30.0 million to build housing and provide specialist support services for veterans and their families who are experiencing, or are at risk of, homelessness, comprising \$24.0 million for capital works projects and \$6.0 million over five years from 2024-25 for specialist support services.

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 regulatory impact analysis is not required as the Regulations only apply to non-corporate Commonwealth entities and do not adversely affect the private sector.

Attachment A**Details of the *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2024*****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 2024*.

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 4 of Schedule 1AB (table item 239)**

This item repeals table item 239 in Part 4 of Schedule 1AB.

Table item 239 relates to the Travel to Century of Service Domestic Commemorations program. Legislative authority for the program is no longer required because the arrangements and grants made in reliance on the item have come to an end.

This is a minor technical amendment which does not affect existing spending.

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 to be administered by the Department of Veterans' Affairs (the department).

New **table item 654** establishes legislative authority for government spending on the Veterans' Acute Housing – Specialist Services program (the program).

The program responds to the Government's election commitment for a \$10.0 billion Housing Australia Future Fund published under the *Labor's Commitment to Affordable Housing*

policy. The commitment includes \$30.0 million to build housing and provide specialist support services for veterans and their families who are experiencing, or at risk of, homelessness, comprising \$24.0 million for capital works projects and \$6.0 million for specialist support services.

Legislative authority for capital works projects is provided under the *Housing Australia Future Fund Act 2023* and legislative authority for specialist support services is provided under table item 654.

The program aims to increase the availability of specialist support services that are accessible, effective and tailored to the needs of veterans and their families who are experiencing, or are at risk of, homelessness. This could include supporting veterans and their families to access financial assistance, to access or receive referral to crisis shelters, temporary or transitional accommodation or other emergency housing, facilitating access to mental health care or counselling and assisting veterans in finding and maintaining employment.

The program will also aim to deliver sustainable projects which use evidence-based or innovative models to address the risk factors associated with homelessness, and increase the likelihood of veterans who experience homelessness being able to transition to secure and stable longer term accommodation. This could include projects which address the needs of specific veteran cohorts, incorporate housing first principles (an international model for housing and supporting people who have experienced long term and reoccurring homelessness and who face a range of complex challenges), or projects which partner with another organisation to provide veteran-specific services.

The program will also aim to increase collaboration and linkages between community and homelessness service providers and the department and Open Arms – Veterans and Families Counselling service offerings such as Coordinated Client Support and Non-Liability Mental Health Care.

Specifically, the funding may support the following activities:

- case management and coordination: this includes offering individualised assistance to address the unique challenges faced by veterans and their families experiencing homelessness, such as connecting them with healthcare, employment services, and housing resources;
- accessing financial or other material supports including:
 - supporting veterans and their families to access financial assistance such as emergency rental assistance or crisis payments;
 - assisting veterans and their families with legal issues such as eviction prevention, advice as to accessing government benefits and where to seek advocacy supports, and resolving legal disputes;
 - facilitating access to opportunities for financial literacy training or financial counselling to empower individuals;
 - supporting veterans and their families to access nutritious meals;
- accessing crisis or transitional accommodation including:
 - facilitating access or referral to crisis shelters, temporary hotel accommodation or other emergency housing;
 - facilitating access or referral to transitional (temporary) housing for short to medium term accommodation;

- assisting veterans and their families to identify transitional accommodation options which meet their unique needs including accessibility, safety or proximity to required services;
- assisting veterans who have recently been incarcerated or accommodated within a medical, repatriation or psychiatric facility to identify and connect with appropriate crisis or transitional accommodation options;
- accessing mental health treatment, rehabilitation services, including alcohol and other drug programs, health services and psychosocial supports including facilitating access or referral to:
 - mental health care or counselling, including connection to Open Arms – Veterans and Families Counselling and other Australian health-funded services (1800RESPECT, 13YARN, Lifeline, etc.), for support to manage mental health, relationships or other psychosocial issues, post-traumatic stress disorder and other psychological conditions, alcohol and other drug or gambling issues, and incidences of family and domestic violence;
 - medical and allied health care, including preventive services, treatment for illnesses, and management of chronic conditions (covering establishing access to both the department and Australian health funded treatments);
- identifying or securing employment including:
 - assisting eligible veterans to access Australian Government, state or territory government, or local government employment support, and referral to the department’s Support for Employment program through MyService where appropriate;
 - assisting veterans in finding and maintaining employment, including job training, resumé building, and interview preparation, where the veteran is not eligible to receive this support through an existing program;
 - facilitating access to opportunities for education, skill development or volunteer opportunities which would directly qualify a veteran for employment or government-funded employment or income support;
- identifying or retaining long term housing options: this includes assisting veterans and their families in securing stable housing through rental assistance programs, and social or affordable housing options; and
- accessing other Commonwealth or Commonwealth-funded services and supports including referring veterans and their families to advocacy services for veterans’ compensation claims and wellbeing services.

The intended outcomes for the program are to fund organisations to extend their capacity to sustainably provide specialist support services, improve health and wellbeing, and contribute to improved housing outcomes for veterans and their families who are experiencing, or are at risk of, homelessness.

To be eligible, an organisation must either be an ex-service organisation, or be a veteran-aware housing and homelessness organisation, and be an eligible entity type as set out in the grant opportunity guidelines.

The department will deliver the program through an open competitive grant process with eligible applications assessed against the selection criteria.

The grant will be administered by the department in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* and the *Commonwealth Grants Rules and Guidelines 2017*. Information about the grant will be made available on the GrantConnect website (help.grants.gov.au).

An expert panel will assess all eligible applications against the assessment criteria. The expert panel will be made up of departmental senior officials and external experts/advisors and make recommendations to the Minister for Veterans' Affairs (the Minister) as to which applications to approve for a grant. The Minister is the final decision maker for the grant.

Successful applicants will receive a letter of offer to participate in the program, which will specify their nominal funding allocation. The eligible funding recipient must accept the offer and enter into a grant agreement with the Commonwealth to receive funding under the program up to the nominal funding allocation amount. The maximum grant period will be from the start of the grant agreement until 30 June 2029. Following conclusion of the grant period, an evaluation period will commence, and organisations will subsequently be required to submit an evaluation report.

Successful grant recipients will be listed on the GrantConnect website. A summary of approved projects may also be published on the department website.

Funding decisions made in connection with the program are not considered suitable for 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. In addition, these decisions relate to the provision of a one-off grant to a certain service provider over other service providers and any funding that has already been allocated would be affected if the original decision was overturned. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.14 to 4.19 of the guide, *What decisions should be subject to merit review?*).

Additionally, administrative accountability in relation to such allocative decisions should be given greater emphasis, including ensuring that:

- the processes of allocating funds are fair;
- the criteria for funding are made clear; and
- decisions are made objectively.

The review and audit process undertaken by the Australian National Audit Office also provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The program is the result of a Housing Australia Future Fund election commitment. Consultation has occurred within government to fulfil this commitment, including the development of supporting documentation for the program such as the grant opportunity

guidelines. In addition, the department has consulted with peak associations including the Community Housing Industry Association and Open Arms – Veterans and Families Counselling. More broadly, the design of the program was informed by consultation undertaken by the department including through formal veteran forums, ex-service organisations, homelessness service providers and veterans with lived experience.

Funding of \$6.0 million for the program was included in the 2023-24 Mid-Year Economic and Fiscal Outlook under the measure ‘Support for Veterans Experiencing Homelessness’ for a period of five years commencing in 2024-25. Details are set out in the *Budget 2023-24, Mid-Year Economic and Fiscal Outlook 2023-24, Appendix A: Policy decisions taken since the 2023-24 Budget* at pages 231-232.

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 Additional Estimates Statements 2023-24, Defence Portfolio (Department of Veterans’ Affairs)* at pages 15, 17 and 36.

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 grants program is for successful grant recipients to support veterans and their families by delivering specialist support services to those experiencing, or at risk of, homelessness.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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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 FFSP Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the FFSP 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 FFSP Regulations specify the arrangements, grants and programs. The powers in the FFSP 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 2024* amend Schedule 1AB to the FFSP Regulations in relation to activities administered by the Department of Veterans' Affairs.

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

- repeals table item 239 'Travel to Century of Service Domestic Commemorations'; and
- adds table item 654 'Veterans' Acute Housing – Specialist Services'.

Repealed table item 239 – Travel to Century of Service Domestic Commemorations

The repealed table item 239 relates to the Travel to Century of Service Domestic Commemorations program. Legislative authority for the program is no longer required because the arrangements and grants made in reliance on the item has come to an end.

Human rights implications

The repeal of table item 239 does not engage any of the applicable human rights or freedoms.

Conclusion

The repeal of table item 239 is compatible with human rights as it does not raise any human rights issues.

Table item 654 – Veterans’ Acute Housing - Specialist Services

Table item 654 establishes legislative authority for government spending on the Veterans’ Acute Housing – Specialist Services (the program).

The program responds to the Government’s election commitment for a \$10.0 billion Housing Australia Future Fund published under the *Labor’s Commitment to Affordable Housing* policy. The commitment includes \$6.0 million over five years from 2024-25 to organisations to deliver specialist support services to veterans and their families experiencing, or at risk of, homelessness.

The objectives of the program are to:

- increase the availability of specialist support services that are accessible, effective and tailored to the needs of veterans and their families who are experiencing, or are at risk of, homelessness;
- deliver sustainable projects which use evidence-based or innovative models to address the risk factors associated with homelessness and increase the likelihood of veterans who experience homelessness being able to transition to secure and stable longer-term accommodation; and
- increase collaboration and linkages between community and homelessness service providers and the department, and Open Arms – Veterans and Families Counselling service offerings.

Human rights implications

Table item 654 engages the following rights:

- the right to an adequate standard of living – Article 11 of the *International Covenant on Economic Social and Cultural Rights* (ICESCR), read with Article 2;
- the right to the highest attainable standard of physical and mental health – Article 12 of the ICESCR; and
- the right to a standard of living adequate for the health and wellbeing of himself and of his family – Article 25 of the *Universal Declaration of Human Rights* (UDHR).

Right to an adequate standard of living

Article 2 of the ICESCR requires States Parties to take steps to progressively achieve the full realisation of the rights recognised in the ICESCR by all appropriate means.

The right to an adequate standard of living including food, water and housing is stated in article 11 of the ICESCR. Article 11.1 of the ICESCR states that “States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

Table item 654 engages and promotes the right to an adequate standard of living through the provision of specialist support services to assist veterans and their families who are homeless, or at risk of, homelessness.

Right to highest attainable standard of physical and mental health

The right to physical and mental health is contained in Article 12 of the ICESCR. Article 12.1 of the ICESCR states that “States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

Table item 654 engages and promotes the right to the highest attainable standards of physical and mental health through the provision of specialist support services for veterans and their families who are homeless, or at risk of, homelessness.

Right to a standard of living adequate for the health and wellbeing of himself and of his family

The right to health and wellbeing for an individual and their family is contained in Article 25 of the UDHR. Article 25.1 of the UDHR states that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control".

Table item 654 engages and promotes the right to health and wellbeing through provision of specialist support services for veterans and their families who are homeless, or at risk of, homelessness.

Conclusion

Table item 654 is compatible with human rights because it promotes the protection of human rights.

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