

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Prime Minister and Cabinet's Portfolio Measure No. 3) 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 (Prime Minister and Cabinet's Portfolio Measures No. 3) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Working for Women Program (the program). The program is administered by the Office for Women within the Department of the Prime Minister and Cabinet.

The program will support the implementation of *Working for Women: A Strategy for Gender Equality* (the Strategy), which focuses on the Government's vision for an Australia where people are safe, treated with respect, have choices, and have access to resources and equal outcomes no matter their gender.

The program seeks to reframe the existing Women's Leadership and Development Program to align its objectives and ensure consistency with the priorities and foundations of the Strategy.

Funding of \$70.4 million over five years from 2023-24 is available for the program, which includes establishing two key partnerships: a women's advisory mechanism to inform ongoing implementation of the Strategy and a research partnership to help build the evidence base on what works to achieve gender equality.

In addition to the partnerships, funding will also be used to commission further evidence-based projects to drive action in key areas under the Strategy, including gender-based violence, unpaid and paid care, economic equality and security, health and leadership, representation and decision making.

The program will primarily benefit women and girls to address the barriers that hold Australia back from making gains towards gender equality and retaining this progress into the future.

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 been undertaken with the Office for Women.

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.

Details of the *Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet's Portfolio Measure No. 3) Regulations 2024*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Prime Minister and Cabinet's Portfolio Measure No. 3) 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 – In the appropriate position in Part 4 of Schedule 1AB (table)

This item adds a new table item to Part 4 of Schedule 1AB to establish legislative authority for government spending on an activity to be administered by the Office for Women (OFW) within the Department of the Prime Minister and Cabinet (the department).

Table item 665 – Working for Women Program

New **table item 665** establishes legislative authority for government spending on the Working for Women Program (the program) to support the implementation of Australia's *Working for Women: A Strategy for Gender Equality* (the Strategy).

The Strategy (<https://genderequality.gov.au/>), announced on 7 March 2024 by the Minister for Women, outlines key areas the Government will focus its efforts over the next decade to achieve its vision – an Australia where people are safe, treated with respect, have choices, and have access to resources and equal outcomes no matter their gender.

The program seeks to reframe the existing Women's Leadership and Development Program to align its objectives and ensure consistency with the priorities and foundations of the Strategy. The rebranded program will clearly communicate a change in ambition for its intended

outcomes and will be a mechanism to strategically implement the Australian Government's commitment towards gender equality. The program's objective will also be adjusted to reflect and best support the implementation of priority areas in the Strategy, including gender-based violence, unpaid and paid care, economic equality and security, health, and leadership, representation, and decision-making.

Each of the priority areas is an area where gender inequality is underpinned by gender attitudes and stereotypes. The Government alone cannot change individual attitudes. The collective action of community, workplaces and individuals is needed to address the barriers that hold Australia back from making gains towards gender equality and retaining this progress into the future. The program funded activities will support this effort and will be implemented to address one or multiple priority areas of the Strategy.

Funding priorities under the program within the first year of the Strategy include the establishment of two key partnerships facilitated through competitive grant rounds commencing in mid 2024-25. The partnerships will comprise:

- a women's advisory mechanism to inform ongoing implementation of the Strategy through strong evidence-based gender equality advocacy and civil society expertise, building on and realigning the current National Women's Alliances (NWA) program. Organisations will be engaged to form a network of alliances to:
 - provide gender expertise and solutions, bringing the views of the women's sector and gender experts together into strategic, intersectional and evidence-based advice to the Australian Government to drive progress of the Strategy's outcomes; and
 - present solutions and priorities for the issues affecting women in Australia, particularly those from groups that are traditionally marginalised, informed by engagement with a diversity of women in the community and organisations that represent and deliver services to them; and
- a research partnership to help build the evidence base on what works to achieve gender equality, especially in relation to driving economic equality. It will include activities such as Pulse Checks to hear directly from the Australian community, particularly women, about their experiences, concerns and priorities, and the delivery of actionable insights reports to identify avenues for action, by Government and relevant stakeholders, to drive women's economic equality.

In addition to these initial priorities, the program will also provide a mechanism for the Government to commission further evidence-based projects to drive action within the Strategy's five priority areas across the first five years of the Strategy. These projects will be informed by, and build on, the advisory and research partnerships as well as further stakeholder engagement and existing evidence. This will include action to address gender norms and attitudes, which are a foundation to achieving the outcomes of the Strategy.

Projects will be commissioned with a strong intersectional approach, ensuring the Strategy delivers change for women that experience additional barriers to equality, such as First Nations women; migrant and refugee and culturally and linguistically diverse women; women living in rural, regional, and remote areas; LGBTIQ+ people; and women with disability.

Funding amount and arrangements, merits review and consultation

Funding of \$70.4 million over five years from 2023-24 for the program will come from Program 1.1: Prime Minister and Cabinet, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.13, Prime Minister and Cabinet Portfolio* at page 28.

The program will be delivered 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).

The two initial partnership arrangements will be established through competitive grant selection processes, administered by the Community Grants Hub (Grants Hub), and supported by OFW. Working in collaboration, the design, select, establish and manage phases will be undertaken in accordance with probity requirements and the seven key principles for grants administration as outlined in the CGRGs.

The first partnership, the NWA grant opportunity, will seek applicants that have an established membership base of individuals and/or organisations, and have expertise of, and a demonstrated connection to, the theme(s) they are applying to represent. These themes include:

- gender-based violence;
- women's economic equality and leadership;
- migrant and refugee and culturally and linguistically diverse women;
- First Nations women;
- women living in rural, regional and remote areas of Australia; and
- women with disability.

To be eligible for the research partnership grant opportunity, applicants are expected to be from a research institute, research centre, university, or policy institute. This will help ensure applicants are equipped with multi-disciplinary and rigorous technical expertise, and experienced in delivering robust national level research activities, and practical insights and policy advice to government to achieve gender equality.

Assessment of applications for both grant processes, including eligibility and compliance checks by the Grants Hub, will be undertaken prior to a Selection Advisory Panel meeting, comprising of officials with relevant specialist expertise and non-government experts. Following deliberations, OFW will provide funding recommendations to the Minister for Women (the Minister) for decision.

Following the initial two partnerships, further evidence-based projects may be commissioned through procurement and/or grants processes in line with the CGRGs, the Commonwealth Procurement Framework and the CPRs.

OFW is well positioned to deliver grant rounds through existing, well-established grant processes and structures, including compliance activities to reduce the risks of non-delivery, or that funds may be misspent through fraud. Performance and success will be monitored and

measured through the funding agreement's reporting requirements, and an evaluation of activities will be undertaken to measure outcomes.

Information about grants (including forecast opportunities and grant opportunity guidelines) under the program will be made available on the GrantConnect website (help.grants.gov.au).

Procurement under the program will be determined as implementation of the Strategy progresses and may include activities such as evaluation services. OFW will comply with the CPRs when undertaking procurement activities, and in accordance with the department's procurement policies and processes. Eligible procurement activities will be reported on AusTender (www.tenders.gov.au), in line with reporting requirements.

The Minister is the decision maker and is responsible for approving Commonwealth funding under the program. The Minister's decision will be based on recommendations from OFW following selection processes to disburse funding in accordance with the PGPA Act, the *Financial Framework (Supplementary Powers) Act 1997* (FFSP Act), the CGRGs and CPRs.

The Minister may delegate authority to approve Commonwealth funding to an official in the department in accordance with the PGPA Act, the FFSP Act, the department's Financial Delegations, and Accountable Authority Instructions as issued by the Secretary of the department. The delegates may be the First Assistant Secretary and/or the Assistant Secretary with the relevant qualification and experience, including the policy responsibility for the program.

Independent merits review of decisions made in connection with the program would not be considered appropriate because they are decisions relating to the provision of funding to an applicant, over other applications, through a competitive selection process. The funding decision relates to the allocation of a finite resource and an allocation that has already been made to another party would be affected by overturning the original decision. The Administrative Review Council 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?*).

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

The Strategy and its priority areas were informed by the lived experience, knowledge and expertise of thousands of individuals and groups across Australia, including women's advocacy groups, businesses, unions, and civil society. OFW led the development of the Strategy in consultation with individuals, organisations, industry, business, and State and Territory Governments. The Women's Economic Equality Taskforce's Report, *Women's Economic Equality: A 10-year plan to unleash the full capacity and contribution of women to the Australian economy*, informed the direction of the Strategy, as did input from the current NWA.

Statement of relevant constitutional considerations

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

External affairs power

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to 'external affairs'. The external affairs power supports legislation implementing Australia's international obligations under treaties to which it is a party.

Australia has obligations relating to Articles 2, 3 and 11 of the *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW).

Article 2 of the CEDAW provides that States Parties to undertake measures to eliminate discrimination against women.

Article 3 of CEDAW provides that States Parties shall take all appropriate measures, in the economic field among others, to ensure the full development and advancement of women.

Article 11 of CEDAW provides that States Parties shall take measures to eliminate discrimination against women in the field of employment.

Funding under the program aims to improve economic and employment outcomes for women and to ensure the equal place in society of women. The program will support the implementation of priority areas, including economic equality and security, health, gender-based violence, paid and unpaid care, and leadership and representation.

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 (Prime Minister and Cabinet's Portfolio Measure No. 3) Regulations 2024

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 Principal 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 Principal 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 (Prime Minister and Cabinet's Portfolio Measure No. 3) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Working for Women program (the program) to support the implementation of Australia's *Working for Women: A Strategy for Gender Equality* (the Strategy). The program is administered by the Office for Women within the Department of the Prime Minister and Cabinet.

The Strategy outlines key areas the Government will focus its efforts over the next decade to achieve its vision – an Australia where people are safe, treated with respect, have choices, and have access to resources and equal outcomes no matter their gender.

The program seeks to reframe the existing Women's Leadership and Development Program to align its objectives and ensure consistency with the priorities and foundations of the Strategy. The rebranded program will clearly communicate a change in ambition for its intended outcomes and will be a mechanism to strategically implement the Australian Government's commitment towards gender equality. The program's objective will also be adjusted to reflect and best support the implementation of priority areas in the Strategy, including gender-based violence, unpaid and paid care, economic equality and security, health, and leadership, representation, and decision-making.

Funding of \$70.4 million over five years from 2023-24 is available for the program.

Human rights implications

This disallowable legislative instrument engages the following right:

- the right of women not to be discriminated against based on gender – Articles 3 and 11 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), read with Article 2.

Rights of women not to be discriminated against based on gender

Article 2 of the CEDAW provides that States Parties agree to undertake measures to eliminate discrimination against women.

Article 3 of the CEDAW provides that States Parties shall take all appropriate measures, in the economic field among others, to ensure the full development and advancement of women.

Article 11 of the CEDAW provides that States Parties shall take all appropriate measures, in the economic field among others, to ensure the full development and advancement of women.

This disallowable legislative instrument promotes non-discrimination against women, the full development and advancement of women, and the protection of women's right to work, by improving economic outcomes for women and progressing gender equality in Australia. Specifically, the program best supports and drives action towards the priority areas set out in the Strategy, including unpaid and paid care, economic equality and security, and leadership, representation and decision-making.

The Strategy will continue to invest in women's advocacy and elevate issues affecting women's safety and economic equality in Australia. The voices of First Nations women, migrant and refugee and culturally and linguistically diverse women, women with disability, and those living in regional, rural and remote areas will be central to guide progress under the Strategy, ensuring government takes a genuinely intersectional approach to women's policy.

Conclusion

This disallowable legislative instrument is compatible with human rights because it promotes the protection of human rights.

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