

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

Financial Framework (Supplementary Powers) Amendment (Education Measures No. 4) 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 sunset under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunset 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 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 (Education Measures No. 4) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for the Government to provide a grant to the Chain Reaction Foundation Ltd (the Foundation) to support the continued delivery of the Learning Ground in School (LGiS) program. The grant to the Foundation will be administered by the Department of Education.

The Foundation is a not-for-profit private company based in Western Sydney that was established in 2002 to assist young people and their families build strong social cohesion and personal wellbeing within families, school communities and society. The LGiS program aims to re-engage youth in education through promoting cognitive, emotional, and behavioural change in young people with a focus on student wellbeing.

The LGiS program is offered as part of a student wellbeing program for 60 to 80 minutes per week and is delivered as in-school learning. It assists schools in working more effectively and proactively with students at risk of school disengagement – focusing on the prevention and effects of bullying and social media, domestic violence and respectful relationships, and loneliness and reluctance or refusal to attend school.

A one-off, ad hoc grant of \$0.1 million in 2024-25 will be provided to the Foundation to cover the expenses of the LGiS program which include employee costs, costs associated with travelling to the schools, teaching materials and teacher training costs.

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 Education.

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 (Education Measures No. 4) Regulations 2024*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Education Measures No. 4) 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

The item in Schedule 1 amends Schedule 1AB to the Principal Regulations to provide legislative authority for government spending on an activity to be administered by the Department of Education (the department).

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

This item adds one new table item to Part 3 of Schedule 1AB.

Table item 83 – Grant to Chain Reaction Foundation Ltd

New **table item 83** establishes legislative authority for the Government to provide a grant to the Chain Reaction Foundation Ltd (the Foundation) to support the continued delivery of the Learning Ground in School (LGiS) program, which assists students facing educational disadvantage to overcome barriers and reach their full potential.

The Foundation is a not-for-profit private company based in Western Sydney that was established in 2002 to assist young people and their families to build strong social cohesion and personal wellbeing within families, school communities and society. The Foundation relies on financial support from donations to deliver a number of social programs to the Western Sydney community, including the LGiS program.

The LGiS program aims to re-engage youth in education through promoting cognitive, emotional, and behavioural change in young people with a focus on student wellbeing.

The LGiS program is offered as part of a student wellbeing program for 60 to 80 minutes per week and is delivered as in-school learning. It assists schools to work more effectively and proactively with students at risk of school disengagement.

The LGiS program assists students in relation to:

- bullying and social media;
- domestic violence and respectful relationships; and
- loneliness and reluctance or refusal to attend school.

The LGiS program is offered during the school year to a group of up to 21 students in a classroom setting. Students are identified to participate in the LGiS program through both the application of selection criteria and discussion between the school executive (principal and deputy principals) and school wellbeing officers.

The LGiS program features group sessions that are structured around themes and topics including personal development, connection to community, confidence, belonging and social challenges. Students will explore these topics through manual activities. The tasks associated with a manual activity include discussions, written work, group work, questionnaires, role playing and scenarios presented by facilitators.

The Foundation employees also train teachers in schools to offer the program to students. The Foundation provides teachers with ongoing support and materials including training manuals, handbooks and lesson plans. The learning models used in the LGiS program are based on Aboriginal traditional and contemporary knowledge and offered to non-Indigenous, Indigenous and linguistically diverse communities.

The LGiS program currently operates in seven schools across Greater Western Sydney in both primary and secondary settings. The grant will assist the Foundation to continue to deliver the LGiS program to the seven schools, covering expenses such as employee costs, costs associated with travelling to the schools, teaching materials and teacher training costs.

The grant will also supplement other funding and will provide support while the Foundation looks to secure longer term funding for the LGiS program. The Foundation's main philanthropic partner is understood to be contributing majority of the funding for the LGiS program and other programs provided by the Foundation. Expansion of the LGiS program is not a condition of the grant.

Funding amount and arrangements, merits review and consultation

Funding of \$0.1 million in 2024-25 for this item will come from Program 1.5: Early Learning and Schools Support, Schools Support, Quality Outcomes, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.5, Education Portfolio* at page 43.

Quality Outcomes is a discretionary funding program for initiatives of importance to the Australian Government. It is an ongoing measure, established in 2005 to provide funding for strategic projects that support improved student learning outcomes in schools. The Minister for Education approves funding allocations under the discretionary funding program.

The Commonwealth will enter into a grant arrangement via a closed, non-competitive, one-off, ad hoc grant with the Foundation. The grant will be administered in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013*, the *Public Governance, Performance and Accountable Rule 2014* and the *Commonwealth Grants Rules and Principles 2024* (CGRPs).

Consistent with the CGRPs, the department will develop grant opportunity guidelines (GOGs) and will have regard to the nine key principles in administering the grant.

The LGiS program will be delivered by the Foundation in accordance with the GOGs. Notification for the grant and the GOGs will be published on GrantsConnect (www.grants.gov.au) in accordance with the CGRPs.

Funding activities under Quality Outcomes, including the grant, will be used to support education initiatives of importance to the Australian Government as directed by the Minister for Education. As such, the grant will be subject to the Minister's final approval and compliance with the CGRPs.

Independent merits review will not be available for the grant provided to the Foundation as the grant will be closed, non-competitive and for a specific purpose and entity. The Foundation has been chosen to receive the grant as the LGiS program has shown to be effective and is at risk of ceasing without the Commonwealth's support. The grant decision, once made, will be final and not subject to merits review. The grant involves an allocation of a finite resource to the Foundation. Review (and potential change) of the decision would affect an allocation that has already been made and impact the continued operation of the program. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.17 of the guide, *'What decisions should be subject to merit review?'*).

The department consulted the Foundation regarding the LGiS program, including on funding options and the financial viability of the organisation. The Foundation has not previously received funding from the department and the interactions have been positive. Through the consultation, the department is satisfied that a one-off, ad hoc grant is sufficient to enable the Foundation to continue to deliver the program in 2024-25 while it explores longer term funding options.

Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the purpose 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 access to education and quality of education under Articles 28(1)(e) and 29(1)(a) (read with Article 4) of the *Convention on the Rights of the Child* [2001] ATS 4 (CRC).

Article 4 of the CRC obliges Australia to take appropriate measures to implement the rights recognised by the CRC. This includes rights recognised in Articles 28 and 29 of the CRC.

Under Article 28(1)(e) of the CRC, States Parties recognise the right of the child to education, and are required to ‘take measures to encourage regular attendance at schools and the reduction of drop-out rates’.

Under Article 29(1)(a) of the CRC, States Parties agree that the education of the child shall be directed to the ‘development of the child’s personality, talents and mental and physical ability to their fullest potential’.

The purpose of the grant is to support a program to equip highly disadvantaged students with critical behavioural skills needed to engage in education, which assists Australia to meet the above obligations.

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 (Education Measures No. 4) 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*.

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The LGiS program is offered as part of a student wellbeing program for 60 to 80 minutes per week and is delivered as in-school learning. It assists schools to work more effectively and proactively with students at risk of school disengagement – focusing on the prevention and effects of bullying and social media, domestic violence and respectful relationships, and loneliness and reluctance or refusal to attend school.

A one-off, ad hoc grant of \$0.1 million in 2024-25 will be provided to the Foundation to cover the expenses of the LGiS program which include employee costs, costs associated with travelling to the schools, teaching materials and teacher training costs.

Human rights implications

This disallowable legislative instrument engages the following right:

- the right to education – Articles 28 and 29 of the *Convention on the Rights of the Child* (CRC), read with Article 4, and Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Right to education

Article 4 of the CRC requires States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the CRC. These rights include ‘the right of the child to education’ (Article 28).

Article 28(1)(e) of the CRC requires States Parties to ‘take measures to encourage regular attendance at schools and the reduction of drop-out rates’. Article 29(1)(a) of the CRC provides that States Parties agree that the education of the child shall be directed to ‘...[t]he development of the child’s personality, talents and mental and physical abilities to their fullest potential’.

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.

Article 13(1) of the ICESCR provides that the States Parties agree that education ‘...shall be directed to the full development of the human personality and the sense of dignity and shall strengthen the respect for human rights and fundamental freedoms’. Article 13(2)(b) of the ICESCR relates to the general availability and accessibility of secondary education in its different forms to all.

This disallowable legislative instrument promotes the right to education as the funding will enable the Foundation to continue the delivery of the LGiS program in 2024-25. The program aims to support schools and their students by re-engaging youth in education. The continued program will equip highly disadvantaged young adolescents with critical behavioural skills needed to engage in education. These skills will encourage regular attendance at schools and the reduction of dropout rates.

The LGiS program engages students with learning models based on Aboriginal traditional and contemporary knowledge to promote cognitive, emotional and behavioural change in young people. In so doing the program pursues the development of the personality and sense of dignity of participants.

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**