

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Health and Aged Care Measures No. 1) Regulations 2025*

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 FFSP Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the FFSP Act.

The *Financial Framework (Supplementary Powers) Amendment (Health and Aged Care Measures No. 1) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities to be administered by the Department of Health and Aged Care.

Funding will be provided for:

- a grant to the Alcohol and Drug Foundation Incorporated to support the delivery of the Good Sports Vaping Prevention Program (\$1.0 million over three years from 2024-25);
- the Disaster Health Care Assistance Scheme to provide lifetime assistance with out-of-pocket health care expenses for illness or injury incurred as a result of a specified act of international terrorism or a natural disaster (\$0.7 million in 2024-25);
- the General Practice Incentive Fund Thin Markets program to improve the provision of, and access to, primary care in areas where there is limited or unstable access to health, medical, care and support service systems (\$34.8 million over two years from 2024-25);
- the Intravenous (IV) Fluids Program to improve Australia's supply chain resilience to address IV fluids shortages by increasing access to high-quality IV fluids and establishing a coordinated approach for supplying and using IV fluids to support better health outcomes for all Australians (financial implications for this element are not for publication due to commercial-in-confidence sensitivities. It is the intention of the Australian Government to disclose the funding allocated for the program once agreements are finalised); and
- the National Dementia Support Program to deliver consumer-focused dementia support to people living with dementia and their carers and support networks (\$107.7 million over three years from 2025-26).

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 Health and Aged Care.

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 (Health and Aged Care Measures No. 1) Regulations 2025*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Health and Aged Care Measures No. 1) Regulations 2025*.

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* (the Principal Regulations) are amended as set out in the Schedule to the Regulations.

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

The items in Schedule 1 amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities to be administered by the Department of Health and Aged Care (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 86 – Grant to the Alcohol and Drug Foundation Incorporated

New **table item 86** establishes legislative authority for the Government to provide a grant to the Alcohol and Drug Foundation Incorporated (ADF) to support the delivery of the Good Sports Vaping Prevention Program.

The grant aims to raise awareness with young people about the health harms of vaping and empower young people to not commence vaping and encourage those who are vaping to quit, thereby reducing and preventing nicotine addiction in Australia.

Eligible activities will be set out in the relevant grant agreement and will support the ADF to:

- roll out a national training program to upskill community organisations (coaches and leaders) to address vaping harms for young people they support;
- provide co-designed and evidence-based training and resources to equip community organisations support young people; and
- provide interventions that are accessible to young Australians in a variety of contexts.

The use of vaping products, particularly by young people, has increased significantly in recent years. The *National Drug Strategy Household Survey 2022-23* (NDSHS) found that from 2019 to 2023, the proportion of young people (aged 14-17) who had ever used e-cigarettes had nearly tripled from 9.5 per cent to 28 per cent. In addition, the NDSHS found that 19.8 per cent of people aged 14 and over in Australia in 2022-2023 reported having used e-cigarettes at least once in their lifetime, with 7 per cent currently using e-cigarettes at least daily, weekly, monthly, or less often than monthly. The *Australian Secondary School Students' Alcohol and Drug Survey* showed that around 1 in 6 (16 per cent) of secondary school students reported recent (past month) vaping in 2022-23 – a fourfold increase since the previous survey from 2017 (4 per cent).

Emerging research evidence is beginning to document how e-cigarette/vape use by young people is likely to be a gateway to smoking. Research published in September 2024, from the Generation Vape study found that Australian adolescents who have vaped are five times more likely to then try smoking. Further, 12-year-olds who had vaped were 29 times more likely to go on to try smoking than 12-year-olds who had not vaped.

These findings underline the critical need to implement public health initiatives, such as this grant program, to reduce e-cigarette use and prevent its uptake among adolescents in Australia.

The intended outcomes of the grant are to build on and strengthen young people's awareness of vaping harms and provide support for vaping prevention and cessation through community sporting organisations.

The grant will align with the goals, objectives and targets of the *National Tobacco Strategy 2023–2030*, which aims to improve the health of all Australians by reducing the prevalence of tobacco use and its associated, health, social, environmental and economic costs and the inequalities that it causes. It will also support the *National Preventive Health Strategy 2021-2030*, which aims to improve the health and wellbeing of all Australians at all stages of life, through a systems-based approach to prevention that addresses the wider determinants of health, reduces health inequities and decreases the overall burden of disease.

The grant program will run for three years from 2024-25 and will align with the *Therapeutic Goods and Other Legislation Amendment (Vaping reforms) Act 2024*, the *National Tobacco Strategy 2023-2030*, and the *National Preventive Health Strategy 2021-2030*. The grant program also supports the Australian Government's continued commitment to building safe and healthy communities by reducing the negative impact of tobacco and nicotine on individuals and communities.

Funding amount and arrangements, merits review and consultation

Funding of \$1.0 million for a grant to support the Good Sports Vaping Prevention Program was included in the 2024-25 Mid-Year Economic and Fiscal Outlook under the measure ‘Vaping Regulation Reform Package’ for a period of three years commencing in 2024-25. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2024-25, Appendix A: Policy decisions taken since the 2024-25 Budget* at pages 271 and 272.

Funding for this item will come from Program 1.5: Preventive Health and Chronic Disease Support, which is part of Outcome 1. Details will be set out in the 2024-25 Portfolio Additional Estimates Statements for the Health and Aged Care portfolio.

The department will deliver the grant through a closed non-competitive grant process. The grant will be administered and assessed by the department using the Community Grants Hub within the Department of Social Services, in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and the *Commonwealth Grants Rules and Principles 2024* (CGRPs).

Consistent with the CGRPs, the department will develop grant opportunity guidelines and will have regard to the nine key principles in administering the grant, which once approved and executed, will be published on the GrantConnect website (www.grants.gov.au).

Final funding decision for the grant will be made by a delegate of the Minister for Health and Aged Care in accordance with the PGPA Act and the *Financial Framework (Supplementary Powers) Act 1997* (FFSP Act). The delegate will be a Senior Executive Service (SES) Band 1 with responsibility and appropriate experience and knowledge to exercise this function.

Independent merits review would not be appropriate for this grant because the funding decision will relate to the allocation of finite resources and an allocation already made from the funding would be affected by overturning the original decision. The funding decision is a one-off payment to the ADF for a specific purpose. The Administrative Review Council (ARC) has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the guide ‘*What decisions should be subject to merit review?*’ (ARC guide)).

The review and audit process undertaken by the Australian National Audit Office (ANAO) 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 also be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department undertook targeted stakeholder engagement sessions with industry, public health stakeholders, peak bodies, and state and territory governments on vaping reforms in the context of the development of the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024* (Vaping Reform Bill).

Further consultation also occurred with Senators, key stakeholders and the public during the passage of the Vaping Reform Bill through Parliament between March and June 2024, including: through the inquiry into the bill undertaken by the Senate Community Affairs Legislation Committee on the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 [Provisions]*:

- Senator Steele-John (Australian Greens) - outlined the need for services and resources to meet the needs of schools, parents, young people and First Nations people;
- Senators Cadell, Canavan and Kovacic (Coalition) - strongly supported the intent of the legislation to address the growing risk posed by vaping in Australia, particularly to young and young adults; and
- Australian Parents Council, Australian Council of State School Organisations, Kidsafe Western Australia, Royal Australian College of General Practitioners and Australian Medical Association - all noted the need to prevent vaping uptake by young people.

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 under the WHO Framework Convention on Tobacco Control. Article 5(2)(b) of the Convention requires Parties to ‘adopt ... appropriate policies for preventing and reducing ... nicotine addiction’.

The grant will fund the design and delivery of training for sporting clubs, coaches and leaders, to assist them in supporting young people to understand the harms associated with vaping, encouraging those young people who are vaping to quit and preventing the uptake of vaping by young people.

Item 2 – In the appropriate position in Part 4 of Schedule 1AB (table)

Item 2 adds four new table items to Part 4 of Schedule 1AB.

Table item 710 – Disaster Health Care Assistance Scheme

New **table item 710** establishes legislative authority for government spending on the Disaster Health Care Assistance Scheme (the scheme).

The scheme's objective is to provide lifetime financial assistance to eligible persons with out-of-pocket health care expenses for illness or injury incurred as a result of a specified act of international terrorism or a natural disaster. The scheme covers the following specified events:

- Bali bombings in 2002 and 2005;
- Asian (Indian Ocean) tsunami in 2004;
- London bombings in 2005; and
- Egypt bombings in 2006.

The scheme commenced in 2002 following the bombing in Bali, Indonesia, on 12 October 2002. For example, Balimed, which covers the 2002 Bali bombings, was reported in the *Health Insurance Commission, 2003-04 Annual Report* (page 63). Information for injured persons about how to apply for health care costs to be reimbursed for each subsequent event is available on the Services Australia website for the Disaster Health Care Assistance Scheme. Since 2002, 655 people have registered to participate in the scheme.

The financial assistance includes expenses that are not otherwise covered by Medicare, other government programs or private health or travel insurance. The health care must have a specific medical application, which is directly necessary for the provision of health care services for the injury incurred in the event. The scheme covers the following categories of eligible persons:

- an Australian resident who was present at the incident and was injured;
- an Australian resident who was near the incident and directly exposed to its aftermath;
- an Australian resident who is or was a family member of a person injured in the incident, who is diagnosed with a condition arising from the incident and their relationship with the injured person. In some circumstances the person was an Australian resident who was a friend of a person who was injured or died;
- Australian residents who are immediate family members of non-Australian residents who died as a result of the incident and who have been diagnosed with a condition arising from the incident and their relationship with the injured person; and
- an eligible foreign national who was granted entry to Australia in order to receive health care for injuries arising from the incident (whilst receiving health care in Australia).

The scheme provides eligible persons with assistance for the management or treatment of health care provided in Australia as a direct result of the event for the following:

- physical injuries for Australian residents who were directly exposed;
- counselling, psychological and psychiatric services; and
- other reasonably required health care services for ill health or injury which have arisen as a result of an incident.

Funding amount and arrangements, merits review and consultation

Funding of \$0.7 million in 2024-25 is available to support services under the scheme. Funding for this item will come from Program 2.1: Medical Benefits, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.9, Health and Aged Care Portfolio* at page 78.

The scheme is administered by Services Australia on behalf of the department under a bilateral management agreement. Each event under the scheme has guidelines. Information for participants about eligibility and what the scheme covers is available on the Services Australia website at <https://www.servicesaustralia.gov.au/disaster-health-care-assistance-scheme>.

Requirements that apply to the funding include that assistance is available for items or services with a specific medical application, as advised by a medical professional, which are directly necessary for the provision of health care services related to the illness or injury incurred as a result of the disaster.

Applicants apply to Services Australia to be reimbursed for out-of-pocket health care expenses. Out-of-pocket expense means expense incurred that is not covered by Medicare, other government programs (including those provided by states and territories) or private travel or health insurance. New applicants can register at any time if they meet the eligibility criteria.

The relevant Services Australia delegate at Executive Level (EL) 2 or above will make the decision in accordance with the guidelines approved by the Department of the Prime Minister and Cabinet for each scheme. For example, a delegate may determine whether out of pocket expenses of a participant are reasonably required for treating the illness or injury incurred in the disaster, with appropriate medical evidence. The delegate must have the appropriate delegation under the PGPA Act and the FFSP Act. The decision will be made by assessing the individual's eligibility to the scheme and assessing the relevant evidence, such as medical information provided for a claim.

The decision to make a payment by a Services Australia official must be in accordance with the guidelines which incorporate procedural fairness principles. For example, a decision might be confirming the receipt of relevant medical advice from a registered medical professional. The Services Australia website advises participants that they may request a formal explanation or seek a review of a decision. Merits review is available to applicants of the scheme using the existing review process available for Centrelink decisions at Services Australia. This includes applying for an Authorised Review Officer to review an initial decision under the scheme. If the applicant disagrees with the Authorised Review Officer decision, they can apply to the Administrative Review Tribunal (ART) for a review. The ART is an independent tribunal.

The department has not undertaken any further consultation as the scheme's funding objective remains unchanged since its establishment. Consultation on the individual events included in the scheme was considered impractical as the implementation of the scheme (including the addition of the specified events between 2004 and 2006) was in response to disasters impacting Australian residents overseas.

Constitutional considerations

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

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 including sickness and hospital benefits and medical and dental services (but not as to authorise any form of civil conscription).

The scheme involves the provision of financial assistance for eligible individuals in relation to their wants arising from their sickness or need for health care.

Table item 711 – General Practice Incentive Fund Thin Markets

New **table item 711** establishes legislative authority for government spending on the General Practice Incentive Fund Thin Markets program (the program).

The program's objective is to improve the provision of, and access to, primary care in areas where there is limited or unstable access to health, medical, care and support service systems (thin markets). Funding of \$17.5 million over two years from 2022-23 was previously provided to the program as part of the 2023-24 Budget.

The Government agreed to additional funding for the program totalling \$34.8 million over three years from 2024-25 to 2026-27 to support eligible activities, which will be set out in the relevant grant agreement, including:

- to implement a rapid response where the health service market in a location has failed, or are at imminent risk of failure;
- development of a Service System Recovery Plan (SSRP) which is developed in collaboration with, and agreed by, local stakeholders, usually conducted within a 3 month period; and
- implementation and evaluation of a SSRP, conducted over a period of up to 30 months.

The intended outcomes of the program are to:

- establish a clear understanding of the factors leading to service system failure or instability in an identified community(ies);
- engage key local service provider organisations and key stakeholders in developing a service system recovery plan to be agreed by the department - the SSRP will determine the range and mix of services required, the service models to be developed and the funding arrangements to ensure the service system can be sustained;
- support implementation of the agreed SSRP(s); and
- establish a sustainable health, care, and support service system in the identified community(ies).

Funding amount and arrangements, merits review and consultation

Funding of \$17.4 million for the program was included in the 2024-25 Budget under the measure 'Health Workforce' for a period of one year commencing in 2024-25. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 111.

Additional funding of \$17.4 million for the program was included in the 2024-25 Mid-Year Economic and Fiscal Outlook under the measure 'Strengthening Medicare' for a period of one year commencing in 2025-26. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2024-25, Appendix A: Policy decisions taken since the 2024-25 Budget* at pages 267 and 268.

Funding for this item will come from Program 1.4: Health Workforce, which is part of Outcome 1. Details will be included in the 2024-25 Portfolio Additional Estimates Statements for the Health and Aged Care portfolio.

The department will deliver the program through a closed non-competitive grant process. The relevant Primary Health Network (PHN) for a nominated site is invited to apply for intervention funding which enables invited PHNs to commission agreed services in communities identified by the department. Services are targeted to improve access to primary care where related service systems fail, are at imminent risk of failure, or are characterised by ongoing instability. The range of services to be commissioned is determined through assessment of, and agreement to a SSRP.

PHNs are regional organisations that commission and integrate services at the local level to address identified needs. They also provide support and system level integration for health services to improve coordination of care for patients. These foundations of the PHN program, make it the most appropriate mechanism to deliver the measures.

The department's nomination of sites considers the potential risk of communities losing access to services or the sustainability of local service systems. Locations are informed through consultation with relevant jurisdictions (state or territory government). Nominations may be further informed through information or data available to the department and consultation with PHNs, Rural Workforce Agencies (RWAs) and other relevant stakeholders. Once the department's consultation and identification of a site is complete, the relevant PHN is invited to submit a funding proposal for the site. The PHN must also be an eligible organisation.

The grant will be administered and assessed by the department using the Community Grants Hub in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the CGRPs.

Consistent with the CGRPs, the department will develop grant opportunity guidelines and will have regard to the nine key principles in administering the grant. Notification for the grant and the grant opportunity guidelines will be published on GrantConnect website (www.grants.gov.au) in accordance with the CGRPs.

Final funding decisions will be made by a delegate of the Minister for Health and Aged Care in accordance with the PGPA Act and the FFSP Act. The delegate will be a SES Band 1 or 2 with responsibility and appropriate experience and knowledge to exercise this function.

Independent merits review would not be appropriate for this grant because the funding decision will relate to the allocation of finite resources and an allocation already made from the funding would be affected by overturning the original decision. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the ARC guide).

The review and audit process undertaken by the ANAO 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 also be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department has undertaken targeted stakeholder engagement with relevant jurisdictions (state or territory governments), PHNs and RWAs. Feedback was generally supportive and is incorporated into the design of the program. PHNs also consult with local stakeholders, healthcare providers and where necessary, the public through the development and implementation of SSRPs, which determine the services commissioned by the PHNs for an identified site.

Throughout implementation of the program to date, the department has received feedback regarding administration of the grant opportunity, including suggested improvements. This feedback will be implemented into any new grant opportunities.

Constitutional considerations

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 social welfare power (section 51(xxiiiA)); and
- the external affairs power (section 51(xxix)).

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 including sickness benefits, and medical services.

The program aims to improve access to health care in nominated sites where the health service market has either failed, is at imminent risk of failure, or characterised by ongoing instability through the use of PHNs.

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.

International Covenant on Economic, Social and Cultural Rights

Australia is a party to the *International Covenant on Economic, Social and Cultural Rights* [1976] ATS 5 (ICESCR). Article 2 provides the general obligation of States Parties to undertake steps, including the adoption of legislative measures, to achieve the full realisation of the rights recognised in the Covenant. Article 12(2)(c) requires achievement of the full realization of the ‘prevention, treatment and control of epidemic, endemic, occupational and other diseases’ and Article 12(2)(d) requires ‘the creation of conditions which would assure to all medical service and medical attention in the event of sickness’.

The program aims to respond to identified systemic barriers to sustainable health and medical services, to improve access to health and medical services in the short term, and support future decisions to support ongoing access to services.

Convention on the Rights of Persons with Disabilities

Australia is a party to the *Convention on the Rights of Persons with Disabilities* [2008] ATS 12 (CRPD). Parties to the CRPD are required to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability (Article 4(1)). In particular, the CRPD requires States Parties to:

- raise awareness of persons with disabilities and combat stereotypes, prejudices and harmful practices (Article 8);
- ‘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’ and ‘provide those health services needed by persons with disabilities...including early identification and intervention ... and services designed to minimise and prevent further disabilities...’ (Article 25); and
- take effective and appropriate measures to enable persons with disabilities to attain and maintain maximum independence (Article 26).

The program aims to enhance care services across Australia which will include delivery of services to assist persons with disabilities to enjoy the highest attainable standard of health and independence without discrimination on the basis of disability.

Table item 712 – Intravenous Fluids Program

New **table item 712** establishes legislative authority for government spending on the Intravenous Fluids Program (the program).

The program’s objective is to improve Australia’s supply chain resilience to address intravenous (IV) fluid shortages by increasing access to high-quality IV fluids and establishing a coordinated approach for supplying and using IV fluids to support better health outcomes for all Australians.

IV fluid is a critical product used in routine and critical care settings, as fluid replacement, for resuscitation, for maintenance hydration, including during and following surgery, and to facilitate administration of other medication.

The Government has developed a multifaceted approach to address the current shortages for IV fluids, which includes the following eligible activities under the program:

Expansion of onshore IV fluids production facilities:

Funding will be provided to manufacturer(s) to expand onshore production capabilities to increase domestic supply of IV fluids by agreed volumes for the Australian community. The selected manufacturer(s) will provide matching funds towards the cost of the facility. It is anticipated that the new production will commence in early 2027.

Clinical review of IV fluids and development of clinical guidelines:

Funding will be provided to undertake a clinical review of IV fluids to ensure common use of IV fluids and to develop clinical guidelines relating to best practice use of IV fluids in Australia. Consultation will be undertaken with state and territory jurisdictions, Therapeutic Goods Administration (TGA), the Australian Commission on Safety and Quality in Health Care and other stakeholders as deemed necessary. This will contribute to standardising the types of fluids supplied in the states and territories that would contribute to better health outcomes for patients.

Establishing a panel of suppliers for IV fluids:

The department will establish a panel of suppliers to secure volumes and prices for IV fluids in coordination with states and territories. It is envisioned that a national approach can better prepare for and respond to emergencies. This initiative will require selecting IV fluids suppliers and establishing agreements with suppliers for the product unit prices through a procurement process, but states and territories will be responsible for ordering the products and paying for them.

Funding amount and arrangements, merits review and consultation

The financial implications of the program are not for publication due to commercial-in-confidence sensitivities. It is the Government's intention to disclose the funding allocated for the program once the consultation process is completed and contractual agreements are finalised.

The department will deliver the program through a range of procurement methods in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the Commonwealth Procurement Rules (CPRs).

Information about the resultant contracts will be made available on AusTender (www.tenders.gov.au) once the contracts are signed. Procurement decisions will be based on value for money, including capability and capacity to deliver, and price and risk considerations.

After execution of contracts, the department will manage the contracts and make the required payments based on the contracts.

The department's Accountable Authority Instructions set out the department's delegations for the program funding decisions. The delegate who will make the final decision for procurement processes will be a SES Band 1 or 2 in the Technology Assessment and Access Division in the department with appropriate skills and experience. This is in accordance with applicable legislative requirements under the PGPA Act and the FFSP Act.

Procurement decisions made in connection with the supply of IV fluids 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, any funding that has already been allocated would be affected if the original decision was overturned. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the ARC guide).

The department has engaged with stakeholders since 23 September 2024. This included targeted consultation with the following Commonwealth entities and stakeholders:

- the Department of the Prime Minister and Cabinet;
- the Department of Industry, Science and Resources;
- the Department of Finance;
- National Resource Group for IV Fluids, chaired by the Chief Medical Officer in Victoria with members from all states and territories, private healthcare providers and suppliers;
- state and territory jurisdictions;
- TGA;
- National Reconstruction Fund Corporation; and
- Australian Commission on Safety and Quality in Health Care.

The stakeholders have been supportive of the IV fluids program.

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 is a party to the *International Covenant on Economic, Social and Cultural Rights* [1976] ATS 5 (ICESCR). Article 2 provides the general obligation of States Parties to undertake steps, including the adoption of legislative measures, to achieve the full realisation of the rights recognised in the Covenant, including the 'right of everyone to the enjoyment of the highest attainable standard of physical and mental health' (Article 12(1)). Article 12(2)(c) requires States Parties to take steps necessary for the 'prevention, treatment and control of epidemic, endemic, occupational and other diseases' and Article 12(2)(d) for 'the creation of conditions which would assure to all medical service and medical attention in the event of sickness'.

The program will expand the domestic production of IV fluids to ensure sufficient supply, establish and implement clinical guidelines to ensure best practice use of IV fluids, and establish a panel of suppliers to secure volumes and prices for IV fluids.

Table item 713 – National Dementia Support Program

New **table item 713** establishes legislative authority for government spending on the National Dementia Support Program (the program).

The program is the Australian Government’s key consumer-focused dementia support program that aims to provide a comprehensive set of services and supports for people living with dementia and their carers and support networks. The program will assist people living with dementia and their carers to improve their quality of life and help carers provide care for as long as possible.

Funding would support activities to help people with dementia make informed decisions about their health, manage after developing dementia and improve dementia literacy and service navigation skills so they are better equipped to live well with dementia. It will also help carers provide better care for people with dementia.

People who have developed dementia and their carers will be able to access a range of psychosocial supports and education aimed at assisting them to adjust to the condition and encourage self-management for as long as practical. Support will also include targeted activities aimed at improving access to culturally appropriate dementia information and support for Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse (CALD) backgrounds.

Grant funding of up to \$107.7 million over three years from 2025-26 will be available to Dementia and Alzheimer’s Australia Ltd (Dementia Australia), with the potential for other organisation to access funding in later years. Funding will be provided for delivery of the following supports:

Information and Foundation Supports

This element provides easy access to information and support services for people living with dementia and their carers to help them maintain their quality of life and make informed decisions about their health across their dementia journey. The supports include a national telephone helpline and website (including information and tailored resources) to support people living with dementia to help them adjust to having dementia, access early intervention supports, and stay connected to services as their dementia journey evolves.

Early Intervention Supports

This element provides a comprehensive suite of face-to-face and telehealth programs aimed at improving the quality of life for people living with dementia and their carers, with the provider delivering services including:

- individualised, goal-oriented direct support for people with dementia to allow them to manage their dementia and live well with the condition;
- dementia-focused support and counselling to enhance the ability of carers to care for people living with dementia and maintain quality of life for both the carer and the person living with dementia and helping them to stay at home for longer where practical;
- education to support families and carers to understand dementia and improve the quality of care for those living with dementia to stay at home as long as possible; and
- support groups to bring together carers to share strategies to enhance their capability and capacity to continue to deliver care to people with dementia and delay their entry to residential aged care as long as possible.

Targets Supports for Vulnerable Groups

This element aims to improve access to the range of information and supports for people with dementia and their carers from Aboriginal and Torres Strait Islander, CALD, and rural and remote communities to improve their quality of life and help them live well with dementia.

The provider will:

- deliver outreach services offering dementia awareness and support to people who have recently developed dementia;
- provide direct support to community organisations to provide improved access to and knowledge of dementia supports and services for Aboriginal and Torres Strait Islander and CALD communities; and
- provide information and education to people in rural and remote Australia to advise them of the support available when they or someone in their family develops dementia, including information about how to provide better care for people with dementia, particularly as their needs intensify.

Awareness and Stigma Reduction

This element focuses on increasing the general understanding and awareness of dementia and services and resources available to people living with dementia and their carers through online and digital platforms. The provider will:

- develop and deliver online and digital community campaigns to improve the general understanding of dementia, reduce the stigma associated with dementia, and raise awareness of the availability of the direct supports available under the program; and
- target primary care health practitioners with online and digital awareness raising campaigns to support primary care practitioners to improve early diagnosis of dementia and increase the general knowledge and understanding of available resources and support services.

Dementia Friendly Communities

This element aims to leverage community resources to raise awareness about dementia within the community, create improved access to opportunities for social engagement for people living with dementia, and support people with dementia to remain engaged with their community. The provider will deliver this by:

- supporting and empowering Dementia Friends with online training and tools to run local awareness raising sessions in their own communities;
- developing and maintaining ongoing online and telephone support to Dementia Alliances to meet the specific needs of their own community;
- providing online resources, tools, and checklists to help community organisations and businesses become more inclusive of people living with dementia; and
- providing direct support to local organisations and community groups to develop local projects encouraging the inclusion and purposeful engagement of people living with dementia in their communities to help address social isolation often experienced by people with dementia.

Funding amount and arrangements, merits review and consultation

Funding of \$107.7 million over three years from 2025-26 for the item will come from Program 3.3: Aged Care Quality, which is part of Outcome 3. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.9, Health and Aged Care Portfolio* at page 92.

A closed non-competitive grant process will be used to allocate this funding. The grant will be administered by the Community Grants Hub in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and CGRPs.

Consistent with the CGRPs, the department will develop grant opportunity guidelines and will have regard to the nine key principles in administering the grant. Notification for the grant and the grant opportunity guidelines will be published on GrantConnect website (www.grants.gov.au) in accordance with the CGRPs.

The grant opportunity will require Dementia Australia to submit an application for the grant, detailing how the grant requirements will be addressed in delivery of the funded activities. Assessment of the grant application will be undertaken by the department's Grants Branch, with assistance from officers from the Market and Workforce Division's Dementia Diversity and Design Branch, as the responsible policy owners. The assessment will be undertaken by an Assessment Committee comprised of Australian Public Service officers and/or EL 1 staff, and a Committee Chair at the EL2 level. All individuals involved in the assessment process must comply with the requirements of an agreed assessment plan, including probity requirements and conflict of interest declarations.

The department has received agreement from the Minister for Aged Care and the Minister for Sport, that a delegate of the Secretary of the department, specifically the SES Band 2, Market and Workforce Division, will be the decision maker for the grants process responsible for approving the provision of Commonwealth funding to Dementia Australia for this proposed activity.

The decision maker will consider whether the Assessment Committee’s recommendation, as outlined in their assessment report, will make an efficient, effective, ethical, and economical use of resources, and whether any specific requirements will need to be imposed as a condition of funding. The delegate has the appropriate experience in overseeing the development, assessment, delivery and evaluation of various grant programs and has the relevant knowledge to perform the function, as the SES Band 2 directly responsible for this program and other dementia programs.

The provision of funds for the program is not considered suitable for independent merits review because the funding will be delivered through a closed non-competitive grant to Dementia Australia, as the only suitable organisation to facilitate the program. The decision would relate to the allocation of a finite resource, from which all potential claims for a share of the resource could not be met. The ARC has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.19 of the ARC guide).

The review and audit process undertaken by the ANAO 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 also be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department has undertaken broader consultation with people with a lived experience of younger onset dementia and has received feedback from this cohort regarding the importance and need for psychosocial supports, which will be incorporated into the program.

An evaluation of the program was undertaken by an external evaluator in 2024. As part of the evaluation, consultation was undertaken with people living with dementia, their carers and health professionals about the appropriateness of the suite of supports offered under the program and the program’s delivery by Dementia Australia. The department is working with Dementia Australia to improve areas that were identified as requiring more specific attention, and Dementia Australia has begun to implement changes to the program to address these matters.

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.

International Covenant on Economic, Social and Cultural Rights

Australia is a party to the *International Covenant on Economic, Social and Cultural Rights* [1976] ATS 5. Article 2 provides the general obligation of States Parties to undertake steps, including the adoption of legislative measures, to achieve the full realisation of the rights recognised in the Covenant. Article 12(2)(c) requires achievement of the full realization of the ‘prevention, treatment and control of epidemic, endemic, occupational and other diseases’ and Article 12(2)(d) requires ‘the creation of conditions which would assure to all medical service and medical attention in the event of sickness’.

The program enables persons living with dementia to stay connected with dementia services as well as benefit from medical attention and support that is underpinned by a greater awareness and understanding of the condition.

Convention on the Rights of Persons with Disabilities

Australia is a party to the *Convention on the Rights of Persons with Disabilities* [2008] ATS 12 (CRPD). States Parties to the CRPD are required to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability (Article 4(1)). Article 1 provides that ‘[p]ersons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’.

Article 19 recognises the right of all persons with disabilities to live in the community and Article 26(1) recognises that States Parties take effective and appropriate measures to enable persons with disabilities to attain and maintain maximum independence.

The program facilitates a greater awareness and understanding of the condition of dementia in addition to providing early intervention and connecting persons with dementia with access supports. These activities increase the ability for persons with dementia to participate in the community and ensure greater inclusion.

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 (Health and Aged Care Measures No. 1) Regulations 2025

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 (Health and Aged Care Measures No. 1) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for Government spending on activities to be administered by the Department of Health and Aged Care.

This disallowable legislative instrument adds the following item to Part 3 of Schedule 1AB:

- table item 86 ‘Grant to the Alcohol and Drug Foundation Incorporated’;

and adds the following items to Part 4 of Schedule 1AB:

- table item 710 ‘Disaster Health Care Assistance Scheme’;
- table item 711 ‘General Practice Incentive Fund Thin Markets’;
- table item 712 ‘Intravenous Fluids Program’; and
- table item 713 ‘National Dementia Support Program’.

Table item 86 – Grant to the Alcohol and Drug Foundation Incorporated

Table item 86 establishes legislative authority for the Government to provide a grant to the Alcohol and Drug Foundation Incorporated (ADF) to support the delivery of the Good Sports Vaping Prevention Program.

The grant will raise awareness with young people about the health harms of vaping and empower young people to not commence vaping and encourage those who are vaping to quit, thereby reducing and preventing nicotine addiction in Australia.

Grant funding of \$1.0 million will be provided to the ADF for a period of three years commencing in 2024-25 to support the following activities:

- roll out a national training program to upskill community organisations (coaches and leaders) to address vaping harms for young people they support;
- provide co-designed and evidence-based training and resources to equip community organisations support young people; and
- provide interventions that are accessible to young Australians, in a variety of contexts.

Human rights implications

Table item 86 engages with the right to health – Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Right to health

Article 2(1) of the ICESCR requires each State Party to ‘take steps... to the maximum of its available resources, with a view to achieving progressively the full realization’ of the rights recognised in the ICESCR ‘by all appropriate means, including particularly the adoption of legislative measures’.

Article 12(1) of the ICESCR recognises the ‘right of everyone to the enjoyment of the highest attainable standard of physical and mental health’.

Article 12(2) of the ICESCR requires the State Party to take steps necessary for ‘the prevention, treatment and control of epidemic, endemic, occupational and other diseases’.

People who vape, particularly young people, will be affected by the grant program as they are the key audience for the delivery of the Good Sports Vaping Prevention Program. Community organisations (including coaches and leaders) will also be impacted as they will be upskilled to provide targeted education. All Australians will benefit from the reduced burden on the health system as a result of reduced smoking and vaping prevalence.

The United Nations Committee on Economic, Social and Cultural Rights (the Committee) states that health is a ‘fundamental human right indispensable for the exercise of other human rights’ and that the right to health is not to be understood as the right to be healthy, but includes the right to a system of health protection which provides equal opportunity for people to enjoy the highest attainable level of health.

Table item 86 will take positive steps to promote the right to health by ensuring that young people are educated on the health harms of vaping and further will empower young people to not commence vaping. This will reduce and prevent nicotine addiction in Australia.

The prevalence of e-cigarette use is rapidly increasing, particularly among young people, leading to nicotine addiction for a cohort that would otherwise have a low risk of tobacco use. Further, young people who vape are more likely to smoke cigarettes, causing further harm.

All e-cigarette users are exposed to chemicals and toxins that have the potential to cause adverse health effects. Importantly, there is evidence that e-cigarettes are a gateway to smoking by young people. Research published in September 2024, from the Generation Vape study found that Australian adolescents who have vaped are five times more likely to then try

smoking. Further, 12-year-olds who had vaped were 29 times more likely to go on to try smoking than 12-year-olds who had not vaped.

These findings underline the critical need to implement public health initiatives, such as this grant program, to reduce vaping/e-cigarette use and prevent its uptake among adolescents in Australia.

Table item 86 promotes the right to health by aiming to contribute to efforts to reduce and prevent vaping and thereby reduce the significant health and economic effects of tobacco and e-cigarette usage.

Table item 86 compatible with human rights because it promotes the protection of human rights through the outcomes achieved.

Table item 710 – Disaster Health Care Assistance Scheme

Table item 710 establishes legislative authority for government spending on the Disaster Health Care Assistance Scheme (the scheme).

The scheme provides lifetime financial assistance to eligible persons with out-of-pocket health care expenses for illness or injury incurred as a result of a specified act of international terrorism or a natural disaster, and covers the following specified events:

- Bali bombings in 2002 and 2005;
- Asian (Indian Ocean) tsunami in 2004;
- London bombings in 2005; and
- Egypt bombings in 2006.

The financial assistance includes expenses that are not otherwise covered by Medicare, other government programs or private health or travel insurance. The health care must be as a direct result of the event.

The scheme includes funding of \$0.7 million in 2024-25 to provide eligible persons with assistance for the management or treatment of health care provided in Australia as a direct result of the event for the following:

- physical injuries for Australian residents who were directly exposed;
- counselling, psychological and psychiatric services; and
- other reasonably required health care services for ill health or injury which have arisen as a result of an incident.

Human rights implications

Table item 710 engages the following rights:

- the right to health – Article 12 of the ICESCR, read with Article 2; and
- the right to social security – Article 9 of the ICESCR.

Right to health

Article 2(1) of the ICESCR requires each State Party to ‘take steps... to the maximum of its available resources, with a view to achieving progressively the full realization’ of the rights recognised in the ICESCR ‘by all appropriate means, including particularly the adoption of legislative measures’.

The right to the enjoyment of the highest attainable standard of physical and mental health is contained in Article 12(1) of the ICESCR. The Committee has stated that the right to health is not a right for each individual to be healthy, but is a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

The Committee reports that the ‘highest attainable standard of health’ takes into account the country’s available resources. This right may be understood as 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.

Table item 710 promotes the right to health by aiming to contribute to the health care outcomes of participants.

Right to social security

The right to social security is contained in Article 9 of the ICESCR. It requires that a country must, within its maximum available resources, ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care. Countries are obliged to demonstrate that every effort has been made to use all resources that are at their disposal in an effort to satisfy, as a matter of priority, this minimum obligation.

The Committee reports that there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR. In this context, a retrogressive measure would be one taken without adequate justification that had the effect of reducing existing levels of social security benefits, or of denying benefits to persons or groups previously entitled to them. However, it is legitimate for a government to re-direct its limited resources in ways that it considers to be more effective at meeting the general health needs of all society, particularly the needs of the more disadvantaged members of society.

Table item 710 maintains the right to social security by ensuring access to publicly subsidised medical services are clinically appropriate and cost-effective for participants, and by reimbursing individuals reasonable out-of-pocket health care costs.

Table item 711 – General Practice Incentive Fund Thin Markets

Table item 711 establishes legislative authority for government spending on the General Practice Incentive Fund Thin Markets program (the program).

The program will improve the provision of, and access to, primary care in areas where there is limited or unstable access to health, medical, care and support service systems (thin markets).

The program includes \$34.8 million for a range of activities that will be delivered over two years from 2024-25, including:

- to implement a rapid response where the health service market in a location has failed, or are at imminent risk of failure;
- development of a Service System Recovery Plan (SSRP) which is developed in collaboration with, and agreed by, local stakeholders, usually conducted within a 3-month period; and
- implementation and evaluation of a SSRP, conducted over a period of up to 30 months.

Human rights implications

Table item 711 engages the following rights:

- the right to health – Article 12 of the ICESCR, read with Article 2; and
- the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability – Articles 8 and 25 of the *Convention on the Rights of Persons with Disabilities* (CRPD), read with Article 4.

Right to health

Article 2 of the ICESCR requires 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 ICESCR, by all appropriate means.

Article 12(1) of the ICESCR recognises the ‘right of everyone to the enjoyment of the highest attainable standard of physical and mental health’.

Article 12(2)(d) of the ICESCR requires the State Party to take steps necessary for ‘the creation of conditions which would assure to all medical service and medical attention in the event of sickness’.

The program will support the right to health by improving access to primary health care in regions where market has failed or is at imminent risk of failure.

Right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability

Article 4 of the CRPD provides that States Parties undertake to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.

Article 8(1)(b) of the CRPD requires States Parties to undertake and adopt immediate, effective and appropriate measures to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.

Article 25 of the CRPD requires that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. This includes:

- providing persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- providing those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- providing these health services as close as possible to people's own communities, including in rural areas;
- requiring health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care; and
- preventing discriminatory denial of health care or health services or food and fluids on the basis of disability.

The program is designed to enhance care services across Australia, including through supporting, attracting and growing a skilled workforce. These services are likely to be delivered to persons with disabilities. Growing Australia's care workforce will help ensure the ongoing sustainability of the social care sector into the future, of which persons with disabilities benefit.

Table item 711 is compatible with human rights because it promotes and protects human rights through the outcomes achieved.

Table item 712 – Intravenous Fluids Program'

Table item 712 establishes legislative authority for government spending on the Intravenous Fluids Program (the program).

The program will improve Australia's supply chain resilience to address intravenous (IV) fluid shortages by increasing access to high-quality IV fluids and establishing a coordinated approach for supplying and using IV fluids to support better health outcomes for all Australians. Funding will be provided to support eligible activities under the program including:

- expansion of onshore IV fluids production facilities;
- clinical review of IV fluids and development of clinical guidelines; and
- establishing a panel of suppliers for IV fluids.

Some of the financial implications of the program are not for publication due to commercial-in-confidence sensitivities. It is the Government's intention to disclose the funding allocated for the program once the consultation process is completed and contractual agreements are finalised.

Human rights implications

Table item 712 engages with the right to health – Article 12 of the ICESCR, read with Article 2.

Right to health

Article 2(1) of the ICESCR requires each State Party to ‘take steps... to the maximum of its available resources, with a view to achieving progressively the full realization’ of the rights recognised in the ICESCR ‘by all appropriate means, including particularly the adoption of legislative measures’.

Article 12(1) of the ICESCR recognises the ‘right of everyone to the enjoyment of the highest attainable standard of physical and mental health’.

Article 12(2)(c) of the ICESCR requires each State Party to take steps necessary for ‘the prevention, treatment and control of epidemic, endemic, occupational and other diseases’.

Article 12(2)(d) of the ICESCR requires each State Party to take steps necessary for ‘the creation of conditions which would assure to all medical service and medical attention in the event of sickness’.

The program will involve expanding the domestic production of IV fluids to ensure sufficient supply, establishing and implementing clinical guidelines to ensure best practice use of IV fluids, and establishing a panel of suppliers to secure volumes and prices for IV fluids.

The program activities will be reasonably appropriate and adapted in giving effect to Australia’s obligations under Articles 12(2)(c) and 12(2)(d) of the ICESCR. In particular, the program activities will promote the availability or appropriate use of a medical supply that is necessary for the treatment of certain diseases, and the delivery of certain medical services and forms of medical attention.

Table item 712 is compatible with human rights because it promotes and protects human rights through the outcomes achieved.

Table item 713 – National Dementia Support Program

Table item 713 establishes legislative authority for government spending on the National Dementia Support Program (the program).

The program provides a comprehensive set of services and supports for people living with dementia and their carers and support networks. It will assist people living with dementia and their carers to improve their quality of life and help carers provide care for as long as possible.

The program includes \$107.7 million over three years from 2025-26 to support a range of activities, to help people with dementia make informed decisions about their health, manage after developing dementia and improve dementia literacy and service navigation skills so they are better equipped to live well with dementia, and to help carers provide better care for people with dementia.

Human rights implications

Table item 713 engages the following rights:

- the right to health – Article 12 of the ICESCR, read with Article 2; and
- the rights of people with disability – Articles 19 and 26 of the CRPD, read with Article 4.

Right to health

Article 2(1) of the ICESCR requires each State Party to ‘take steps... to the maximum of its available resources, with a view to achieving progressively the full realization’ of the rights recognised in the ICESCR ‘by all appropriate means, including particularly the adoption of legislative measures’.

Article 12(1) of the ICESCR recognises the ‘right of everyone to the enjoyment of the highest attainable standard of physical and mental health’. Steps to be taken by States Parties to achieve this right “shall include those necessary for... the prevention, treatment and control of epidemic, endemic, occupational and other diseases”(Article 12(2)(c)) and the “the creation of conditions which would assure to all medical service and medical attention in the event of sickness” (Article 12(2)(d)).

Under the expanded program the provision of post-diagnostic direct support activities will be extended to people with younger onset dementia. This will address Article 12(2)(c) by contributing to the expansion of the treatment and control of dementia, which is considered to be an “epidemic, endemic, occupational or other disease”. Activities to raise awareness of and reduce stigma around dementia will also address Article 12(2)(c) by contributing to the prevention of dementia, particularly where such activities communicate the dangers of modifiable risk factors for dementia and encourage appropriate lifestyle changes.

Efforts to raise awareness of dementia, including younger onset dementia, and the supports available under the program amongst health professionals will also address Article 12(2)(d) by empowering health professionals to provide more timely diagnoses of dementia or referrals to specialist services for timely diagnosis, thus helping to “create conditions which would assure to all medical service and medical attention in the event of sickness”.

Rights of people with disability

Article 4(1) of the CRPD requires that each State Party undertake to ‘ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability’.

Article 19(b) of the CRPD requires that each State Party ‘recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:... persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community’.

Article 26(1) of the CRPD requires that each State Party ‘take effective and appropriate measures, including through peer support, 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’.

The program will expand coverage to people with younger onset dementia, a progressive and degenerative condition, to ensure that they are able to access supports to help them enhance and maintain their mental and physical health for as long as possible.

Additionally, elements of the program will help to reduce stigma and allow people with dementia to remain engaged in their communities. The expanded program will address Article 4(1) of the CRPD by extending to people aged under 65 the full range of supports currently only available to people aged over 65. It will address Article 19(b) of the CRPD both by ensuring access to “community support services” is available to everyone with dementia and by helping to reduce community stigma towards people with dementia and empower people with dementia to remain engaged with their community, particularly through activities focused on building dementia friendly communities.

Activities delivered across the program, including direct post-diagnostic support and activities focused on dementia friendly communities, address Article 26(1) of the CRPD by providing measures to support continued independence and social ability and “full inclusion and participation in all aspects of life” by persons with disabilities, in this case dementia including younger onset dementia.

Table item 713 is compatible with human rights because it promotes and protects human rights through the outcomes achieved for Australians living with dementia, including people with younger onset dementia.

Conclusion

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

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