

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Veterans' Affairs Measures No. 1) Regulations 2022*

The *Financial Framework (Supplementary Powers) Act 1997* (the FF(SP) Act) confers on the Commonwealth, in certain circumstances, powers to make arrangements under which money can be spent; or to make grants of financial assistance; and to form, or otherwise be involved in, companies. The arrangements, grants, programs and companies (or classes of arrangements or grants in relation to which the powers are conferred) are specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations). The powers in the FF(SP) Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The Principal Regulations are exempt from sunseting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunseting regime under the *Legislation Act 2003*, this would generate uncertainty about the continuing operation of existing contracts and funding agreements between the Commonwealth and third parties (particularly those extending beyond 10 years), as well as the Commonwealth's legislative authority to continue making, varying or administering arrangements, grants and programs.

Additionally, the Principal Regulations authorise a number of activities that form part of intergovernmental schemes. It would not be appropriate for the Commonwealth to unilaterally sunset an instrument that provides authority for Commonwealth funding for activities that are underpinned by an intergovernmental arrangement. To ensure that the Principal Regulations continue to reflect government priorities and remain up to date, the Principal Regulations are subject to periodic review to identify and repeal items that are redundant or no longer required.

Section 32B of the FF(SP) Act authorises the Commonwealth to make, vary and administer arrangements and grants specified in the Principal Regulations. Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programs specified in the Principal Regulations. Section 32D of the FF(SP) Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the Act. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Section 65 of the FF(SP) Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2022* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Veteran Wellbeing program (the program), which aims to support the needs of veterans and their families as they transition out of the Australian Defence Force and establish themselves into civilian life by funding projects that support a healthy lifestyle, reduce social isolation and improve access to community care services. The program is administered by the Department of Veterans' Affairs.

The program consolidates two long standing veteran programs: the Veteran and Community Grants Program (V&CG Program) and the Supporting Younger Veterans Program (SYV Program).

The V&CG Program currently provides grants to organisations for projects and activities that support safe, accessible environments for veterans and their families to enable social connection and positive engagement to improve wellbeing.

The SYV Program currently provides funding to organisations to provide support to veterans that include undertaking activities and projects to facilitate the health and social wellbeing of those veterans, and assisting those veterans in their transition to civilian life.

The amalgamation would provide a more flexible grants model to support the current and future needs of the veteran community, benefiting applicants through a more streamlined and simpler process for seeking grant funding, improving administration and processing timeframes and reducing costs associated with administering two separate grant programs. Existing funding for the V&CG Program and SYV Program will be available under the program from 2022-23.

The program will also provide additional funding of \$10 million per year for 2021-22 and 2022-23 for innovative and longer-term projects that improve the wellbeing of the veteran community.

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 the instrument is registered on the Federal Register of Legislation.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of Veterans' Affairs.

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

Details of the *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2022*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2022*.

Section 2 – Commencement

This section provides that the Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulations are made under the *Financial Framework (Supplementary Powers) Act 1997*.

Section 4 – Schedules

This section provides that the *Financial Framework (Supplementary Powers) Regulations 1997* are amended as set out in the Schedule to the Regulations.

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

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

This item adds a new table item to Part 4 of Schedule 1AB to establish legislative authority for government spending on an activity that will be administered by the Department of Veterans' Affairs (the department).

New **table item 548** establishes legislative authority for government spending on the Veteran Wellbeing program (the program), which aims to support the needs of veterans and their families as they transition out of the Australian Defence Force and establish themselves into civilian life by funding projects that support a healthy lifestyle, reduce social isolation and improve access to community care services.

The program consolidates two long standing veteran programs: the Veteran and Community Grants Program (V&CG Program) and the Supporting Younger Veterans Program (SYV Program). Grants funding of approximately \$3.5 million annually is currently available to organisations to deliver two streams of grants: small grants (up to a maximum of \$50,000) and large grants (from \$50,000 up to a maximum of \$150,000) focusing on the improvement of mental health and wellbeing and reducing social isolation in the veteran community. These grants will be provided for a period of one year from provision of the funding.

The amalgamation of these programs will provide a more flexible grants model to support the current and future needs of the veteran community, benefiting applicants through a more streamlined and simpler process for seeking grant funding, improving administration and processing timeframes and reducing costs associated with administering two separate grant programs.

The V&CG Program currently provides grants to organisations for projects and activities that support safe, accessible environments for veterans and their families to enable social connection and positive engagement to improve wellbeing. The grants support small-scale non-capital infrastructure projects and activities including (but not limited to):

- improvements to support safe and accessible environments, for example purchase of a defibrillator, repair/replace heating and cooling, repair/replace electrical wiring, building modifications (ramps, wider doorways, etc.) to improve accessibility;
- purchase of minor tools and equipment, for example woodworking/art/craft tools, tools for Men's Sheds;
- activities to increase social connectedness and reduce social isolation, for example classes to learn a new skill or hobby, online book club;
- promoting and enhancing healthy lifestyles, particularly physical activity and mental wellbeing, for example exercise classes, yoga or meditation sessions, cooking classes, development of a community garden;
- building repairs and maintenance, for example small-scale kitchen refurbishments; and
- addressing gaps in local services for the veteran community consistent with the program guidelines.

The SYV Program currently provides funding to organisations to provide support to veterans that include undertaking activities and projects to facilitate the health and social wellbeing of those veterans, and assisting those veterans in their transition to civilian life. Smaller scale community level projects that support the younger veterans' community are encouraged and include (but not limited to):

- providing opportunities where younger veterans can engage with each other, and with their local community, and learn new skills;
- social inclusion and connectedness activities, for example sporting or recreational projects for younger veterans and their families;
- local job readiness projects, especially those that focus on social or cultural preparation to assist younger veterans to transition into civilian life;
- mentoring or other support for veterans to assist with their transition to civilian employment;
- local projects that promote good mental health and wellbeing amongst the younger veteran community;
- online activities that address stigma and raise awareness of mental health issues faced by younger veterans;
- collaboration between ex-service organisations and homelessness services to address and reduce veteran homelessness in a specific geographic location;
- local projects that support the introduction and development of ongoing life skills in a post-service context to support effective transition; and
- partnering with local community service providers to improve their understanding of the younger veteran experience, their needs, and referral pathways to veteran services.

On 1 February 2022, the Minister for Veterans' Affairs, the Hon Andrew Gee MP, announced the Government is investing \$27 million to help fund bigger, better and more innovative programs to support the wellbeing of current and former Australian Defence Force personnel and their families. The program will receive \$20 million over two years from 2021-22 to target larger and longer-term projects with funding of up to \$1.5 million. The media release is available at <https://minister.dva.gov.au/news-and-media/27-million-new-veteran-wellbeing-grants>.

The amalgamation of the existing programs and additional funding and scope respond, in part, to recommendations made in Chapter 12 of the Productivity Commission's report *A Better Way to Support Veterans*, that the department should reframe its support for organisations that provide services for veterans and develop a funding framework for commissioning of wellbeing supports through veterans' and other organisations.

The program will align with the priorities of the *Veterans' Mental Health and Wellbeing Strategy and National Action Plan 2020-2023* ([Veteran Mental Health and Wellbeing Strategy and National Action Plan 2020-2023 \(dva.gov.au\)](https://www.dva.gov.au)) by focusing on funding projects that enhance the wellbeing of veterans and their families, including projects that potentially support a reduction in the suicide rate of veterans.

There will be a transitional period between the existing V&CG Program, SYV Program and the new program. Legislative authority under the table item 548 will not affect the validity of current rounds under the V&CG and SYV Programs. Grants already disbursed under the V&CG and SYV Programs will remain valid as there are no changes that limit the existing parameters or conditions of the grants.

The department will deliver the program under a targeted grants process in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* and the *Commonwealth Grants Rules and Guidelines 2017*.

The program will be administered by the Community Grants Hub within the Department of Social Services. Grant opportunity guidelines will be developed and information about the program will be available on the GrantConnect websites (www.grants.gov.au). Dates for applications to open and close will be nominated and applications will be assessed by the department against nominated selection criteria. Final decisions about grants will be made by the Minister for Veterans' Affairs, and a list of grant recipients will be published on GrantConnect.

Funding decisions made in connection with the program are not considered suitable for independent merits review, as they are decisions relating to the allocation of a finite resource from which all potential claims for a share of the resource cannot be met. In addition, these decisions relate to the provision of a one-off grant to a certain service provider over other service providers and any funding that has already been allocated would be affected if the original decision was overturned. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the guide, *What decisions should be subject to merit review?*).

The veteran community has been advised of the amalgamation of the V&CG and SYV grant programs and will be consulted through the Ex-service Organisation Round Table about the

specific activities and initiatives that will be funded under the new program. However, given the new program has similar objectives to the existing programs and will provide the same total funding to existing potential applicants, further consultation is not considered necessary.

Ongoing funding of \$3.5 million per annual for this item comes from Program 2.4: Veterans' Community Care and Support, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2021-22, Budget Related Paper No. 1.3B, Defence Portfolio (Department of Veterans' Affairs)* at page 47.

Additional funding of \$20 million over two years from 2021-22 will be included in the 2022-23 Budget. Funding will come from Program 2.4: Veterans' Community Care and Support, which is part of Outcome 2. Details are set out in the *Portfolio Additional Estimates Statements 2021-22, Defence Portfolio (Department of Veterans' Affairs)* at pages 16, 18 and 32.

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

Defence power

Section 51(vi) of the Constitution empowers the Parliament to make laws with respect to 'the naval and military defence' of the Commonwealth and States, and the 'control of the forces to execute and maintain the laws of the Commonwealth'.

The purpose of the grant program will be to support the needs of veterans and their families by funding projects that assist veterans' transition to civilian life and support a healthy lifestyle, reduce social isolation and improve access to community care services.

Statement of Compatibility with Human Rights

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

Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2022

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* (the FF(SP) Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the FF(SP) Regulations) and to make, vary and administer arrangements and grants for the purposes of programs specified in the Regulations. Schedule 1AA and Schedule 1AB to the FF(SP) Regulations specify the arrangements, grants and programs. The powers in the FF(SP) Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The *Financial Framework (Supplementary Powers) Amendment (Veterans' Affairs Measures No. 1) Regulations 2022* amend Schedule 1AB to the FF(SP) Regulations to establish legislative authority for Government spending on the Veteran Wellbeing Grants program (the program), which aims to support the needs of veterans and their families as they transition out of the Australian Defence Force and establish themselves into civilian life by funding projects that support a healthy lifestyle, reduce social isolation and improve access to community care services. The program is administered by the Department of Veterans' Affairs.

The program consolidates two long standing veteran programs: the Veteran and Community Grants Program (V&CG Program) and the Supporting Younger Veterans Program (SYV Program).

The V&CG Program currently provides grants to organisations for projects and activities that support safe, accessible environments for veterans and their families to enable social connection and positive engagement to improve wellbeing. The SYV Program currently provides funding to organisations to provide support to veterans that include undertaking activities and projects to facilitate the health and social wellbeing of those veterans, and assisting those veterans in their transition to civilian life.

The amalgamation would provide a more flexible grants model to support the current and future needs of the veteran community, benefiting applicants through a more streamlined and simpler process for seeking grant funding, improving administration and processing timeframes and reducing costs associated with administering two separate grant programs

The program will also provide funding of \$10 million per year for 2021-22 and 2022-23 for innovative and longer-term projects that improve the wellbeing of the veteran community.

Human rights implications

This disallowable legislative instrument engages the following right:

- the right to the highest standard of physical and mental health – Article 12 of the *International Covenant of Economic, Social and Cultural Rights* (ICESCR), read with Article 2, and Article 25 of the *Convention on the Rights of Persons with Disabilities* (CRPD), read with Article 4;
- the right to live, take part and be included in the community – Articles 19 and 26 of the CRPD; and
- the right to participation in cultural life, recreation, leisure and sport – Article 30 of the CRPD.

Right to the highest attainable standard of physical and mental health

Article 2 of the ICESCR provides that each State Party undertakes to take steps to the maximum of its available resources with a view to achieving progressively the full realisation of the rights recognised in the Covenant, by all appropriate means.

Article 4 of the CRPD requires States Parties to undertake to ensure and promote the full realisation of all human rights for those with a disability without discrimination.

Article 12(1) of the ICESCR promotes the right to the highest attainable standard of physical and mental health. Article 25 of the CRPD also states that “States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability”.

The Office of the United Nations High Commissioner for Human Rights and the World Health Organization (WHO) has stated that the right to health entails a right of access to a variety of public health and health care facilities, goods, services, programs and conditions necessary for the realisation of the highest attainable standard of health. The 1946 Constitution of the WHO defines health in its preamble as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity”.

The disallowable legislative instrument promotes the right to health as the program provides grants to organisations for the purpose of undertaking activities and projects that facilitate the health and wellbeing of veterans and their families. These includes projects to reduce social isolation and programs that focus on supporting the physical and/or mental health of veterans.

The program will provide funding to organisations that support people, including those with disabilities, achieve the health and wellbeing outcomes set out in the grant criteria.

Right to live, take part and be included in community

Article 19 of the CRPD requires States Parties to ‘recognise the equal right of all persons with disabilities to live in the community, with choices equal to others’ and to ‘facilitate full enjoyment by persons with disabilities and their full inclusion and participation in the community’.

Article 19(b) of the CRPD goes on to say, 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’.

This is complemented by Article 26(1) of the CRPD which requires States Parties to take effective and appropriate measures ‘to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life’.

The disallowable legislative instrument promotes this right as the program and its predecessor, the V&CG Program provide grants to programs run with the intent of preventing social isolation from the community. The program includes grants that deliver programs for persons with disabilities.

Right to participation in cultural life, recreation, leisure and sport

Article 30(5)(c) of the CRPD states that ‘with a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to ensure that persons with disabilities have access to sporting, recreational and tourism venues.

The grants under the program include grants that *may* be granted to organisations that support veterans with disabilities to have access to sporting, recreational and tourism venues with the aim of reducing social isolation and facilitating the health and wellbeing of those veterans.

Conclusion

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

**Senator the Hon Simon Birmingham
Minister for Finance**