**EXPLANATORY STATEMENT**

**Issued by the Authority of the Minister for Finance**

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment*

*(Industry, Science and Resources Measures No. 3) Regulations 2023*

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 sunsetting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunsetting 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 (Industry, Science and Resources Measures No. 3) Regulations 2023* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the extension of the National Centre for Asia Capability program (the program) also known as Asialink Business. The program is administered by the Department of Industry, Science and Resources.

The program enhances Australian business capabilities, through delivery of bespoke packages that build key skills for businesses to meaningfully engage in Asian markets. The program aligns with the Government’s priority to build economic resilience and secure Australia’s future in the South-East Asian region.

The policy objectives of the program include developing public awareness of Australian business opportunities in South-East Asia, equipping businesses with practical knowledge, capability and skills to engage in Asia, and supporting overall improved engagement with Asian markets.

Grant funding of $14.7 million will be provided to the University of Melbourne to support Asialink Business when its current grant agreement ends on 30 September 2023. Additional funding of $0.2 million is also provided for departmental expenses. It is anticipated that the extended program will operate for a further four years from October 2023.

Details of the Regulations are set out at Attachment A. A Statement of Compatibility with Human Rights is at Attachment B.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after registration on the Federal Register of Legislation.

**Consultation**

In accordance with section 17 of the *Legislation Act 2003*, consultation has been undertaken with the Department of Industry, Science and Resources.

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.

**Attachment A**

**Details of the *Financial Framework (Supplementary Powers) Amendment (Industry, Science and Resources Measures No. 3) Regulations 2023***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Industry, Science and Resources Measures No. 3) Regulations 2023*.

**Section 2 – Commencement**

This section provides that the Regulations commence on the day after registration on the Federal Register of Legislation.

**Section 3 – Authority**

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

**Section 4 – Schedules**

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

**Schedule 1 – Amendments**

***Financial Framework (Supplementary Powers) Regulations 1997***

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

This item adds a new table item to Part 4 of Schedule 1AB to establish legislative authority for government spending on an initiative administered by the Department of Industry, Science and Resources (the department).

New **table item 620** establishes legislative authority for government spending on the extended National Centre for Asia Capability program (the program) also known as Asialink Business.

Asialink Business, housed at the University of Melbourne, was established to support several objectives of the *Australia in the Asian Century White Paper (2012)*. The program was granted a total of $37.4 million in 2013-14 for the initial establishment of the centre, and the development and implementation of the program. Over the course of the program Asialink Business has had over 71,000 participants in courses, events, and forums, and over 27,000 people accessing their informational products. The current grant agreement for Asialink Business expires on 30 September 2023.

The Government will extend Asialink Business and provide additional grant funding of $14.9 million (including $0.2 million for departmental expenses) over four years from
2023-24 to continue its operation. The program will build and enhance Asia capability amongst Australian businesses, focusing on skills, knowledge and preparation for market entry. This will complement the Australian Government’s efforts to enhance economic engagement with Asia, and the Australian Government’s Australian Public Service (APS) reform agenda which seeks to improve Asia-Pacific literacy within the APS.

The objective of Asialink Business is to address a skills gap through developing capability within the Australian workforce to sustain operations in Asia-Pacific business contexts. Building this Asia literacy supports Australian businesses by enabling them to seize opportunities to invest and expand into growing markets in our region. It is expected the program will have impacts on the broader business community, increasing capacity to engage with these markets that have historically been under recognised.

Asialink Business offers open courses and products that build Asian literacy to government, academia, and the business community in Australia, supporting their engagement in foreign markets with confidence. The program is open to the broader community, with bespoke programs tailored for senior executives, including ASX 200 companies and small-to-medium enterprises, to improve the likelihood of long-term presence in and access to Asian markets. The long-term expected benefits of these engagements is higher economic returns from a large and diverse economic neighbour.

Asialink Business will achieve its objective through the development and delivery of programs and products to address market needs. Asialink Business will provide a range of services such as:

* Country Starter Packs which give an in-depth insight into the business environment of a specific market in Asia;
* the Asialink Leaders Program which is a comprehensive course providing young executive leaders with the competency and literacy to work within an Asian business context;
* the Asialink Business Academy offering foundational and advanced sector focussed programs; and
* bespoke courses or projects on sector specific interests (such as Fintech in Vietnam).

Asialink Business will draw on more than a decade of experience to deliver the continuing program into the next four years. The renewed program will respond to new priorities, such as those identified through other government policies, and adapt to changing sectoral and market priorities as part of their mandate.

It will leverage this experience, knowledge, and understanding of the Australian business ecosystem to expand its network reach and engage in partnerships of value. To support the growth and scaling of the program, the department will undertake efforts to build better systemic connections that building awareness of Asialink Business’ program suite within other federal, state, and territory government departments and agencies. This will help give a greater return on investment as a whole-of-government program.

Funding will be allocated through a one-off or ad hoc grant round, to which the University of Melbourne (Asialink Business) will be invited to apply. The grant will be administered 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 Business Grants Hub within the Department of Industry, Science and Resources (DISR) will be responsible for assessing the eligibility and administering the program.

After an application has been assessed as meritorious and successful, funding will be provided to the University of Melbourne (Asialink Business). The program delegate is the General Manager in the Portfolio Program Delivery Division, who is responsible for administering the funding arrangements of the program in DISR.

As this is a closed, non-competitive grant the program will not be subject to independent merits review on the basis that the funding decision involves the allocation of finite resources, and supports the implementation of policy decisions made by government about the delivery of the program. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.11 to 4.15 of the guide, *What decisions should be subject to merit review?*).

Information about the grant decision will be made available on the GrantConnect website (www.grants.gov.au).

Consultation on the program occurred across government departments, including the Department of Foreign Affairs and Trade as part of a consideration to support the Southeast Asia Economic Strategy, the Australian Trade and Investment Commission and the Department of Education to align with their programs. The policy and grants areas within the department responsible for the previous grant program were also consulted. External consultations were held with Asialink Business and University of Melbourne who were supportive of the continuation of the program.

This funding is an extension of the existing program, which has delivered on the intended policy outcomes and met program requirements since its commencement in 2013. Additional consultation with those likely affected by the decision was therefore not considered necessary.

Funding of $14.9 million for the program was included in the 2023-24 Budget under the measure ‘Australian Engagement in Southeast Asia’ for a period of four years commencing in 2023-24. Details are set out in *Budget 2023-24, Budget Measures, Budget Paper No. 2* at page 116.

Funding for this item will come from Program 1.1: Growing innovative and competitive businesses, industries and regions (a), which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2023-24, Budget Related Paper No. 1.11, Industry, Science and Resources Portfolio* at page 37.

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

*Trade and commerce power*

The trade and commerce power in section 51(i) of the Constitution empowers the Parliament to make laws with respect to trade and commerce with other countries, and among the States.

The program focuses on facilitating international trade between Asia and Australia by funding programs to Australian businesses to develop their capability in engaging with Asian markets.

**Attachment B**

**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 (Industry, Science and Resources Measures No. 3) Regulations 2023***

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 (Industry, Science and Resources Measures No. 3) Regulations 2023* (the Regulations) amend Schedule 1AB to the FF(SP) Regulations to establish legislative authority for government spending on the extension of the National Centre for Asia Capability program (the program) also known as Asialink Business. The program is administered by the Department of Industry, Science and Resources.

The objective of Asialink Business, which is housed in and delivered through the University of Melbourne, is to develop capability within the Australian workforce and support Australian businesses to invest and expand into markets in Australia’s region.

Through Asialink Business, the Government will provide grant funding of $14.7 million over four years from 2023-24 to address a skills gap in businesses to engage in Asian markets. The program will build and enhance capability for Asian markets amongst Australian businesses by focusing on skills, knowledge and preparation for market entry, assisting businesses to engage in the foreign markets with confidence and maintain a long-term presence in an Asian environment.

The long-term benefits of these engagements is higher economic returns from a large and diverse economic neighbour. This will complement the Australian Government’s efforts to enhance economic engagement with Asia, and the Australian Government’s Australian Public Service (APS) reform agenda which seeks to improve Asia-Pacific literacy within the APS.

It is intended that Asialink Business will achieve these objectives through the development and delivery of programs and products to address market needs. Asialink Business will provide a range of offerings, including key services such as:

* Country Starter Packs which give an in-depth insight into the business environment of a specific market in Asia;
* the Asialink Leaders Program which is a comprehensive course providing young executive leaders with the competency and literacy to work within an Asian business context;
* the Asialink Business Academy offering foundational and advanced sector-focussed programs; and
* bespoke courses or projects on sector specific-interests (such as Fintech in Vietnam).

**Human rights implications**

This disallowable legislative instrument does not engage any of the applicable human rights or freedoms.

**Conclusion**

This disallowable legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon Katy Gallagher**

**Minister for Finance**