

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2024

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

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

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

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

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

The *Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2024* (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 Home Affairs.

Funding will be provided for the:

- Modernised Multicultural Grants Program to support multicultural Australia and multicultural communities through the delivery of the Multicultural Grassroots Initiatives and Multicultural Peak Body grant programs (\$100.0 million over four years from 2024-25); and
- Protecting migrant workers—information and education package, to safeguard temporary migrant workers from workplace exploitation and enhance the integrity of Australia’s visa system (\$15.0 million over three years from 2024-25).

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 Home Affairs.

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 (Home Affairs Measures No. 4) Regulations 2024*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2024*.

Section 2 – Commencement

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

Section 3 – Authority

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

Section 4 – Schedules

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

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

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

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

This item adds two new table items to Part 4 of Schedule 1AB.

Table item 690 – Modernised Multicultural Grants Program

New **table item 690** establishes legislative authority for government spending on the Multicultural Grassroots Initiatives and Multicultural Peak Body grant programs under the Modernised Multicultural Grants Program (the program).

This program forms part of the response to the Multicultural Framework Review (MFR) which examines the state of Australia’s multicultural society, and recommends changes to laws, policies and institutional settings that build on the strengths of multiculturalism and enable it to respond to contemporary challenges. The review was led by a panel and supported by a reference group that included people with experience living in or supporting multicultural communities, along with key non-government stakeholders. In July 2024 the

former Minister for Immigration, Citizenship and Multicultural released a government response and an independent report on the MFR.

The program establishes an enduring, assessable and simplified grants program to support multicultural Australia through grant funding streams, including the Multicultural Grassroots Initiatives and the Multicultural Peak Body streams.

The program aims to facilitate the participation and inclusion of both newly arrived migrants and multicultural communities in Australia, build multicultural community sector capacity and develop local infrastructure in the multicultural community sector.

The grant streams strengthen the cohesion and prosperity of Australia's successful multicultural society by:

- encouraging the social and economic participation of migrants by developing their skills and cultural competencies to integrate into Australian social, economic and civic life, and build community resilience;
- promoting and encouraging the uptake of Australian values and liberal democracy and highlighting the value of Australian citizenship;
- promoting a greater understanding and acceptance of Australia's inclusive national identity and multicultural and multi-faith diversity; and
- addressing issues within Australian communities that show potential for, or early signs of, low social integration.

Under the Multicultural Grassroots Initiatives, grassroots multicultural organisations will engage in capacity building activities, including festivals, celebrations, small amenity upgrades and community programs.

Organisations will be able to apply for up to \$100,000, over two years. This stream will align with the Australian Government's commitment to support smaller, more diverse organisations with strong local links. It will focus on minimising red tape and maximising accessibility and ease of application for emerging multicultural community groups. Funded organisations will be supported by the department and relevant peak bodies to provide consistent financial and performance reporting. This support will prepare organisations to apply for and undertake future grants opportunities and projects.

Under the Multicultural Peak Body stream, peak bodies will engage in activities directed to strengthening Australia's multicultural capacity through:

- presenting the views of the multicultural community they represent to the Government;
- promoting inclusive and respectful communities;
- strengthening public understanding of Australian values and civic responsibilities;
- developing and maintaining strong relationships and consulting regularly with key multicultural community groups;
- undertaking agreed consultation, research and development projects (as directed by the department) that aim to strengthen public understanding of Australian values and civic responsibilities; and
- contributing to and promoting the value of immigration, multiculturalism and Australian citizenship.

Multicultural Peak bodies will apply for ongoing (four years) funding of approximately \$400,000 per year, via an open competitive grant round. Peak bodies may include organisations that service particular subsets of the multicultural population (for example, multicultural people with a disability and national peak bodies).

Funding amount and arrangements, merits review and consultation

The Multicultural Grassroots Initiatives and Multicultural Peak Body grants programs are sub-components of the Modernised Multicultural Grants Program package. Funding of \$100.0 million over four years from 2024-25 will be included in the 2024-25 Mid-year Economic and Fiscal Outlook and the Portfolio Additional Estimates Statements for the Home Affairs Portfolio. Funding will come from Program 2.5: Multicultural Affairs and Citizenship, which is part of Outcome 2.

The streams under the program will be administered through grant programs. The department has engaged the Community Grants Hub within the Department of Social Services to administer the grants.

All grant programs will be administered in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013*, the *Public Governance, Performance and Accountability Rule 2014* and the *Commonwealth Grant Rules and Principles 2024* (GGRPs).

Consistent with the CGRPs, the department developed grant opportunity guidelines and will have regard to the nine key principles in administering the grants program. All grant opportunity guidelines under the program will be published on GrantsConnect (www.grants.gov.au) in accordance with the CGRPs.

Open and competitive grant selection processes will be used to ensure value for money is achieved.

Assessment will be undertaken by either the department or the Community Grants Hub, depending on the particular grant opportunity. Selection Advisory Panels will be convened to review applications and assessment outcomes and make final recommendations to the decision maker on which applications to approve for a grant.

The Selection Advisory Panels will be established by the department and may include a mix of employees of the department, experts from the sector, and other Commonwealth officers with relevant specialist expertise. The department may ask external experts/advisors to inform the assessment process. Any expert/advisor who is not a Commonwealth official will be required to perform their duties in accordance with the CGRPs.

Either the Minister for Immigration and Multicultural Affairs or the Assistant Minister for Citizenship and Multicultural Affairs will be the final decision maker to consider, approve and release grant opportunity guidelines for all grants opportunities under this program including approval of the grants, grant funding amounts to be awarded and the terms and conditions of the grants. Information about the grant will be made available on the GrantConnect website (www.grants.gov.au).

Independent merits review of decisions made in connection with the grants program would not be considered appropriate 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 Administrative Review Council (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 guide, *What decisions should be subject to merit review?* (ARC guide)).

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

The program is informed by consultations undertaken as part of the Multicultural Framework Review. The Review Panel heard from a host of diverse community and First Nations organisations, all tiers of government, and more than a thousand ordinary Australians. In the Review Panel's report over 796 submissions were analysed, the panel consulted over 1,430 individuals and 750 organisations to assess the health of Australia's multicultural society.

Consultations in relation to both streams have been held with relevant Commonwealth departments, state and territory government departments and peak bodies.

Meaningful and effective consultation with stakeholders, including Commonwealth departments, state and territory governments, and peak bodies is a critical component during the design of both streams. To date, these consultations have been received with positivity by all participants. As a result, designs will align closely with existing Commonwealth and state/territory programs, and the department is ensuring that key information about services and needs can be shared between stakeholders, allowing for better shared outcomes.

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 external affairs powers (section 51(xxix)); and
- the express incidental power and the executive power (section 51(xxxix) and section 61), including the nationhood aspect.

External affairs power

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

Australia has obligations relating to the *International Convention on the Elimination of all Forms of Racial Discrimination* [1975] ATS 40 (CERD), in particular Articles 2(1)(d) and 2(2).

Article 2(1)(d) of the CERD requires Australia to prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organisation.

Article 2(2) of the CERD requires Australia, when the circumstances so warrant, to take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 7 of the CERD requires Australia to undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the *Charter of the United Nations*, the *Universal Declaration of Human Rights*, the *United Nations Declaration on the Elimination of All Forms of Racial Discrimination*, and the CERD.

The program involves expenditure to promote multiculturalism and social cohesion and combat racial prejudices.

Executive power and express incidental power, including the nationhood aspect

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

The program objectives relate to the promotion of social cohesion and the tolerance of Australia's multicultural communities, on a national scale. The program seeks to advance Australia as a multicultural nation.

Table item 691 – Protecting migrant workers—information and education package

New **table item 691** establishes legislative authority for government spending on the Protecting migrant workers—information and education package (the program).

The program will design an information and education package and support trusted third parties to empower temporary migrant workers through provision of accurate information about workplace safeguards, protections and compliance measures related to migration rules. This will also empower migrant women, who are over-represented in insecure work, to report allegations of worker exploitation without fear of reprisals.

The program supports a key objective of the Government's *Migration Strategy 2023* by combatting migrant worker exploitation.

On 14 May 2024, the Hon Clare O'Neil MP (then Minister for Home Affairs) with the Hon Andrew Giles MP (then Minister for Immigration, Citizenship and Multicultural Affairs) announced funding of \$15.0 million for the program.

The program's objective is to better address migrant worker exploitation and enhance the integrity of Australia's visa system by:

- designing information and educational materials on migrant worker rights, protections, and obligations and migration compliance measures;
- disseminating these materials to temporary migrant workers and their employers; and
- supporting non-government organisations to assist temporary migrant workers and their employers in relation to migrant worker rights and protections.

The program will bolster implementation of the *Migration Amendment (Strengthening Employer Compliance) Act 2024* which came into effect in July 2024 and two associated pilots: strengthening reporting protections, and workplace justice visas for temporary migrants who experience exploitation in the workplace.

The program consists of two components: Information and Education and Capability Building.

The Information and Education component will be informed by behavioural insight research to be conducted by a market research body. It will clarify perceptions, mindsets and barriers within multicultural communities to reporting exploitation and consider the most effective ways to disseminate information within these communities. Using an intersectional approach, this research will also examine temporary migrant workers' awareness and understanding of protection measures available to them. The research will drive development of an information strategy to engage other agencies and third parties to develop and deliver educational material for both temporary migrant workers and employees. The department is currently undertaking a competitive procurement process to select the research body, utilising an existing Commonwealth-approved research and evaluation services panel.

The Capability Building component, to be delivered via a grant programs, will establish a capability in each state and territory to provide financial aid to third parties (community groups) to enable them to develop and deliver educational material approved by the Commonwealth. The behavioural research will inform the type, scope and definition of third parties, which will include organisations that are trusted by temporary migrants and have experience delivering services to temporary migrants and culturally and linguistically diverse communities.

Third parties with reach and experience of supporting the diverse needs of temporary migrant women will be specifically considered. The capability building of third parties will focus on current portfolio initiatives which address workplace exploitation of temporary migrant workers. The department will partner with the Commonwealth Grants Hub to administer the grants process, thereby ensuring accountability and transparency for grant recipients.

The behavioural insight research will focus on culturally and linguistically diverse communities using a gender and culturally sensitive approach to identify key behaviours, actors, drivers and barriers to effective education and communication to prevent workplace exploitation and inform the scope of the capability building component.

This will include:

- defining potential target audiences and how to reach the target audience effectively;
- measuring awareness levels and education gaps among those audiences about what migrant worker exploitation is, new migrant worker exploitation laws, stronger reporting protections and reporting channels;
- identifying how affected communities can better respond to different communications methods/materials;
- informing the type, scope and definition of third parties that are trusted by temporary migrants and have experience in delivering services to temporary migrants and culturally and linguistically diverse communities;
- identifying factors that underpin a reluctance to report exploitation among temporary migrant workers and effective means to address this;
- recommending the most effective messaging for target audiences to encourage reporting, including the most effective communication approaches and channels; and
- recommending how to monitor and evaluate the effectiveness of education initiatives on workplace protections and safeguards, including how to effectively engage with different agencies and third parties to better educate temporary migrant workers and inform employers.

Funding amount and arrangements, merits review and consultation

Funding of \$15.0 million for the program was included in the 2024-25 Budget under the measure ‘Migration System Reforms’ for a period of three years commencing in 2024-25. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 136.

Funding for this item will come from Program 2.1: Migration, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.10, Home Affairs Portfolio* at page 44.

The department will deliver the program under a suite of procurement and grant processes in accordance with applicable legislative requirements, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Public Governance, Performance and Accountability Rule 2024* (PGPA Rule) and the department’s Accountable Authority Instructions.

The department will procure a number of services to deliver the behavioural market research in accordance with applicable legislative requirements under the PGPA Act, the *Commonwealth Procurement Rules* (CPRs) and the department’s Accountable Authority Instructions.

A range of procurement methods may be used such as open and limited tenders or procurements under existing arrangements. The selection of which procurement method to use will depend on the activity under the behavioural market research. The department will use the Research Evaluation Services panel (SON3352211) of the Department of Employment and Workplace Relations (DEWR). The procurement method will be a (request

for tender) RFQ process approaching selected research vendors on the DEWR Research Evaluation Services panel.

A delegate of the Secretary of the department under the *Financial Framework (Supplementary Powers) Act 1997* (FFSP Act) will be responsible for final spending decisions on Commonwealth funding. The delegate, at the Senior Executive Service (SES) level will be responsible for the management of the activity and will have the appropriate skills and experience.

The department will provide an opportunity for market research tenderers to make complaints if they wish, and to receive feedback. These complaints and inquiries can be made at any time during the procurement process, and will be handled in accordance with probity requirements. Information about the tender and the resultant contracts will be made available on AusTender (www.tenders.gov.au) once the contract is signed. Procurement decisions will be based on value for money, including capability and capacity to deliver, and price and risk considerations.

Under the Capability Building component, the department will engage with both the Community Grants Hub (part of the Department of Social Services) and Business Grants Hub (part of the Department of Industry, Science and Resources) to seek quotes for service delivery and optimise the grant design process. After assessing the quotes received from two respective Grants Hubs, the department will select which Grants Hub is the most appropriate to partner with to administer the grants process, thereby ensuring accountability and transparency for grant recipients. The department will, with the assistance of the selected Grants Hub, determine modalities for administering grants, engaging third parties and managing service contracts.

All grant programs are administered in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the *Commonwealth Grant 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. Open and competitive grant selection processes will be used to ensure value for money is achieved and a delegate at the SES level with the appropriate role, experience and qualifications, will be the decision maker for all grants opportunities under this program.

Information about the grants will be made available on the GrantConnect website (www.grants.gov.au). A delegate of the Secretary of the department under the FFSP Act will be responsible for approving Commonwealth funding provided to the successful grant recipients.

Procurement decisions made in connection with the platform are not considered suitable for independent merits review, as they are decisions that are not directed towards the circumstances of particular persons, but apply generally to the community. By their nature, it is unlikely that they affect the interests of any one person. The Administrative Review Council (ARC) has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraph 3.3 of the ARC guide).

The remaking of a procurement decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to providing services to platform users. The *Government Procurement (Judicial Review) Act 2018* enables suppliers to challenge some procurement processes for alleged breaches of certain procurement rules. This legislation might provide an additional avenue of redress (compensation or injunction) for dissatisfied providers or potential providers, depending on the circumstances.

Merits review of decisions made in connection with grants would not be considered appropriate because these decisions relate to the provision of a one-off grant to a certain service provider in each state and territory, over other service providers. 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 4.16 to 4.19 of the ARC guide).

The successful grant recipients will be determined to be appropriate organisations to pursue a one-off, ad hoc grant after a due diligence process. This process will involve the verification of claims in the project proposals, consideration of the suitability of other providers and development of a multi-stage assessment methodology. This process will verify that the successful recipients are the only organisation operating in each state and territory in Australia with a proven capacity to provide the information and education services required and move to implementation, ensuring the benefits are realised quickly.

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 be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The program addresses concerns in relation to critical barriers to effective communication raised by reports and previous government enquiries. The Government has developed this program considering feedback received through tripartite (union, business and government) stakeholder consultations on broader migrant worker exploitation reforms, including a co-design process led by the department focused on practical ways to overcome barriers to effective information sharing and implementation of the government's reforms to address migrant workers exploitation. Consultation in various forms will be ongoing until the conclusion of this program. This feedback highlighted the need to partner with non-government organisations to address the perceived trust deficit in dealing directly with government organisations, and to ensure wide reach and accessibility across Australia.

In addition, the behavioural research, which will engage with a large number of stakeholders including but not limited to temporary migrant workers and employers, will inform and shape the key deliverables of this program.

Constitutional considerations

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

Aliens power

Section 51(xix) of the Constitution empowers the Parliament to make laws with respect to ‘naturalisation and aliens’.

Temporary migrant workers are ‘non-citizens’, as defined in the *Migration Act 1958*, which controls the entry into, and presence in, Australia of aliens.

The Capability Building component will engage third parties via a grants program to establish a major and centralised capability in each state and territory to support temporary migrant workers who are experiencing workplace exploitation. Third parties will also be responsible for developing department cleared tailored education materials and a well-planned communication and information dissemination strategy. This strategy will be based on the research findings and the roadmap/information strategy produced under the information and education component of this program.

By enhancing the capacity and resources of third parties, the Capability Building component will expand support services to temporary migrant workers in all areas of Australia so they become empowered with appropriate information to prevent and address exploitation. This component will ensure consistency in government information on workplace protections, safeguards, and compliance measures related to migration rules. It will also instil trust and confidence in existing and newly introduced protections and safeguards measures.

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 (Home Affairs Measures No. 4) Regulations 2024

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

Overview of the legislative instrument

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

The *Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 4) Regulations 2024* amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on activities to be administered by the Department of Home Affairs (the department).

This disallowable legislative instrument makes the following amendments to Part 4 of Schedule 1AB:

- adds table item 690 ‘Modernised Multicultural Grants Program’; and
- adds table item 691 ‘Protecting Migrant Workers - information and education package’.

Table item 690 – Modernised Multicultural Grants Program

Table item 690 establishes legislative authority for government spending on the Multicultural Grassroots Initiatives and Multicultural Peak Body grant programs under the Modernised Multicultural Grants Program (the program).

Funding of \$100.0 million over four years from 2024-25 will be provided for the program to support multicultural Australia and multicultural communities, including through the:

- Multicultural Grassroots Initiatives grant program, which would include activities such as multicultural celebrations, multicultural amenities and social and intercultural connections; and
- Multicultural Peak Body grant program, which would include organisations that service particular subsets of the multicultural population (for example, multicultural people with a disability, and national peak bodies).

The funding is intended to facilitate the participation and inclusion of both newly arrived migrants and multicultural communities in Australia and build multicultural community sector capacity.

The program is intended to strengthen the cohesion and prosperity of Australia's multicultural society by:

- encouraging the social and economic participation of migrants by developing their skills and cultural competencies to integrate into Australian social, economic and civic life, and build community resilience;
- promoting and encouraging the uptake of Australian values and liberal democracy and amplifying the value of Australian citizenship;
- promoting a greater understanding and acceptance of Australia's inclusive national identity and multicultural and multi-faith diversity; and
- addressing issues within Australian communities that show potential for, or early signs of, low social integration.

Human Rights Implications

Table item 690 engages the following rights:

- the rights relating to the elimination of racial discrimination, and the development and protection of racial groups – Article 2 of *Convention on the Elimination of Racial Discrimination* (CERD), read with Article 2;
- adoption of measures to combat racial prejudices and promote understanding, tolerance and friendship among racial and ethnic groups – Article 7 of the CERD;
- the rights of individuals belonging to ethnic, religious and linguistic minorities within a country to enjoy their own culture, practice their own religion and use their own language – Article 27 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2; and
- the right of all persons to take part in cultural life – Article 15 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Table item 690 broadly supports the above rights by providing legislative authority for government spending on a range of measures aimed at facilitating the participation and inclusion of migrants and multicultural communities in a way that promotes and is consistent with the above rights.

Rights under the CERD relating to eliminating racial discrimination

Article 2 of CERD states, in particular:

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: [...]
 - (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; [...]
2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the

adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 7 of CERD states:

“States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration of the Elimination of All Forms Racial Discrimination, and this Convention.”

In particular, the funding under the program aims to promote multiculturalism, inclusive and respectful communities and social cohesion which in turn assists in combating racial prejudices and eliminating racial discrimination in accordance with Articles 2 and 7 of the CERD.

Rights under the ICCPR and ICESCR relating to enjoyment of culture

Article 2(2) of the ICCPR states that where not already provided for by existing legislative or other measures, each State Party undertakes to take the necessary steps, in accordance with its constitutional processes, to adopt such laws or other measures as may be necessary to give effect to the rights recognised in the ICCPR.

Article 27 of the ICCPR states:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

Article 2 of the ICESCR requires States Parties to take steps to progressively achieve the full realisation of the rights recognised in the Covenant by all appropriate means.

Article 15 of the ICESCR states, relevantly, that the States Parties recognise the right of everyone to take part in cultural life (Article 15(1)(a)) and that the steps to be taken by the States Parties to achieve the full realisation of this right shall include those necessary for the conservation, the development and the diffusion of science and culture (Article 15(2)).

The program will fund grassroots multicultural organisations to engage in capacity building activities including festivals, celebrations and community connections. In addition, the funding of peak bodies will improve outcomes for multicultural communities through advocacy and advice to Government and through increased awareness and elevation of multicultural voices in service design, delivery and reform. These measures are aimed at, among other things, boosting civic participation, enabling new and established multicultural communities to connect with the wider Australian community, and promoting community

resilience and thereby broadly support the rights in Article 27 of the ICCPR and Article 15 of the ICESCR, as well as the rights in the CERD.

Table item 690 is compatible with human rights because it promotes the protection of human rights.

Table item 691 – Protecting Migrant Workers - information and education package

Table item 692 establishes legislative authority for government spending on the Protecting migrant workers—information and education package (the program).

The program will design an information and education package and support trusted third parties to empower temporary migrant workers through provision of accurate information about workplace safeguards, protections and compliance measures related to migration rules. This will also empower migrant women, who are over-represented in insecure work, to report allegations of worker exploitation without fear of reprisals.

This program supports a key objective of the Government’s Migration Strategy by aiming to ensure a fair go in the workplace and to prevent migrant worker exploitation. The program will contribute to instilling community trust and confidence in existing and newly introduced protections.

The objectives of the program are to safeguard temporary migrant workers from workplace exploitation and enhance the integrity of Australia’s visa system by:

- designing information and educational materials on migrant worker rights, protections, and obligations and migration compliance measures;
- disseminating these information and educational materials to temporary migrant workers and their employers; and
- supporting non-government organisations to provide services and other supports to temporary migrant workers and their employers in relation to migrant worker rights, protections, and obligations and migration compliance measures.

Funding of \$15.0 million over three years from 2024-25 will be available for the program.

Human rights implications

Table item 691 engages the following rights:

- the right to work and the rights of just and favourable conditions of work – Articles 6 and 7 of ICESCR, read with Article 2;
- the right to freedom from slavery, servitude or being required to perform forced or compulsory labour – Article 8 of the ICCPR, read with Article 2;
- the rights to equality and non-discrimination – Articles 2 and 26 of the ICCPR and Article 2 of the ICESCR;
- the rights relating to eliminating discrimination against women in the field of employment – Article 11 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), read with Article 2; and
- the right relating to freedom of children from economic exploitation – Article 32 of the *Convention on the Rights of the Child* (CRC), read with Article 4.

Table item 691 is compatible with human rights because it promotes or enhances the protection of human rights of temporary migrant workers, including the rights of women and children in relation to their employment in Australia and seeks to guard against temporary migrant worker exploitation.

Rights relating to work and freedom from slavery and other forms of forced labour

Article 2 of the ICESCR requires States Parties to take steps to progressively achieve the full realisation of the rights recognised in the Covenant by all appropriate means.

Article 6 of the ICESCR recognises the right to work, which includes the right of everyone to the opportunity to gain their living by work which they freely chooses or accepts, and requires States parties to take appropriate steps to safeguard this right.

Article 7 of the ICESCR recognises the right of everyone to just and favourable conditions of work, including but not limited to fair and equal wages and remuneration, safe and healthy working conditions, rest leisure and reasonable working hours, periodic holidays with pay and remuneration for public holidays.

Article 2(2) of the ICCPR states that where not already provided for by existing legislative or other measures, each State Party undertakes to take the necessary steps, in accordance with its constitutional processes, to adopt such laws or other measures as may be necessary to give effect to the rights recognised in the ICCPR.

Article 8 of the ICCPR states that no one shall be held in slavery, servitude or be required to perform forced or compulsory labour.

Table item 691 supports these rights by allowing for funding for an information and education package that would assist temporary migrant workers to better understand their work-related rights and the protections available under migration and workplace laws, as well as educating employers, thereby promoting these rights.

Rights to equality and non-discrimination

Article 26 of the ICCPR states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Under Article 2(1) of the ICCPR and Article 2(2) of the ICESCR, States Parties undertake to ensure that the rights recognised in these Covenants are exercised without discrimination.

Table item 691 supports these rights by helping ensure, through the information and education package, that visa holders are aware of their workplace rights and protections and are not disadvantaged because of their temporary visa status, specifically in relation to their exercise of work-related rights.

Employment-related rights for women and children

Article 2 of the CEDAW provides that States Parties condemn discrimination against women in all its forms, and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.

Article 11 of the CEDAW provides that ‘States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights’, including but not limited to ‘the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work’.

Article 4 of the CRC requires States Parties to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights in the CRC.

Article 32 of the CRC recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development and requires States Parties to take legislative, administrative, social and educational measures to ensure the implementation of this right

Table item 691 supports these rights by helping ensure, through the information and education package, that women migrant workers and migrant workers under the age of 18 years, are aware of their work-related rights and the protections available under migration and workplace laws, as well as educating employers, thereby promoting these rights.

Conclusion

This disallowable legislative instrument is compatible with human rights because, to the extent that rights are engaged, it promotes the protection of human rights.

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