

## **EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment  
(Social Services Measures No. 3) 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 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 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 (Social Services Measures No. 3) Regulations 2024* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on certain activities to be administered by the Department of Social Services.

Funding will be provided for the:

- amendment to the Community-led Economic Development program to create self-sustaining and ongoing local job opportunities and strengthen economic participation in areas where Income Management and the Cashless Debit Card are or have operated (existing funding of \$781.2 million over 4 years from 2024-25. No new funding sought); and
- Leaving Violence Program which contributes to improved safety, economic security and independence for victims of intimate partner violence (\$925.2 million over five years from 2023-24 and \$263.3 million per year ongoing from 2028-29).

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 Social Services.

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 (Social Services Measures No. 3) Regulations 2024***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 3) 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 items in Schedule 1 amend Schedule 1AB to the Principal Regulations to provide legislative authority for government spending on certain activities to be administered by the Department of Social Services (the department).

**Item 1 - Part 4 of Schedule 1AB (table item 550)**

**Amended table item 550 – Community-led Economic Development**

Table item 550 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Community-led Economic Development program (the program).

Item 1 amends table item 550 by repealing and substituting the full text of the item. The amendment clarifies the program's funding objective is to support infrastructure projects in areas where Income Management (IM) and the Cashless Debit Card (CDC) are or have operated.

IM quarantines a portion of a person's income support payment, which can then only be spent on essentials. The first instance of IM in Australia occurred from 2007 in a group of Indigenous communities and town camps within the Northern Territory (NT). Seeking to address and ensure the protection of Aboriginal children from harm, the Northern Territory Emergency Response (NTER) introduced nine measures including an IM program.

In 2010, IM was extended across the whole of the NT with significant changes made to the original NTER model. A map of IM locations is available at [www.dss.gov.au/sites/default/files/documents/10\\_2023/incomemanagment-maponline\\_0.pdf](http://www.dss.gov.au/sites/default/files/documents/10_2023/incomemanagment-maponline_0.pdf).

The CDC program was introduced in 2016 in multiple locations across Australia where high levels of income support dependence co-existed with high levels of social harm. It was introduced in four ‘trial site’ communities progressively from 2016 (in South Australia, Western Australia and Queensland).

On 24 September 2022, the Government announced its intention to abolish the CDC program, in line with its election commitment to deliver a long-term plan to ensure certainty, choice and support to communities moving off CDC and reform IM (<https://ministers.dss.gov.au/media-releases/9151>). CDC was abolished in March 2023 through the *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Act 2022*.

Table item 550 was originally created to support grants funding for infrastructure projects in CDC program areas, with a focus on employment and training opportunities for CDC participants. The amended table item 550 will continue to support funding activities under the CDC program and include a significant package of supports for key affected communities – including the regions of Ceduna, the East Kimberley, the Goldfields, Bundaberg/Hervey Bay, Cape York and the NT.

Funding of \$174.3 million has been allocated for this package of supports over four years from 2022-23. This includes funding for:

- a range of services across areas such as financial wellbeing, job readiness and employment support, youth services and family safety;
- infrastructure projects supporting digital connectivity, and associated digital literacy investments, in the NT; and
- capital and infrastructure projects supporting training and employment, and economic development.

The amendments to table item 550 also clarify that the objective of the funding is to:

- invest in capital and infrastructure projects, as some projects could include a capital component which may not fall within a strict reading of the definition of infrastructure, such as the purchase of machinery or the fit out of a building;
- support training opportunities as well as jobs; and
- support community economic development and capacity building, for example by providing access to new economic opportunities, or empowering communities to advance their interests in sectors they have not been previously involved in.

Further investments in capital and infrastructure, with the aim of supporting employment and community economic development, and building community capacity, will form part of continuing investments in IM and former CDC communities across 2024-25 and 2025-26. Current planning is for the next tranche of this funding to support projects in the NT, where the majority of IM participants reside. The Government is also considering further opportunities for infrastructure investment in areas where IM and the CDC are or have operated outside of the NT.

Investments are intended to take the form of multi-year grants to non-government organisations and/or Aboriginal Community Controlled Organisations that have a close relationship with community residents, understand their specific community's requirements and have knowledge of the types of projects required to address current and future economic and employment needs. Decisions around which projects are supported will be informed by engagement with local communities. Funding will be committed for projects from 2024-25 and concluding at the end of 2025-26.

Activities that will be eligible for funding include:

- construction of new facilities that lead to ongoing employment and/or training opportunities;
- major facility upgrades e.g. extension or refurbishment of existing facilities, that lead to ongoing employment and/or training opportunities; or
- capital equipment or machinery purchases where these form part of a local employment program and lead to increased and ongoing employment and/or training opportunities.

Benefits of funding such projects are intended to include:

- providing sustainable pathways to employment for people in identified communities;
- targeting regional locations that have historical high unemployment rates and proportion of people in receipt of working age social security payments, relative to rates of unemployment for the general population;
- funding initiatives that confer a benefit on Indigenous people and communities including their ongoing employment;
- creating new construction activity that creates opportunities for local employment in communities during the build phase;
- creating new or refurbished community infrastructure, that will deliver sustainable local employment opportunities for communities; and
- increasing the skills of current and former IM participants and individual recipients of social security payments during each project and after projects are completed.

#### Funding amount and arrangements, merits review and consultation

Funding of \$781.2 million over four years from 2024-25 for this item will come from Program 2.1: Families and Communities at 2.1.5 – Component 5 (Financial Wellbeing and Capability), which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.14, Social Services Portfolio* at page 51.

Decisions on the expenditure is intended to be delivered through a range of grants. The grant rounds will be targeted to communities where IM and the CDC are or have operated. At this stage, it has not been determined whether the recommended approach will be closed competitive or ad-hoc.

Information about this infrastructure grant opportunity will be made available on the GrantConnect website ([grants.gov.au](https://grants.gov.au)), and the grant will be administered by the Community Grants Hub, which is part of the department. Grant funding will vary, depending on the size and complexity of project applications received. Successful organisations will be required to enter into a legally binding agreement with the Commonwealth, in the form of either a Commonwealth Individualised Grant or Capital Works Agreement.

Further details around eligibility and eligible activities will be provided in specific grant opportunity guidelines.

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and the *Commonwealth Grant Rules and Principles 2024* (CGRPs) will govern the program and administration of the funding.

Consistent with the CGRPs, the department will develop grant opportunity guidelines and will have regard to the nine key principles in administering the grant. Trained assessors will assess each eligible application on its merit and compare it to other eligible applications. Assessors will undertake training to ensure consistent assessment of all applications and provide initial ranking of applications to inform the deliberations of the Selection Advisory Panel.

The Selection Advisory Panel will be established by the department. All members will be required to perform their duties in accordance with the CGRPs, including declaring and managing any real or perceived conflicts of interest. The Community Grants Hub independent probity advisor will attend all Selection Advisory Panel meetings to ensure that any conflicts of interest are appropriately managed.

The Selection Advisory Panel will make recommendations to the decision maker regarding which applications are suitable for funding. The Minister for Social Services, or the delegate (at the Senior Executive Service level) with relevant knowledge and experience on funding relating to infrastructure projects and capital investments, will be responsible for approving Commonwealth funding provided to successful applicants.

Independent merits review of decisions made in connection with the grant would not be considered appropriate because these decisions relate to the provision of a one-off grant to a certain service provider, over other service providers. 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 4.16 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 be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department engages regularly with stakeholders in IM and former CDC regions, including on funding and delivery of supports in those locations. These supports are place-based and informed by community priorities, such as those documented in Local Services Plans in former CDC locations. Significant consultations have also been undertaken across the NT on the future of IM and the support needed to help communities. Engagement with communities will continue to inform selection and delivery of initiatives under the Government's community-led package of supports.

This package is inclusive of infrastructure investments through the Community-led Solutions – Economic Development grant opportunity, which was established in response to advocacy from community leaders for meaningful investment from the Government to support their aspirations for greater economic and employment independence for their communities.

Further engagement with relevant communities and community stakeholders will inform decisions around design, selection and delivery of projects. This engagement will occur in the months leading up to selection of projects in 2024-25, and through the life of supported projects, and will remain a key part of the department's ongoing approach to funding supports in IM and former CDC regions.

### *Constitutional considerations*

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the amended item references the following powers of the Constitution:

- the race power (section 51(xxvi)); and
- the territories power (section 122).

#### *Race power*

Section 51(xxvi) of the Constitution empowers the Parliament to make laws with respect to 'the people of any race for whom it is deemed necessary to make special laws'.

Funding through the program will include expenditure for the benefit of First Nations peoples, for example certain investments will directly benefit First Nations people and their communities.

#### *Territories power*

Section 122 of the Constitution empowers the Parliament to 'make laws for the government of any territory'.

The program will include expenditure on projects in the NT.

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

Item 2 adds one new table item to Part 4 of Schedule 1AB.

### Table item 693 – Leaving Violence Program

New **table item 693** establishes legislative authority for government spending on the Leaving Violence Program (LVP).

The LVP aims to support victims of intimate partner violence (IPV) to make informed choices about leaving violent relationships through the provision of financial support packages to help stabilise their lives. Research shows that financial barriers are a key impediment to many victim-survivors leaving a violent relationship. IPV refers to any behaviour within an intimate relationship (current or previous) that causes physical, sexual or psychological harm, including financial abuse, coercive control and emotional abuse.

On 1 May 2024, the LVP was announced by the Prime Minister, the Hon Anthony Albanese MP, the Minister for Social Services, the Hon Amanda Rishworth MP and the Minister for Women, Senator the Hon Katy Gallagher, as a part of the Government's helping women leave a violent partner payment. Details of the announcement are available at: <https://www.pm.gov.au/media/helping-women-leave-violent-partner-payment>.

The LVP is a key part of the Government's policy agenda in supporting the aims of the *National Plan to End Violence against Women and Children 2022-32* (National Plan), contributing to improved safety, economic security, and independence for victims. Details of the LVP are available at: <https://www.dss.gov.au/the-national-plan-to-end-violence-against-women-and-children/leaving-violence-program>.

The LVP aligns with the domains in the National Plan (prevention, early intervention, response and recovery and healing) by reducing the financial barriers victims experience when they leave or have left a violent relationship, and providing support including safety planning, risk assessment and referrals for victims to begin their healing and recovery. It also supports the prevention domain by enabling victims to leave their current violent relationship and establish a life free from violence, preventing further violence from occurring.

The LVP will contribute to achieving the following outcomes listed in the National Plan *Outcomes Framework 2023-2032*:

- Outcome 1: Systems and institutions effectively support and protect people impacted by gender-based violence.
- Outcome 2: Services and prevention programs are effective, culturally responsive, intersectional and accessible.
- Outcome 3: Community attitudes and beliefs embrace gender equality and condemn all forms of violence without exception.
- Outcome 6: Women are safe and respected in all settings and experience economic, political, cultural and social equality. The LVP will contribute to women's economic security by providing victims with choices in how they utilise the available financial support. It is estimated the program will support over 36,000 eligible victims each year.



The program is designed to incorporate the successes and learnings from the existing Escaping Violence Payment (EVP) trial and the Temporary Visa Holders Experiencing Violence Pilot (TVP).

The EVP trial has provided much needed financial packages of up to \$5,000, consisting of up to \$1,500 in cash or cash equivalents and the remaining funds provided in goods, services and supports to assist individuals, particularly women, to leave a violent relationship and begin establishing a life free from violence. An independent evaluation of the trial found that:

- 92 per cent of clients surveyed agreed that ‘the payment helped relieve financial stress’; and
- 51 per cent agreed that ‘without the payment I could not have left the relationship’.

The EVP Final Evaluation Report undertaken by Whereto Research Consultancy is available at <https://www.dss.gov.au/women-programs-services-reducing-violence-safety-programs/evaluation-of-the-escaping-violence-payment-evp-trial>.

The overwhelming majority of EVP trial clients are women (89 per cent). It is expected the LVP will continue to have women, and the children in their care, as the majority future beneficiaries.

About 10 per cent of EVP clients are men, which points to the accessibility of the program and promotes help-seeking amongst men to access the support. The EVP trial has also been accessed by non-binary and intersex individuals. It is intended that the LVP will continue to be accessible to all genders and will also be available to eligible individuals regardless of visa status.

Similarly, the TVP provides financial and legal assistance to people on temporary visas who have experienced family and domestic violence. Through the TVP, temporary visa holders can receive up to \$5,000 in financial assistance for material supports.

The EVP and TVP deliver similar but separate financial support programs to Australian citizens and permanent residents, and temporary visa holders respectively. The Aboriginal and Torres Strait Islander regional trials of the EVP will also be aligned with the LVP.

The LVP forms part of a holistic response to gender-based violence and complements existing Australian Government-funded support services for victim-survivors including 1800RESPECT, the Safe Places Emergency Accommodation Program, the Keeping Women Safe in their Homes initiative, Emergency Relief, Commonwealth Financial Counselling services and the No Interest Loan Scheme.

The LVP also builds on existing measures being delivered to address the link between financial insecurity and violence, including the expansion of the single Parenting Payment, 10 days paid domestic violence leave, increases to rent assistance and investment in crisis accommodation and affordable housing for women and children escaping violence.

The Government committed \$925.2 million over five years from 2023-24 (and \$263.3 million per year ongoing) to make permanent the LVP as an ongoing financial support program for victims leaving a violent intimate partner relationship.

The LVP will commence in mid-2025 following the procurement of an appropriate service provider with family, domestic and sexual violence experience, and transition of the existing EVP trial and TVP into the program.

To be eligible for the program, individuals will need to meet all of the following criteria:

- experiencing or have experienced IPV;
- have left or have a plan to leave an IPV relationship;
- be 18 years old or over;
- be residing in Australia (as a citizen, permanent resident, or temporary visa holder);
- be experiencing financial stress (based on agreed principles including that a person is unable to pay their current bills or is at imminent risk of not being able to pay their current bills);
- have experienced a change in living arrangement as a result of the IPV in the past 12 weeks (including leaving the residence, having the person using violence excluded from the residence or are seeking to establish a safety plan to change living arrangements; and
- not have received the payment in the past 12 months.

The LVP will provide victims with access up to \$5,000 in financial support, which will be indexed annually to ensure the payment meets the rising cost of living. Individuals will be able to access a cash payment of up to \$1,500 (the same cash payment amount available under the EVP) to provide greater agency and choice, and service delivery flexibility in the program. The financial support package can be spent flexibly by the victim on what they need to re-establish their lives which may include rent, health care, school costs, whitegoods, furniture or transport. The remaining funding will be provided in the form of a pre-paid card for goods and services.

Additional support services will be available flexibly through the program which may include safety planning, risk assessments and referrals to other services relevant and in consultation with the individual victim for up to 12 weeks. The referrals may include referral to financial, housing, counselling or family services and supports as determined with the victim.

#### *Funding amount and arrangements, merits review and consultation*

Funding of \$925.2 million (and \$263.3 million per year ongoing) to make permanent the LVP was included in the 2024-25 Budget under the measure ‘The Leaving Violence Program—financial support for victim-survivors of intimate partner violence’ for a period of five years commencing in 2023-24. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 176.

Funding for this item will come from Program 2.1: Families and Communities, at 2.1.2 – Component 2 (Family Safety), which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.14, Social Services Portfolio* at page 51.

The department will be seeking to deliver the program through a suitably qualified provider that will be chosen through an open and competitive procurement process.

Interested parties will be encouraged to register through the Australian Government’s AusTender website ([tenders.gov.au](https://tenders.gov.au)).

Procurement decisions will be made in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule, the *Commonwealth Procurement Rules* (CPRs) and the department's Accountable Authority Instructions. The department will provide an opportunity for suppliers and 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 ([tenders.gov.au](https://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.

In accordance with the CPRs, the final decision of the successful provider will be made by the Secretary of the department, who will receive an evaluation report from the procurement evaluation panel. Information about the final decision will be made publicly available on AusTender ([tenders.gov.au](https://tenders.gov.au)), once contracts are signed.

Funding decisions relating to procurement for this program are not considered suitable for independent merits review. This is because they are decisions relating to the allocation of finite resources, 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).

In addition, the re-making of a decision after entry into a contractual arrangement with a successful provider is legally complex, impractical, and could result in delays to providing services. 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.

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.

The following Government departments and agencies have been consulted on the development of the LVP:

- Attorney General's Department;
- Department of the Treasury;
- Department of the Prime Minister and Cabinet;
- Department of Home Affairs;
- Department of Finance;
- National Indigenous Australians Agency; and
- Services Australia.

The level and type of consultation undertaken with these agencies varied, though all had the opportunity to comment on the development of the LVP including operational matters such

as how people access the program, communications and delivery issues, as well as strategic matters such as how a financial support program fits into the larger support service system.

Additionally, the department engaged with targeted stakeholders through a program of consultation undertaken in October 2023. Consultation included key themes and findings being considered in the policy development context. These stakeholders included state and territory governments, the National Plan Advisory Group, the National Advocacy Group on Women on Temporary Visas Experiencing Violence and agencies who had advocated in relation to the EVP or TVP.

The feedback and advice from the consultations with agencies and targeted stakeholders was largely positive and informed opportunities for continuous improvement that has been incorporated into the development of the LVP.

### 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 power (section 51(xxix)); and
- the bankruptcy and insolvency power (section 51(xvii)).

### *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 Civil and Political Rights* (ICCPR) and has obligations under the ICCPR to promote universal respect for, and observance of, human rights and freedoms. In particular:

- Article 2(1) of the ICCPR states each State Party ‘undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.
- Article 7 of the ICCPR states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and in particular, to medical or scientific experimentation without providing their free consent.
- Article 9 of the ICCPR recognises the right to liberty and security of person in providing that ‘no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law’.
- Article 17 of the ICCPR recognises the right of every person to be protected against ‘arbitrary or unlawful interference with his privacy, family, home or correspondence’ as well as against ‘unlawful attacks on his honour and reputation’. It also recognises that every person has ‘the right to the protection of the law against such interference or attacks’.

Funding under the LVP will ensure at-risk victims (regardless of gender or visa status) benefit from protections against instances of IPV in preventing the occurrence of immediate threat of violence through the provision of direct financial support and short-term safety planning, risk assessment and referral services.

*Bankruptcy and insolvency power*

Section 51 (xvii) of the Constitution empowers the Parliament to make laws with respect to bankruptcy and insolvency.

Funding under the LVP will provide financial assistance to victims who are unable to pay their bills or at imminent risk of not being able to pay their current bills.

## **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 (Social Services Measures No.3) 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 (Social Services Measures No. 3) Regulations 2024* amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on certain activities to be administered by the Department of Social Services.

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

- amends table item 550 “Community-led economic Development”; and
- adds table item 693 “Leaving Violence Program”.

#### **Amended table item 550 – Community-led Economic Development**

The amended table item 550 establishes legislative authority for government spending on the Community-led Economic Development program (program).

The purpose of amending table item 550 is to support infrastructure projects in areas where Income Management (IM) and the Cashless Debit Card (CDC) are or have operated as part of the program. These projects are part of the significant package of supports being delivered by the Australian Government with communities in IM and former CDC locations and will aim to create jobs and training opportunities, support community economic development and build community capacity.

Table item 550 was originally drafted to support grants funding for infrastructure projects in CDC program areas, with a focus on employment and training opportunities for CDC

participants. The Government abolished the CDC in March 2023, in line with its election commitment to abolish the CDC and reform IM. The amendments clarify that the program will cover areas in which the CDC program or the IM program are or have operated.

Funding of \$174.3 million has been allocated for this package of supports over four years from 2022-23. This includes funding for:

- a range of services across areas such as financial wellbeing, job readiness and employment support, youth services and family safety
- infrastructure projects supporting digital connectivity, and associated digital literacy investments, in the NT
- capital and infrastructure projects supporting training and employment, and economic development.

### **Human rights implications**

The amended table item 550 engages the following right:

- the right to work – Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2 and Article 1 of the *International Labour Organization's Convention concerning Employment Policy* (ILO Convention 122).

#### Right to work

Article 2 of the ICESCR requires that each State Party to the ICESCR undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, 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, including particularly the adoption of legislative measures.

Article 6 of the ICESCR provides that the States Parties recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

The steps to be taken by a State Party to achieve the full realisation of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

Article 1 of the ILO Convention 122 provides that 'With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment'.

Funding in line with the amended table item 550 will support community-led infrastructure projects in IM and/or former CDC locations, such as construction of new facilities, major facility upgrades, or capital equipment or machinery purchases, with the aim of creating increased and ongoing employment and/or training opportunities, and broader economic development benefits to communities. In doing so, these investments will promote the right to work, including by:

- providing sustainable pathways to employment for people in identified communities;
- targeting regional locations that have historical high unemployment rates and proportion of people in receipt of working age social security payments, relative to rates of unemployment for the general population;
- funding initiatives that confer a benefit on Indigenous people and communities including their ongoing employment;
- creating new construction activity that creates opportunities for local employment in communities during the build phase;
- creating new or refurbished community infrastructure, that will deliver sustainable local employment opportunities for communities; and
- increasing the skills of current and former IM participants and individual recipients of social security payments during each project and after projects are completed.

The amended table item 550 is compatible with human rights because it promotes the protection of human rights.

#### Table item 693 – Leaving Violence Program

Table item 693 establishes legislative authority for government spending on the Leaving Violence Program (LVP) to support victims of intimate partner violence (IPV) to make informed choices about leaving violent relationships through the provision of financial support packages to help stabilise their lives.

The LVP is a key part of the Government’s policy agenda in supporting the aims of the *National Plan to End Violence against Women and Children 2022-32*, contributing to improved safety, economic security, and independence for victims of intimate partner violence. The LVP forms part of a holistic response to gender-based violence and complements existing Australian Government-funded support services for victim-survivors

The LVP also builds on existing measures being delivered to address the link between financial insecurity and violence, including the expansion of the single Parenting Payment, 10 days paid domestic violence leave, increases to rent assistance and investment in crisis accommodation and affordable housing for women and children escaping violence.

Funding of \$925.2 million over five years from 2023-24 (and \$263.3 million per year ongoing) will be available to make permanent the LVP as an ongoing financial support program for victims leaving a violent intimate partner relationship, including support for migrants, regardless of visa status. The program is designed to incorporate the successes and learnings from the existing Escaping Violence Payment trial and the Temporary Visa Holders Experiencing Violence Pilot.



## Human rights implications

Table item 693 engages the following rights:

- the rights of women not to be discriminated against based on gender – Articles 3, 5 and 16 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), read with Article 2; and
- the rights of the child to serve in their best interest – Article 19 of the *Convention on the Rights of the Child* (CRC), read with Article 4.

### Rights of women not to be discriminated against based on gender

The CEDAW provides that States Parties must ensure the effective protection of women against acts of discrimination. Gender-based violence, including domestic and family violence, is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

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

Article 3 of the CEDAW provides States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 5 of the CEDAW provides that States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Article 16 of the CEDAW which states that States Parties to take 'all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women'.

Table item 693 promotes the elimination of discrimination against women through the provision of financial and other support provided to women, who are victims experiencing intimate partner violence.

The financial and other support provided to women will enable them to take steps to leave and stay out of violence relationships. This will lead to their improved safety, economic security and independence, recovery and healing, and reduce the likelihood of the reoccurrence of violence. This is in line with the vision of the National Plan's four domains of prevention, early intervention, response, and recovery and healing in reducing gender-based violence in the medium to long term.

*Rights of the child to serve in their best interest*

The rights of the child will be promoted under the CRC. In particular:

- 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 19 of the CRC imposes an obligation on States Parties to ‘take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Table item 693 promotes the rights of the child’s safety and wellbeing through the provision of financial support and other services to the victims of intimate partnership relationships, who are parents. The financial support will assist victims to leave and stay out of violent relationships and protect them, and their children, from the immediate threat of violence arising from that relationship. Assistance under table item 693 will include direct financial support, short-term safety planning, risk assessment and referral services.

Table item 693 is compatible with human rights because it promotes the protection of human rights.

**Conclusion**

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

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