

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

Financial Framework (Supplementary Powers) Amendment (Education Measures No. 1) Regulations 2025

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

The Principal Regulations are exempt from 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 FFSP Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the FFSP Act.

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

Funding is provided for:

- a grant to the National Aboriginal and Torres Strait Islander Education Corporation to support its role as the national education peak body by providing policy advice and perspectives informing the development of policies and administration of programs that affect education outcomes for Aboriginal and Torres Strait Islander peoples (\$12.5 million over four years from 2024-25); and
- the amended Tertiary Access Payment program which broadens its eligibility criteria to allow eligible students up to 22 years-old to take one or more gap years before commencing an eligible course (\$119.7 million over four 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 Education.

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 (Education Measures No. 1) Regulations 2025*

Section 1 – Name

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

Section 2 – Commencement

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

Section 3 – Authority

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

Section 4 – Schedules

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

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

The items in Schedule 1 amend Schedule 1AB to the Principal Regulations to provide legislative authority for government spending on activities administered by the Department of Education (the department).

Item 1 – In the Appropriate position in Part 3 of Schedule 1AB (table)

Table Item 84 – National Aboriginal and Torres Strait Islander Education Corporation

New **table item 84** establishes legislative authority for the Government to provide a grant to the National Aboriginal and Torres Strait Islander Education Corporation (NATSIEC).

NATSIEC is the national peak body for Aboriginal and Torres Strait Islander education. It was formally incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* in October 2023, and it is a member of the Coalition of Peaks. It delivers community-informed independent evidence-based advice to Australian governments. It focuses on education policies and programs of national importance and ensures there is a national community-controlled education voice in Closing the Gap efforts. Its engagement with the education sector spans across the lifelong learning cycle - through early childhood education, primary and secondary schooling, skills, training and higher education sectors.

The grant seeks to deliver on the Government's commitment to formal partnerships under the *National Agreement on Closing the Gap* (the National Agreement), by providing ongoing partnership funding to NATSIEC. The funding will build and strengthen structures that empower Aboriginal and Torres Strait Islander people (clause 28 of the National Agreement), form strong partnerships (clause 32 of the National Agreement) and provide adequate funding for their engagement (clause 33 of the National Agreement).

The grant responds to the need to engage with Aboriginal and Torres Strait Islander peak organisations to develop joined up policy positions, which is considered in the Productivity Commission's 2024 review of the National Agreement, and within the Expert Panel's report from the *Review to Inform a Better and Fairer Education System*.

Provision of this funding will be critical to secure improvements in delivery against the Closing the Gap Targets. There are five education specific Closing the Gap Targets, and only Target 3 (preschool enrolment) is on track. Target 4 (developmentally on track) is worsening, and Targets 5 (attaining Year 12 qualification), 6 (tertiary qualification) and 7 (engaged in employment, education or training) have improved but are not on track to be met.

The grant will provide core operational funding to NATSIEC, as well as the Australian Government's contribution to Education Ministers Meeting (EMM) shared funding supporting NATSIEC's engagement with the EMM Governance structures. The funding will allow NATSIEC to operate in partnership with the Commonwealth and with EMM, to inform their decision making, policy development and program delivery. It will also allow NATSIEC to engage with Aboriginal and Torres Strait Islander communities and community-controlled organisations, peak organisations and key stakeholders to inform and support the development of government initiatives in a way that reflects the views of Aboriginal and Torres Strait Islander peoples.

NATSIEC has already been influential in negotiations on the Better and Fairer Schools Agreement, where Aboriginal and Torres Strait Islander people's views were incorporated resulting in an agreement that incorporated the National Agreement Priority Reforms and emphasised outcomes for Indigenous Australians.

Funding amount and arrangements, merits review and consultation

Funding of \$12.5 million for the grant was included in the 2024-25 Budget under the measure 'Closing the Gap - Education' for a period of four years commencing in 2024-25. Details are set out in *Budget 2024-25, Budget Measures, Budget Paper No. 2* at page 87.

Funding for the item will come Program 1.5: Early Learning and Schools Support, Schools Support, First Nations Education, which is part of Outcome 1. Details are set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.5, Education Portfolio* at page 42.

The department will deliver a grant arrangement to NATSIEC via a closed, non-competitive process. The department will administer the funding in accordance with the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and the *Commonwealth Grants Rules and Principles 2024* (CGRPs).

The department considers that a closed, non-competitive grant is appropriate as:

- NATSIEC, as the peak body for Aboriginal and Torres Strait Islander Education, is the only appropriate entity for the grant; and
- in February 2023, Education Ministers determined that NATSIEC was the most appropriate entity to engage in Partnership with Education Ministers via EMM structures.

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

The grant expenditure decision will be made by the First Assistant Secretary of the Improving Student Outcomes Division, as a delegate of the Secretary. The delegate, being a Senior Executive Service Band 2, may approve commitments of relevant money in relation to an administered program up to the amount of the funding limit for the relevant program. The delegate possesses the appropriate qualifications and necessary skills to make the grant expenditure decision. This is because they have oversight of significant funding arrangements that occur in the Improving Student Outcomes Division, subject matter expertise in relation to this proposed expenditure, and sufficient experience in making such decisions at their level. In making the grant expenditure decision, the delegate will comply with any directions of the Secretary in relation to the grant expenditure decision.

Independent merits review will not be available for the grant provided to NATSIEC as this grant will be closed, non-competitive and for a specific purpose and entity. The grant decision, once made, will be final and not subject to merits review. This grant involves an allocation of a finite resource to NATSIEC. Review (and potential change) of the decision would affect an allocation that has already been made and impede timely and effective implementation of the program. 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 4.17 of the guide, *‘What decisions should be subject to merits review?’* (ARC guide)).

The department consulted with Commonwealth entities on the policy development of the grant funding. This includes the National Indigenous Australians Agency, the Department of Finance, the Department of the Treasury and the Department of the Prime Minister and Cabinet. Stakeholders consulted were supportive of initiatives supporting efforts to progress actions under the National Agreement, and to create and formalise partnership arrangements within the department.

Constitutional considerations

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

- the race power (section 51(xxvi)); and
- the executive power and express incidental power (sections 51(xxxix) and 61).

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’.

The grant is directed at supporting the Commonwealth and state and territory governments to improve Aboriginal and Torres Strait Islander educational outcomes. This includes by facilitating engagement with Aboriginal and Torres Strait Islander communities, peak organisations and community organisations, and by assisting with the development of policies and implementation of programs relating to education of Indigenous Australians.

Executive power and express incidental power

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. The executive power in section 61 of the Constitution supports activities that form part of the ordinary and well-recognised functions of government.

The grant is directed at informing governments in relation to Aboriginal and Torres Strait Islander education perspectives and priorities supporting the development of education policies by ensuring that the views of Aboriginal and Torres Strait Islander people and communities are considered in the policy-making process.

Amended table item 460 – Tertiary Access Payment

Item 2 – Part 4 of Schedule 1AB (table item 460, column headed “Program”)

Table item 460 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Tertiary Access Payment (TAP).

Item 2 amends table item 460 by omitting “for Regional and Remote School Leavers” from the column headed “Program”. This is a technical amendment reflecting the revised name of the program.

Item 3 - Part 4 of Schedule 1AB (table item 460, column headed “Objective(s)”)

Item 3 amends table item 460 by omitting “in the year immediately following their completion of the final year of secondary school”. The amendment broadens the eligibility criteria for the TAP by removing the requirement for a student to start an eligible tertiary course in the year immediately following Year 12 (or equivalent) study (i.e., allowing students who have taken one or more gap years to apply).

The TAP is an existing program which was announced in 2020 in response to the recommendations and actions of the *National Regional, Rural and Remote Education Strategy* (Naphthine review) in 2019. The Naphthine review (<https://www.education.gov.au/access-and-participation/resources/national-regional-rural-and-remote-tertiary-education-strategy-final-report>) found that regional and remote students are twice as likely as those in major cities to take a gap year or years before commencing higher education, which increases their likelihood of not completing, or not returning to, further study.

While the TAP continues to be an important payment for regional and remote students to support their relocation costs to pursue tertiary education, it has been under subscribed since commencement in 2021. Presently, the TAP is a capped demand driven payment for students from inner regional, outer regional, remote and very remote areas who need to relocate at least 90-minutes by public transport to access higher level tertiary study (Certificate IV and above) in the year immediately after completing Year 12 (or equivalent) study. The current eligibility criteria and student demand are key contributing factors, limiting this program from having its full intended impact.

The objective of the amended table item 460 is to provide an incentive to regional and remote students up to 22 years old who want to take one or more gap years following Year 12 (or equivalent) study to pursue an eligible tertiary qualification.

The following eligibility criteria for students to receive a payment remain unchanged:

- meet Australian citizenship or residency requirements;
- be from an inner regional, outer regional, remote or very remote area (as per the Australian Statistical Geography Standard remote classifications);
- be commencing, or studying, a Certificate IV or above with at least a 75 per cent full time study load and a minimum duration of a year;
- be commencing, or studying, face to face, or in dual delivery method, for at least part of the course;
- be aged 22 and under at the time of starting an eligible course;
- have relocated, or demonstrate their intent to relocate, for study (relocating to study at an education provider located at least 90-minutes by public transport from their family home);
- their parent(s) or guardian(s) have a combined income of \$250,000 or below per year; and
- completed Year 12 or an equivalent level of education.

An estimated 3,500 additional students will be supported by the TAP program in 2024-25 under the revised eligibility criteria. This includes:

- an estimated 3,250 additional higher education students based on the department's Higher Education Statistics Collection and program data provided by Services Australia; and
- an estimated additional 250 vocational education and training (VET) students. Based on program data provided by Services Australia, typically, VET students account for 3 per cent of all recipients receiving the TAP. It is assumed VET students will be incentivised to access the TAP program because of the change in eligibility criteria and will account for 7 per cent or 250 additional students receiving the TAP.

The amended table item 460 will enhance the delivery of the TAP program, supporting the Government's ambition through the *Australian Universities Accord* (the Accord) *Final Report* to increase the number of regional and remote students accessing tertiary education and responds partially to Recommendation 39(d) of the *Accord Final Report* by allowing eligible students up to 22 years old to take one or more gap years before commencing an eligible course.

Funding amount and arrangements, merits review and consultation

Funding of \$119.7 million for the TAP was included in the 2024-25 Mid-Year Economic and Fiscal Outlook under the measure 'Education – reprioritisation' for a period of four years commencing in 2024-25. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2024-25, Appendix A: Policy decisions taken since the 2024-25 Budget* at page 241.

Funding for this item will come from Program 2.3: Higher Education Support, which is part of Outcome 2. Details will be included in the 2024-25 Portfolio Additional Estimates Statements for the Education portfolio.

Payments to students by Services Australia will be administered as grants subject to the *PGPA Act*, *PGPA Rule* and CGRPs. Final details of the decision-making process regarding the making of payments to students who relocate to study at Table A and B providers (as defined under the *Higher Education Support Act 2003*), non-university higher education providers (NUHEPs) and VET providers will be finalised through amendments to the current service agreement between the department and Services Australia as well as to Services Australia's operational guidelines for the TAP program.

Services Australia administers the program on behalf of the department. Accordingly, the Accountable Authority of Services Australia, the Chief Executive Officer, has formally delegated (under the *Financial Framework (Supplementary Powers Act 1997)* their powers to decide on Commonwealth expenditure on the payments to staff at the Australian Public Service (APS) level 3 and higher within Services Australia. APS level 3 and above staff at Services Australia are the employees assessing the eligibility of applicants based on the program guidelines and given the value of individual grants is up to \$5,000 this delegation is appropriate.

Once finalised, amended Program Guidelines, which will include revised eligibility criteria for the TAP, will be made publicly available on the department's website (<https://www.education.gov.au/tertiary-access-payment>) and, published on GrantConnect (www.grants.gov.au) in line with CGRPs requirements. Information about payment recipients will not be publicly available due to privacy constraints.

Payments will be made to students relocating to study at Table A and B providers, NUHEPs and VET providers subject to the student meeting eligibility requirements. It is not appropriate for such decisions to be subject to independent merits review as these decisions are automatic decisions which apply to each eligible student; that is, the decisions are based on the factual determination of whether an applicant meets the objective eligibility criteria set out in the Program Guidelines. If the applicant meets these criteria, the making of a payment is mandatory. As such, there are no grounds on which merits review can operate. The ARC has recognised that it is justifiable to exclude merits review in relation to automatic or mandatory decisions of this nature (see sections 3.8 to 3.12 of the ARC guide).

Although external merits review will not be available, students who do not receive a payment for the following reasons will be able to seek internal review of the decision by applying to Services Australia:

- a decision that the student does not meet the eligibility criteria.
- a decision that the student is not eligible for the second instalment of their payment because they are no longer considered to be enrolled in their course of study.

Changes to the TAP eligibility requirements respond to recommendations of the Accord Final Report. The Accord was announced by the Minister for Education in November 2022. The Accord review was led by the Minister for Education with advice from a panel of eminent Australians. The panel was tasked with making recommendations for government, the sector and other relevant stakeholders to deliver a higher education system that meets the current and future needs of the nation, and targets to achieve this.

The Accord carried out extensive consultation with a broad range of stakeholders (for example, providers, students, community and business groups). The Accord Final Report contains 47 recommendations for the Government consideration and aims to create a long-term reform plan for the higher education sector to meet Australia's future skills needs.

Recommendation 39(d) of the Accord Final Report recommended adjusting the policy settings for the TAP program "to remove the requirement to commence an eligible course within the 12 months following completion of Year 12 (or equivalent) and amend the timing of payments to provide timely assistance with the costs of relocation for tertiary study before moving".

Regional stakeholders, including the Regional Education Commissioner and the Isolated Children's Parents' Association, have also consistently called for the TAP program to be broadened to support more students to access the payment. Issue for Consideration 10 of the Regional Education Commissioner Annual Report 2023 recommended removing the 'no gap year' requirement of the TAP program. These stakeholders will welcome this change as it will directly respond to their concerns.

Constitutional consideration

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

Social Welfare Power

The social welfare power in section 51(xxiiiA) of the Constitution empowers the Parliament to make laws with respect to the provision of certain social welfare benefits, such as benefits to students.

The program will directly provide benefits to regional and remote students to relocate to study at a registered higher education provider or VET provider at least 90-minutes by public transport from their home.

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 (Education Measures No. 1) Regulations 2025

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

Overview of the Legislative Instrument

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

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

This disallowable legislative instrument makes the following amendments to Part 3 of Schedule 1AB:

- adds table item 84 ‘Grant to the National Aboriginal and Torres Strait Islander Education Corporation’;

and the following amendments to Part 4 of Schedule 1AB:

- amends table item 460 ‘Tertiary Access Payment’.

Table item 84 – Grant to the National Aboriginal and Torres Strait Islander Education Corporation

New table item 84 establishes legislative authority for the Government to provide a grant to the National Aboriginal and Torres Strait Islander Education Corporation (NATSIEC) to support its role as the national Aboriginal and Torres Strait Islander education peak body. The terms ‘Aboriginal and Torres Strait Islander’ and ‘Indigenous Australians’ are used interchangeably, and no distinction is intended.

NATSIEC was formally incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* in October 2023, and it is a member of the Coalition of Peaks. It delivers community-informed independent evidence-based advice to Australian governments. It focuses on education policies and programs of national importance and ensures there is a national community-controlled education voice in Closing the Gap efforts. Its engagement with the education sector spans across the lifelong learning cycle - through early childhood education, primary and secondary schooling, skills, training and higher education sectors.

Grant funding of \$12.5 million over four years from 2024-25 will be provided to NATSIEC to support the Commonwealth government and State and Territory governments by providing Aboriginal and Torres Strait Islander policy advice and perspectives informing the development of policies and administration of programs that affect education outcomes for Aboriginal and Torres Strait Islander peoples. NATSIEC will work with Aboriginal and Torres Strait Islander communities and community-controlled organisations, peak organisations and key stakeholders to understand Aboriginal and Torres Strait Islander perspectives and needs in relation to education and use that understanding when working in partnership with governments to support Indigenous Australians to achieve their educational potential.

Human rights implications

Table item 84 engages with the right to education – Articles 28 and 29 of the *Convention on the Rights of the Child* (CRC), read with Articles 2 and 4, and Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Right to Education

Article 2 of the CRC requires States Parties to respect and ensure the rights recognised in the CRC to each child without discrimination of any kind, including in relation to the child's or their parent's or guardian's race, colour, language or ethnic or social origin. Article 4 of the CRC requires States Parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the CRC. These rights include 'the right of the child to education' (Article 28).

Article 29(1)(a) of the CRC provides that States Parties agree that the education of the child shall be directed to '...[t]he development of the child's personality, talents and mental and physical abilities to their fullest potential'.

Article 2 of the ICESCR requires States Parties to take steps to progressively achieve the full realisation of the rights recognised in the ICESCR by all appropriate means. These rights include 'the right of everyone to education' (Article 13(1)).

Article 13(1) of the ICESCR provides that States Parties agree that education '...shall be directed to the full development of the human personality and the sense of dignity and shall strengthen the respect for human rights and fundamental freedoms'.

Article 13(2)(b) of the ICESCR relates to the general availability and accessibility of secondary education in its different forms to all.

Table item 84 supports the right to education by providing funding to NATSIEC in its role as the national Aboriginal and Torres Strait Islander education peak body. NATSIEC will provide advice on and inform decisions relating to Aboriginal and Torres Strait Islander education, to ensure Aboriginal and Torres Strait Islander peoples perspectives are included; support governments in developing policies and delivering programs that address Aboriginal and Torres Strait Islander education needs and improve outcomes; ensure focus on reforms in the course of policy development that can ensure that Indigenous Australians can have a pathway for education and connection to culture; and identify and promote policies and programs that support Indigenous Australians to achieve their educational potential.

In doing so, NATSIEC will pursue the direction of education to the full development of the personality and sense of dignity of Aboriginal and Torres Strait Islander students, and the provision of culturally safe and accessible education to Aboriginal and Torres Strait Islander students.

Table item 84 is compatible with human rights because it promotes the protection of human rights.

Amendment to table item 460 – Tertiary Access Payment

The amended table item 460 establishes legislative authority for government spending on the Tertiary Access Payment (TAP). The purpose of the amendments is to broaden the eligibility criteria for the TAP by removing the requirement for a student to start an eligible tertiary course in the year immediately following Year 12 (or equivalent) study (i.e., allowing students who have taken one or more gap years to apply).

Currently, the TAP is a capped demand driven payment for students from inner regional, outer regional, rural and remote areas who need to relocate at least 90-minutes by public transport to access higher level tertiary study (Certificate IV and above) in the year immediately after completing Year 12 (or equivalent) study. The TAP aims to provide financial assistance to support all eligible regional students who incur costs associated with relocation.

While retaining other eligibility criteria for the TAP program, the proposed amendments to item 460 remove the requirement that students must commence tertiary study within 12 months of completing Year 12 (or equivalent) study. This further provides an incentive to regional and remote students up to 22 years old who want to take one or more gap years following Year 12 (or equivalent) study to pursue an eligible tertiary qualification.

Funding of \$119.7 million over four years from 2024-25 is available for the TAP.

Human rights implications

The amended table item 460 engages with the right to education – Article 13 of the ICESCR, read with Article 2.

Right to Education

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

Table item 460 engages with Article 13(1) of the ICESCR, which states that the parties to the treaty “recognise the right of everyone to education” and “agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms...education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.”

Table item 460 also engaged with Article 13(2)(c) of the ICESCR, which states that “higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means...”

The amended TAP will support the right of more students to an education by providing financial assistance to relocating students who have recently completed their Year 12 (or equivalent) study or one or more gap years and otherwise may not be able to afford to undertake further study. Students from regional areas often take a gap year(s) to save money in order to attend tertiary institutions in metropolitan areas.

The amended table item 460 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**