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

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

Section 32B of the 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. 1) Regulations 2025* (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 and the National Emergency Management Agency.

Funding will be provided for the:

* expanded Modernised Multicultural Grants Program to support activities under the Multicultural Grassroots Initiatives, Multicultural Peak Body Funding, Infrastructure for Multicultural Communities and Faith Leaders Training grants, Supporting Sustainment of Multicultural Media, Multifaith Education Collaboration and Places of Significance programs ($144.8 million over five years from 2024-25);
* Labelling Scheme for Smart Devices program to ensure Australians can trust their digital goods and services and improve resilience to cyber security threats in smart devices and software ($1.7 million over two years from 2024-25); and
* Mental Health Support for Emergency Services Workers Grant Program to deliver a national program of best practice mental health services directed toward the prevention, treatment and control of recognised mental health conditions, targeting current and former (whether paid or voluntary) emergency services workers that have been involved in disaster response, and their families ($3.6 million in 2025-26).

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 and the National Emergency Management Agency.

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.

**Attachment A**

**Details of the *Financial Framework (Supplementary Powers) Amendment***

***(Home Affairs Measures No. 1) Regulations 2025***

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Home Affairs 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* 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 to be administered by the Department of Home Affairs (the department) and the National Emergency Management Agency (NEMA).

**Item 1 – Part 4 of Schedule 1AB (table item 690)**

*Amended table item 690 – Modernised Multicultural Grants Program*

Item 1 amends table item 690 by repealing and substituting the full item. Table item 690 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the expanded Modernised Multicultural Grants Program (the MMGP), which is administered by the department.

The MMGP responds to recommendations by the Multicultural Framework Review (the Review), announced on 24 July 2024 by the Hon Andrew Giles MP, the former Minister for Immigration, Citizenship and Multicultural Affairs (https://minister.homeaffairs.gov.au/
AndrewGiles/Pages/an-australia-for-all-the-multicultural-framework-review-24072024.aspx).

The Review advises the Government on institutional, legislative and policy settings including supporting a stronger multicultural Australia through the MMGP to best build Australia’s multiculturalism over the next decade. It also aims to identify how to better meet the needs of Australia’s increasingly diverse society (https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-framework-review/multicultural-framework-review).

The Government has committed funding of $144.8 million in response to the Review through the following stream of activities under the amended table item 690:

* Multicultural Grassroots Initiatives;
* Multicultural Peak Body Funding Grant;
* Infrastructure for Multicultural Communities;
* Faith Leaders Training; and
* Critical Support for Multicultural Communities Program, which includes:
	+ Supporting Sustainment of Multicultural Media;
	+ Multifaith Education Collaboration; and
	+ Places of Significance programs.

*Multicultural Grassroots Initiatives*

This stream seeks to build the capacity of grassroots organisations and will be delivered in an accessible manner for multicultural community groups. The open competitive grant opportunity will run through multiple grant rounds over four years from 2024-25 to 2027-28 and will target multicultural community-led grassroots organisations. Eligible organisations will be able to apply for grants of up to $100,000 for the following types of activities:

* multicultural celebrations, such as festivals and events;
* multicultural amenities, such as building upgrades, furnishings and equipment; and
* intercultural connections, such as intercultural sports programs or art projects.

The intended outcomes of the grant opportunity are:

* multicultural community-led grassroots organisations have increased capacity to engage in government grant funding processes and support a cohesive multicultural society;
* increased tolerance and understanding of cultural diversity and reduced instances of discrimination and racism;
* increased rates of social participation by multicultural community members; and
* increased rates of culturally diverse Australians expressing a sense of belonging.

*Multicultural Peak Body Funding Grant*

Under this stream, national multicultural peak bodies will work in partnership with the Australian Government to strengthen Australia’s multicultural capacity and promote a greater understanding and acceptance of Australia’s inclusive national identity, civics and citizenship, and multicultural and multi-faith diversity.

They will also deliver projects and activities that enhance the multicultural sector, organisations and individuals to facilitate the participation and inclusion of both new and emerging communities as well as established community groups.

The intended outcomes of this stream are:

* improved partnerships between the multicultural sector and Government to build on the strengths of multiculturalism and enable the Australian Government to respond to contemporary challenges; and
* improved outcomes for multicultural communities through increased awareness and elevation of multicultural voices in service design, delivery and reform.

This open competitive grant opportunity will enable multicultural peak bodies to apply for four years of funding from 2024-25 of up to $400,000 per year.

*Infrastructure for Multicultural Communities*

This stream will deliver physical infrastructure to support multicultural communities to connect and commune in a designated physical environment and will strengthen inclusion and cohesion at the local level, boost civic participation, and enable new and established multicultural communities to connect with the wider Australian community. The open competitive grant opportunity will run over three years from 2025-26.

Each grant may be up to $20.0 million for projects including, (but not limited to):

* the delivery of physical infrastructure to support multicultural communities to connect and commune in a designated safe physical environment; and
* creating new places for multicultural communities to gather, prosper and succeed, including (but not limited to):
	+ museums, libraries and art spaces;
	+ indoor and outdoor amenities, like food preparation areas, dining spaces, bathrooms, play;
	+ equipment and barbecue facilities;
	+ meeting and conference facilities;
	+ stages, auditoriums and spaces to encourage performing arts; and
	+ spaces for sporting and physical activities.

This stream aims to provide co-funding to deliver community-focused infrastructure and infrastructure which benefits the wider multicultural community by improving equity and supporting social inclusion. It also aims to encourage multicultural communities to thrive, economically and socially.

Multicultural community organisations will be able to apply for funding via an open competitive grant round. Funding allocation and project periods will be determined based on project needs and available funding, however, will not exceed three years or $20.0 million per project.

Applicants will need to provide a demonstrated ability and/or experience delivering similar sized infrastructure projects or that they have engaged and will partner with an organisation with suitable experience.

*Faith Leaders Training*

Training organisations will be able to apply for up to $2.0 million over three years from 2025-26 through an open competitive grant round.

This stream aims to:

* equip faith leaders with confidence and the tools to provide accurate and helpful guidance and advice on issues of inclusion, civic participation, community resilience, legal and civic rights and responsibilities;
* enable faith leaders to support their congregants in the legislative and social context in multicultural Australia;
* provide tools to help faith leaders engage with and involve all members of the community; and
* increase faith leaders understanding of the diversity and pluralism of Australian society, including evolving and emerging community views and identities.

Organisations will be required to design and deliver non-religious training courses to faith leaders and those in pastoral roles in faith organisations. Training will be delivered using a combination of online and face to face delivery models.

This stream will increase the capability of Australia’s faith leaders to support their congregation’s understanding of Australia’s diverse pluralistic and democratic society, and opportunities and obligations of civic participation.

*Critical Support for Multicultural Communities Program* (CSMCP)

The CSMCPwill deliver social cohesion objectives in response to a wide range of recommendations and findings in the Review and will demonstrate the Government’s swift response and genuine consideration of the Review outcomes and community feedback.

*Supporting Sustainment of Multicultural Media*

This initiative aims to support social cohesion and ensure the sustainability of small to medium ethnic media outlets realigning their business models to digital media practices. This initiative will be supporting the multicultural media sector to ensure sustainable and independent multicultural media, through:

* direct funding to Independent Multicultural Media Australia (IMMA) for industry body capacity building funding; and
* an open competitive grant round, facilitated by IMMA, with one-off grants for independent multicultural media outlets to fast track their transition to new ways of operating.

*Multifaith Education Collaboration*

Funding for the Faith Communities Council of Victoria Inc. will be provided to develop a package designed to teach children about different faith communities, nurture mutual understanding, build recognition of and respect for different faith traditions. The package will be trialled in a small number of Victorian schools. The funding is aimed at promoting a greater understanding and acceptance of Australia’s inclusive national identity, and multicultural and multi-faith diversity and will be provided to the *Multifaith Education Collaboration: Religious Education and Worldviews Pilot* to improve understanding of faith‑based diversity in Australian schools.

*Places of Significance*

This initiative involves funding to upgrade culturally significant museums and galleries, and to build a centralised sports and education hub. The funding is aimed at promoting and encouraging the uptake of Australian values and liberal democracy within culturally and spiritually significant places; and providing locations that can be utilised to address issues within Australian communities that show potential for, or early signs of, low social cohesion.

*Funding amount and arrangements, merits review and consultation*

The Multicultural Grassroots Initiatives, Multicultural Peak Body, Infrastructure for Multicultural Communities and Faith Leaders Training grants streams are sub-components of the MMGP. Administered funding of $85.8 million for the four grants programs is included in the 2024-25 Mid-Year Economic and Fiscal Outlook under the measure ‘Government Response to the Multicultural Framework Review’ over a period of four years from 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 pages 276 and 277.

Further funding of $44.8 million over five years from 2024-25 for the fifth sub-component of the MMGP, the CSMCP, will come from Program 2.5: Multicultural Affairs and Citizenship, which is part of Outcome 2. Details will be set out in the 2024-25 Portfolio Additional Estimates Statements for the Home Affairs portfolio.

All sub-components of the MMGP will be administered through grant programs. The department has engaged the Community Grants Hub within the Department of Social Services to administer these grants.

The grants will be administered 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 2024* (PGPA Rule) and the *Commonwealth Grant Rules and Principles* *2024* (CGRPs).

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

Grants under the first four sub-components of the MMGP will be delivered via open and competitive grant selection processes to ensure value for money is achieved. Grants under the CSMCP will be either one off ad-hoc or targeted, non-competitive grant rounds.

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 combination 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 decision maker for all the grant opportunities under the MMGP in compliance with the *Financial Framework (Supplementary Powers) Act 1997* (FFSP Act) and the PGPA Act.

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

Merits review of decisions made in connection with the grants program is not 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?* (the ARC guide)).

The review and audit process undertaken by the Australian National Audit Office (ANAO) provides a mechanism to review 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 design of all sub-components of the MMGP were informed by consultations undertaken as part of the Review. In the Review Panel’s (the panel) report, over 796 submissions were analysed, and the panel consulted over 1,430 individuals and 750 organisations to assess the health of Australia’s multicultural society. Over 12 months from October 2022, the panel heard from a host of diverse community and First Nations organisations, all tiers of government, and more than one thousand Australians across Australia including regional areas.

The top 10 themes identified throughout consultations were inclusion and belonging, discrimination and racism, language services, education, visas, grants or funding, policy, employment and workers’ rights, access and equity, and recognition of cultural activities and events. All of these themes have been considered in the MMGP. Further information can be found here: [https://www.homeaffairs.gov.au/multicultural-framework-review/
Documents/report-summary/multicultural-framework-review-report-english.pdf](https://www.homeaffairs.gov.au/multicultural-framework-review/Documents/report-summary/multicultural-framework-review-report-english.pdf).

Further consultations have been and will continue to be held with relevant Commonwealth departments and state and territory government departments.

*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));
* the executive power and the express incidental power (section 51(xxxix) and section 61), including the nationhood aspect; and
* the communications power (section 51(v)).

*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, in particular Articles 2(1)(d), 2(2) and 7.

*International Convention on the Elimination of all Forms of Racial Discrimination* (CERD)

Article 2(1)(d) of CERD requires States Parties 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 CERD requires States Parties, 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 CERD requires States Parties 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 MMGP 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 MMGP objectives relate to the promotion of social cohesion and the tolerance of Australia’s multicultural communities, on a national scale. The MMGP seeks to advance Australia as a multicultural nation.

*Communications power*

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services’.

The delivery of faith leader training under the program will include funding training organisations to deliver online training and learning support activities.

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

Item 2 adds two new table items to Part 4 of Schedule 1AB.

*Table item 706 – Labelling Scheme for Smart Devices*

New **table item 706** establishes legislative authority for government spending on the Labelling Scheme for Smart Devices (the program), which will be administered by the department.

The program will be delivered under the *2023-2030 Australian Cyber Security Strategy* (the Strategy), which was announced on 22 November 2023 by the Australian Government. The Strategy has been developed with Australian citizens and businesses at its core and will take a whole-of-nation approach to building cyber resilience.

The Strategy aims to improve cyber security, manage cyber risks and better support individuals and Australian businesses to manage the cyber environment. This is part of the Government’s overall objective to ensure that Australia is a world leader in cyber security by 2030.

The Strategy is structured around six cyber shields:

1. Strong businesses and citizens;
2. Safe technology;
3. World-class threat sharing and blocking;
4. Protected critical infrastructure;
5. Sovereign capabilities; and
6. Resilient region and global leadership.

The program falls under *Shield 2: Safe Technology.* The initiatives under Shield 2, including this program, have been designed to ensure Australians can trust their digital goods and services and improve resilience to cyber security threats in smart devices and software.

The program contributes to the department’s Outcome 1 - Deliver national coordination, regulation and policy that safeguard Australia’s domestic interests from national security threats, including cyber threats.

The program will also contribute towards building cyber security protections for consumers under the Strategy and Horizon 1 Action Plan (https://www.homeaffairs.gov.au/cyber-security-subsite/files/2023-cyber-security-strategy-action-plan.pdf).

The objectives of the program are to:

* co-design and implement an industry-led and internationally aligned voluntary labelling scheme for consumer-grade smart devices (products that can directly or indirectly connect to the internet and are covered by Australian Consumer Law) in Australia; and
* increase consumer awareness of the Government’s proposed mandatory minimum standard for consumer-grade smart devices in Australia.

The intended outcomes of the program are:

* increased consumer understanding and awareness of the security of products available in the Australian market;
* enable consumers to make informed decisions about the level of security when purchasing smart devices;
* align the Australian smart device market more closely with international best practice; and
* greater adoption of security and privacy protections (secure-by-design features) by manufacturers of smart devices.

*Funding amount and arrangements, merits review and consultation*

Funding of $1.7 million for the program was included in the 2023-24 Mid-Year Economic and Fiscal Outlook under the measure ‘2023-30 Australian Cyber Security Strategy’ for a period of three years commencing in 2023-24. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2023-24, Appendix A: Policy decisions taken since the 2023-24 Budget* at pages 268 and 269.

Funding for this item comes from Program 1.3: 2023–30 Australian Cyber Security Strategy, which is part of Outcome 1. Details are set out in the *Portfolio Additional Estimates Statements 2023-24, Home Affairs portfolio* at page 19.

The grant will be administered in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the CGRPs.

Consistent with the CGRPs, grant opportunity guidelines have been developed and published on the GrantConnect website at www.grants.gov.au on 30 January 2025 (reference: GO7395).

The grant will be administered by the Business Grants Hub within the Department of Industry, Science and Resources on behalf of the department and will have regard to the nine key principles in accordance with the CGRPs. Information about the grant, including awarding of grants will be made available on GrantConnect (www.grants.gov.au).

A delegate of the Secretary of the department under the FFSP Act will be responsible for final spending decisions on Commonwealth funding provided to a grant recipient. Final spending decisions will be made by the First Assistant Secretary, Cyber and Technology Security Policy Division, who will have sufficient knowledge and experience with the cyber security industry. In addition, the First Assistant Secretary is authorised to approve commitment of relevant money for goods and/or services under the PGPA Act.

The program will fund one eligible applicant. To be eligible for this grant, entities must be an Internet of Things (loT) peak body as defined in section 14 of the grant opportunity guidelines. Eligible entities will be expected to submit a grant application aimed at co‑designing and implementing an industry-led and internationally aligned voluntary labelling scheme for consumer-grade smart devices in Australia.

Eligible activities must directly relate to the project and include the following:

* co-designing the labelling scheme with the department and in consultation with industry representatives and other government agencies, and the utilisation of research conducted by the Behavioural Economics Team of the Australian Government (BETA). The co-design must consider alignment to similar schemes in other international jurisdictions;
* developing and delivering training for relevant entities within the smart device supply chain, including manufacturers, suppliers, retailers, and consumers; and
* rolling-out the labelling scheme, which will involve a transition period for smart devices with previous packaging still being sold at Australian retailers. The rollout is expected to be phased, must be agreed by the department and BETA, and will likely incorporate additional opportunities to conduct research to optimise the effectiveness of the scheme.

Should a conflict arise that limits the exercise of these powers or functions, a different delegate at the same level in the department will be responsible for final spending decisions. This delegate will have similar knowledge of cyber security, and the industry stakeholders involved. This safeguard will ensure the grant program can proceed with adequate governance and accountability procedures.

Independent merits review is not considered suitable for decisions made in connection with this grant program. Funding decisions made at the discretion of the department’s delegate can be excluded from independent merits review due to the allocation of a finite resource for each financial year from which all potential claims for a share of the resource cannot be met.

Grant decisions made in connection with the program are not considered suitable for independent merits review, as they are decisions relating to the allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. In addition, 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)*.*

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 Government consulted extensively with stakeholders and industry during the development of the Strategy. A Strategy discussion paper was released on 27 February 2023. Submissions to the discussion paper closed on 15 April 2023. The department received over 330 written submissions. Public submissions were published on the department website on 12 September 2023.

General feedback supported the concept of a labelling scheme for smart devices, in parallel with the standard for consumer-grade smart devices. Consistent with the proposed policy initiative, feedback called for a labelling scheme to provide increased awareness for consumers and to be mutually recognised with labelling schemes in other jurisdictions. The successful grant recipient will lead targeted stakeholder consultation to continue to shape and determine the design details of the labelling scheme.

*Constitutional considerations*

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

*Communications power*

Section 51 (v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services’.

The program will support the development of a labelling scheme for consumer-grade smart devices (products that can directly or indirectly connect to the internet and are covered by Australian Consumer Law). The program will allow consumers to make more informed and empowered purchasing decisions about the cyber security of smart devices in Australia, and thereby improve the security of communications made over the internet.

*Table item 707 – Mental Health Support for Emergency Services Workers Grant Program*

New **table item 707** establishes legislative authority for government spending on the Mental Health Support for Emergency Services Workers Grant Program (the MHS program), which is administered by NEMA.

The MHS program is part of the Supporting Local Emergency Management Capability program announced in the 2024-25 Mid-Year Economic and Fiscal Outlook to deliver mental health services to emergency services workers.

The MHS program aims to provide emergency services workers and their families with free support through an inclusive, accessible national program. This program offers psychological and wellbeing services aligned with the stepped care model, focusing on the prevention, treatment, and control of recognised mental health conditions, including post-traumatic stress disorder (PTSD) and suicide (where it is linked to a recognised mental health condition). It targets current and former (whether paid or voluntary) emergency services workers that have been involved in disaster response, and their families.

The intended outcome of the program is the prevention, treatment and reduction of the severity of symptoms of recognised mental health conditions, including psychological distress, PTSD and suicide, and improved future resilience to mental health conditions for emergency services workers who have been involved in disaster response, and their families, and have accessed the service.

Funding will be delivered in a single one-off, ad-hoc grant, for a recipient determined by an open competitive grants process.

The grant recipient is required to have experience in the delivery of mental health care to emergency services workers and be able to provide national coverage and include activities targeted at rural, regional and remote locations in Australia.

*Funding amount and arrangements, merits review and consultation*

Funding of $3.6 million for the MHS program was included in the 2024-25 Mid-Year Economic and Fiscal Outlook under the measure ‘Disaster Support’ for a period of one year in 2025-26. 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 276.

Funding for the item will come from Program 1.3: Australian Government Resilience, Preparedness and Disaster Risk Reduction, which is part of Outcome 1. Details will be set out in the 2024-25 Portfolio Additional Estimates Statements for the Home Affairs portfolio, NEMA*.*

Expenditure will be undertaken through an open competitive grant process. The grant will be administered in accordance with the Commonwealth resource management framework, including the PGPA Act, the PGPA Rule and the CGRPs.

Consistent with the CGRPs, the agency will develop grant opportunity guidelines and will have regard to the nine key principles in administering the grant.

Information about the grant will be made available on the GrantConnect website (www.grants.gov.au) and business.gov.au. The grant will be administered by the Business Grants Hub (BGH) within the Department of Industry, Science and Resources. The BGH will undertake a merit and value-for-money assessment of applicants and provide recommendations for NEMA to present to the Minister for Emergency Management, who is responsible for the final decision in awarding the grant in compliance with the FFSP Act and the PGPA Act.

The grant will be awarded to a single successful applicant and will be published on GrantConnect (www.grants.gov.au) and on NEMA’s website (www.nema.gov.au).

Independent merits review is not considered suitable for decisions made in connection with the grant. Funding decisions made at the discretion of NEMA’s delegate can be excluded from independent merits review due to the allocation of finite resource for each financial year from which all potential claims for a share of the resource cannot be met.

Further, 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 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 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.

NEMA has consulted with Commonwealth entities, such as the Department of the Prime Minister and Cabinet, the Department of Finance and the Department of Health and Aged Care (DHAC) in the design of the program. DHAC, as the primary Commonwealth entity responsible for delivering policy and programs relating to health (including mental health), has been consulted at every stage in briefing the Government about the program’s development, with their feedback informing the development of the grant guidelines.

*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));
* the social welfare power (section 51(xxiiiA)); and
* the communications power (section 51(v)).

*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 Economic, Social and Cultural Rights* [1976] ATS 5 (ICESCR). Article 2 provides the general obligation of States Parties to undertake steps, including the adoption of legislative measures, to achieve the full realisation of the rights recognised in the ICESCR. Article 12(2)(c) requires achievement of the full realisation of the ‘prevention, treatment and control of epidemic, endemic, occupational and other diseases’ and Article 12(2)(d) requires ‘the creation of conditions which would assure to all medical service and medical attention in the event of sickness’.

The grant will provide access to medical treatment targeted towards the prevention and control of recognised mental disorders.

*Social welfare power*

Section 51(xxiiiA) of the Constitution empowers the Parliament to make laws for the provision of, or incidental to the provision of, medical services.

The grant will assist emergency services workers and their families to access mental health medical services.

*Communications power*

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to ‘postal, telegraphic, telephonic and other like services’.

The grant will provide support for emergency services workers and their families through telehealth to deliver mental health services for those in remote or regional locations.

**Attachment B**

**Statement of Compatibility with Human Rights**

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

***Financial Framework (Supplementary Powers) Amendment (Home Affairs 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 (Home Affairs Measures No. 1) Regulations 2025* 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 and the National Emergency Management Agency.

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

* amends table item 690 ‘Modernised Multicultural Grants Program’;
* adds table item 706 ‘Labelling Scheme for Smart Devices’; and
* adds table item 707 ‘Mental Health Support for Emergency Services Workers Grant Program’.

*Amended table item 690 – Modernised Multicultural Grants Program*

The amended table item 690 establishes legislative authority for government spending on the expanded Modernised Multicultural Grants Program (the MMGP).

The MMGP responds to recommendations from the Multicultural Framework Review (the Review), which advises the Government on institutional, legislative and policy settings including supporting a stronger multicultural Australia through the MMGP to best build Australia’s multiculturalism over the next decade. It also aims to identify how to better meet the needs of Australia’s increasingly diverse society.

The Government has committed funding of $144.8 million over five years from 2024-25 in response to the Review through the following stream of activities under the amended table item 690:

* Multicultural Grassroots Initiatives;
* Multicultural Peak Body Funding Grant;
* Infrastructure for Multicultural Communities;
* Faith Leaders Training grants; and
* Critical Support for Multicultural Communities Program (CSMCP), including:
	+ Supporting Sustainment of Multicultural Media;
	+ Multifaith Education Collaboration; and
	+ Places of Significance.

**Human Rights Implications**

The amended table item 690 engages the following rights:

* the rights relating to the elimination of racial discrimination, the development and protection of racial groups and adoption of measures to combat racial prejudices and promote understanding, tolerance and friendship among racial and ethnic groups – Articles 2 and 7of the *Convention on the Elimination of Racial Discrimination* (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.

The amended table item 690 broadly supports the above rights by providing 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 relating to eliminating racial discrimination*

Article 2 of the 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 the 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.”

Belonging and connection are at the centre of social cohesion, which is critical against rising threats of social fragmentation, prejudice and hate. The funding under the amended table item 690, including, but not limited to, funding for faith leader training and multifaith education collaboration, aims to promote multiculturalism, inclusive and respectful communities, understanding of Australia’s diverse, pluralistic and democratic society and civic participation which in turn assists in combating racial prejudices and eliminating racial discrimination in accordance with Articles 2 and 7 of the CERD.

*Rights 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 funding under the MMGP, including, but not limited to, funding for the delivery of physical infrastructure, supporting sustainment of multicultural media, and upgrades to places of cultural significance, will support multicultural communities to connect, commune and enjoy their own culture and thrive economically and socially. The amended table item 690 is 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, inclusion and cohesion, 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.

The amened table item 690 is compatible with human rights because it promotes the protection of human rights.

*Table item 706 –* *Labelling Scheme for Smart Devices*

Table item 706 establishes legislative authority for government spending on the Labelling Scheme for Smart Devices program (the program).

The program will be delivered under the *2023-2030 Australian Cyber Security Strategy* (the Strategy). The Strategy sets out the Australian Government’s vision to be a world leader in cyber security by 2030. The Strategy has been developed with Australian citizens and businesses at its core and will take a whole-of-nation approach to building cyber resilience. The Strategy is built around six cyber shields, and the program will be delivered as an initiative under Shield 2: Safe Technology to ensure Australians can trust their digital goods and services, and improve resilience to cyber security threats in our smart devices and software.

The program aims to co-design and implement an industry-led and internationally aligned voluntary labelling scheme for consumer-grade smart devices in Australia. It also aims to increase consumer awareness of the Government’s proposed mandatory minimum standard for consumer-grade smart devices in Australia.

Funding of $1.7 million over two years from 2024-25 is available for the program.

### Human rights implications

Table item 706 does not engage any of the applicable rights or freedoms.

Table item 706 is compatible with human rights as it does not raise any human rights issues.

*Table item 707 – Mental Health Support for Emergency Services Workers Grant Program*

Table item 707 establishes legislative authority for government spending on the Mental Health Support for Emergency Services Workers Grant Program (the MHS program).

The MHS program aims to deliver a national program of best practice mental health services directed toward the prevention, treatment and control of recognised mental health conditions, targeting current and former (whether paid or voluntary) emergency services workers that have been involved in disaster response, and their families.

Funding of $3.6 million in 2025-26 is available to provide emergency services workers and their families with free support through an inclusive and accessible, national program of appropriate psychological and relevant wellbeing services aligned with the stepped care model, that support the prevention, treatment and control of recognised mental health conditions, including post-traumatic stress disorder and suicide (where it is linked to a recognised mental health condition).

**Human rights implications**

Table item 707 engages with the right of everyone to the enjoyment of the highest attainable standard of physical and mental health – Article 12 of the [ICESCR](http://www.info.dfat.gov.au/Info/Treaties/treaties.nsf/AllDocIDs/CFB1E23A1297FFE8CA256B4C000C26B4), read with Article 2.

*Right to Health and Wellbeing*

Article 2 of the ICESCR requires that each State Party to the ICESCR undertakes to take steps to the maximum of its available resources, especially economic and technical, to realise the rights recognised in the ICESCR, particularly through legislative measures. Article 12 of the ICESCR protects a person’s right to attain the highest standards of physical and mental health. Relevantly, Article 12(2) requires States Parties to take steps to realise the right through:

(c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases; and

(d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Table item 707 promotes the right to attain the highest standard of health through the delivery of a national program of best practice mental health services directed toward the prevention, treatment and control of recognised mental health conditions, targeting current and former (whether paid or voluntary), emergency services workers who have been involved in disaster responses, and their families.

Table item 707 supports the right to attain the highest standard of health by ensuring that emergency services workers and their families receive appropriate and adequate mental health services treatment. In particular, table item 707 will:

* expand the provision of free-of-charge mental health services to emergency services workers and their families, including the provision of telehealth services;
* improve the accessibility of mental health care through promoting awareness and acceptance of mental health conditions among emergency services workers and their families; and
* provide wellbeing-building activities designed to prevent and control mental health conditions among emergency services workers and their families.

Table item 707 is compatible with human rights because it promotes the protection of the right to attain the highest standard of health.

**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**