

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. 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 (Social Services Measures No. 1) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for the Government to provide a grant to White Box Enterprises Ltd (WBE) to deliver the Social Enterprise Loan Fund (SELF). The grant to WBE will be administered by the Department of Social Services.

The SELF was designed and created by WBE to provide affordable and flexible finance, specifically for social enterprises that have a core mission of employing disadvantaged people. Affordable finance is an identified challenge of many social enterprises and a significant barrier to the growth of the sector.

Loans under the SELF will focus on supporting activities that will grow the social enterprise and support more disadvantaged Australians into meaningful work.

Grant funding of \$1.2 million will be provided to WBE to contribute to and support the administration of the SELF.

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.

Details of the *Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 1) Regulations 2025*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Social Services 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 item in Schedule 1 amends Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on an activity to be administered by the Department of Social Services (the department).

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

This item adds one new table item to Part 3 of Schedule 1AB.

Table item 88 – Grant to White Box Enterprises Ltd

New **table item 88** establishes legislative authority for the Government to provide a grant to White Box Enterprises Ltd (WBE) to deliver the Social Enterprise Loan Fund (SELF).

The SELF forms part of the broader Social Impact Investing (SII) program which commenced in 2017 and aimed to create innovative solutions to long-standing social issues. SII brings together partners, including governments, investors, social enterprises, service providers, and communities to address complex social policy issues.

The SII program originally included \$52.7 million to undertake a series of SII trials:

- 2 trials building the capability of the social enterprise market, and
- 2 sets of trials undertaking social impact investments through outcomes-based contracts or social impact bonds.

Since 2023-24, a further \$117.1 million was committed to implement the Commonwealth Outcomes Fund and the Social Enterprise Development Initiative.

On 11 March 2025, the Government announced the SELF with a Commonwealth contribution of \$1.2 million jointly launched alongside other investors. The Government will partner with investors and philanthropic organisations to enhance access to capital for social enterprises that provide jobs for disadvantaged Australians. The media release is available at ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/partnering-investors-create-jobs-disadvantaged.

It is under the SII program that the Government will provide grant funding to WBE to contribute to and support the administration of the SELF. WBE is a registered public benevolent organisation under the Australian Charities and Not-for-profits Commission and a specialist intermediary supporting social enterprises that focus on employment pathways for people facing complex barriers to employment. WBE has a portfolio of social enterprises, programs and initiatives that all strive to advance the Work Integration Social Enterprises sector within Australia, as outlined within the *WBE 2024 Impact Report*.

WBE designed and created the SELF to address identified challenges of affordable finance for many social enterprises which is a significant barrier to growth for the sector. The SELF aims to provide affordable and flexible loans, specifically for social enterprises that have a core mission of employing disadvantaged people.

Loans will be between \$100,000 and \$500,000 with a focus on supporting activities that will grow the social enterprise and support more disadvantaged Australians into meaningful work. The SELF will operate for eight years, allowing for one round of loans to social enterprises, with repayment terms of up to seven years. Repayments will not be used to fund more loans, as the SELF is a trial that will be used to inform investors on the impact that access to affordable finance has on social enterprises.

Providing support to social enterprises aligns with the Governments current Social Enterprise Development Initiative (SEDI) which supports the growth of the social enterprise sector through building the capability of social enterprises to be more efficient and effective. SEDI currently supports social enterprises by:

- providing grants to grow their business, scale their impact and further their mission to support Australians experiencing disadvantage; and
- capability building across the broader social enterprise sector through an online resource available to all and shaped by all who choose to take part.

Although the SEDI provides grant funding to social enterprises, access to affordable finance has been a longstanding issue and a missing piece in social enterprise development and policy. Social enterprises face unique barriers in accessing affordable and appropriate finance due to thin profit margins and a reduced ability to build cash reserves, particularly for employment focused social enterprises, owing largely to the complexity of their workforce.

The SELF provides an opportunity for the Government to participate in an established fund that will test the benefit of the provision of concessional lending on a small scale. The objective of the Government's involvement in the SELF is to:

- increase understanding of the role that concessional loans and loan funds can play in the social impact investing ecosystem and the social enterprise market;
- trial the proposition that a fund of pooled money from different investors can provide sustainable finance to social enterprises on flexible terms at affordable rates whilst also paying investor returns;
- increase understanding of the technical details, legal and governance constraints surrounding the use of Commonwealth funding as a contribution to a fund of mixed investors, including philanthropic and private investment; and
- test if Commonwealth investment improves investor willingness to contribute to a social impact investment fund.

To be eligible for a loan through the SELF, Australian social enterprises must be not-for-profit (or a First Nations business) with a deductible gift recipient status, have been operating for at least two years with over 50 per cent of their income coming from trade and have evidence of at least \$50,000 of trade revenue per annum in the last financial year. Eligible social enterprises must be either certified by Social Traders, People and Planet First verified, registered with Supply Nation, or have membership with their state or territory's peak social enterprise body.

The social enterprises must create employment pathways for people with complex barriers to employment, pay full award wages and employ/support individuals from priority groups, including one or more of the following:

- First Nations peoples;
- adults aged 65 years and over;
- migrants, refugees, or asylum seekers;
- people from culturally and linguistically diverse backgrounds;
- residents in rural, regional, or remote communities;
- people with disabilities;
- individuals with recent or current experience of homelessness;
- youth aged 15 to 24 years; and
- other individuals with documented experiences of disadvantage.

Funding amount and arrangements, merits review and consultation

Funding of \$1.2 million for the grant was included in the 2025-26 Budget under the measure 'Small Business and Franchisee Support and Protection' for a period of one year commencing in 2025-26. Details are set out in *Budget 2025-26, Budget Measures, Budget Paper No. 2* at page 77.

Funding for this item will come from Program 2.1: Families and Communities, which is part of Outcome 2: Families and Communities. Details are set out in the *Portfolio Budget Statements 2025-26, Budget Related Paper No.1.14, Social Services Portfolio* at pages 21 and 47.

The department will deliver the SELF through a closed, non-competitive grant to WBE, contributing to an existing pool of funds made available from a range of investors. Funding will be provided in one instalment in 2025-26 to allow loans to be made with reasonable repayment timeframes for the social enterprises.

The SELF will be administered by White Box Finance (WBF), a separate subsidiary entity of which WBE is the sole member. Various requirements will apply to the funding and be included in the grant agreement, including:

- WBE will dispense the \$1.2 million in funding to WBF as the fund manager and trustee of SELF for its administration;
- \$1.0 million must be invested into the SELF to be distributed in loans;
- up to \$200,000 to be used to cover administrative costs associated with operating the fund; and
- the loans made by WBF from the SELF will be distributed to social enterprises with a core mission of employing disadvantaged people.

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

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

Grant opportunity guidelines and information about the grant will be made available on the GrantConnect website (www.grants.gov.au), and the grant will be administered by the Community Grants Hub in partnership with the Social Impact Investing Unit, both are part of the department.

A delegate of the Secretary of the department will be responsible for approving Commonwealth funding provided to WBE in accordance with the *Financial Framework (Supplementary Powers) Act 1997*. The delegate will be a Senior Executive Service at Band 2 level, with relevant knowledge and experience on funding the SII Program.

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. The Administrative Review Council 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?*).

WBE was determined to be an appropriate organisation to pursue a closed non-competitive grant due to their expertise and standing as the only specialist intermediary in Australia that specifically supports social enterprises with a core mission of employing disadvantaged people. They are also the creators of the SELF, the only social enterprise loan fund of its kind in Australia. The Commonwealth's contribution to the established SELF allows the department to participate in a ready-made trial that will evaluate both the benefits of the provision of concessional finance to social enterprises, as well as the usefulness of pooling Commonwealth funding with other investors, including philanthropy.

Although this grant is excluded from the independent merits review process, the review and audit process undertaken by the Australian National Audit Office 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. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The Government has undertaken extensive consultation with SII experts since the establishment of the Australian Social Impact Investing Taskforce in 2019 (the Taskforce). The Taskforce developed recommendations for the Australian Government's role in the SII market. The *Final Report of the 'Australian Social Impact Investing Taskforce* and the *Impact Investing Taskforce Expert Panel Update and Review of Final Report (Update)* were released on 18 December 2023 (<https://treasury.gov.au/publication/p2023-391009>). The report recognised that there is a critical gap in access to affordable finance for Australian social enterprises and recommended that the Commonwealth partner with the philanthropic sector to establish a Foundation for Impact Investment that provides access to finance via intermediaries to social enterprises and grants to social enterprises for investment readiness.

Consultation has also occurred via the Treasurer's Investor Roundtable, established in October 2022 to help identify and unlock investment opportunities in national priority areas. An outcome of the third roundtable in December 2023 was the establishment of a Social Impact Investment Working Group (working group). Its purpose includes growing the social impact investing market in Australia and identifying ways to tackle disadvantage and deliver outcomes for communities through unlocking investment opportunities.

Consultations on the Commonwealth's contribution to the SELF have also been undertaken within the department and across Government entities, including the Departments of the Prime Minister and Cabinet, Treasury, Finance and Employment and Workplace Relations.

Outcomes from these consultations have been positive relating to the Commonwealth's contribution to the SELF. The department's involvement in the SELF, an established fund testing concessional lending, provides an opportunity for increased understanding across government entities that have an interest in social impact investing. The department will share evidence collected from this initiative on the benefits of concessional lending to social enterprises, and the role the Commonwealth can play in future loan funds.

Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the purpose of the item references the external affairs power (section 51(xxix)) of the Constitution.

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 following treaties of relevance:

- the *International Covenant on Economic, Social and Cultural Rights* (ICESCR);
- the International Labour Organization's *Convention concerning Employment Policy* (ILO Convention 122); and
- the International Labour Organization's *Convention concerning Vocational Guidance and Vocational Training in the Development of Human Resources* (ILO Convention 142).

ICESCR

Australia has international obligations regarding the protection of economic, social and cultural rights. In particular, Article 6 of the ICESCR, which provides that States Parties recognise the right to work, which includes the right of everyone to the opportunity to gain their living by work which they freely choose or accept. and will take appropriate steps to safeguard this right. Article 6 also provides that 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.

Funding under the SELF will be used to provide loans to social enterprises with a core mission of employing disadvantaged people. This will increase economic participation and inclusion in the workforce.

ILO Convention 122

Australia has international obligations regarding international labour standards covering a wide range of social and labour issues focusing on employment policy. In particular, Article 1(1) of the ILO Convention 122, which concerns stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and under-employment and requires each Member to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.

Funding under the SELF will be used to provide loans to social enterprises with a core mission of employing disadvantaged people.

ILO Convention 142

Australia has international obligations regarding international labour standards covering a wide range of social and labour issues, particularly Article 1. Article 1 of the ILO Convention 142 provides that each Member shall adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, through public employment services.

Funding under the SELF will be used to provide loans to social enterprises with a core mission of employing disadvantaged people. Such social enterprises provide additional supports to their employees that may include skill development.

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. 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*.

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The SELF was designed and created by WBE to provide affordable and flexible loans, specifically for social enterprises that have a core mission of employing disadvantaged people. Affordable finance is an identified challenge of many social enterprises and a significant barrier to the growth of the sector.

Loans under the SELF will focus on supporting activities that will grow the social enterprise and support more disadvantaged Australians into meaningful work.

Grant funding of \$1.2 million will be provided to WBE to contribute to and support the administration of the SELF.

Human rights implications

This disallowable legislative instrument engages 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 Organisation's *Convention concerning Employment Policy* (ILO Convention 122).

Right to work

Article 2 of the ICESCR requires that each ‘State Party to the Covenant 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 recognized in the covenant 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’ and take steps ‘to achieve the full realization 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 the SELF will enable loan capital to social enterprises with a core mission of employing disadvantaged persons. The SELF will provide low-cost capital in the form of loans to eligible social enterprises to help them grow their business and increase their impact for disadvantaged Australians with barriers to employment. In doing so, these investments will promote the right to work, by providing sustainable pathways to employment for people in identified priority groups.

Conclusion

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

Senator the Hon Katy Gallagher
Minister for Finance