

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 2026*

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

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

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

Section 32B of the FFSP Act authorises the Commonwealth to make, vary and administer arrangements and grants specified in the Principal Regulations. Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programs specified in the Principal Regulations. Section 32D of the FFSP Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the 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 (Home Affairs Measures No. 1) Regulations 2026* (the Regulations) amend table item 642 in Part 4 of Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Immigration Advice and Application Assistance Scheme (IAAAS). The IAAAS is administered by the Department of Home Affairs.

The IAAAS was established in 1997 as an administered program that provides professional immigration advice and visa application assistance free of charge to disadvantaged visa applicants, prospective visa applicants, and persons seeking asylum, to help with the completion and submission of visa applications and liaison with the Department of Home Affairs.

The amendment to table item 642 will support a broader range of refugee and humanitarian visa holders and other visa applicants to allow the Australian Government to contribute to Australia's international non-refoulement obligations by supporting humanitarian entrants, visa holders and displaced individuals to resolve their immigration status.

Funding of \$3.8 million in 2025-26 will support a healthier migration system overall by making free voluntary legal advice more accessible and available.

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.

Details of the *Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 1) Regulations 2026*

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 2026*.

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 administered by the Department of Home Affairs (the department).

Item 1 – Part 4 of Schedule 1AB (cell at table item 642, column headed “Objective(s)”)

Table item 642 in Part 4 of Schedule 1AB establishes legislative authority for government spending on the Immigration Advice and Application Assistance Scheme (IAAAS).

This item amends table item 642 by expanding the objective of the IAAAS to support a broader range of refugee and humanitarian visa holders and other visa applicants.

The IAAAS was established in 1997 to provide professional immigration advice and visa application assistance services for vulnerable onshore protection applicants. The IAAAS was created following a significant reduction in Commonwealth support to Legal Aid.

Access to objective and accurate immigration information allows non-citizens to make informed decisions about the visa pathways available to them. The lodgement of compliant and fulsome applications enables the department to make well-informed decisions efficiently, minimising the need for review processes. Fair and efficient decision-making provides genuine visa applicants the security required to successfully settle in Australia, allowing them to participate in and contribute to their communities which promotes community support of Australia's migration programs.

The services and supports that may be funded under the IAAAS are varied and can include the following:

Pre-visa application support

- advising prospective applicants about appropriate visa pathways, including counselling about the consequences of lodging unmeritorious applications or false information about their identity;
- supporting individuals affected by crisis conflicts and who are offered temporary stay during the offer and acceptance process, including responding to departmental requests for information;
- support for legal providers to provide general engagement with the community representatives/leaders; and
- engaging interpreters to support the above services.

Visa application support

- assistance with completing visa applications, including preparing support documents and country research;
- assistance with lodgement processes;
- preparing responses to questions for further information and natural justice letters;
- attending interviews if required; and
- engaging interpreters to support the above services.

Post primary/departmental decision support

- assistance with merits and judicial review processes, including preparing merits and judicial review applications, lodgement of applications and attendance at interviews or court proceedings; and
- engaging interpreters to support the above services.

From 2025-26, funding will be provided for specialist legal assistance for refugee and humanitarian entrants and other visa applicants in Australia, including individuals displaced by international crises. The department will provide funding to specialist refugee legal assistance providers through the IAAAS to assist onshore visa applicants for Australian visas who:

- arrived in Australia as asylum seeker entrants and require advice and application support in relation to alternative visa pathways; or
- arrived in Australia holding non-refugee and humanitarian visas and require advice and application support on refugee or humanitarian or alternative visa options.

The IAAAS will support a healthier migration system overall by making free voluntary legal advice more accessible and available. Specialist legal assistance will support genuine applicants to present more 'decision-ready' visa applications.

Funding amount and arrangements, merits review and consultation

Funding of \$3.8 million in 2025-26 (and \$3.8 million per year ongoing) for this item will come from Program 2.3: Refugee, Humanitarian Settlement and Migrant Services, which is part of Outcome 2. Details are set out in the *Portfolio Budget Statements 2025-26, Budget Related Paper No. 1.10, Home Affairs Portfolio* at page 38.

Funding will be provided through a closed, non-competitive grant process 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* and the *Commonwealth Grants 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 grants will be made available on the GrantConnect website as appropriate (www.grants.gov.au). The grant will be administered by the Community Grants Hub, which is part of the Department of Social Services.

Final spending decisions will be made by the Secretary of the department or an appropriate delegate under the *Financial Framework (Supplementary Powers) Act 1997* and consistent with the PGPA Act and the Accountable Authority Instructions. The delegate will be at Senior Executive Service Band 1 level and have appropriate experience and knowledge to exercise this function.

Funding decisions for the IAAAS are not considered suitable for independent merits review because these decisions relate to the allocation of finite resources, and for 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.

Administrative accountability for the IAAAS will be achieved by ensuring that:

- the process of allocating funds is fair;
- the criteria for funding are made clear; and
- decisions are made objectively.

The Administrative Review Council 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 review and audit process undertaken by the Australian National Audit Office provides a mechanism to review government spending decisions and report any concerns to Parliament. Judicial review may also be available under section 39B of the *Judiciary Act 1903* and section 75(v) of the Australian Constitution.

The department consults regularly with currently funded legal providers, most recently meeting in November 2025. Feedback from these consultations included legal providers identifying a rising need for the availability of accurate and reliable advice for vulnerable refugee and humanitarian entrants and other visa applicants. Legal providers also identified a need for funding arrangements that provide a level of ongoing certainty to ensure continuity of services for applicants.

Feedback from these consultations was generally supportive and will be incorporated into the design and implementation of the grant opportunity guidelines. The department will continue to consult with these providers throughout the life of the grant agreements.

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 naturalisation and aliens power (section 51(xix));
- the immigration and emigration power (section 51(xxvii)); and
- the external affairs power (section 51(xxix)).

Aliens power

Section 51(xix) of the Constitution empowers the Parliament to make laws with respect to 'naturalization and aliens'.

The IAAAS will make specialist legal assistance more readily available to visa applicants.

Immigration and emigration power

Section 51(xxvii) of the Constitution empowers the Parliament to make laws with respect to 'immigration and emigration'.

Specialist legal assistance will support genuine visa applicants to articulate claims, resulting in more 'decision-ready' applications, and will provide non-meritorious prospective applicants advice on their prospects, and on other more appropriate visa arrangements.

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 with respect to matters or things outside the geographical limits of Australia.

The IAAAS will make specialist legal assistance more readily available for visa applicants applying to come to Australia.

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 2026

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 IAAAS was established in 1997 as an administered program to provide professional immigration advice and visa application assistance services for vulnerable onshore protection applicants.

The amendment to table item 642 will support a broader range of refugee and humanitarian visa holders and other visa applicants and allow the Australian Government to contribute to Australia's international non-refoulement obligations by supporting humanitarian entrants, other visa applicant holders and displaced individuals to resolve their immigration status.

Funding of \$3.8 million in 2025-26 is available to the IAAAS to support a healthier migration system overall by making free voluntary refugee legal advice more accessible and available.

Human rights implications

This disallowable legislative instrument engages the following rights:

- the right not to be refouled – Article 3 of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), and Articles 6 and 7 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2;
- the rights relating to the expulsion of aliens – Article 13 of the ICCPR;
- the rights relating to a range of economic and social rights – Articles 6, 9, 12 and 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2;
- the rights relating to families and children – Articles 23 and 24 of the ICCPR and Article 10 of the *Convention on the Rights of the Child* (CRC), read with Article 4; and
- the right to a fair hearing and effective remedy – Articles 2 and 14 of the ICCPR.

Right not to be refouled

Article 3 of the CAT provides that a State shall not expel, return (“*refouler*”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. For the purposes of determining such grounds, the competent authorities shall consider all relevant considerations.

Article 2 of the ICCPR requires States Parties to take the necessary steps to give effect to the rights recognised in the ICCPR, including whereby it is necessary to adopt such laws or other measures to give effect to the rights recognised in the Covenant.

Article 6 of the ICCPR provides that every human being has the inherent right to life. Article 7 of the ICCPR provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Both these articles give rise to an implied right that a State will not expel, return or extradite a person to another State where there are substantial grounds for believing that a person’s life would be at risk, or they would be in danger of being subjected to torture or to cruel, inhuman or degrading treatment or punishment.

This disallowable legislative instrument promotes these rights by providing funding to legal services providers, migration agents and interpreters to assist a broader cohort of refugee and humanitarian visa applicants and other visa applicants in Australia to resolve their immigration status by lodging applications that clearly articulate their visa eligibility.

Rights relating to the expulsion of aliens

Article 13 of the ICCPR provides that an alien lawfully in the territory of a State Party may be expelled only in pursuance of a decision reached in accordance with law.

This disallowable legislative instrument will promote this right by ensuring visa applicants across all visa programs have access to legal services to assist them in putting forward a clearly articulated visa application that enables the department to make a decision based on the best evidence the applicant is able to provide. Where an applicant is found not to satisfy the criteria for the grant of a visa, the availability of legal assistance to that applicant ensures that they have had the opportunity to provide the best evidence to support their application

and also, where appropriate, to seek review of the application decision, so that fully considered decisions have been made according to law.

Rights relating to economic and social rights

Article 2(1) of the ICESCR requires each State Party to ‘take steps... to the maximum of its available resources, with a view to achieving progressively the full realization’ of the rights recognised in the ICESCR ‘by all appropriate means, including particularly the adoption of legislative measures’.

Article 6 of the ICESCR provides that States Parties will recognise the right to work and will take steps to achieve the realisation of this right while safeguarding individual political and economic freedoms.

Article 9 of the ICESCR provides that States Parties will recognise the right of everyone to social security.

Article 12 of the ICESCR provides that States Parties will recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and will take steps to achieve full realisation of this right.

Article 13(1) of the ICESCR provides that the 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’.

This disallowable legislative instrument promotes economic and social rights by broadening the availability of the IAAAS funding across all visa programs such as skilled and partner visas, rather than being restricted to Permanent Protection visa applicants. This will facilitate access by applicants to appropriate visa pathways and associated supports, services and benefits which attach to the relevant visa, such as access to work rights, social security, health and education.

Rights relating to families and children

Article 23(1) of the ICCPR recognises the family as the natural and fundamental group unit of society and that that the family unit is entitled to protection by society and the state.

Article 24 of the ICCPR recognises that every child shall have the right to such measures of protection that are required by his status as a minor, on the part of his family, society and the State, and that every child has the right to acquire a nationality.

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

Article 10(1) of the CRC provides that States Parties will deal with applications for the purpose of family reunification in a positive, humane and expeditious manner.

This disallowable legislative instrument promotes rights relating to the protection of the family and children contained in Article 23(1) and 24 of the ICCPR and to applications for reunification of children and their parents in Article 10(1) of the CRC, by helping to ensure families are recognised and united through access to appropriate visa pathways, and that children have access to protection where required.

Right to fair hearing and effective remedy

Article 2(3) of the ICCPR provides that any persons whose rights and freedoms are recognised as violated shall have an effective remedy and that competent authorities shall enforce such remedies when granted.

Article 14(1) of the ICCPR provides that all persons shall be equal before the courts and tribunals, and that everyone shall be entitled to a fair and public hearing by a competent and independent tribunal.

This disallowable legislative instrument is intended to promote the rights to a fair hearing and effective remedy under Articles 2(3) and 14(1) of the ICCPR by extending funding for legal services providers to assist refused visa applicants seek merits or judicial review. Currently, funding under the IAAAS is limited to assistance for Permanent Protection (subclass 866) visa applicants to prepare their visa application and to participate in the visa application process. The amendment to table item 642 will extend funding to other visa applicants and to pre-application and review processes in addition to assistance for the visa application process itself.

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**