

## **EXPLANATORY STATEMENT**

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

*Financial Framework (Supplementary Powers) Act 1997*

*Financial Framework (Supplementary Powers) Amendment  
(Defence 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 (Defence Measures No. 1) Regulations 2026* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for the Australian Government to directly or indirectly provide military or financial assistance to Ukraine in connection with the Prioritised Ukraine Requirements List (PURL) for Ukraine's self-defence (the program). The program will be administered by the Department of Defence.

PURL is an initiative established by the United States (US) and the North Atlantic Treaty Organization (NATO) to deliver critical military assistance to Ukraine in its self-defence against Russia. Through PURL, Ukraine submits requests for the military capabilities it requires, which are then considered and approved by NATO and passed to the US to supply.

PURL provides Ukraine with certainty over the ongoing delivery of critical military aid, which can only be sourced from the US, including missiles for Patriot air defence systems, which are the only weapon currently capable of intercepting ballistic missiles. The resulting US Government-led contracts are financed by NATO allies and partners, who can specify which package they are supporting under PURL.

The Australian Government will contribute \$50.0 million in 2025-26 to support PURL's purposes of Ukraine's self-defence and will further the Government's policy of supporting Ukraine as it defends itself against Russia.

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 Defence.

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

**Section 1 – Name**

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Defence 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 to be administered by the Department of Defence (the department).

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

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

**Table item 777 – Assistance for Ukraine’s self-defence**

New **table item 777** establishes legislative authority for the Australian Government to directly or indirectly provide military or financial assistance to Ukraine in connection with the Prioritised Ukraine Requirements List (PURL) for Ukraine’s self-defence (the program).

In September 2024, the Senate Standing Committees on Foreign Affairs Defence and Trade issued a report: *Inquiry into Australian support for Ukraine* (available at: [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Foreign\\_Affairs\\_Defence\\_and\\_Trade/UkraineSupport47/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/UkraineSupport47/Report)) and made 22 recommendations. In its response, the Australian Government noted it remained committed to supporting Ukraine’s self-defence and providing military assistance to Ukraine that was relevant, practical, aligned with Ukraine’s need, consistent

with international law, and with no adverse impact on Australian Defence Force preparedness.

The program is consistent with the Government's response to the Senate Inquiry for military assistance ([www.pmc.gov.au/news/australian-government-response-senate-inquiry-australias-support-ukraine](http://www.pmc.gov.au/news/australian-government-response-senate-inquiry-australias-support-ukraine)), and undertook to work closely with Ukraine and international partners to support Ukraine's sovereignty and territorial integrity.

PURL is an initiative established in 2025 by the United States (US) and the North Atlantic Treaty Organization (NATO) to facilitate the delivery of critical military assistance to Ukraine in support of its self-defence against Russia. PURL is designed to facilitate the purchase or transfer of US defence articles and services to Ukraine through contributions from allies and like-minded partners.

Under the initiative, Ukraine submits requests to NATO for required US-origin military capabilities, which are reviewed and approved by NATO's Supreme Allied Commander Europe before being referred to the US for supply. Associated contracts are led by the US Government and financed by NATO allies and partners, who may nominate the specific capability packages they choose to support through PURL.

The support is critical to Ukraine's defence, providing essential air defence capabilities and other equipment as it continues to protect itself from Russian attacks. The initiative provides Ukraine with greater certainty regarding the ongoing delivery of critical military assistance that can only be sourced from the US, including Patriot air defence missiles, currently the only system capable of intercepting ballistic missiles.

Australia and New Zealand are expected to be the first non-NATO contributors to PURL, which demonstrates Australia's commitment to upholding the global rules-based order, recognising that security developments in Europe have broader strategic implications. Australia's contribution will be allocated to a specified PURL package, as agreed by Australia and will be governed by the General Framework Agreement (GFA).

The GFA sets out a non-binding mutual understanding between NATO and a contributing nation regarding collaboration in facilitating the voluntary transfer of funds from that nation to the US Department of Defense (DoD) under the PURL initiative. The GFA is operationalised by the provision of ad hoc instructions by the contributing nation in the form of 'Contribution Letters' that set out the specific PURL packages that the nation intends to finance and the amount of donation (cl 4). Donations are deposited into a NATO holding account and then transferred to the US DoD once NATO completes one or more direction documents with the US DoD and the relevant items are available (clauses 5 and 6).

The program is coordinated by the US and administered by NATO. NATO will provide regular financial reports detailing the status of donations, their usage, and current balances. The department will evaluate this information, along with any items specified in the contribution letter, throughout the program and upon its conclusion.

Funding amount and arrangements, merits review and consultation

Funding of \$50.0 million in 2025-26 for the program was included in the 2025-26 Mid-Year Economic and Fiscal Outlook under the measure ‘Continued Defence Support to Ukraine’. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2025-26, Appendix A: Policy decisions taken since the 2025 PEFO* at page 218.

Funding for this item will come from Program 2.1: Strategy, Policy and Industry, which is part of Outcome 2. Details are set out in the *Portfolio Additional Estimates Statements 2025-26, Defence Portfolio* at page 16.

Funding for PURL 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 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 will be made available on the GrantConnect website ([www.grants.gov.au](http://www.grants.gov.au)).

The funding will be delivered through a closed, non-competitive grant process to the US DOD, with NATO acting as a delegated financial intermediary and fund-holder between Australia and the US DOD. The delegate of the Secretary of the department would hold delegated authority to directly administer the payments in accordance with the *Financial Framework (Supplementary Powers) Act 1997*. The delegate will be the First Assistant Secretary of the International Policy Division and possesses the necessary skills, experience, and knowledge to perform these responsibilities.

Details of the grant recipient will be published no later than 21 working days after the funding agreement for the grant takes effect, in accordance with the CGRPs. This information will be retained on the department’s website for at least two fiscal years and published on the GrantConnect website.

The decision made in connection with the grant funding will not be subject to independent merits review. The process will be closed and non-competitive. Independent merits review would not be considered appropriate as this is a decision relating to the allocation of a finite resource, from which all potential claims for a share of the resource cannot be met. 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 merits review?*).

The ARC notes that administrative accountability is still required, and that the process for allocating funds under a grant program must be fair and the criteria for funding must be made clear. Further, decisions relating to grant funding must be made objectively. The department considers that these requirements will be met through governance arrangements supporting the program. Individuals dissatisfied with a decision relating to a grant under the program may raise concerns with the Commonwealth Ombudsman.

As part of the Senate Inquiry into Australian Support for Ukraine, the Committee received 230 submissions, 14 tabled documents and additional information and conducted three public hearings. The Report made 22 recommendations for the Australian Government which incorporated views from people and organisations who want to see an end to the horrific conflict on Ukraine's terms.

In the development of the program, the department has consulted with relevant stakeholders, including the Departments of Foreign Affairs and Trade, the Prime Minister and Cabinet and Finance. Consultation revealed no areas of concern with regard to aligning the program with government policy on continued support for Ukraine, consistent with the Senate Inquiry. The department undertook to ensure Australia's contributions will be used in accordance with Australia's obligations under international law, including the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* (Ottawa Convention).

Stakeholders consulted were supportive of the grant program in light of clear government intent for continued support for Ukraine. At various stages of the development of the program, the department received information from NATO on PURL processes and received proposed equipment lists.

#### Constitutional considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective 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 with respect to matters concerning Australia's relations with other nations, and with respect to matters or things outside the geographical limits of Australia.

The program will allow the Government to provide grants to credible partner-led funds for the purposes of Ukraine's self-defence and will further the Government's policy of supporting Ukraine as it defends itself against Russia. The program will provide funds to assist Ukraine to obtain military capabilities that will be made, purchased and used outside Australia, and will have implications for Australia's relations with Ukraine and other international partners.

## **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 (Defence 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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PURL provides Ukraine with certainty over the ongoing delivery of critical military aid, which can only be sourced from the US, including missiles for Patriot air defence systems, which are the only weapon currently capable of intercepting ballistic missiles. The Australian Government will contribute \$50.0 million in 2025-26 to support PURL's purposes of Ukraine's self-defence and will further the Government's policy of supporting Ukraine as it defends itself against Russia.

#### **Human rights implications**

This disallowable legislative instrument does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed under section 3 of the *Human Rights Parliamentary Scrutiny Act 2011*.

This disallowable legislative instrument supports activities undertaken outside Australia and does not affect Australian citizens or other persons subject to Australia's jurisdiction. Australia will not exercise effective control over individuals affected by the activities funded under the program.

### **Conclusion**

This disallowable legislative instrument is compatible with human rights as it does not raise any human rights issues.

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