EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Productivity, Competition, Charities and Treasury

Federal Financial Relations Act 2009

Federal Financial Relations (National Partnership Payments—2026-27 Payment No. 4) Determination 2026

Subsection 16(1) of the *Federal Financial Relations Act 2009* (the FFR Act) provides that the Minister may determine amounts to be paid to the States, the Australian Capital Territory or the Northern Territory for the purpose of the Commonwealth making grants of financial assistance to:

- support the delivery of agreed outputs or projects;
- facilitate State and Territory reforms; and
- reward States and Territories for nationally significant reforms.

The purpose of the *Federal Financial Relations (National Partnership Payments—2026-27 Payment No. 4) Determination 2026* (the Determination) is to determine amounts of financial assistance to be paid to the States, the Australian Capital Territory or the Northern Territory for matters detailed in the dot points above.

The *Intergovernmental Agreement on Federal Financial Relations* (the IGA) provides a foundation for collaboration on policy development and service delivery between the Commonwealth and the States, the Australian Capital Territory and the Northern Territory. As part of the IGA, the Commonwealth has committed to the provision of on-going financial support for the States' and Territories' service delivery efforts. This includes the provision of national partnership payments which support the matters detailed in the dot points above.

The Determination gives effect to the Commonwealth's ongoing obligations under the IGA to make grants of financial assistance.

By way of background, legislative authority is required for the Commonwealth to spend money from the Consolidated Revenue Fund. The *Public Governance, Performance and Accountability Act 2013* provides that, if another Act establishes a special account and identifies the purposes of the account, the Consolidated Revenue Fund is appropriated up to the balance of the account at any point in time for expenditure for the purposes of the account.

In this context, the *Federation Reform Fund Act 2008* establishes the Federation Reform Fund, a special account, which has the purpose of making grants of financial assistance to States and Territories. The FFR Act requires the Minister, following the making of a determination, to credit funds he or she has determined to the Federation

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Reform Fund for the purpose of providing financial assistance to the States, the Australian Capital Territory or the Northern Territory.

Under subsection 16(3) of the FFR Act, the total amount credited to the Federation Reform Fund for the purpose of making a grant of national partnership payments in a financial year must not exceed the debit limit determined for that year. The debit limit is set by the annual appropriation Acts. The Determination will not result in total determined amounts for the relevant financial year exceeding the debit limit.

The IGA was subject to extensive consultation with the States and Territories before it was agreed by the former Council of Australian Governments on 29 November 2008. The IGA is publicly available on the Federal Financial Relations website. The Determination is minor and machinery in nature and was not subject to further consultation.

Details of the Determination are set out in Attachment A.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*. In accordance with subsection 16(5) of the FFR Act and subsection 44(1) of the *Legislation Act 2003*, the Determination is not subject to disallowance. The Determination is also not subject to sunsetting under subsection 54(1) of the *Legislation Act 2003*. The exemptions from disallowance and sunsetting are provided on the grounds that the instrument is part of an intergovernmental scheme and gives effect to agreements between the Commonwealth and each of the States, the Australian Capital Territory and the Northern Territory. The instrument's operation is effectively mechanical in that it simply details an instalment of financial assistance to be provided to a State or Territory based on that State or Territory having satisfied the necessary agreed criteria. The instrument can only authorise financial assistance being paid to a State or Territory where it has been supported by a valid appropriation enacted by the Parliament, further the annual appropriation Bills also include annual debit limits for amounts that may be spent under the delegated general purpose financial assistance or national partnership payments under the FFR Act. The debit limits provide an effective mechanism to limit the expenditure of public money under the Determination and ensures that there is alternative Parliamentary scrutiny of such arrangements.

The Determination commenced immediately after it was registered on the Federal Register of Legislation.

A statement of Compatibility with Human Rights is at Attachment B.

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ATTACHMENT A

Details of the *Federal Financial Relations (National Partnership Payments—2026-27 Payment No. 4) Determination 2026*

Section 1 – Name of the Determination

This section provides that the name of the Determination is the *Federal Financial Relations (National Partnership Payments—2026-27 Payment No. 4) Determination 2026* (the Determination).

Section 2 – Commencement

The Determination commenced immediately after it was registered on the Federal Register of Legislation.

Section 3 – Authority

The Determination is made under the *Federal Financial Relations Act 2009* (the Act).

Section 4 – Definitions

This section provides definitions are that used in the Determination.

Section 5 – Determination of national partnership payments

This section specifies amounts to be paid to each of the States, the Australian Capital Territory and the Northern Territory as grants of financial assistance to:

- support the delivery of agreed outputs or projects;
- facilitate State and Territory reforms; and
- reward States and Territories for nationally significant reforms.

Financial assistance provided is based on that State or Territory having satisfied the necessary agreed criteria, and having advised the Commonwealth prior to when the relevant monthly payment falls due.

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ATTACHMENT B

Statement of Compatibility with Human Rights

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

Federal Financial Relations (National Partnership Payments—2026-27 Payment No. 4) Determination 2026

This 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

The instrument determines amounts of national partnership payments to be paid to the States, the Australian Capital Territory or the Northern Territory.

Human rights implications

This Legislative Instrument does not directly engage any of the applicable rights or freedoms.

National partnership agreements set out mutually agreed objectives, outcomes, outputs and performance requirements for the specific services, project or reform to be delivered under that agreement. Each agreement is negotiated between the Commonwealth and the relevant States and Territories. Through the negotiation process, the States and Territories have input into the setting of benchmarks to be used to measure progress in delivering services, projects and reforms. As such, the benchmarks in national partnership agreements are agreed by all parties as achievable and demonstrating the realisation of the mutually-agreed policy objectives.

The States and Territories meet the overwhelming majority of performance requirements in national partnership agreements. The associated funding is then paid in accordance with determinations made under the FFR Act, such as the Determination, consistent with the terms and conditions of the relevant agreement. The setting of performance requirements promotes the progressive realisation of certain human rights by creating an incentive for the efficient delivery of services, projects and reforms in sectors such as health, education, housing and community services. For example, determinations may include payments that support:

- the rights of people with disabilities to full and effective participation and inclusion in society (Article 3, Convention on the Rights of Persons with Disabilities);
- the right to education (Article 13, International Covenant on Economic, Social and Cultural Rights; Article 28, Convention of the Rights of the Child; Article 24, Convention on the Rights of Persons with Disabilities);

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- the right to be physically and mentally healthy (Article 12, International Covenant on Civil and Political Rights);
- the right to adequate housing (Article 11, International Covenant on Civil and Political Rights);
- realisation of the right to work through vocational training (Article 6, International Covenant on Economic, Social and Cultural Rights; Article 27, Convention on the Rights of Persons with Disabilities); and
- the right to an adequate standard of living (Article 11, International Covenant on Civil and Political Rights).

It is difficult to assess the human rights compatibility of the making of payments of financial assistance to each State or Territory as the States and Territories are responsible for the delivery of those services.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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