

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

*Financial Framework (Supplementary Powers) Amendment
(Attorney-General's Portfolio 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 (Attorney-General's Portfolio Measures No. 1) Regulations 2026* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Family Violence and Cross-Examination of Parties Scheme (the Scheme), administered by the Attorney-General's Department.

The Scheme, introduced in 2019, is an established mechanism which provides funding to state and territory Legal Aid Commissions (LACs) to arrange for legal representation at family law court hearings where the *Family Law Act 1975* (Cth) (Family Law Act) and *Family Court Act 1997* (WA) (Family Court Act WA) ban on direct cross-examination applies. The Family Law Act and the Family Court Act WA prohibit direct cross-examination where there is an allegation of family violence between parties. If direct cross-examination is prohibited, it must be conducted by a legal representative.

The objective of the Scheme is to support the operation of the legislative ban on direct cross-examination by perpetrators, ensuring victim-survivors of family violence are protected from re-traumatisation. Since its introduction in 2019, the Australian Government has provided approximately \$99.3 million to support the Scheme. Additional funding of \$9.1 million in 2025-26 will be provided for the Scheme to supplement grants to LACs to ensure legal representation can continue to be provided where the legislative ban applies.

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 Attorney-General's Department.

Details of the *Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio Measures No. 1) Regulations 2026*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio 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 Attorney-General's Department (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 773 – Family Violence and Cross-Examination of Parties Scheme

New **table item 773** establishes legislative authority for government spending on the Family Violence and Cross-Examination of Parties Scheme (the Scheme).

To protect victim-survivors of family violence from being re-traumatised during family court hearings, section 102NA of the *Family Law Act 1975* (Cth) (Family Law Act) and section 219AK of the *Family Court Act 1997* (WA) (Family Court Act WA) prohibits direct cross-examination where there is an allegation of family violence between parties. If direct cross-examination is prohibited, cross-examination must be conducted by a legal representative.

The Scheme was introduced in 2019 to ensure that both parties in matters subject to the ban have access to legal representation. The Scheme was established to uphold procedural fairness for all parties and to ensure that victims are not compelled to settle their matters or enter into unsafe arrangements due to a fear of direct cross-examination. Since its introduction in 2019, the Australian Government has provided approximately \$108.4 million to support the Scheme, which includes supplementary funding of \$9.1 million committed in the 2025-26 Mid-Year Economic and Fiscal Outlook.

The objective of the Scheme is to support the operation of the Family Law Act and Family Court Act WA legislative ban on direct cross-examination by perpetrators so that victim-survivors of family violence are shielded from re-traumatisation and are supported to pursue family law outcomes that prioritise their safety, future economic security and the best interests of any children involved.

The Scheme provides grants to state and territory legal aid commissions (LACs) to provide legal representation to one or both parties where the parties are otherwise unrepresented and the ban applies in relation to proceedings under the Family Law Act and the Family Court Act WA, and cover administrative costs on a per matter basis for the above proceedings.

Separately, the department also funds a LAC to employ a Scheme Coordinator, who serves as a central point for coordinating data collection and collation, and supports policy, operational, and data development activities for the Scheme.

Although administered by LACs, legal representation under the Scheme differs from a general grant of legal aid. The usual means and merits test applicable to legal aid do not apply under the Scheme, and clients are not required to contribute to the cost of their legal representation. Unlike the comprehensive representation model offered through legal aid, assistance under the Scheme is limited to the hearing at which personal cross-examination has been prohibited, typically the final hearing. This includes preparation for that hearing and, where appropriate, late stage legally-assisted family dispute resolution.

The Scheme supports the Government's broader agenda to end gender-based violence, aligning with the outcomes of the *National Plan to End Violence Against Women and Children 2022-2032* (www.dss.gov.au/national-plan-end-violence-against-women-and-children) and the *Working for Women: A Strategy for Gender Equality* (www.pmc.gov.au/office-women/working-women-strategy-gender-equality), by ensuring the family law system can meet the needs of women and children experiencing violence.

Funding amount and arrangements, merits review and consultation

Funding of \$9.1 million for the Scheme was included in the 2025-26 Mid-Year Economic and Fiscal Outlook under the measure 'Ending Gender-Based Violence – continued investment' for one year commencing in 2025-26. Details are set out in the *Mid-Year Economic and Fiscal Outlook 2025-26, Appendix A: Policy decisions taken since the 2025-26 PEFO* at pages 214-215.

Funding for this item will come from Program 1.4: Justice Services, which is part of Outcome 1. Details are set out in the *Portfolio Additional Estimates Statements 2025-26, Attorney-General's, Explanations of Additional Estimates 2025-26* at page 20.

The Scheme is 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 2014* (PGPA Rule) and the *Commonwealth Grants Rules and Principles 2024* (CGRPs). Consistent with the CGRPs, the department has developed the *Family Violence and Cross-examination of Parties Scheme Grant Opportunity Guidelines* (see GO5872 on GrantConnect) and will have regard to the nine key principles outlined in the CGRPs in administering the grants.

Decisions on awarding the grants under the Scheme and the quantum of those grants are made by the Attorney-General following a closed non-competitive process. A closed non-competitive process is appropriate as LACs are the only bodies that are able to deliver the service.

At the establishment of each grant round, the department convenes a Selection Advisory Panel to review grant applications and make recommendations to the Attorney-General. The Selection Advisory Panel includes staff from the Family and Community Safety Branch and seeks advice from other Commonwealth officers with relevant specialist expertise as needed.

Consistent with the department's delegation instrument, established under the PGPA Act and the *Financial Framework (Supplementary Powers) Act 1997* (FFSP Act), the following officers in the department have an appropriate delegation to enter into a contract:

- Senior Executive Service (SES) Band 3 – spending delegation of up to \$10.0 million;
- SES Band 2 – spending delegation of up to \$5.0 million;
- SES Band 1 – spending delegation of up to \$2.5 million; and
- Executive Level 2 – spending delegation of up to \$0.3 million.

The delegate has appropriate skills, qualification, and experience, with a strong understanding of the objectives of the Scheme. The PGPA Act, the FFSP Act and the CGRPs set out the limitations and safeguards relevant to the delegation.

Consistent with the department's delegation instrument, the Community Grants Hub in the Department of Social Services undertakes the ongoing management of the grant agreements on behalf of the department, including program delivery, quality, compliance, and audit activities. Information about the grants and successful grantees will be made available on the GrantConnect website (www.grants.gov.au).

The department is responsible for the following in terms of program delivery:

- entering into grant agreements with the LACs on behalf of the Attorney-General;
- approving payments under the grant agreements;
- facilitating dissemination of reporting to relevant Government agencies; and
- reporting on performance of the program.

Independent merits review is not considered suitable for decisions made in connection with the Scheme as these decisions relate to the allocation of finite resources, from which all potential claims of the resource may not be met. Allowing independent merits review would only promote competition among LACs. No effective remedy could be provided, as a successful application for review by one LAC would require a reduction in funding to other LACs, resulting in delays in channelling funds into service provision. It would also mean that an allocation that has already been made to another party would be affected by overturning the original decision.

Additionally, funding for the Scheme is based on budgetary decisions of a policy nature, rather than decisions immediately affecting any particular person's interests. Decisions of this nature are subject to parliamentary scrutiny, and the Minister who makes them will be held politically accountable for any consequences. Decisions by government to allocate funding to programs such as this Scheme are therefore not suitable for review. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions based on finite resources and budgetary decisions of a policy 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 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.

A 2021 statutory review, led by Mr Robert Cornall AO, a former Managing Director of Victoria Legal Aid (1995-2000) and a former Secretary of the department (2000-2008), assisted by Ms Kerrie-Anne Luscombe, found that there is virtually universal support for the Scheme amongst key stakeholders, and that it is assisting to reduce the re-traumatisation of victims of family violence by direct cross-examination.

The review also found the Scheme had achieved encouraging results assisting victim-survivors to settle cases without the need for a contested court decision. This led to indirect savings in government expenditure, including savings in court and judge time in cases settled without a judicial decision, hearing days saved in shorter trials, and savings in health and welfare costs as a result of safer and fairer settlements for victim-survivors and their families.

Targeted consultation was undertaken in mid-2025 in relation to the departmental review of the cross-examination legislative ban and Scheme. The department developed an options paper which sought feedback from relevant stakeholders on potential options to improve the current function of the cross-examination ban and Scheme. The paper considered issues associated with the unsustainable growth in demand for the cross-examination Scheme and reports from the sector of unintended consequences arising from operation of the cross-examination ban and the Scheme. These include perpetrators of family violence misusing the cross-examination ban and Scheme to perpetrate systems abuse.

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 marriage power (section 51(xxi));
- the divorce and matrimonial causes power (section 51(xxii));
- the external affairs power (section 51(xxix));
- the referred powers (section 51(xxxvii)); and
- the power to invest any court of a State with federal jurisdiction (section 77(iii)).

Marriage power and divorce power

Section 51(xxi) of the Constitution empowers the Parliament to make laws with respect to marriage. Section 51(xxii) of the Constitution empowers the Parliament to make laws with respect to ‘divorce and matrimonial causes; and in relation thereto, parental rights and the custody and guardianship of infants’.

The Scheme will provide funding to LACs to ensure that legal representation is available to parties to a marriage or de-facto relationship in proceedings under the Family Law Act and Family Court Act WA where the ban on cross-examination applies.

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 under the following international agreements:

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Article 2 of CEDAW requires States Parties to condemn discrimination against women in all its forms and to pursue policies of eliminating discrimination against women.

Article 3 of CEDAW requires States Parties to undertake appropriate measures, in particular in the political, social, economic and cultural fields, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 15(2) of CEDAW provides that States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity.

Article 16 of the CEDAW provides that States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women.

Convention on the Rights of the Child (CRC)

Article 3 of the CRC provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

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

International Covenant on Civil and Political Rights (ICCPR)

Article 2 of the ICCPR provides that each State Party ‘undertakes to take the necessary steps to adopt such legislative or other measures as may be necessary to give effect to the rights’ recognised in the Covenant.

Article 7 of the ICCPR provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9 of the ICCPR provides that everyone has the right to liberty and security of person.

Article 17 of the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation, and that everyone has the right to the protection of the law against such interference or attacks.

The Scheme will provide funding to LACs to ensure that legal representation is available to parties to proceedings under the Family Law Act and Family Court Act WA where the ban on cross-examination applies. The legal representation provided under the Scheme will ensure victims do not settle their matter and enter into unsafe arrangements because of a fear of direct cross-examination by their perpetrator, and protect victims from further traumatisation, harassment and intimidation. The Scheme aims to ensure the family law system can meet the needs of women and children experiencing or at risk of violence.

Referred matters power

Section 51(xxxvii) of the Constitution empowers the Parliament to make laws with respect to ‘matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States’.

The Scheme will provide funding to LACs to ensure that legal representation is available in accordance with the cross-examination provisions in the Family Law Act (and Family Court Act WA), including in proceedings concerning the breakdown of de facto relationships or the determination of parental arrangements and the custody or guardianship of children. A number of states have referred particular legislative powers relating to de facto relationships and children to the Commonwealth under section 51(xxxvii) of the Constitution.

Power to confer jurisdiction on state and territory courts

Section 77(iii) of the Constitution empowers the Commonwealth Parliament to invest state courts with federal jurisdiction. Section 51(xxxix) of the Constitution (the express incidental power) provides that the Parliament may make laws with respect to ‘matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth’.

Section 122 of the Constitution empowers the Parliament to ‘make laws for the government of any territory’.

Funding to LACs to provide legal representation for the purposes of the cross-examination under the Family Law Act and Family Court Act WA will assist courts in exercising jurisdiction in relation to matters arising under those Acts.

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 (Attorney-General's Portfolio 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*.

The *Financial Framework (Supplementary Powers) Amendment (Attorney-General's Portfolio Measures No. 1) Regulations 2026* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Family Violence and Cross-Examination of Parties Scheme (the Scheme), administered by the Attorney-General's Department.

The Scheme, introduced in 2019, is an established mechanism which provides funding to state and territory Legal Aid Commissions (LACs) to arrange for legal representation at family law court hearings where the *Family Law Act 1975* (Cth) (Family Law Act) and *Family Court Act 1997* (WA) (Family Court Act WA) ban on direct cross-examination applies. The Family Law Act and the Family Court Act WA prohibit direct cross-examination where there is an allegation of family violence between parties. If direct cross-examination is prohibited, it must be conducted by a legal representative.

The objective of the Scheme is to support the operation of the legislative ban on direct cross-examination by perpetrators, ensuring victim-survivors of family violence are protected from re-traumatisation. Additional funding of \$9.1 million in 2025-26 will be provided for the Scheme to provide grants to LACs to ensure legal representation can continue to be provided where the legislative ban applies.

Human rights implications

This disallowable legislative instrument engages the following rights:

- the right of a child to have their best interests a primary consideration – Article 3 of the *Convention on the Rights of the Child* (CRC), read with Article 4;
- the right of women to the exercise and enjoyment of human rights and fundamental freedoms equal with men – Article 3 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), read with Article 2;
- the right to equality before the law – Article 15 of the CEDAW;
- the right to freedom from discrimination against women in all matters relating to marriage and family relations – Article 16 of the CEDAW;
- the right to a fair hearing – Article 14 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2; and
- the right to the protection of children on dissolution of a marriage, and generally – Articles 23 and 24 of the ICCPR, and Article 3 of the CRC.

Right of a child to have their best interests a primary consideration

Article 4 of the CRC provides that ‘States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the Convention’.

Article 3(1) of the CRC provides that:

- In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Funding under the Scheme will assist victim-survivors of family violence to reach fairer outcomes that safeguard their long-term economic security, which is also in the best interests of their children. In addition, the Scheme ensures parties affected by the cross-examination ban can participate in proceedings with legal representation, including by testing all necessary evidence admitted in proceedings through legally-assisted cross-examination, supporting the Court to make decisions in the best interests of children.

Right of women to the exercise and enjoyment of human rights and fundamental freedoms equal with men

Article 2 of the CEDAW requires States Parties to condemn discrimination against women in all its forms and to pursue policies of eliminating discrimination against women.

Article 3 of the CEDAW requires States Parties to undertake appropriate measures, in particular in the political, social, economic and cultural fields, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

The provision of Government-funded legal representation to support operation of the prohibition of personal cross-examination in family law proceedings where there are allegations of family violence promotes victim-survivors' rights to a fair hearing. By enabling women to remain engaged in proceedings, without fear of cross-examination, the Scheme helps safeguard their long-term economic security through access to fairer financial and parenting outcomes.

Right to equality before the law

Article 15(2) of the CEDAW provides that States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity.

While funding for legal representation under the Scheme is for both perpetrators and victim-survivors of family violence, the overarching purpose of providing that representation is to protect victim-survivors from re-traumatisation during family court proceedings. Women remain disproportionately affected by family violence. Prohibiting personal cross-examination in family law proceedings where there are allegations of family violence promotes victim-survivors' rights to a fair hearing. Providing legal assistance under the Scheme ensures women's full participation in family law proceedings, equal to that of men.

Right to freedom from discrimination against women in all matters relating to marriage and family relations

Article 16 of the CEDAW provides that States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women.

Legal representation provided under the Scheme will continue to shield victim-survivors of family violence, mainly women, from the re-traumatisation of direct cross-examination by perpetrators, thereby reducing systemic barriers that discourage women from pursuing justice. By enabling women to remain engaged in proceedings, without fear of cross-examination, the Scheme helps safeguard their long-term economic security through access to fairer financial and parenting outcomes.

Right to a fair hearing

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 14(1) of the ICCPR provides that all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against a person, or of a person's rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The purpose of the Scheme is to protect victims of family and domestic violence from being directly cross-examined by the alleged perpetrator, which may affect the ability of the victim to give clear evidence due to re-traumatisation. Where direct cross-examination is prohibited by the Scheme, both parties would be required to complete their cross-examination through a legal representative, meaning neither party is disadvantaged, and both parties are able to be provided with a reasonable opportunity to present their case.

Right to the protection of children on dissolution of a marriage, and generally

Article 23(4) of the ICCPR provides that States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24(1) of the ICCPR provides that ‘every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State’.

Article 3(2) of the CRC provides that ‘States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures’.

When making a ruling in a family law matter, courts must consider the best interests of the child, however this can only be done with consideration to the evidence provided during a matter. Direct cross-examination by an alleged perpetrator may affect the ability of the victim to give clear evidence, or to challenge evidence that is averse to their case.

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**