

FAMILY LAW AMENDMENT (INFORMATION SHARING) REGULATIONS 2023

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General

under subsection 125(1) of the *Family Law Act 1975*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Family Law Act 1975* (the Act) concerns matters relating to the dissolution of married and de facto relationships, including divorce, parenting arrangements, property distribution, financial agreements and child and spousal maintenance. It also deals with matters of parentage and the jurisdiction of the Federal Circuit and Family Court of Australia and the Family Court of Western Australia (the family law courts).

Subsection 125(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Family Law Amendment (Information Sharing) Regulations 2023* (the Regulations) is to amend the *Family Law Regulations 1984* (the Principal Regulations) to support implementation and operation of the *Family Law Amendment (Information Sharing) Act 2023* (the Amendment Act). From commencement on 6 May 2024, the Amendment Act will replace existing information sharing arrangements under section 69ZW of the Act and establish an enhanced, court-initiated process for the sharing of child abuse, neglect and family violence information between the family law courts and State and Territory agencies with responsibility for child protection, policing and firearms.

Amendments to the Principal Regulations are necessary to support the operation of the new information sharing framework. In particular, the Regulations would.

- a) prescribe State and Territory agencies, or parts of agencies, with responsibility for child protection, policing and firearms, as information sharing agencies for the purposes of new Subdivision DA in the Amendment Act
- b) prescribe information sharing safeguards to support the safe provision, access, storage and use of information under new Subdivision DA of the Amendment Act, and
- c) repeal existing regulation 12CD and Schedule 9 of the Principal Regulations.

Regulation 12CD of the Principal Regulations provided for the prescription of State and Territory agencies for the purposes of obtaining evidence relating to child abuse or family violence under section 69ZW of the Act. These agencies were then prescribed in Schedule 9 of the Principal Regulations. The Amendment Act repeals section 69ZW of the Act, introducing a new Subdivision DA dealing with the sharing of information from State and Territory agencies in child-related proceedings.

The Regulations would support the operation of the new Subdivision DA, by adopting a streamlined approach to the prescription of State and Territory information sharing agencies for the purposes of information sharing. Repealing Regulation 12CD and Schedule 9 of the Principal Regulations prevents any duplication or potential inconsistencies with the current prescription of agencies.

Prescribing the information sharing safeguards in the Regulations is necessary and appropriate given their operational nature, enhancing existing information sharing and handling procedures in the family law courts and information sharing agencies. This approach will ensure that the information sharing framework established by the Amendment Act can be responsive to evolving best practice and nuances in operation across eight different State and Territory jurisdictions. The inclusion of information sharing safeguards within the Regulations would provide flexibility for amendments to reflect emerging best practice, whilst still ensuring the proposed information sharing safeguards are subject to sufficient Parliamentary oversight and scrutiny.

Details of the Regulations are set out in [Attachment A](#).

Section 2 provides that this instrument commences on the later of the times set out in column 2 of the table. This being the later of:

- a) the start of the day after the instrument is registered; and
- b) the same time as the Amendment Act.

The making of the Regulations prior to commencement of the Amendment Act is supported by section 4 of the *Acts Interpretation Act 1901*.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

CONSULTATION

Consistent with requirements under section 17 of the *Legislation Act 2003*, consultation on an exposure draft of the Regulations was undertaken with:

- the family law courts
- State and Territory agencies with responsibility for child protection, policing and firearms, as well as departments of Attorneys-General and justice, and
- national peak bodies with a focus on women's and children's safety, domestic and family violence, legal services and the legal profession.

This consultation was in addition to previous consultation with these groups conducted during the development of the Amendment Act, and the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* (National Framework).

The Attorney-General's Department also commissioned a Privacy Impact Assessment (PIA) as part of developing the National Framework. Recommendations from the PIA, particularly in relation to promoting privacy and the importance of limiting collection of personal and identifying information where possible, have informed the development of these Regulations.

POLICY IMPACT ANALYSIS

The Office of Impact Assessment (OIA) have assessed the Regulations as having minor regulatory impact. OIA have confirmed that a Policy Impact Analysis is not required for the Regulations. The OIA reference number is OBPR22-01779.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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*. A Statement of Compatibility with Human Rights is set out in Attachment B.

NOTES ON SECTIONS

PART 1 – Preliminary

Section 1 – Name

Section 1 provides that the title of the instrument is the Family Law Amendment (Information Sharing) Regulations 2023 (the Regulations).

Section 2 – Commencement

Section 2 provides that this instrument commences on the later of the times set out in column 2 of the table. This being the later of:

- a) the start of the day after the instrument is registered; and
- b) the same time as the *Family Law Amendment (Information Sharing) Act 2023* (the Amendment Act).

The making of the Regulations prior to commencement of the Amendment Act is supported by section 4 of the *Acts Interpretation Act 1901*.

Section 3 – Authority

Section 3 provides that this instrument is made under the *Family Law Act 1975* (the Act).

Section 4 – Schedules

Section 4 provides that the *Family Law Regulations 1984* (the Principal Regulations) are amended as set out in Schedule 1.

SCHEDULE 1 – Amendments

Item 1

Item 1 would insert new Regulations 12CBA (Information sharing agencies) and 12CBB (Information sharing safeguards) into the Principal Regulations. These new Regulations would support the operation of Subdivision DA of the Act, as inserted by Schedule 1 to the Amendment Act.

New Regulation 12CBA

New Regulation 12CBA would be inserted into the Principal Regulations to prescribe State and Territory child protection, policing and firearms agencies as information sharing agencies for the purposes of Subdivision DA of the Act, as provided by section 67ZBC of the Amendment Act.

New Regulation 12CBA would adopt a new approach to prescribing information sharing agencies, prescribing them based on the function they perform, rather than by reference to establishing legislation or departmental names, as is currently the case in Schedule 9.

Prescribing agencies based on function is intended to:

- ensure all State and Territory agencies or parts of agencies intended to be captured and share information under the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems* (National Framework) are clearly and appropriately prescribed
- ensure parts of agencies outside the scope of the National Framework are not inadvertently captured by the provisions in the Amendment Act, and
- safeguard against interpretation issues arising from departmental name changes or other machinery of government processes.

New Regulation 12CBA would provide the relevant State or Territory information sharing agencies, or parts of agencies, as being those with responsibilities for child protection, policing, and firearms licensing. These agencies are identified as information sharing agencies as they hold primary responsibility for the conduct of investigations, and possess critical information in relation to child abuse, neglect and family violence. While broadly the agencies mirror those prescribed through Schedule 9, which Item 3 would repeal, the new regulation specifically includes firearms authorities in their own right. This would allow the Federal Circuit and Family Court of Australia and the Family Court of Western Australia (the family law courts) to directly issue orders to these authorities should this be required.

The intention of prescribing these information sharing agencies is to ensure that where allegations of child abuse, neglect or family violence are raised, the family law courts have as much information as possible when making determinations in the best interests of the child, promoting safety and wellbeing.

New Regulation 12CBB

New Regulation 12CBB would be inserted into the Principal Regulations to prescribe information sharing safeguards for the purposes of Subdivision DA of the Act, as provided by section 67ZBI of the Amendment Act.

It is recognised that not all risk can be eliminated from sharing sensitive child abuse, neglect and family violence information. However, the information sharing scheme established through the Amendment Act and the Regulations seeks to mitigate the potential for risk, while protecting the principles of procedural fairness which are the cornerstone of the justice system.

These information sharing safeguards would represent a minimum standard for the protection of sensitive information when it is shared, stored and used under Subdivision DA. These safeguards will build on existing protections within Subdivision DA, and complement existing practices within the family law courts and information sharing agencies. Together, these will create a multilayered and comprehensive system of protection, to prevent and minimise adverse consequences which can arise from the sharing of critical child abuse, neglect and family violence information.

Regulation 12CBB is intended to have a broad remit of operation, applying to all information sharing under the National Framework. The National Framework supports the two-way sharing of information between the family law courts and information sharing agencies. As per section 67ZBI of the Amendment Act, the family law courts and information sharing agencies must have regard to the safeguards as set out in this Regulation for the purposes of information sharing under Subdivision DA. To the extent appropriate, it is intended that the safeguards would also be considered for the purposes of any information sharing conducted in accordance with the *Federal Circuit and Family Court of Australia Rules 2021*.

Throughout Regulation 12CBB, reference is made to persons affected, parties to proceedings, children to whom proceedings relate, and another person to whom shared material relates. These broad characterisations allow for the safeguards to cover a broader range of persons potentially connected to the shared material, not just parties to proceedings.

New Subregulation 12CBB(1) would connect the operation of new Regulation 12CBB to section 67ZBI of the Amendment Act, prescribing that information sharing agencies and the family law courts must have regard to the information sharing safeguards when providing or using particulars, documents or information shared under section 67ZBD or 67ZBE. A note at the end of the subregulation makes clear that ‘use’ includes handling, storage and access of information shared, consistent with subsection 67ZBI(3) of the Amendment Act.

New Subregulation 12CBB(1) also introduces the term ‘shared material’. This term is adopted throughout new Regulation 12CBB to collectively refer to particulars, documents or information shared under section 67ZBD or 67ZBE of the Amendment Act.

Extent material is to be provided, stored or used – 12CBB(2)

New Subregulation 12CBB(2) would prescribe the extent that shared material is to be provided, stored or used, to support the principle of data minimisation as recommended by the Privacy Impact Assessment commissioned by the Attorney-General’s Department. In the context of information sharing, data minimisation seeks to limit the personal and identifying data shared and held to that required for the specific purpose the information was shared.

Paragraph 12CBB(2)(a) would make clear that there must be a link between the shared material and a matter mentioned in subsection 67ZBD(2) or 67ZBE(2) of the Amendment Act, with these matters being:

- abuse, neglect or family violence to which a child to whom the proceedings relate has been, or is suspected to have been, subjected or exposed;
- family violence to which a party to the proceedings has been exposed, or in which a party to the proceedings has engaged, to the extent it may affect a child to whom the proceedings relate;
- any risk or potential risk of a child to whom the proceedings relate being subjected or exposed to abuse, neglect or family violence; and/or
- any risk or potential risk of a party to the proceedings being subjected to, or engaging in, family violence, to the extent any such family violence may affect a child to whom the proceedings relate.

The direct connection to the matters mentioned in subsection 67ZBD(2) or 67ZBE(2) make it clear that, when having regards to this subregulation, material is only to be requested and shared to the extent necessary to identify, assess and manage actual or potential child abuse, neglect or family violence risk, and support decision-making in the best interests of children.

Paragraph 12CBB(2)(b) then provides that the shared material must be required or authorised under a law of the Commonwealth, State or Territory, or a court order. This contemplates the shared material being required or authorised by orders made under sections 67ZBD or 67ZBE, or provided by the agency under subsections 67ZBD(5) or 67ZBE(5), of the Amendment Act.

This subregulation is intended to guide the sharing of information, whether during the making of orders or the contemplation of the provision of material, without impacting the compulsory nature of orders made by the family law courts.

Reasonable care to be taken to protect from physical and psychological harm – 12CBB(3)

New Subregulation 12CBB(3) would provide that good faith should be exercised in providing, using or storing shared material, and that reasonable care should be taken to protect persons who are involved in, or could be affected by, the provision, storage or use of shared material from physical and psychological harm.

As noted above, the characterisation of this subregulation will cover a broader range of persons potentially connected to the shared material, recognising that the physical and psychological safety of all persons connected to information sharing should be protected. This includes information sharing officers from the family law courts and information sharing agencies, notifiers and individuals involved in family law proceedings or otherwise connected to the shared material.

‘Reasonable care’

The subregulation is non-prescriptive in what may constitute reasonable care or reasonable steps, recognising that these will depend on the specific circumstances of an individual matter.

From the perspective of the family law courts, what amounts to reasonable care would be informed by the court's understanding of a particular matter. This understanding would be informed by information provided by parties to proceedings, including through Notices of Risk, or affidavit material, in addition to shared material or advice provided by information sharing agencies under relevant provisions of the Amendment Act.

For information sharing agencies, reasonable care could include having debriefing and deidentification processes, to support the physical and psychological safety of those involved in information sharing. In practice this could involve using redactions, excluding protected material (as defined in subsection 67ZBF(3) of the Amendment Act), or engaging with the family law courts to understand the greater context of a matter, to support the safety of those affected by information sharing.

In both instances, the subregulation is intended to recognise that reasonable care is only able to be exercised to the extent of the knowledge held by the family law courts or the information sharing agencies.

'Good faith'

Additionally, Subregulation 12CBB(3) requires that shared material is to be provided, stored and used in good faith by all involved, including information sharing agencies and the family law courts, and recognises the impact information sharing can have on persons affected.

The inclusion of good faith seeks to make it clear that information sharing is to be conducted in an honest and fair manner, for a proper purpose and with reasonable care. Consistent with the National Framework, the proper purpose of information sharing is to promote the safety and wellbeing of children and families affected by child abuse, neglect and family violence, by supporting informed and appropriate decision-making.

The inclusion of subsequent Subregulations (4), (5) and (6), focussed on preventing the improper provision, storage and use of shared material, provides discrete practical guidance on key components of ensuring information sharing is conducted in good faith.

Prevention of improper provision, storage and use – 12CBB(4), 12CBB(5), 12CBB(6)

New Subregulations 12CBB(4), (5) and (6) are complementary to Subregulation 12CBB(3), supporting the prevention of improper access to or disclosure of shared material, and ensuring that persons with actual or potential conflicts of interest are not involved in the provision or use of shared material.

These subregulations provide that reasonable care should be taken to limit the risk associated with the disclosure and access of shared material, particularly by persons alleged to pose a real or potential risk of child abuse, neglect or family violence.

Subregulation 12CBB(4) would direct that shared material is to be provided, stored and used in a manner preventing improper access or disclosure. This may include using secure methods to share information, and placing access controls on the shared material.

Subregulation 12CBB(5) would provide that reasonable steps should be taken to prevent the shared material being accessed or disclosed to a person who poses, or potentially poses, a risk of child abuse, neglect or family violence to any of the following: a party to proceedings; a child to whom the proceedings relates; or another person to whom the shared material relates (such as a notifier). Consistent with the principles of natural justice and procedural fairness, this subregulation expressly notes that disclosure may occur where it is accordance with an order of a court. In this circumstance, it would be open to the court to take any reasonable steps deemed necessary to restrict access to the extent necessary to protect safety while ensuring the requirements of procedural fairness are satisfied, such as only allowing inspection of the shared material, or requiring legal representatives to inspect materials.

Consistent with Subregulation 12CBB(3), this subregulation is non-prescriptive in what may be constitute reasonable care or reasonable steps, recognising that these will depend on the specific circumstances of an individual matter. Without seeking to limit what reasonable steps could mean, as per the above this could include placing restrictions on the way in which shared material is accessed by parties to proceedings and/or their legal representative. Such restrictions are already applied by the family law courts on the access and disclosure of information under subpoena or other orders under the Act. Reasonable steps are also envisaged to include the redaction or removal of protected or sensitive material by information sharing agencies in responding to information sharing orders.

Subregulation 12CBB(6) would seek to prevent persons with an actual or potential conflict of interest from providing or using shared material. The actual or potential conflict of interest could be with a party to proceedings, a child to whom proceedings relate, or another person to whom the material relates (such as a notifier).

Correction of errors – 12CBB(7)

New Subregulation 12CBB(7) would provide an expectation that information sharing agencies notify the relevant family law court of corrections to shared material as soon as possible after becoming aware of the need for a correction. The subregulation would also make clear that the court has an obligation to correct their records in line with the correction notification.

This proposed subregulation recognises that errors, including misidentification, can occur in the context of family violence, child abuse and neglect information. While it is expected that best efforts will be made to avoid errors and protect against misidentification, the intention of this subregulation is to provide an avenue for errors to be corrected and records updated as soon as possible after identification.

The correction of errors under this subregulation would be subject to record-keeping obligations for information sharing agencies and the family law courts, as set out in Subregulation 12CBB(10).

Requests for documents or information not in possession or control – 12CBB(8), 12CBB(9)

New Subregulations 12CBB(8) and (9) would seek to embed data minimisation best practice within the enhanced information sharing framework to mitigate the potential privacy risks associated with data breaches or unauthorised disclosure. These subregulations achieve this by limiting the collection and retention of personal and identifying information to what is directly relevant for operation of the framework.

Under proposed subregulations 12CBB(8) or (9), if an information sharing agency or court does not have possession or control of any documents or information relating to an information sharing order or information sharing request, they are to destroy or redact records relating to the order or request after providing a response.

For the avoidance of doubt, Subregulations 12CBB(8) and (9) would be subject to record-keeping obligations for information sharing agencies and the family law courts, as set out in Subregulation 12CBB(10).

Record-keeping obligations not affected – 12CBB(10)

New Subregulation 12CBB(10) would make it clear that compliance with new Subregulations 12CBB(7), (8) and (9) remains subject to record-keeping obligations imposed on an information sharing agency or family law court. The subregulation recognises that there are strong policy reasons behind existing record keeping obligations, and while the information sharing safeguards promote a data minimisation best practice approach, this is not achievable in all circumstances.

Item 2

Item 2 would repeal Regulation 12CD, which provides that Schedule 9 to the Principal Regulations prescribes State and Territory agencies for the purposes of information sharing under section 69ZW of the Act. The Amendment Act repeals section 69ZW.

Item 3

Item 3 would repeal Schedule 9 to the Principal Regulations which prescribes State and Territory agencies for the purposes of information sharing under section 69ZW of the Act. The Amendment Act repeals section 69ZW.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Family Law Amendment (Information Sharing) Regulations 2023

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 *Family Law Amendment (Information Sharing) Regulations 2023* (the Regulations) are made under subsection 125(1) of the *Family Law Act 1975* (the Act).

In particular, the Regulations amend the *Family Law Regulations 1984* (the Principal Regulations) to:

- a) prescribe State and Territory agencies, or parts of agencies, with responsibility for child protection, policing and firearms, as information sharing agencies for the purposes of new Subdivision DA of the *Family Law Amendment (Information Sharing) Act 2023* (the Amendment Act)
- b) prescribe information sharing safeguards to support the safe provision, access, storage and use of information under new Subdivision DA of the Amendment Act, and
- c) repeal existing Regulation 12CD and Schedule 9 of the Principal Regulations.

Human rights implications

The Legislative Instrument engages the following rights:

- The right to a fair trial and a fair hearing: Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR)
- The right to privacy: Article 17 of the ICCPR
- Protection of children, including on dissolution of a marriage: Articles 23(4) and 24(1) of the ICCPR

- Child’s rights are guaranteed and must be available to all children without discrimination of any kind: Article 2 of the Convention on the Rights of the Child (CRC)
- Child’s best interests must be the primary consideration of the family courts, State and Territory courts, public welfare institutions and administrative authorities or legislative bodies: Article 3(1) of the CRC
- Protection and care of children for his or her well-being to this end, shall take all appropriate legislative and administrative measures: Article 3(2) of the CRC
- Protection from a child being separated from his or her parents against their will, unless it is in the best interests of the child and necessary to protect from abuse or neglect, or where parents are living separately: Article 9(1) of the CRC
- Protection of children from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, sexual abuse and exploitation: Articles 19(1) and 34 of the CRC
- Taking appropriate measures to modify social and cultural patterns of men and women with a view to eliminating discrimination: Article 5 (a) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and
- Rights of equality and non-discrimination in matters relating to marriage and parental responsibility: Article 16(d) of the CEDAW.

Right to a fair trial and a fair hearing: Article 14(1) of the ICCPR

The ICCPR provides for fundamental civil and political rights which derive from the inherent dignity of each person. Article 14(1) of the ICCPR enshrines the right for all persons to be equal before courts and tribunals. This right recognises that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The Regulations will promote equality before the courts, the right to a fair trial and fair hearing by supporting an improved process through which the family law courts obtain information relevant to family violence, child abuse and/or neglect to inform decision-making in family law proceedings. The Regulations will ensure the family law courts can access the full scope of relevant information held by information sharing agencies, no matter which State or Territory the proceeding is filed in. This will be achieved through appropriately prescribing State and Territory agencies, or parts of agencies, with responsibility for child protection, police and firearms.

Right to privacy: Article 17 of the ICCPR

Article 17 of the ICCPR prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. It also prohibits unlawful attacks on a person's reputation. It provides that persons have the right to the protection of the law against such interference or attacks. The Regulations engage the right to privacy by supporting the establishment of a court-driven information sharing framework for child-related proceedings. At all stages, information sharing agencies and the family law courts will be guided in the use of shared material by the Regulations. These Regulations include privacy protective measures including:

- limiting the purpose for the sharing and use of information to those included in the Amendment Act and as authorised or required by a law of the Commonwealth, State or Territory or a court order
- prescribing agencies based on functions, rather than prescribing entire agencies, limiting the sharing of personal information to those functions which are relevant to the framework, and
- promoting data minimisation best practice concepts, subject to record-keeping obligations.

The Regulations, specifically the information sharing safeguards to be prescribed by Regulation 12CBB, will provide a minimum standard for the protection of sensitive information when it is used, shared and accessed. It is expected that these safeguards will complement existing practices within the family law courts and information sharing agencies, providing greater assurances and transparency for families and individuals regarding the sharing and use of their information. These information sharing safeguards have been informed by a Privacy Impact Assessment and developed in consultation with peak non-government organisations focused on family and domestic violence, women and children's safety, First Nations communities, and frontline legal assistance.

Rights relating to the protection and best interests of children: Articles 23(4) and 24(1) of the ICCPR; Articles 2, 3, 9(1), 9(3), 19(1) and 34 of the CRC

Article 23(4) of the ICCPR requires appropriate steps to be taken to ensure the protection of children on the dissolution of a marriage. Article 24(1) provides for the protection of all children, without discrimination, by virtue of their status as minors.

The CRC recognises that children should be afforded the necessary protection and assistance for their full and harmonious development so they can be fully prepared to live an individual life in society (Article 2).

Article 3(1) of the CRC provides that in all actions concerning children, including by courts, public or private social welfare institutions, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. According to Article 3(2), appropriate measures should be undertaken to ensure a child has the protection and care necessary for their wellbeing, accounting for the rights and duties of parents or individuals responsible for them.

Article 9(1) of the CRC provides that a child should not be separated from their parent against their will, except where it is determined that this separation is necessary for the best interests of the child, and their protection from abuse or neglect. Article 9(1) contemplates that such decisions may be required in cases alleging abuse or neglect of a child, or where parents are living separately and decisions are required in relation to a child's place of residence. Further to Article 9(3), a child separated from one or both parents should be able to maintain personal relations and direct contact with both parents, unless contrary to their best interests.

Article 19(1) of the CRC provides that appropriate legislative and administrative measures be put in place to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of a parent or other person responsible for the care of a child.

Article 34 provides for the protection of children from all forms of sexual exploitation and abuse.

As part of determining what is in a child's best interests, the family law courts are required by the Act to consider the need to protect children from physical and psychological harm. The Amendment Act and accompanying Regulations would enhance the family law courts' ability to order State or Territory information sharing agencies to provide a more comprehensive range of particulars, documents or information relating to family violence, child abuse and neglect risk. Improving the family law courts' access to this salient information will enhance their capacity to make well informed decisions in the best interests of the child, including consideration of their safety.

Implement measures to modify social and cultural patterns of men and women with a view to eliminating discrimination and rights of equality and non-discrimination: Articles 5(a) and 16(d) of the CEDAW

Article 5(a) of the CEDAW provides that governments take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices based on the idea of inferiority or superiority of either of the sexes, or stereotyped roles for men and women.

Article 16(d) of the CEDAW provides that governments take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure that in matters relating to children, the interests of the children shall be paramount.

Discrimination against women includes gender-based violence – that is, violence that is directed towards a woman because she is a woman, or that affects women disproportionately. Although family violence is perpetrated by and committed against both men and women, and the Act is therefore appropriately gender-neutral, the Government recognises that the majority of those who experience family violence are women and girls.

The Government also recognises the connection between the experience of family violence by women, and the exposure to that violence of children within the family, and co-occurrence of other forms of abuse, neglect and maltreatment affecting the children.

By supporting the operation of Subdivision DA of the Amendment Act, the measures in the Regulations seek to better protect victims of family violence, and address the disproportionate impacts of gender-based violence on women and girls. The Regulations prescribe additional information sharing safeguards which seek to mitigate risks to personal safety which can arise from sharing personal information, including ensuring that all information sharing is undertaken with appropriate regard to physical and psychological safety of those involved or affected.

Conclusion

This Legislative Instrument is compatible with human rights because it promotes to the protection of human rights.