Commonwealth Family Violence and Cross Examination of Parties SCHEME

Register of Legal Practitioners

1. **Background**

The *Family Law Amendment (Family Violence and Cross‑examination of Parties) Act 2018* was passed by in late 2018.

Under the Act, personal cross-examination is prohibited in family law proceedings where there is **an allegation of family violence** between two parties **and** one or more of the following applies:

* *either party has been convicted of, or is charged with, an offence involving violence, or a threat of violence, to the other party*
* *a family violence order (other than an interim order) applies to both parties*
* *an injunction under section 68B or 114 of the* ***Family Law Act 1975*** *for the personal protection of either party is directed against the other party, or*
* *the court makes an order that the mandatory requirements apply to the cross‑examination.*

The provisions relating to cross-examinations apply from **10 September 2019**.

Where a ban is impose cross‑examination must be conducted by a **legal practitioner** acting on behalf of the examining party.

The Commonwealth is providing funding, to be administered by the Legal Aid Commission of Tasmania, to pay legal practitioners to represent parties where a personal cross-examination ban order is made.

1. **The Register**

**2.1** The Family Violence and Cross-Examination of Parties Register (the Register) is established pursuant to section 22 of the *Legal Aid Commission Act 1990 (*the Act*).*

**2.2** The Register records the names of practitioners who are willing to represent parties eligible for assistance under section 102NA the *Family Law Amendment (Family Violence and Cross‑examination of Parties) Act 2018* and who have been accepted by the Legal Aid Commission of Tasmania for inclusion on the Register.

**2.3** To be eligible for inclusion on the Register practitioners must have:

1. Three years post admission experience, including demonstrated experience in the family law jurisdiction;
2. Recent family law trial experience including having conducted cross examination;
3. the capacity to interact with persons affected by family violence and understand the issues impacting on these persons and their lives; and have undertaken CPD in relation to family violence within the last 2 years (or have registered to attend CPD prior to 10 September 2019);

**2.4** Notwithstanding a person meeting the criteria in 2.3, a person may be refused inclusion on the Register if they:

a) have been convicted of criminal offences or are subject to criminal proceedings including but not limited to family violence related offences, or

b) are subject to a family violence order or a respondent to an application for a family violence order, or

c) are subject to professional disciplinary proceedings or have been found to have breached their professional code of conduct or similar, and

such conduct, order or proceedings is considered to make it inappropriate to include them on the Register.

**2.5** The maintenance of the Register, including the appointment, refusal to appoint or the removal of a practitioner from the register will be conducted in accordance with the requirements of section 22 of the Act.

**2.6** To be considered for inclusion on the Register practitioners must send to the Director an expression of interest that addresses the criteria in clause 2.3.

**2.7** Practitioners will be advised of the outcome of their expression of interest for inclusion on the Register within 28 days.

**2.8** If a practitioner seeks removal of their name from the Register an email requesting removal should be addressed to the Director, Legal Aid Commission of Tasmania and forwarded via email to [grants.officer@legalaid.tas.gov.au](mailto:grants.officer@legalaid.tas.gov.au)