



Foreign Evidence (Foreign Material—Criminal and Related Civil Proceedings) Regulations 2018

made under the

Foreign Evidence Act 1994

Compilation No. 2

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About this compilation

This compilation

This is a compilation of the *Foreign Evidence (Foreign Material—Criminal and Related Civil Proceedings) Regulations 2018* that shows the text of the law as amended and in force on 11 April 2024 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Foreign Evidence (Foreign Material—Criminal and Related Civil Proceedings) Regulations 2018*.

3 Authority

This instrument is made under the *Foreign Evidence Act 1994*.

5 Definitions

In this instrument:

Act means the *Foreign Evidence Act 1994*.

Section 6

Part 2—Use of foreign material in proceedings in a court of a State or Territory

6 Application of Part 3 of the Act to proceedings in a court of a State or Territory

- (1) For the purposes of subsection 20(2) of the Act, the following States and Territories are specified:
 - (a) New South Wales;
 - (b) Victoria;
 - (c) Queensland;
 - (d) Western Australia;
 - (e) South Australia;
 - (f) Tasmania;
 - (g) the Australian Capital Territory;
 - (h) the Northern Territory;
 - (i) Norfolk Island.
- (2) For the purposes of paragraph 20(2)(b) of the Act, Schedule 1 specifies kinds of related civil proceedings in respect of States and Territories.

Note: For the definition of *related civil proceeding*, see subsection 3(1) of the Act.
- (3) For the purposes of paragraph 20(2)(d) of the Act, a law specified in column 2 of an item of the following table of the Territory referred to in column 1 of the item is prescribed as a law that corresponds to a proceeds of crime law.

Territory laws that correspond to a proceeds of crime law

Item	Column 1 Territory	Column 2 Law
1	Australian Antarctic Territory	<i>Confiscation of Criminal Assets Act 2003</i> (ACT) (as in force in the Australian Antarctic Territory)
2	Coral Sea Islands Territory	<i>Confiscation of Criminal Assets Act 2003</i> (ACT) (as in force in the Coral Sea Islands Territory)
3	Jervis Bay Territory	<i>Confiscation of Criminal Assets Act 2003</i> (ACT) (as in force in the Jervis Bay Territory)
4	Territory of Ashmore and Cartier Islands	<i>Criminal Property Forfeiture Act 2002</i> (NT) (as in force in the Territory of Ashmore and Cartier Islands)

Territory laws that correspond to a proceeds of crime law		
Item	Column 1 Territory	Column 2 Law
5	Territory of Christmas Island	<i>Criminal Property Confiscation Act 2000</i> (WA) (as in force in the Territory of Christmas Island)
6	Territory of Cocos (Keeling) Islands	<i>Criminal Property Confiscation Act 2000</i> (WA) (as in force in the Territory of Cocos (Keeling) Islands)
7	Territory of Heard Island and McDonald Islands	<i>Confiscation of Criminal Assets Act 2003</i> (ACT) (as in force in the Territory of Heard Island and McDonald Islands)

Part 3—Application, saving and transitional provisions

7 Application of amendments made by the *Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Regulations 2018*

The amendments of this instrument made by the *Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Regulations 2018* apply in relation to a proceeding that commences before, on or after the commencement of this section.

Schedule 1—Related civil proceedings for a State or Territory

Note: See subsection 6(2).

1 Related civil proceedings for a State or Territory

For the purposes of paragraph 20(2)(b) of the Act, a related civil proceeding of a kind described in column 2 of an item of the following table is specified in respect of the State or Territory referred to in column 1 of the item.

Related civil proceedings for a State or Territory		
Item	Column 1 State or Territory	Column 2 Related civil proceeding
1	New South Wales	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Confiscation of Proceeds of Crime Act 1989</i> (NSW); (b) a proceeding under the <i>Criminal Assets Recovery Act 1990</i> (NSW) (formerly the <i>Drug Trafficking (Civil Proceedings) Act 1990</i> (NSW)); (c) a proceeding under the <i>Victims Rights and Support Act 2013</i> (NSW); (d) a proceeding for the recovery of tax, or of any duty, levy or charge, payable to New South Wales; (e) a proceeding under a law of New South Wales for the recovery of compensation in relation to an offence committed against a law of the State.
2	Victoria	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Confiscation Act 1997</i> (Vic.) or the <i>Crimes (Confiscation of Profits) Act 1986</i> (Vic.) (now repealed); (b) a proceeding under the <i>Victims of Crime Assistance Act 1996</i> (Vic.) or the <i>Criminal Injuries Compensation Act 1983</i> (Vic.) (now repealed); (c) a proceeding for the recovery of tax, or of any duty, levy or charge, payable to Victoria; (d) a proceeding under a law of Victoria for the recovery of compensation in relation to an offence committed against a law of the State.

Schedule 1 Related civil proceedings for a State or Territory

Clause 1

Related civil proceedings for a State or Territory

Item	Column 1 State or Territory	Column 2 Related civil proceeding
3	Queensland	A related civil proceeding of any kind, including any of the following: (a) a proceeding under the <i>Criminal Proceeds Confiscation Act 2002</i> (Qld) or the <i>Crimes (Confiscation) Act 1989</i> (Qld) (now repealed and formerly the <i>Crimes (Confiscation of Profits) Act 1989</i> (Qld)); (b) a proceeding under the <i>Drugs Misuse Act 1986</i> (Qld).
4	Western Australia	A related civil proceeding of any kind, including any of the following: (a) a proceeding under the <i>Crimes (Confiscation of Profits) Act 1988</i> (WA) (now repealed), as in force immediately before 1 January 2001, or under the <i>Criminal Property Confiscation Act 2000</i> (WA); (b) a proceeding under the <i>Misuse of Drugs Act 1981</i> (WA); (c) a proceeding for the recovery of tax, or of any duty, levy or charge, payable to Western Australia; (d) a proceeding under a law of Western Australia for the recovery of compensation in relation to an offence committed against a law of the State.
5	South Australia	A related civil proceeding of any kind, including any of the following: (a) a proceeding under the <i>Criminal Assets Confiscation Act 2005</i> (SA), the <i>Criminal Assets Confiscation Act 1996</i> (SA) (now repealed) or the <i>Crimes (Confiscation of Profits) Act 1986</i> (SA) (now repealed); (b) a proceeding under the <i>Victims of Crime Act 2001</i> (SA) or the <i>Criminal Injuries Compensation Act 1978</i> (SA) (now repealed); (c) a proceeding for the recovery of tax, or of any duty, levy or charge, payable to South Australia; (d) a proceeding under a law of South Australia for the recovery of compensation in relation to an offence committed against a law of the State.
6	Tasmania	A related civil proceeding of any kind, including a proceeding under the <i>Crime (Confiscation of Profits) Act 1993</i> (Tas.).

Related civil proceedings for a State or Territory

Item	Column 1 State or Territory	Column 2 Related civil proceeding
7	Australian Capital Territory	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Confiscation of Criminal Assets Act 2003</i> (ACT) or the <i>Proceeds of Crime Act 1991</i> (ACT) (now repealed); (b) a proceeding under the <i>Drugs of Dependence Act 1989</i> (ACT); (c) a proceeding under the <i>Victims of Crime (Financial Assistance) Act 2016</i> (ACT) or the <i>Victims of Crime (Financial Assistance) Act 1983</i> (ACT) (now repealed and formerly the <i>Criminal Injuries Compensation Act 1983</i> (ACT)); (d) a proceeding under a tax law (within the meaning of the <i>Taxation Administration Act 1999</i> (ACT)).
8	Northern Territory	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Criminal Property Forfeiture Act 2002</i> (NT); (b) a proceeding under the <i>Misuse of Drugs Act 1990</i> (NT); (c) a proceeding under the <i>Taxation Administration Act 2007</i> (NT); (d) a proceeding under the <i>Unlawful Betting Act 1989</i> (NT); (e) a proceeding under the <i>Victims of Crime Assistance Act 2006</i> (NT); (f) a proceeding for the recovery of tax, or of any duty, levy or charge, payable to the Northern Territory; (g) a proceeding under a law of the Northern Territory for the recovery of compensation in relation to an offence committed against a law of the Territory.
9	Norfolk Island	A related civil proceeding of any kind, including a proceeding under the <i>Criminal Procedure Act 2007</i> (Norfolk Island).
10	Australian Antarctic Territory	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Confiscation of Criminal Assets Act 2003</i> (ACT) or the <i>Proceeds of Crime Act 1991</i> (ACT) (now repealed); (b) a proceeding under the <i>Drugs of Dependence Act 1989</i> (ACT); (c) a proceeding under the <i>Victims of Crime (Financial Assistance) Act 2016</i> (ACT) or the <i>Victims of Crime (Financial Assistance) Act 1983</i> (ACT) (now repealed and formerly the <i>Criminal Injuries Compensation Act 1983</i> (ACT)); (d) a proceeding under a tax law (within the meaning of the <i>Taxation Administration Act 1999</i> (ACT)).

Schedule 1 Related civil proceedings for a State or Territory

Clause 1

Related civil proceedings for a State or Territory

Item	Column 1 State or Territory	Column 2 Related civil proceeding
11	Coral Sea Islands Territory	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none">(a) a proceeding under the <i>Confiscation of Criminal Assets Act 2003</i> (ACT) or the <i>Proceeds of Crime Act 1991</i> (ACT) (now repealed);(b) a proceeding under the <i>Drugs of Dependence Act 1989</i> (ACT);(c) a proceeding under the <i>Victims of Crime (Financial Assistance) Act 2016</i> (ACT) or the <i>Victims of Crime (Financial Assistance) Act 1983</i> (ACT) (now repealed and formerly the <i>Criminal Injuries Compensation Act 1983</i> (ACT));(d) a proceeding under a tax law (within the meaning of the <i>Taxation Administration Act 1999</i> (ACT)).
12	Jervis Bay Territory	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none">(a) a proceeding under the <i>Confiscation of Criminal Assets Act 2003</i> (ACT) or the <i>Proceeds of Crime Act 1991</i> (ACT) (now repealed);(b) a proceeding under the <i>Drugs of Dependence Act 1989</i> (ACT);(c) a proceeding under the <i>Victims of Crime (Financial Assistance) Act 2016</i> (ACT) or the <i>Victims of Crime (Financial Assistance) Act 1983</i> (ACT) (now repealed and formerly the <i>Criminal Injuries Compensation Act 1983</i> (ACT));(d) a proceeding under a tax law (within the meaning of the <i>Taxation Administration Act 1999</i> (ACT)).
13	Territory of Ashmore and Cartier Islands	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none">(a) a proceeding under the <i>Criminal Property Forfeiture Act 2002</i> (NT);(b) a proceeding under the <i>Misuse of Drugs Act 1990</i> (NT);(c) a proceeding under the <i>Taxation Administration Act 2007</i> (NT);(d) a proceeding under the <i>Unlawful Betting Act 1989</i> (NT);(e) a proceeding under the <i>Victims of Crime Assistance Act 2006</i> (NT);(f) a proceeding for the recovery of tax, or of any duty, levy or charge;(g) a proceeding under a law of the Territory for the recovery of compensation in relation to an offence committed against a law of the Territory.

Related civil proceedings for a State or Territory

Item	Column 1 State or Territory	Column 2 Related civil proceeding
14	Territory of Christmas Island	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Crimes (Confiscation of Profits) Act 1988</i> (WA) (now repealed), as in force immediately before 1 January 2001, or under the <i>Criminal Property Confiscation Act 2000</i> (WA); (b) a proceeding under the <i>Misuse of Drugs Act 1981</i> (WA); (c) a proceeding for the recovery of tax, or of any duty, levy or charge; (d) a proceeding under a law of the Territory for the recovery of compensation in relation to an offence committed against a law of the Territory.
15	Territory of Cocos (Keeling) Islands	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Crimes (Confiscation of Profits) Act 1988</i> (WA) (now repealed), as in force immediately before 1 January 2001, or under the <i>Criminal Property Confiscation Act 2000</i> (WA); (b) a proceeding under the <i>Misuse of Drugs Act 1981</i> (WA); (c) a proceeding for the recovery of tax, or of any duty, levy or charge; (d) a proceeding under a law of the Territory for the recovery of compensation in relation to an offence committed against a law of the Territory.
16	Territory of Heard Island and McDonald Islands	<p>A related civil proceeding of any kind, including any of the following:</p> <ul style="list-style-type: none"> (a) a proceeding under the <i>Confiscation of Criminal Assets Act 2003</i> (ACT) or the <i>Proceeds of Crime Act 1991</i> (ACT) (now repealed); (b) a proceeding under the <i>Drugs of Dependence Act 1989</i> (ACT); (c) a proceeding under the <i>Victims of Crime (Financial Assistance) Act 2016</i> (ACT) or the <i>Victims of Crime (Financial Assistance) Act 1983</i> (ACT) (now repealed and formerly the <i>Criminal Injuries Compensation Act 1983</i> (ACT)); (d) a proceeding under a tax law (within the meaning of the <i>Taxation Administration Act 1999</i> (ACT)).

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Foreign Evidence (Foreign Material—Criminal and Related Civil Proceedings) Regulations 2018	20 Aug 2018 (F2018L01138)	21 Aug 2018 (s 2(1) item 1)	
Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Regulations 2018	8 Oct 2018 (F2018L01408)	Sch 1 (items 13–16): 22 Nov 2018 (s 2(1) item 4)	—
Instruments Update (Autumn 2024) Regulations 2024	14 Mar 2024 (F2024L00297)	Sch 1 (items 13–23): 11 Apr 2024 (s 2(1) item 1)	—

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	rep LA s 48D
s 4.....	rep LA s 48C
Part 2	
s 6.....	am F2018L01408; F2024L00297
Part 3	
Part 3.....	ad F2018L01408
s 7.....	ad F2018L01408
Schedule 1	
c 1.....	am F2018L01408; F2024L00297
Schedule 2.....	rep LA s 48C
