

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

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 August 2018

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Christian Porter

Attorney‑General

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Part 1—Preliminary

1 Name

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

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 21 August 2018 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

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

4 Schedule 2

Each instrument that is specified in Schedule 2 to this instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

5 Definitions

In this instrument:

***Act*** means the *Foreign Evidence Act 1994*.

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.

(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.

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 | A related civil proceeding of any kind, including any of the following:  (a) a proceeding under the *Confiscation of Proceeds of Crime Act 1989* (NSW);  (b) a proceeding under the *Criminal Assets Recovery Act 1990* (NSW) (formerly the *Drug Trafficking (Civil Proceedings) Act 1990* (NSW));  (c) a proceeding under the *Victims Rights and Support Act 2013* (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 | A related civil proceeding of any kind, including any of the following:  (a) a proceeding under the *Confiscation Act 1997* (Vic.) or the *Crimes (Confiscation of Profits) Act 1986* (Vic.) (now repealed);  (b) a proceeding under the *Victims of Crime Assistance Act 1996* (Vic.) or the *Criminal Injuries Compensation Act 1983* (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. |
| 3 | Queensland | A related civil proceeding of any kind, including any of the following:  (a) a proceeding under the *Criminal Proceeds Confiscation Act 2002* (Qld) or the *Crimes (Confiscation) Act 1989* (Qld) (now repealed and formerly the *Crimes (Confiscation of Profits) Act 1989* (Qld));  (b) a proceeding under the *Drugs Misuse Act 1986* (Qld). |
| 4 | Western Australia | A related civil proceeding of any kind, including any of the following:  (a) a proceeding under the *Crimes (Confiscation of Profits) Act 1988* (WA) (now repealed), as in force immediately before 1 January 2001, or under the *Criminal Property Confiscation Act 2000* (WA);  (b) a proceeding under the *Misuse of Drugs Act 1981* (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 *Criminal Assets Confiscation Act 2005* (SA), the *Criminal Assets Confiscation Act 1996* (SA) (now repealed) or the *Crimes (Confiscation of Profits) Act 1986* (SA) (now repealed);  (b) a proceeding under the *Victims of Crime Act 2001* (SA) or the *Criminal Injuries Compensation Act 1978* (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 *Crime (Confiscation of Profits) Act 1993* (Tas.). |
| 7 | Australian Capital Territory | A related civil proceeding of any kind, including any of the following:  (a) a proceeding under the *Confiscation of Criminal Assets Act 2003* (ACT) or the *Proceeds of Crime Act 1991* (ACT) (now repealed);  (b) a proceeding under the *Drugs of Dependence Act 1989* (ACT);  (c) a proceeding under the *Victims of Crime (Financial Assistance) Act 2016* (ACT) or the *Victims of Crime (Financial Assistance) Act 1983* (ACT) (now repealed and formerly the *Criminal Injuries Compensation Act 1983* (ACT));  (d) a proceeding under a tax law (within the meaning of the *Taxation Administration Act 1999* (ACT)). |
| 8 | Northern Territory | A related civil proceeding of any kind, including any of the following:  (a) a proceeding under the *Criminal Property Forfeiture Act* (NT);  (b) a proceeding under the *Misuse of Drugs Act* (NT);  (c) a proceeding under the *Taxation Administration Act* (NT);  (d) a proceeding under the *Unlawful Betting Act* (NT);  (e) a proceeding under the *Victims of Crime Assistance Act* (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. |

Schedule 2—Repeals

Foreign Evidence (Foreign Material — Criminal and Related Civil Proceedings) Regulations 1994

1 The whole of the instrument

Repeal the instrument.