

Mutual Assistance in Criminal Matters (Republic of Portugal) Regulations 1993 No. 241

EXPLANATORY STATEMENT

Statutory Rules 1993 No. 241

Issued by the Authority of the Attorney-General

Mutual Assistance in Criminal Matters Act 1987

Mutual Assistance in Criminal Matters (Republic of Portugal) Regulations

Section 44 of the *Mutual Assistance in Criminal Matters Act 1987* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Section 7 of the Act provides that regulations may apply the Act to a specified foreign country subject to such limitations, conditions, exceptions, or qualifications as may be set out in the regulations. This allows for regulations to be made applying the Act to a specified foreign country by way of a mutual assistance in criminal matters treaty or otherwise.

The Act enables Australia to grant or request the following kinds of international mutual assistance in criminal matters: taking of evidence, search and seizure, arrangements for witnesses to give evidence or assist in investigations, service of documents and the restraint, forfeiture and confiscations of proceeds of crime. For Australia to grant or request assistance under the Act, with the exception of the taking of evidence, the Act must apply by regulations to the country concerned. The regulations may give effect to a treaty or otherwise.

Australia and Portugal signed a mutual assistance in criminal matters treaty in July 1989. The Treaty, once in force, binds the two countries under international law to provide the kinds of assistance listed above. Earlier this year the Republic of Portugal notified Australia, in accordance with Article 20 of the Treaty, that its domestic requirements for the Treaty's entry into force had been satisfied. The regulations will enable Australia to give domestic effect to the Treaty.

Details of the Regulations are as follows:

Regulation 1 is a citation provision.

Regulation 2 provides that the Regulations commence on 17 October 1993.

Regulation 3 is an interpretation provision.

Regulation 4 applies the Act to Portugal subject to the Treaty, a copy of the English language text of which is set out in the Schedule.