



Foreign Influence Transparency Scheme Rules 2018

made under the

Foreign Influence Transparency Scheme Act 2018

Compilation No. 1

Compilation date: 17 April 2019

Includes amendments up to: F2019L00615

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Foreign Influence Transparency Scheme Rules 2018* that shows the text of the law as amended and in force on 17 April 2019 (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 Legislation 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 series page on the Legislation 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 series page on the Legislation 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
Part 2—Registration under the scheme	2
5 Exemptions: prescribed circumstances	2
Part 3—Register of scheme information	3
6 Information to be made publicly available on website.....	3
6A Information not to be included on website.....	3
7 Removal of publicly available information from website.....	4
Endnotes	5
Endnote 1—About the endnotes	5
Endnote 2—Abbreviation key	6
Endnote 3—Legislation history	7
Endnote 4—Amendment history	8

Part 1—Preliminary

1 Name

This instrument is the *Foreign Influence Transparency Scheme Rules 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 later of: (a) the commencement of the <i>Foreign Influence Transparency Scheme Act 2018</i> ; and (b) the start of the day after this instrument is registered.	10 December 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 Influence Transparency Scheme Act 2018*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act.

In this instrument:

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

Act means the *Foreign Influence Transparency Scheme Act 2018*.

Part 2—Registration under the scheme

5 Exemptions: prescribed circumstances

- (1) For the purposes of section 30 of the Act, a person is exempt in relation to an activity the person undertakes on behalf of a foreign principal if:
 - (a) the person:
 - (i) is employed under the *Members of Parliament (Staff) Act 1984*; or
 - (ii) is a consultant engaged under that Act; or
 - (iii) is a Commonwealth public official; and
 - (b) undertaking the activity is within the scope of the functions that the person undertakes in the person's capacity as such a person; and
 - (c) at the time the activity is undertaken, the identity of the foreign principal is either apparent to all persons with whom the person is dealing or disclosed to them.

- (2) For the purposes of section 30 of the Act, a person is exempt in relation to an activity the person undertakes on behalf of a foreign principal if:
 - (a) the activity is covered by item 2 of the table in subsection 21(1) of the Act (about general political lobbying in Australia for the purpose of political or governmental influence); and
 - (b) the foreign principal or the person is taking part in a process relating to a federal government decision within the meaning of paragraph 12(1)(b) of the Act in order to comply with a law of the Commonwealth; and
 - (c) the process involves the foreign principal or the person providing information in accordance with that law to the maker of the decision or another person assisting the maker of the decision, for the purposes of making the decision; and
 - (d) at the time the activity is undertaken, the identity of the foreign principal is either apparent to all persons with whom the person is dealing or disclosed to them.

Part 3—Register of scheme information

6 Information to be made publicly available on website

For the purposes of paragraph 43(1)(c) of the Act, the following information is prescribed in relation to each person registered in relation to a foreign principal:

- (a) the trading name of the person (if applicable);
- (b) the ABN, or foreign equivalent, of the person (if applicable);
- (c) any other names by which the person is known;
- (d) if the person is an individual—the occupation of the person;
- (e) if the person is a former Cabinet Minister—that fact;
- (f) if the person is a recent designated position holder—that fact;
- (g) the trading name of the foreign principal (if applicable);
- (h) the ABN, or foreign equivalent, of the foreign principal (if applicable);
- (i) if the foreign principal is an individual:
 - (i) the individual's title (including any post-nominals); and
 - (ii) any other names by which the individual is known;
- (j) the name of the foreign country that the foreign principal is part of or related to;
- (k) the type of foreign principal;
- (l) a description of the registrable activities the person undertakes, has undertaken or proposes to undertake on behalf of the foreign principal;
- (m) the date, or period over which, the person undertakes, has undertaken or proposes to undertake the registrable activities on behalf of the foreign principal;
- (n) whether the person undertakes, has undertaken or proposes to undertake the registrable activities on behalf of the foreign principal:
 - (i) under an arrangement with the foreign principal; or
 - (ii) in the service of the foreign principal; or
 - (iii) on the order or at the request of the foreign principal; or
 - (iv) under the direction of the foreign principal;
- (o) a description of any arrangement, order, request or direction mentioned in paragraph (n);
- (p) if subparagraph (n)(ii) applies to the person—a description of the relationship between the person and the foreign principal.

Note: Subsection 43(2) of the Act provides for when certain information must not be included on the website.

6A Information not to be included on website

- (1) For the purposes of paragraph 43(2)(c) of the Act (about information not to be included on the website providing information on persons who are or have been registered in relation to a foreign principal), this section prescribes information:

Section 7

- (a) that is sensitive; and
 - (b) that:
 - (i) was contained in an application for registration of a person, a notice given by a person under section 31, 34, 35, 36 or 37 of the Act in connection with registration of a person, or a renewal of registration of a person, relating to a foreign principal and an activity described in subsection (2) of this section; or
 - (ii) accompanied such an application, notice or renewal; or
 - (iii) was contained in a document accompanying such an application, notice or renewal.
- (2) Subparagraph (1)(b)(i) applies in relation to an activity for which all the following conditions are met:
- (a) the activity is or was undertaken on behalf of the foreign principal by the person;
 - (b) the activity is or was undertaken in the context of confidential consultation of the foreign principal or the person by a person (the *consulter*) described in subsection (3) that:
 - (i) was initiated by the consulter; and
 - (ii) relates or related to a proposed policy or proposed change to an existing policy;
 - (c) at the time the activity is or was undertaken, the identity of the foreign principal is or was either:
 - (i) apparent to all persons with whom the person is or was dealing; or
 - (ii) disclosed to them.
- (3) For the purposes of paragraph (2)(b), each of the following is a consulter:
- (a) a Commonwealth public official;
 - (b) a Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) or a subsidiary of a Commonwealth entity (within the meaning of that Act);
 - (c) a Commonwealth company (within the meaning of the *Public Governance, Performance and Accountability Act 2013*);
 - (d) an individual in the course of performing the individual's functions in relation to a person or body mentioned in paragraph (a), (b) or (c).

7 Removal of publicly available information from website

For the purposes of subsection 43(3) of the Act, the Secretary is to remove publicly available information from the website in the following circumstances:

- (a) the Secretary is satisfied that the information is not true;
- (b) the Secretary is satisfied that the information was provided in relation to an application for registration under the scheme that was fraudulently made.

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 the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Foreign Influence Transparency Scheme Rules 2018	7 Dec 2018 (F2018L01696)	10 Dec 2018 (s 2(1) item 1)	
Foreign Influence Transparency Scheme Amendment (2019 Measures No. 1) Rules 2019	16 Apr 2019 (F2019L00615)	17 Apr 2019 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep <u>LA s 48D</u>
Part 2	
s 5	am F2019L00615
Part 3	
s 6A	ad F2019L00615