



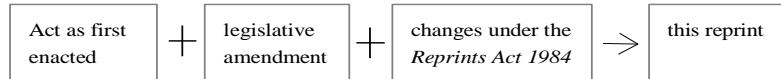
Western Australia

# **Financial Transaction Reports Act 1995**

**Reprinted as at 23 August 2002**

## Guide for using this reprint

### *What the reprint includes*



### ***Endnotes, Compilation table, and Table of provisions that have not come into operation***

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### ***Notes amongst text (italicised and within square brackets)***

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

## Financial Transaction Reports Act 1995

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Reprinted under the  
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23 August 2002

Western Australia

## Financial Transaction Reports Act 1995

**An Act to provide for the giving of further information in relation to suspect transactions reported under the *Financial Transaction Reports Act 1988* of the Commonwealth and the giving of information in relation to other suspect transactions, and for related purposes.**

**1. Short title**

This Act may be cited as the *Financial Transaction Reports Act 1995*<sup>1</sup>.

**2. Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent<sup>1</sup>.

**3. Object of Act**

The object of this Act is to facilitate the enforcement of the laws of the State.

**4. Interpretation**

(1) In this Act —

“**Commonwealth Act**” means the *Financial Transaction Reports Act 1988* of the Commonwealth;

“**court**” includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

(2) Unless the contrary intention appears, expressions used in the Commonwealth Act have the same respective meanings in this Act.

**5. Act binds Crown**

This Act binds the Crown in right of the State and, so far as the legislative power of the Parliament permits, in all its other capacities.

**6. Further reports of suspect transactions**

(1) If a cash dealer communicates information to the Director under section 16(1) of the Commonwealth Act —

- (a) the Commissioner of Police; or
- (b) a police officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information,

may request the cash dealer to give the Commissioner or police officer such further information as is specified in the request.

(2) The further information is to be information that —

- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
- (b) may be of assistance in the enforcement of the *Criminal Property Confiscation Act 2000*.

- (3) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Penalty: \$20 000 or imprisonment for 2 years, or both.

*[Section 6 amended by No. 69 of 2000 s. 15(1)(a) <sup>2</sup>.]*

**7. Reports of suspect transactions not reported under Commonwealth Act**

- (1) A cash dealer who is a party to a transaction, and has reasonable grounds to suspect that information that the cash dealer has concerning the transaction —

- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
- (b) may be of assistance in the enforcement of the *Criminal Property Confiscation Act 2000*,

must, as soon as practicable after forming the suspicion, prepare a report of the transactions and communicate the information contained in it to the Director.

Penalty: \$20 000 or imprisonment for 2 years, or both.

- (2) Subsection (1) applies whether or not the cash dealer is required to report the transaction under Division 1 of Part II of the Commonwealth Act, but only if the cash dealer is not required to report the transaction under Division 2 of Part II of the Commonwealth Act.

- (3) The report under subsection (1) must —

- (a) be in the form approved by the Director for the purposes of section 16 of the Commonwealth Act; and
- (b) contain the reportable details of the transaction; and
- (c) contain a statement of the grounds on which the cash dealer holds the suspicion mentioned in subsection (1); and
- (d) be signed by the cash dealer.

- (4) The communication of information to the Director under subsection (1) must be made —
- (a) by giving the Director a copy of the report; or
  - (b) in any other way approved by the Director.
- (5) An approval for the purposes of subsection (4)(b) —
- (a) must be in writing; and
  - (b) may relate to a specified cash dealer or class of cash dealers.
- (6) If a cash dealer communicates information to the Director under subsection (1) —
- (a) the Commissioner of Police; or
  - (b) a police officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information,
- may request the cash dealer to give the Commissioner or police officer such additional information as is specified in the request.
- (7) The additional information is to be information that —
- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
  - (b) may be of assistance in the enforcement of the *Criminal Property Confiscation Act 2000*.
- (8) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Penalty: \$20 000 or imprisonment for 2 years, or both.

- (9) In this section “**reportable details**”, in relation to a transaction, means the details of the transaction that are referred to in Schedule 4 to the Commonwealth Act.

*[Section 7 amended by No. 69 of 2000 s. 15(1)(b) and (c) <sup>2</sup>.]*



**8. Protection of cash dealers etc.**

- (1) An action, suit or proceeding does not lie against a cash dealer in relation to anything done by the cash dealer if the thing —
  - (a) was required under this Act; or
  - (b) was done in the mistaken belief that it was required under this Act.
- (2) An action, suit or proceeding does not lie against an officer, employee or agent of a cash dealer in relation to anything done by the person in the course of the person's appointment, employment or agency if the thing —
  - (a) was required under this Act; or
  - (b) was done in the mistaken belief that it was required under this Act.
- (3) If a cash dealer, or a person who is an officer, employee or agent of a cash dealer, communicates or gives information under section 16 of the Commonwealth Act, or section 6 or 7 of this Act, the cash dealer or person is taken, for the purposes of section 563A (Property laundering) of *The Criminal Code*, not to have been in possession of the information at any time.

**9. False or misleading statements**

A person must not, in communicating or giving information under this Act —

- (a) make a statement that the person knows is false or misleading in a material particular; or
- (b) omit anything from a statement knowing that without the thing the statement is misleading in a material particular.

Penalty: \$50 000 or imprisonment for 5 years, or both.

**10. Secrecy**

- (1) This section applies to a person who is or has been the Commissioner of Police or a police officer.

**s. 11**

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- (2) A person must not —
- (a) make a record of protected information; or
  - (b) whether directly or indirectly, divulge or communicate protected information,

unless the record is made, or the information divulged or communicated, in the performance of duties relating to the enforcement of the laws of the State, the Commonwealth, another State or a Territory.

Penalty: \$20 000 or imprisonment for 2 years, or both.

- (3) A person is not required to divulge or communicate protected information to a court unless it is necessary to do so for the enforcement of the laws of the State, the Commonwealth, another State or a Territory.
- (4) In this section “**protected information**” means information that is obtained under this Act.

**11. Proceedings for offences**

- (1) Proceedings for an offence against section 6, 7 or 10 are to be dealt with summarily by a court of petty sessions constituted by a magistrate sitting alone.
- (2) An offence against section 9 is a crime.

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**Notes**

<sup>1</sup> This reprint is a compilation as at 23 August 2002 of the *Financial Transaction Reports Act 1995* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Financial Transaction Reports Act 1995</i>	10 of 1995	30 Jun 1995	1 Jul 1995 (see s. 2)
<i>Criminal Property Confiscation (Consequential Provisions) Act 2000</i> s. 15 <sup>2</sup>	69 of 2000	6 Dec 2000	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)

<sup>2</sup> The *Criminal Property Confiscation (Consequential Provisions) Act 2000* s. 15(2) reads as follows:

“

- (2) Despite the amendment effected by subsection (1), the *Financial Transaction Reports Act 1995* as in force before the commencement of this Act continues to apply in relation to the enforcement of the *Crimes (Confiscation of Profits) Act 1988* to the extent that the operation of the latter Act is continued by this Act.

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