



Western Australia

# **Financial Transaction Reports Amendment Act 2018**

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# Financial Transaction Reports Amendment Act 2018

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Western Australia

# **Financial Transaction Reports Amendment Act 2018**

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**No. 25 of 2018**

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**An Act to amend the *Financial Transaction Reports Act 1995*.**

*[Assented to 17 October 2018]*

The Parliament of Western Australia enacts as follows:

**s. 1**

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**1. Short title**

This is the *Financial Transaction Reports Amendment Act 2018*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

**3. Act amended**

This Act amends the *Financial Transaction Reports Act 1995*.

**4. Long title amended**

In the long title:

- (a) delete “**suspect transactions reported under the *Financial Transaction Reports Act 1988* of the Commonwealth**” and insert:

**matters reported under the *Financial Transaction Reports Act 1988* (Commonwealth) or the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Commonwealth)**

- (b) delete “**other**”.

**5. Section 4 amended**

- (1) In section 4(1) delete the definition of *Commonwealth Act*.
- (2) In section 4(1) insert in alphabetical order:

*AMLCTF Act* means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Commonwealth);

*FTR Act* means the *Financial Transaction Reports Act 1988* (Commonwealth).

- (3) In section 4(1) in the definition of *court* delete “questions.” and insert:

questions;

- (4) In section 4(2) delete “Commonwealth Act” and insert:

FTR Act or the AMLCTF Act

**6. Section 6 amended**

- (1) Delete section 6(1) and insert:

- (1) This section applies if a cash dealer communicates information to the AUSTRAC CEO under the FTR Act section 16(1) or (1A).
- (1A) The Commissioner of Police, or 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, within the period specified in the request, the further information specified in the request.

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- (1B) The period specified in the request for giving the information must be at least 14 days after the day the request is made, unless —
- (a) the person making the request considers that a shorter period is necessary; and
  - (b) the shorter period is reasonable in the circumstances.

- (2) In section 6(2) delete “is to” and insert:

must

- (3) In section 6(3) delete the Penalty and insert:

Penalty for this subsection: a fine of \$20 000 and imprisonment for 2 years.

Note: The heading to amended section 6 is to read:

**Further information about matters reported under FTR Act**

**7. Section 6A inserted**

After section 6 insert:

**6A. Further information or documents about matters reported under AMLCTF Act**

- (1) This section applies if a reporting entity communicates information to the AUSTRAC CEO under the AMLCTF Act section 41, 43 or 45.
- (2) The Commissioner of Police, or a police officer who is carrying out an investigation arising from, or relating to



the matters referred to in, the information may request the reporting entity —

- (a) to give the Commissioner or police officer, within the period specified in the request, the further information specified in the request; or
  - (b) to produce to the Commissioner or police officer, within the period specified in the request, the documents about the matter to which the communication under the AMLCTF Act section 41, 43 or 45 relates specified in the request.
- (3) The period specified in the request for giving the information or producing the documents must be at least 14 days after the day the request is made, unless —
- (a) the person making the request considers that a shorter period is necessary; and
  - (b) the shorter period is reasonable in the circumstances.
- (4) The further information or documents must be information or documents 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*.
- (5) The reporting entity must comply with the request to the extent that the reporting entity has the further information or documents.

Penalty for this subsection: a fine of \$20 000 and imprisonment for 2 years.

**8. Section 7 amended**

- (1) In section 7(1) delete “transactions and communicate the information contained in it to the Director.” and insert:

transaction and communicate the information contained in it to the AUSTRAC CEO.

- (2) In section 7(1) delete the Penalty and insert:

Penalty for this subsection: a fine of \$20 000 and imprisonment for 2 years.

- (3) Delete section 7(2) and insert:

- (2) Subsection (1) does not apply if the cash dealer is required to report the transaction under —

- (a) the FTR Act Part II Division 2; or
- (b) if the cash dealer is a reporting entity, the AMLCTF Act Part 3 Division 2, 3 or 4.

- (4) Delete section 7(3)(a) and insert:

- (a) be in the form approved by the AUSTRAC CEO for the purposes of the FTR Act section 16; and

- (5) In section 7(4):

- (a) delete “Director” (1<sup>st</sup> and 2<sup>nd</sup> occurrences) and insert:

AUSTRAC CEO

(b) in paragraph (b) delete “Director.” and insert:

AUSTRAC CEO.

(6) Delete section 7(6) and insert:

- (5A) Subsection (6) applies if a cash dealer communicates information to the AUSTRAC CEO under subsection (1).
- (6) The Commissioner of Police, or 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 —
- (a) to give the Commissioner or police officer, within the period specified in the request, the additional information specified in the request; or
  - (b) to produce to the Commissioner or police officer, within the period specified in the request, the documents about the matter to which the communication under subsection (1) relates specified in the request.
- (6A) The period specified in the request for giving the information or producing the documents must be at least 14 days after the day the request is made, unless —
- (a) the person making the request considers that a shorter period is necessary; and
  - (b) the shorter period is reasonable in the circumstances.

(7) In section 7(7) delete “is to be information” and insert:

or documents must be information or documents

(8) In section 7(8) delete “further information.” and insert:

additional information or documents.

(9) In section 7(8) delete the Penalty and insert:

Penalty for this subsection: a fine of \$20 000 and imprisonment for 2 years.

(10) Delete section 7(9) and insert:

(9) In this section —

**reportable details**, in relation to a transaction, means the details of the transaction that are referred to in the FTR Act Schedule 4.

Note: The heading to amended section 7 is to read:

**Reports of suspect transactions not reported under FTR Act or AMLCTF Act**

**9. Section 8 amended**

(1) In section 8(1) and (2) after “cash dealer” (each occurrence) insert:

or reporting entity

- (2) Delete section 8(3) and insert:
- (3) If a cash dealer or reporting entity, or a person who is an officer, employee or agent of a cash dealer or reporting entity, communicates or gives information or produces documents under the FTR Act section 16, the AMLCTF Act section 41, 43 or 45, or section 6, 6A or 7 of this Act, the cash dealer, reporting entity or person is taken, for the purposes of *The Criminal Code* section 563A (Property laundering), not to have been in possession of the information at any time.

Note: The heading to amended section 8 is to read:

**Protection of cash dealers, reporting entities and other persons**

**10. Section 9 amended**

In section 9 delete the Penalty and insert:

Penalty: a fine of \$50 000 and imprisonment for 5 years.

**11. Section 10 amended**

In section 10(2) delete the Penalty and insert:

Penalty for this subsection: a fine of \$20 000 and imprisonment for 2 years.

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**12. Section 11 amended**

In section 11(1) after “section 6,” insert:

6A,

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