



Western Australia

Financial Transaction Reports Act 1995

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Financial Transaction Reports Act 1995

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Defined terms

Financial Transaction Reports Act 1995

An Act to provide for the giving of further information in relation to matters reported under the *Financial Transaction Reports Act 1988* (Commonwealth) or the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Commonwealth) and the giving of information in relation to suspect transactions, and for related purposes.

[Long title amended: No. 25 of 2018 s. 4.]

1. Short title

This Act may be cited as the *Financial Transaction Reports Act 1995*¹.

2. Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent¹.

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 —

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

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

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

- (2) Unless the contrary intention appears, expressions used in the FTR Act or the AMLCTF Act have the same respective meanings in this Act.

[Section 4 amended: No. 25 of 2018 s. 5.]

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 information about matters reported under FTR Act

- (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.

- (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) The further information must 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 for this subsection: a fine of \$20 000 and imprisonment for 2 years.

[Section 6 amended: No. 69 of 2000 s. 15(1)(a)²; No. 25 of 2018 s. 6.]

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.

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- (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.

[Section 6A inserted: No. 25 of 2018 s. 7.]

7. Reports of suspect transactions not reported under FTR Act or AMLCTF 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 transaction and communicate the information contained in it to the AUSTRAC CEO.

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

- (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.

- (3) The report under subsection (1) must —
 - (a) be in the form approved by the AUSTRAC CEO for the purposes of the FTR Act section 16; 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 AUSTRAC CEO under subsection (1) must be made —
 - (a) by giving the AUSTRAC CEO a copy of the report; or
 - (b) in any other way approved by the AUSTRAC CEO.
- (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.
- (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) The additional 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*.
- (8) The cash dealer must comply with the request to the extent that the cash dealer has the additional information or documents.
Penalty for this subsection: a fine of \$20 000 and imprisonment for 2 years.
- (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.
[Section 7 amended: No. 69 of 2000 s. 15(1)(b) and (c)²; No. 25 of 2018 s. 8.]

8. Protection of cash dealers, reporting entities and other persons

- (1) An action, suit or proceeding does not lie against a cash dealer or reporting entity in relation to anything done by the cash dealer or reporting entity if the thing —
- (a) was required under this Act; or
 - (b) was done in the mistaken belief that it was required under this Act.

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- (2) An action, suit or proceeding does not lie against an officer, employee or agent of a cash dealer or reporting entity 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 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.

[Section 8 amended: No. 25 of 2018 s. 9.]

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

[Section 9 amended: No. 25 of 2018 s. 10.]

10. Secrecy

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

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

- (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.

[Section 10 amended: No. 25 of 2018 s. 11.]

11. Proceedings for offences

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

[Section 11 amended: No. 59 of 2004 s. 141; No. 25 of 2018 s. 12.]

Notes

¹ This is a compilation of the *Financial Transaction Reports Act 1995* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<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 ²	69 of 2000	6 Dec 2000	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)
Reprint of the <i>Financial Transaction Reports Act 1995</i> as at 23 Aug 2002 (includes amendment listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Financial Transaction Reports Amendment Act 2018</i>	25 of 2018	17 Oct 2018	s. 1 and 2: 17 Oct 2018 (see s. 2(a)); Act other than s. 1 and 2: 18 Oct 2018 (see s. 2(b))

² 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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Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
AMLCTF Act	4(1)
court	4(1)
FTR Act	4(1)
protected information.....	10(4)
reportable details.....	7(9)