

WESTERN AUSTRALIA

FINANCIAL TRANSACTION REPORTS ACT 1995

(No. 10 of 1995)

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FINANCIAL TRANSACTION REPORTS ACT 1995

No. 10 of 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.

[Assented to 30 June 1995]

The Parliament of Western Australia enacts as follows:

Short title

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

Commencement

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

Object of Act

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

Interpretation

4. (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.

Act binds Crown

5. 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.

Further reports of suspect transactions

6. (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 *Crimes (Confiscation of Profits) Act 1988*.

(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.

Reports of suspect transactions not reported under Commonwealth Act

7. (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 *Crimes (Confiscation of Profits) Act 1988*,

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 *Crimes (Confiscation of Profits) Act 1988*.

(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.

Protection of cash dealers etc.

8. (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.

False or misleading statements

9. 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.

Secrecy

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

(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.

Proceedings for offences

11. (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.