



Western Australia

Financial Transaction Reports Act 1995

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Financial Transaction Reports Act 1995

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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*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 —

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) ².]

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) ².]

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.

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- (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.
- (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

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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 summary jurisdiction constituted by a magistrate sitting alone.
- (2) An offence against section 9 is a crime.

[Section 11 amended by No. 59 of 2004 s. 141.]

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)

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)
Commonwealth Act	4(1)
court	4(1)
protected information.....	10(4)
reportable details.....	7(9)