



# **Financial Transaction Reports Act 1988**

**Act No. 64 of 1988 as amended**

This compilation was prepared on 1 July 2007  
taking into account amendments up to Act No. 52 of 2007

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra



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# **An Act to provide for the reporting of certain transactions and transfers and to impose certain obligations in relation to accounts, and for related purposes**

## **Part I—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Financial Transaction Reports Act 1988*.

### **2 Commencement** [see Note 1]

- (1) Section 1 and this section shall come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act shall come into operation on a day or days fixed by Proclamation.

### **3 Interpretation**

- (1) In this Act, unless the contrary intention appears:

*ACC* means the Australian Crime Commission.

*acceptable referee* means a person in a class of persons declared by the Minister, by notice in the *Gazette*, to be acceptable referees for the purposes of this definition.

*account* means (except in Part VIA) any facility or arrangement by which a cash dealer does any of the following:

- (a) accepts deposits of currency;
- (b) allows withdrawals of currency;
- (c) pays cheques or payment orders drawn on the cash dealer by, or collects cheques or payment orders on behalf of, a person other than the cash dealer;

and includes any facility or arrangement for a safety deposit box or for any other form of safe deposit, but does not include an arrangement for a loan that sets out the amounts and times of

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advances and repayments, being amounts and times from which the borrower and lender may not depart during the term of the loan.

Note: Section 40C defines *account* for the purposes of Part VIA.

**account information**, in relation to an account with a cash dealer, means:

- (a) information identifying the account, including any identifying number; and
- (b) the name in which the account is held; and
- (c) information, and documents, provided to the cash dealer by the holder of the account (whether provided in relation to that account or another account), as follows:
  - (i) an address, not being a Post Office Box address, for the holder of the account;
  - (ii) if the account is held in:
    - (A) the name or names of an individual or individuals; or
    - (B) the name of an unincorporated association; that fact;
  - (iii) if the account is held in the name of a body corporate (other than as a trustee)—that fact and a copy of the certificate of incorporation (if any) of the body corporate;
  - (iv) if the account is held in a business name—that fact and a copy of the certificate of registration of the business name or, if registration was applied for but not yet obtained, a copy of the application;
  - (v) if the account is held in trust—that fact and the prescribed details of the trustees and beneficiaries of the trust.

**ADI** (authorised deposit-taking institution) means:

- (a) a body corporate that is an ADI for the purposes of the *Banking Act 1959*; or
- (b) the Reserve Bank of Australia; or
- (c) a person who carries on State banking within the meaning of paragraph 51(xiii) of the Constitution.

**AFP member** means a member or special member of the Australian Federal Police.

**approved** means approved by the AUSTRAC CEO, in writing, for the purposes of the provision in which the term occurs.

**approved cash carrier** means a cash dealer declared by the AUSTRAC CEO to be an approved cash carrier under section 8.

**AUSTRAC** means the Australian Transaction Reports and Analysis Centre continued in existence by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**AUSTRAC CEO** means the Chief Executive Officer of AUSTRAC.

**Australia**, when used in a geographical sense, includes the external Territories.

**authorised officer** means a person in respect of whom an appointment as an authorised officer for the purposes of this Act is in force under section 27A.

**banker** includes a body corporate that is an ADI.

**Board of the ACC** means the Board of the Australian Crime Commission established under section 7B of the *Australian Crime Commission Act 2002*.

**bullion seller** means a person who carries on a business of selling bullion.

**business hours**, in relation to a place, means the period between 9 am and 5 pm on a day other than:

- (a) a Saturday; or
- (b) a Sunday; or
- (c) a day that is a public holiday in that place.

**business premises**, in relation to a person, means premises, or a part of premises, of the person used, wholly or partly, for the purposes of business operations of the person, but does not include premises, or a part of premises, used as a place of residence.

**cash dealer** means:

- (a) a financial institution;

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- (b) a body corporate that is, or, if it had been incorporated in Australia, would be, a financial corporation within the meaning of paragraph 51(xx) of the Constitution;
- (c) an insurer or an insurance intermediary;
- (d) a financial services licensee (as defined by section 761A of the *Corporations Act 2001*) whose licence covers either or both of the following:
  - (i) dealing in securities (as defined by subsection 92(1) of the *Corporations Act 2001*);
  - (ii) dealing in derivatives (as defined by section 761A of the *Corporations Act 2001*);
- (f) a Registrar or Deputy Registrar of a Registry established under section 14 of the *Commonwealth Inscribed Stock Act 1911*;
- (g) a trustee or manager of a unit trust;
- (h) a person who carries on a business of issuing, selling or redeeming travellers cheques, money orders or similar instruments;
- (j) a person who is a bullion seller.
- (k) a person (other than a financial institution or a real estate agent acting in the ordinary course of real estate business) who carries on a business of:
  - (i) collecting currency, and holding currency collected, on behalf of other persons; or
  - (ia) exchanging one currency for another, or converting currency into prescribed commercial instruments, on behalf of other persons; or
  - (ib) remitting or transferring currency or prescribed commercial instruments, or making electronic funds transfers, into or out of Australia on behalf of other persons or arranging for such remittance or transfer; or
  - (ii) preparing pay-rolls on behalf of other persons in whole or in part from currency collected; or
  - (iii) delivering currency (including payrolls);
- (l) a person (other than a financial institution or a real estate agent acting in the ordinary course of real estate business) who carries on a business in Australia of:

- (i) on behalf of other persons, arranging for funds to be made available outside Australia to those persons or others; or
- (ii) on behalf of persons outside Australia, making funds available, or arranging for funds to be made available, in Australia to those persons or others;
- (m) a person who carries on a business of operating a gambling house or casino; and
- (n) a bookmaker, including a totalisator agency board and any other person who operates a totalisator betting service.

***cash transaction*** means a transaction involving the physical transfer of currency from one person to another.

***citizenship certificate***, in respect of a person, means a certificate, declaration, notice or other instrument in respect of the person's status as an Australian citizen or British subject, or otherwise in respect of the person's nationality, issued under:

- (aa) the *Australian Citizenship Act 2007*; or
- (a) the *Australian Citizenship Act 1948*;

or under regulations made under either of those Acts.

***commence to provide a designated service*** has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

***commercial goods carrier*** means a person who, in the normal course of a lawful business, carries goods or mail for reward.

***commercial passenger carrier*** means a person who, in the normal course of a lawful business, carries passengers for reward.

***Commissioner*** means the Commissioner of Taxation.

***co-operative housing society*** means a society registered or incorporated as a co-operative housing society or similar society under a law of a State or Territory.

***currency*** means the coin and paper money of Australia or of a foreign country that:

- (a) is designated as legal tender; and
- (b) circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue.

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**customer-generated financial transaction document** has the meaning given by section 40D.

**customs officer** means the Chief Executive Officer of Customs or an officer of customs within the meaning of the *Customs Act 1901*.

**designated service** has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**designated service transaction**: if:

- (a) a reporting entity provides, or commences to provide, a designated service to a customer (within the meaning of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*); and
- (b) the provision of the service involves a transaction; the transaction is a **designated service transaction**.

**established customer**, in relation to a financial institution as at a particular time, means a person who has been a customer of the financial institution for not less than 12 months immediately preceding that time.

**examiner** has the same meaning as in the *Australian Crime Commission Act 2002*.

**financial institution** means:

- (a) an ADI; or
- (b) a co-operative housing society;

and, in Part VIA, includes:

- (c) a body corporate that is, or that, if it had been incorporated in Australia, would be, a financial corporation within the meaning of paragraph 51(xx) of the Constitution; and
- (d) a person who carries on a business of operating a casino; and
- (e) a totalisator agency board.

**foreign currency** means the currency of a foreign country.

**FTR information** means information obtained by the AUSTRAC CEO under Part II and includes information included in a notice under subsection 18(8A) or 22(1) or in a copy of a record given under subsection 24(5).

**given name** means a name other than a surname.

**identification document** means a primary identification document or a secondary identification document.

**identification record** has the meaning given by section 20A or section 24C, as the context requires.

**identification reference** has the meaning given by section 21.

**identifying cash dealer** means a cash dealer in respect of whom a declaration under section 8A is in force.

**insurance broker** means a person who carries on the business of arranging contracts of insurance, whether in Australia or elsewhere, as agent for intending insureds.

**insurance business** means the business of undertaking liability, by way of insurance (including reinsurance), in respect of any loss or damage, including liability to pay damages or compensation, contingent upon the happening of a specified event, and includes any business incidental to insurance business as so defined, but does not include:

- (a) health insurance business within the meaning of Division 121 of the *Private Health Insurance Act 2007* carried on by a private health insurer within the meaning of that Act; or
- (b) business undertaken by a person, being an innkeeper or lodging-house keeper, relating only to the person's liability in respect of goods belonging to another person and in the possession or under the control of a guest at the inn or lodging-house of which the first-mentioned person is the innkeeper or lodging-house keeper or deposited with the innkeeper or lodging-house keeper for safe custody; or
- (c) the business of insuring property of a religious organisation where the person carrying on the business does not carry on any other insurance business.

**insurance intermediary** means a person who:

- (a) for reward; and
- (b) as an agent for one or more insurers or as an agent of intending insureds;

arranges contracts of insurance in Australia or elsewhere, and includes an insurance broker.

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**insured** means a person (other than the insurer) who is entitled to a benefit under a contract of life insurance.

**insurer** means a person who carries on an insurance business.

**Integrity Commissioner** has the same meaning as in the *Law Enforcement Integrity Commissioner Act 2006*.

**international funds transfer instruction** means an instruction for a transfer of funds that is transmitted into or out of Australia electronically or by telegraph, but does not include an instruction of a prescribed kind.

**international travel document** means:

- (a) a current passport; or
- (b) an expired passport that:
  - (i) was not cancelled; and
  - (ii) was current within the preceding 2 years; or
- (c) another current identity document, having the characteristics of a passport, issued by a government, the United Nations or an Agency of the United Nations for the purposes of international travel.

**member of the staff of the ACC** has the same meaning as in the *Australian Crime Commission Act 2002*.

**minimum retention period** has the meaning given by section 40E.

**non-reportable cash transaction** means a cash transaction:

- (a) to which a cash dealer is a party; and
- (b) that is not a significant cash transaction or is an exempt cash transaction; and
- (c) that is not a designated service transaction that occurred after the commencement of Division 3 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

**non-reportable transfer**, in relation to currency, means a transfer of currency out of Australia or into Australia in respect of which a report under section 15 is not required.

**official**, in relation to a Royal Commission, means:

- (a) a legal practitioner appointed to assist the Commission; or

- (b) a person otherwise assisting the Commission and authorised in writing by the sole Commissioner or a member of the Commission.

***paper money*** means money comprising a note written, printed or otherwise made on paper or any other material.

***police officer*** means:

- (a) an AFP member; or
- (b) a member of the police force of a State or Territory.

***prescribed commercial instrument*** means:

- (a) a cheque, bill of exchange, promissory note or other like instrument creating an entitlement to currency; or
- (b) any instrument (including an electronic instrument) that is declared to be a prescribed commercial instrument for the purposes of this definition.

***primary identification document***, in relation to a person, in a particular name, means:

- (a) a certified copy, or an extract, of a birth certificate of the person; or
  - (b) a certified copy of a citizenship certificate of the person; or
  - (c) an international travel document for the person; or
  - (d) any other prescribed document;
- that shows that name as the person's name.

***produce*** includes permit access to.

***public authority*** means an authority or body, whether a body corporate or not, established or incorporated for a public purpose by or under a law of the Commonwealth or of a State or Territory.

***reporting entity*** has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

***reporting period***, in relation to a significant cash transaction, means:

- (a) if the transaction involves foreign currency—the period ending at the end of the day after the day on which the transaction takes place or such longer period as is prescribed by the regulations;

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- (b) if the transaction does not involve foreign currency—the period ending at the end of 15 days after the day on which the transaction takes place.

**required details**, in relation to an identification document, means:

- (a) in the case of a birth certificate—the name and date of birth of the person in respect of whose birth the certificate is given and the date and office of issue of the certificate;
- (b) in the case of a citizenship certificate—the name and date of birth of the person in respect of whom the certificate is issued, the date of issue of the certificate and the name of the person who issued the certificate;
- (c) in the case of a passport—the name and date of birth of the person to whom the passport is issued and the country and date of issue and the number of the passport; and
- (d) in the case of a secondary identification document—the name shown in the document as the name of the person to whom or in respect of whom the document was issued, the date of birth of that person (if shown), the address of that person (if shown), the kind of document, the person who or the authority that issued the document, the identifying number (if any) of the document and the date of issue or expiry (if any) of the document.

**retail business** means a business:

- (a) the principal element of which is the provision of goods to ultimate consumers; and
- (b) the takings or receipts of which include substantial amounts of currency.

**RSA** has the same meaning as in the *Retirement Savings Accounts Act 1997*.

**secondary identification document**, in relation to a person in a particular name, means a document (other than a primary identification document) which establishes the identity of the person in that name.

**send**, in relation to currency, includes send through the post.

**signatory**, in relation to an account with a cash dealer, means the person, or one of the persons, on whose instructions (whether required to be in writing or not and whether required to be signed

or not) the cash dealer conducts transactions in relation to the account.

**signatory information**, in relation to a signatory to an account with a cash dealer, means information and documents (whether obtained by the cash dealer in relation to that account or another account), as follows:

- (a) the name used by the signatory as his or her name in relation to that account;
- (b) if the account is held in the name of an unincorporated association—a copy of the instrument authorising the signatory to sign;
- (c) any other name by which the signatory is commonly known, being a name disclosed to the cash dealer;
- (d) an identification record for the signatory in accordance with section 20A.

**significant cash transaction** means a cash transaction involving the transfer of currency of not less than \$10,000 in value.

**solicitor** means a person who practises as a solicitor, whether by himself or herself, as a member of a solicitor corporation or as a member of a partnership of solicitors, and whether or not the person also practises as a barrister.

**staff member of ACLEI** has the same meaning as in the *Law Enforcement Integrity Commissioner Act 2006*.

**State** includes the Northern Territory.

**surname** includes a family name.

**taxation law** has the same meaning as in the *Taxation Administration Act 1953*.

**taxation officer** means:

- (a) a Second Commissioner of Taxation;
- (b) a Deputy Commissioner of Taxation; and
- (c) a person appointed or engaged under the *Public Service Act 1999* and performing duties in the Australian Taxation Office.

**Territory** does not include the Northern Territory.

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**totalisator agency board** means a board or authority established by or under a law of a State or Territory for purposes that include the purpose of operating a betting service.

**transaction**, in Division 2 of Part II, has a meaning affected by subsection 3(7).

**unit trust** means a trust to which a unit trust scheme relates and includes:

- (a) a cash management trust;
- (b) a property trust; and
- (c) an arrangement declared by the Minister, by notice in writing published in the *Gazette*, to be a unit trust for the purposes of this definition;

but does not include an arrangement declared by the Minister, by notice in writing published in the *Gazette*, not to be a unit trust for the purposes of this definition.

**unit trust scheme** means any arrangement made for the purpose, or having the effect, of providing, for a person having funds available for investment, facilities for the participation by the person as a beneficiary under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property pursuant to the trust.

- (2) A reference in this Act to a document being signed by a party to a transaction includes a reference to the document being signed on the party's behalf.
- (3) A reference in this Act to transferring currency out of Australia is a reference to taking or sending currency out of Australia.
- (4) A reference in this Act to transferring currency into Australia is a reference to bringing or sending currency into Australia.
- (5) For the purposes of this Act, where a person's name consists of one or more given names and a surname, the following names shall be taken not to be different from one another:
  - (a) a name consisting of that given name or those given names and that surname;
  - (b) a name consisting of any one or more of those given names and that surname;

- (c) a name consisting of a nickname of the person and that surname;
  - (d) a name consisting of a nickname of the person, that given name or those given names and that surname;
  - (e) a name consisting of a nickname of the person, one or more of those given names and that surname.
- (6) A reference in subsection (5) to a given name of a person includes a reference to a diminutive form or Anglicised form of a given name of the person.
- (7) Division 2 of Part II applies in relation to a proposal for a transaction, or negotiations for a transaction, in the same way as it applies in relation to a completed transaction.

### **3A Translation of foreign currency to Australian currency**

In determining, for the purposes of this Act, whether an amount of foreign currency (including an amount in which a bearer negotiable instrument or other document is denominated) is not less than an Australian dollar amount, the amount of foreign currency is to be translated to Australian currency at the exchange rate applicable at the relevant time.

## **4 Objects of Act**

- (1) The principal object of this Act is to facilitate the administration and enforcement of taxation laws.
- (2) A further object of this Act is to facilitate the administration and enforcement of laws of the Commonwealth and of the Territories (other than taxation laws).
- (3) Without prejudice to the effect of this Act by virtue of subsections (1) and (2), a further object of this Act is to make information collected for the purposes referred to in subsection (1) or (2) available to State authorities to facilitate the administration and enforcement of the laws of the States.

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**5 Act to bind Crown**

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of Norfolk Island.
- (2) Nothing in this Act renders the Crown in right of the Commonwealth, of a State, of the Australian Capital Territory or of Norfolk Island liable to be prosecuted for an offence.

**6 Act to apply both within and outside Australia**

This Act applies throughout the whole of Australia and also applies outside Australia.

**6A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## **Part II—Transaction reports**

### **Division 1—Cash transaction reports by cash dealers**

#### **7 Reports of significant cash transactions by cash dealers**

- (1) Where a cash dealer is a party to a significant cash transaction, the dealer shall, before the end of the reporting period:
  - (a) prepare a report of the transaction; and
  - (b) communicate the information contained in the report to the AUSTRAC CEO;unless:
  - (c) the transaction is, at the time when it occurs, an exempt transaction; or
  - (d) the transaction is, at the time when it occurs, eligible for exemption and becomes, before the end of the reporting period, an exempt transaction; or
  - (e) the cash dealer is an approved cash carrier; or
  - (f) all of the following conditions are satisfied:
    - (i) the cash dealer is a reporting entity;
    - (ii) the transaction occurred after the commencement of Division 3 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;
    - (iii) the transaction is a designated service transaction.
- (2) The report shall be prepared in the approved form, contain the reportable details of the transaction and be signed by the cash dealer or otherwise authenticated by the cash dealer in a way approved by the AUSTRAC CEO.
- (3) The communication shall be made to the AUSTRAC CEO:
  - (a) by giving the AUSTRAC CEO a copy of the report; or
  - (b) in such other manner and form as is approved by the AUSTRAC CEO, in writing, in relation to the cash dealer or to a class of cash dealers that includes the cash dealer.

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(4) In this section:

*reportable details*, in relation to a transaction, means the details of the transaction that are referred to in Schedule 1.

**8 Approved cash carriers**

(1) The AUSTRAC CEO may, by notice published in the *Gazette*, declare a cash dealer, being a person referred to in paragraph (k) of the definition of *cash dealer* in subsection 3(1), to be an approved cash carrier if the AUSTRAC CEO is satisfied that:

- (a) the cash dealer maintains records containing reportable details of significant cash transactions to which the cash dealer is a party; and
- (b) the declaration of the cash dealer as an approved cash carrier would not be inconsistent with the objects of this Act.

(2) In this section:

*reportable details* has the same meaning as in section 7.

**8A Identifying cash dealers**

(1) A cash dealer may apply in writing to the AUSTRAC CEO to be declared an identifying cash dealer.

(2) An application must be accompanied by a written undertaking in the approved form, by which the applicant undertakes:

- (a) to carry out the verification procedures under paragraph 20A(1)(b), where that paragraph applies, and to take all reasonable steps to complete the procedures promptly in each case; and
- (b) to report under section 16 in relation to information obtained by the applicant as a result of carrying out the procedures mentioned in paragraph (a); and
- (c) to give the AUSTRAC CEO, in respect of such periods as are determined by the AUSTRAC CEO, written reports on the applicant's compliance with this Act; and
- (d) to do such other things (if any) as are specified in the form.

(3) An application, and the undertaking accompanying it, must be signed by the applicant personally or, if the applicant is a body corporate, by its principal executive officer.

- (4) On receipt of an application and an undertaking, the AUSTRAC CEO may, by notice in the *Gazette*, declare the applicant to be an identifying cash dealer if satisfied that such a declaration would not be inconsistent with the objects of this Act.
- (5) The AUSTRAC CEO may, by notice in the *Gazette*, revoke a declaration, or suspend it for a specified period or until a specified act is done, if satisfied that the relevant identifying cash dealer has failed to honour the undertaking given by the cash dealer under this section.
- (6) A declaration stops being in force on its revocation or during a period when it is suspended.
- (7) The AUSTRAC CEO may, for the purposes of this section, approve different forms to be used by different classes of applicants.
- (8) In this section:  
*principal executive officer*, in relation to a body corporate means the person who is for the time being its principal executive officer, whether or not the person is a director of the body corporate.

## 9 Exempt cash transactions

- (1) Subject to subsection (2), a significant cash transaction between a financial institution and another person is an exempt transaction, so far as the institution is concerned, if:
  - (a) the transaction has been entered in the institution's exemption register; or
  - (b) the transaction falls within a class of transactions entered in the institution's exemption register against the name of that person.
- (2) Where the AUSTRAC CEO gives a financial institution a direction under subsection 11(3), a significant cash transaction between the financial institution and another person is not an exempt transaction, so far as the institution is concerned, if exemption of the transaction would be inconsistent with the direction.

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- (3) Where:
- (a) a significant cash transaction between a financial institution and another person is an exempt transaction so far as the financial institution is concerned; and
  - (b) the other person is a cash dealer;
- the transaction is also an exempt transaction so far as the cash dealer is concerned.
- (4) A significant cash transaction is also an exempt transaction if it is between:
- (a) a financial services licensee (as defined by section 761A of the *Corporations Act 2001*) whose licence covers dealing in derivatives (as defined by that section); and
  - (b) a clearing and settlement facility (as defined by that section) that is associated with a financial market (as defined by that section) of which the financial services licensee is a member.

**10 Transactions eligible for exemption**

- (1) A significant cash transaction is eligible for exemption if:
- (a) the transaction is between a financial institution and another financial institution; or
  - (b) the transaction is between a cash dealer (not being a financial institution) and a financial institution.
- (2) A significant cash transaction is also eligible for exemption if:
- (a) the transaction is between a financial institution and another person (in this subsection called the *customer*);
  - (b) the customer is, at the time when the transaction takes place, an established customer of the institution;
  - (c) the transaction consists of a deposit into, or a withdrawal from, an account maintained by the customer with the institution;
  - (d) the customer carries on:
    - (i) a retail business (other than a business that includes the selling of vehicles, vessels, farm machinery or aircraft);
    - (ii) a business declared by the Minister, by notice in writing published in the *Gazette*, to be an entertainment business or a hospitality business for the purposes of this Act; or

- (iii) a business of providing vending machines;
  - (e) the account is maintained for the purposes of that business; and
  - (f) the amount of currency involved in the transaction does not exceed an amount that is reasonably commensurate with the lawful business activities of the customer.
- (3) A significant cash transaction is also eligible for exemption if:
- (a) the transaction is between a financial institution and another person (in this subsection called the *customer*);
  - (b) the customer is, at the time when the transaction takes place, an established customer of the institution;
  - (c) the transaction consists of a withdrawal from an account maintained by the customer with the institution;
  - (d) the withdrawal is made for pay-roll purposes;
  - (e) the customer regularly withdraws, from that account, currency of a value not less than \$10,000 to pay the customer's staff and employees; and
  - (f) the amount of currency involved in the transaction does not exceed an amount that is reasonably commensurate with the lawful business activities of the customer.
- (4) A significant cash transaction to which a financial institution is a party is also eligible for exemption if:
- (a) the other party to the transaction is a public authority; and
  - (b) the amount of currency involved in the transaction does not exceed an amount that is reasonably commensurate with the authorised activities of the authority.
- (5) A significant cash transaction is also eligible for exemption if it is declared by the Minister, by notice in writing published in the *Gazette*, to be eligible for exemption for the purposes of this Act.
- (6) Where:
- (a) a person (in this subsection called the *customer*) has closed an account with a financial institution (in this subsection called the *transferor institution*) and transferred the money that stood to the credit of that account to an account held by the person with another financial institution (in this subsection called the *transferee institution*); and

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- (b) a significant cash transaction is conducted through the account held with the transferee institution at a time when the customer is not an established customer of the transferee institution;

the transaction is eligible for exemption if:

- (c) the transaction would, if the customer were an established customer of the transferee institution at that time, be eligible for exemption under another subsection of this section;
- (d) transactions falling within a particular class and conducted through the account held with the transferor institution were exempt transactions immediately before that account was closed; and
- (e) either:
  - (i) the transaction is a transaction that would, had it been conducted through the account held with the transferor institution, have fallen within that class; or
  - (ii) the customer has been a customer of the transferee institution for not less than 3 months immediately preceding that time.

**11 Financial institution may enter transactions in exemption register**

(1) Where:

- (a) a financial institution is a party to a significant cash transaction;
- (b) the institution believes that the transaction is eligible for exemption in accordance with section 10; and
- (c) if the other party to the transaction is not a financial institution—the other party signs a written statement to the effect that:
  - (i) the party believes that the transaction is eligible for exemption in accordance with section 10; and
  - (ii) the information provided by the party to the institution in relation to the transaction is, to the best of his or her knowledge and belief, true and correct in all material particulars;

the institution may enter the transaction in its exemption register.

- (2) Where:
- (a) a financial institution is a party to a significant cash transaction;
  - (b) the institution believes that the transaction is eligible for exemption in accordance with section 10;
  - (c) the institution believes that:
    - (i) the other party to the transaction is likely to enter, on a regular basis, into transactions of a similar kind with the institution; and
    - (ii) all cash transactions of that kind are eligible for exemption in accordance with section 10; and
  - (d) if the other party to the transaction is not a financial institution—the other party signs a written statement to the effect that:
    - (i) the party believes that the transaction and proposed transactions of that kind are eligible for exemption in accordance with section 10; and
    - (ii) the information provided by the party to the institution in relation to the transaction and in relation to proposed transactions of that kind is, to the best of his or her knowledge and belief, true and correct in all material particulars;
- the institution may enter the class of transactions consisting of transactions of that kind, against the name of the other party, in its exemption register.
- (2A) Despite subsections (1) and (2), a financial institution must not enter a designated service transaction, or a class of designated service transactions, in its exemption register after the commencement of Division 1 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.
- (3) Where a financial institution has entered a class of transactions in its exemption register against the name of a person, the AUSTRAC CEO may, by written notice to the institution, direct the institution:
- (a) to delete the entry from the exemption register; or
  - (b) to amend the entry so that it ceases to apply to transactions of a kind specified in the notice.

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- (4) Where the AUSTRAC CEO gives a financial institution a direction under subsection (3), the institution:
  - (a) shall forthwith comply with the direction;
  - (b) if the direction is given under paragraph (3)(a)—shall not enter in its exemption register, against the name of the person concerned, the same or substantially the same class of transactions, or transactions falling within the same or substantially the same class of transactions, while the direction remains in force; and
  - (c) if the direction is given under paragraph (3)(b)—shall not enter in its exemption register, against the name of the person concerned, transactions of the kind, or a class of transactions of the kind, specified in the notice.
- (5) A financial institution that contravenes subsection (4) is guilty of an offence against this subsection punishable, upon conviction, by a fine not exceeding \$5,000.
- (6) Subject to subsection (4), a financial institution may, at any time, delete an entry from, or amend an entry in, its exemption register.

**12 Financial institution to maintain exemption register**

- (1) A financial institution shall maintain a register in which the institution enters transactions, and classes of transactions, for the purposes of section 11.
- (2) The register shall be maintained in the approved manner and form.
- (3) The register shall include the prescribed details in relation to each transaction, or class of transactions, that is entered in the register.
- (4) Where:
  - (a) a transaction, or class of transactions, is entered in a financial institution's exemption register;
  - (b) the entry contains the prescribed details in relation to the transaction or class of transactions; and
  - (c) the entry is not in the approved manner and form;the fact that the entry is not in the approved manner and form shall be disregarded in determining whether or not the transaction, or any transaction falling within that class, is an exempt transaction.

(5) In this section:

*prescribed details*, in relation to a transaction or class of transactions, means the details of the transaction or class of transactions that are referred to in Schedule 2.

### **13 AUSTRAC CEO to have access to exemption registers**

- (1) The AUSTRAC CEO may, by written notice to a financial institution, require the institution to give an authorised officer specified in the notice access to its exemption register on the day and during the hours specified in the notice.
- (2) Where the AUSTRAC CEO gives a financial institution notice under subsection (1), the institution shall comply with the notice.
- (3) The hours specified in a notice under subsection (1) shall be during the normal business hours of the financial institution to which the notice is given.
- (4) Where an authorised officer may inspect an exemption register, the officer may also make a copy of, or take extracts from, the register.
- (5) The AUSTRAC CEO may, by written notice to a financial institution, require the institution to give the AUSTRAC CEO, or an authorised officer specified in the notice, a copy of:
  - (a) its exemption register; or
  - (b) entries in its exemption register falling within the class of entries specified in the notice;together with any other information relating to the register, or to the entries, that is specified in the notice.
- (6) Where the AUSTRAC CEO gives a financial institution notice under subsection (5), the institution shall comply with the notice within 30 days after receiving the notice.

## Division 1A—Reports about transfers of currency

### 15 Reports in relation to transfer of currency into or out of Australia

- (1) Where:
- (a) a person:
    - (i) transfers Australian currency or foreign currency out of Australia; or
    - (ii) transfers Australian currency or foreign currency into Australia; and
  - (b) the amount of currency involved in the transfer is not less than \$10,000 in value; and
  - (c) a report in respect of the transfer has not been given in accordance with this section;
- the person, subject to subsections (2), (3) and (4), commits an offence against this subsection.

- (1A) Strict liability applies to paragraph (1)(c).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (1B) Subsection (1) does not apply if the transfer occurred after the commencement of Division 1 of Part 4 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1B) (see subsection 13.3(3) of the *Criminal Code*).

- (2) A commercial passenger carrier need not make a report in respect of currency in the possession of the carrier's passengers.
- (3) A commercial goods carrier need not make a report in respect of currency carried on behalf of another person unless the other person has disclosed to the carrier that the goods include currency.
- (4) An ADI need not make a report in respect of currency transferred, on behalf of the ADI, by a commercial goods carrier.
- (5) Where:
- (a) a person (other than an ADI) receives Australian currency or foreign currency transferred to the person from outside Australia; and

- (b) the amount of currency received is not less than \$10,000 in value; and
- (c) a report in respect of the transfer of the currency into Australia has not been made in accordance with subsection (1) before the transfer; and
- (d) a report in respect of the receipt of currency is not given in accordance with this section before the end of the period of 30 days commencing on the day of the receipt of the currency;

the person commits an offence against this subsection.

- (5A) Strict liability applies to paragraphs (5)(c) and (d).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (5B) Subsection (5) does not apply if the currency was transferred after the commencement of Division 1 of Part 4 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5B) (see subsection 13.3(3) of the *Criminal Code*).

- (6) A person who commits an offence against subsection (1) or (5) is punishable, upon conviction, by imprisonment for not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (7) A report under this section shall:

- (a) be in the approved form;
- (b) contain the reportable details in relation to the matter being reported;
- (c) be signed by the person giving the report; and
- (d) be given to:
  - (i) if the transfer is effected by a person taking the currency out of, or bringing it into, Australia with the person—a customs officer; and

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(ii) in any other case—the AUSTRAC CEO or a customs officer.

(7A) A report under this section, other than a report mentioned in paragraph (5)(c) or (d), must be given:

- (a) if subparagraph (7)(d)(i) applies—at the time the currency concerned is brought into, or taken out of, Australia; and
- (b) in any other case—at any time before the transfer takes place.

(7AA) For the purposes of subsection (7A), if currency is taken out of Australia by a person by consignment of the currency:

- (a) through the post to a place outside Australia; or
- (b) to another person for carriage to a place outside Australia by that other person or by a third person;

the time when the currency is taken out of Australia is the time when it is irrevocably committed by the first-mentioned person to the Australian Postal Corporation or to the other person, as the case may be.

(7B) For the purposes of paragraph (7A)(a), the time at which currency is brought into Australia by a person is:

- (a) if the person:
  - (i) transfers the currency into Australia when a passenger on an aircraft or ship; and
  - (ii) after disembarking, goes through an area set apart for customs officers to examine the passports and personal baggage of, and perform other duties in respect of, disembarking passengers and for such passengers to collect personal baggage;

as soon as the person reaches the place in that area at which customs officers examine personal baggage or, if the person does not go to that place, when the person leaves that area; or

- (b) in any other case—the first opportunity after arrival in Australia that the person has to give the report under this section.

(7C) For the purposes of paragraph (7A)(a), the time at which currency is taken out of Australia by a person is:

- (a) if the person:
  - (i) transfers the currency out of Australia when a passenger on an aircraft or ship; and

- (ii) before embarking, goes through an area set apart for customs officers to examine the passports of, and perform other duties in respect of, embarking passengers;  
when the person is at the place in that area at which customs officers examine passports; or
  - (b) in any other case—as soon as the person reaches the customs officer who is to examine the person’s passport in relation to the person leaving Australia or, if there is no such examination, the last opportunity before leaving Australia that the person has to give the report under this section.
- (8) Where a report under this section is given to a customs officer, the officer shall, as soon as practicable after receipt of the report, forward the report to the AUSTRAC CEO.
- (8A) For the purposes of this section, if a person:
  - (a) arranges to leave Australia as a passenger on an aircraft or ship; and
  - (b) for the purpose of leaving Australia, goes towards an aircraft or ship through an area described in paragraph (7C)(a); and
  - (c) either:
    - (i) takes currency into that area; or
    - (ii) has currency in his or her personal baggage; and
  - (d) does not give a report about the currency when at the place described in that paragraph;  
the person is taken to have transferred the currency out of Australia.
- (8B) Subparagraph (8A)(c)(i) does not apply to an amount of currency if the person:
  - (a) informs a customs officer at the place described in paragraph (7C)(a) of an intention to spend that amount before embarking; and
  - (b) spends that amount before embarking.
- (9) In this section:  
**customs officer** includes a police officer.  
**reportable details**, in relation to a matter being reported, means the details of the matter that are referred to in Schedule 3.

## Division 1B—Cash transaction reports by solicitors

### 15A Reports of significant cash transactions

- (1) Subject to subsection (3A), if a significant cash transaction is entered into by or on behalf of a solicitor, a solicitor corporation, or a partnership of solicitors, in the course of practising as a solicitor or solicitors, the solicitor, corporation or partnership must, before the end of the reporting period:
  - (a) prepare a report of the transaction; and
  - (b) communicate the information in the report to the AUSTRAC CEO.
- (2) The report must:
  - (a) be prepared in the approved form; and
  - (b) contain the reportable details of the transaction; and
  - (c) be signed, or otherwise authenticated in an approved way, by the solicitor, a member of the corporation or a member of the partnership, as the case may be.
- (3) The communication must be made to the AUSTRAC CEO:
  - (a) by giving the AUSTRAC CEO a copy of the report; or
  - (b) in any other manner and form approved in relation to the solicitor, the solicitor corporation or the partnership or in relation to solicitors generally.
- (3A) Subsection (1) does not impose any obligations on a solicitor, a solicitor corporation, or a partnership of solicitors, in relation to a transaction if:
  - (a) the solicitor, corporation or partnership is a reporting entity; and
  - (b) the transaction occurred after the commencement of Division 1 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; and
  - (c) the transaction is a designated service transaction.
- (4) In this section:

**reportable details**, in relation to a transaction, means the details of the transaction that are referred to in Schedule 3A.

## **Division 2—Reports of suspect transactions**

### **16 Reports of suspect transactions**

- (1) Subject to subsection (4A), where:
- (a) a cash dealer is a party to a transaction; and
  - (b) the cash dealer has reasonable grounds to suspect that information that the cash dealer has concerning the transaction:
    - (i) may be relevant to investigation of an evasion, or attempted evasion, of a taxation law; or
    - (ii) may be relevant to investigation of, or prosecution of a person for, an offence against a law of the Commonwealth or of a Territory; or
    - (iii) may be of assistance in the enforcement of the *Proceeds of Crime Act 1987* or the regulations made under that Act; or
    - (iv) may be of assistance in the enforcement of the *Proceeds of Crime Act 2002* or the regulations made under that Act;

the cash dealer, whether or not required to report the transaction under Division 1 or 3, shall, as soon as practicable after forming that suspicion:

- (c) prepare a report of the transaction; and
  - (d) communicate the information contained in the report to the AUSTRAC CEO.
- (1A) Subject to subsection (4A), where:
- (a) a cash dealer is a party to a transaction; and
  - (b) either:
    - (i) the cash dealer has reasonable grounds to suspect that the transaction is preparatory to the commission of a financing of terrorism offence; or
    - (ii) the cash dealer has reasonable grounds to suspect that information that the cash dealer has concerning the transaction may be relevant to investigation of, or prosecution of a person for, a financing of terrorism offence;

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the cash dealer, whether or not required to report the transaction under Division 1 or 3, must, as soon as practicable after forming the suspicion:

- (c) prepare a report of the transaction; and
  - (d) communicate the information contained in the report to the AUSTRAC CEO.
- (2) A report under subsection (1) or (1A) shall:
- (a) be prepared in the approved form;
  - (b) contain the reportable details of the transaction;
  - (c) contain a statement of the grounds on which the cash dealer holds the suspicion referred to in the subsection under which the report is prepared; and
  - (d) be signed by the cash dealer.
- (3) A communication under subsection (1) or (1A) shall be made to the AUSTRAC CEO:
- (a) by giving the AUSTRAC CEO a copy of the report; or
  - (b) in such other manner and form as is approved by the AUSTRAC CEO, in writing, in relation to the cash dealer or to a class of cash dealers that includes the cash dealer.
- (4) Where a cash dealer communicates information to the AUSTRAC CEO under subsection (1) or (1A), the cash dealer shall, if requested to do so by:
- (a) the AUSTRAC CEO;
  - (b) a relevant authority; or
  - (c) an investigating officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information contained in the report;
- give such further information as is specified in the request to the extent to which the cash dealer has that information.
- (4A) Subsections (1) and (1A) do not impose any obligations on a cash dealer in relation to a transaction if:
- (a) the cash dealer is a reporting entity; and
  - (b) the transaction occurs after the commencement of Division 1 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; and
  - (c) the transaction is a designated service transaction.

- (5) An action, suit or proceeding does not lie against:
- (a) a cash dealer; or
  - (b) an officer, employee or agent of the cash dealer acting in the course of that person's employment or agency;
- in relation to any action by the cash dealer or person taken:
- (c) under this section; or
  - (d) in the mistaken belief that such action was required under this section.
- (5A) Where a cash dealer communicates to the AUSTRAC CEO, under subsection (1) or (1A), information about the cash dealer's suspicion in relation to a transaction to which the cash dealer is a party, the cash dealer must not disclose to anyone else:
- (a) that the cash dealer has formed the suspicion; or
  - (b) that information has been communicated to the AUSTRAC CEO; or
  - (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the suspicion had been formed or that the first-mentioned information had been communicated.
- (5AA) If a cash dealer gives further information pursuant to a request under subsection (4), the cash dealer must not disclose to anyone else:
- (a) that the information has been given; or
  - (b) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the first-mentioned information had been given.
- (5B) A cash dealer who contravenes subsection (5A) or (5AA) is guilty of an offence punishable, upon conviction, by imprisonment for not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

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- (5C) Neither subsection (5A) nor (5AA) prohibits a cash dealer from communicating or disclosing to any court any information, or matter, referred to in that subsection, but this subsection does not affect the operation of subsection (5D).
- (5D) In any legal proceeding other than a prosecution for an offence against subsection 29(1) or 30(1):
- (a) none of the following is admissible in evidence:
    - (i) a report prepared (whether before or after the commencement of this subsection) under subsection (1) or (1A);
    - (ii) a copy of such a report;
    - (iii) a document purporting to set out information contained in such a report;
    - (iv) a document given (whether before or after the commencement of this subsection) under subsection (4); and
  - (b) evidence is not admissible as to:
    - (i) whether or not a report was prepared (whether before or after the commencement of this subsection) under subsection (1) or (1A); or
    - (ii) whether or not a copy of a report prepared under that subsection (whether before or after the commencement of this subsection), or a document purporting to set out information contained in such a report, was given to, or received by, the AUSTRAC CEO (whether before or after the commencement of this subsection); or
    - (iii) whether or not particular information was contained in a report prepared under that subsection (whether before or after the commencement of this subsection); or
    - (iv) whether or not particular information was given under subsection (4) (whether before or after the commencement of this subsection).
- (5E) In subsection (5D):
- information* includes the formation or existence of a suspicion referred to in subsection (1) or (1A).

(6) In this section:

*financing of terrorism offence* means an offence under:

- (a) section 102.6 or Division 103 of the *Criminal Code*; or
- (b) section 20 or 21 of the *Charter of the United Nations Act 1945*.

*investigating officer* means:

- (a) a taxation officer; or
- (b) an AFP member; or
- (c) a customs officer (other than the Chief Executive Officer of Customs); or
- (d) a staff member of ACLEI; or
- (e) an examiner or member of the staff of the ACC.

*relevant authority* means:

- (a) the Commissioner of the Australian Federal Police; or
- (aa) the Integrity Commissioner; or
- (b) the Chief Executive Officer of the ACC; or
- (c) the Commissioner of Taxation; or
- (d) the Chief Executive Officer of Customs.

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

## **17 Protection for cash dealer etc. where information communicated under section 16**

Where a cash dealer, or a person who is an officer, employee or agent of a cash dealer, communicates or gives information under section 16, the cash dealer or person shall be taken, for the purposes of Division 400 of the *Criminal Code*, not to have been in possession of that information at any time.

## **Division 3—Reports of international funds transfer instructions**

### **17B Reports of international funds transfer instructions**

- (1) If:
  - (a) before the commencement of Division 1 of Part 3 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, a cash dealer in Australia is:
    - (i) the sender of an international funds transfer instruction transmitted out of Australia; or
    - (ii) the recipient of an international funds transfer instruction transmitted into Australia; and
  - (b) at least one of the following applies:
    - (i) the cash dealer is acting on behalf of, or at the request of, another person who is not an ADI;
    - (ii) the cash dealer is not an ADI;the dealer must, before the reporting time, prepare a report of the instruction.
- (2) The report must be in the approved form and include the prescribed details.
- (3) Subject to subsection (4), the report must be sent to the AUSTRAC CEO in the approved way and form before the reporting time.
- (4) The AUSTRAC CEO may, by notice in the *Gazette*, declare that subsection (3) does not apply in relation to a cash dealer in relation to a report or a class of report.
- (5) If, because of the operation of subsection (4), subsection (3) does not apply in relation to a report, the cash dealer must retain the report for 7 years.
- (6) For the purposes of this section, if a cash dealer transmits an instruction on behalf of, or at the request of, another person, the cash dealer is taken to be the sender of the instruction.
- (7) For the purposes of this section, if a person, not being a cash dealer, transmits an instruction on behalf of, or at the request of, a

cash dealer, the cash dealer is taken to be the sender of the instruction.

(8) In this section:

*reporting time*, in relation to an instruction, means:

- (a) if the instruction is transmitted into Australia—14 days after the day that the transmission is received or such later time as is specified in the regulations;
- (b) if the instruction is transmitted out of Australia—14 days after the day that the instruction is transmitted or such later time as is specified in the regulations.

### **17C ADI acting on behalf of another ADI**

For the purposes of this Division, if:

- (a) an ADI (the *first ADI*) is acting on behalf of, or at the request of, another ADI (the *second ADI*); and
- (b) the second ADI is (whether or not as a result of one or more previous applications of this section) acting on behalf of, or at the request of, a person who is not an ADI;

the first ADI is taken to be acting on behalf of that person.

### **17D No cause of action arises from compliance with section 17B**

A cause of action does not arise in Australia in relation to action taken by a cash dealer or person:

- (a) under section 17B; or
- (b) in the mistaken belief that such action was required under that section.

### **17E Legal action not to be taken under a foreign law as a result of cash dealers etc. providing information**

An action, suit or proceeding arising under a law of, or of a part of, a foreign country does not lie in Australia against:

- (a) a cash dealer; or
- (b) an officer, employee or agent of a cash dealer acting in the course of that person's employment or agency;

in relation to any action taken by the cash dealer or person:

- (c) under section 17B; or

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- (d) in the mistaken belief that such action was required under that section.

**17F Certain foreign judgments not to be recognised or enforced in Australia**

(1) If:

- (a) a foreign court has given a judgment against a person; and  
(b) the judgment was in connection with action taken by the person under section 17B;

the judgment must not be recognised or enforced in Australia.

(2) In this section:

*foreign court* means any court or authority of a foreign country or a part of a foreign country.

*judgment* includes a decree, an order and an injunction.

## **Division 4—Information provided under other law**

### **17H Information provided under another law of the Commonwealth or a law of a State or Territory**

For the purposes of this Act, information received by AUSTRAC under another Act or under a law of a State or a Territory is taken to be obtained under this Part.

### **17J Information provided to AUSTRAC from a foreign country**

For the purposes of this Act, information concerning a specific financial transaction that is received by AUSTRAC as a result of a request to a foreign country or to an agency of a foreign country is taken to have been obtained under this Act.

## Part III—Accounts

### 18 Opening etc. of account with a cash dealer

- (1) Subject to subsections (1A) and (1B), this section applies where:
- (a) on a day (in this subsection called the *transaction day*) after the commencement of this section, a person:
    - (i) opens an account (other than a facility or arrangement for a safety deposit box or for any other form of safe deposit) with a cash dealer; or
    - (ii) becomes a signatory of such an account with a cash dealer;and either of the following subparagraphs applies:
    - (iii) on a day (in this section called the *infringement day*), being the transaction day or a later day, the credit balance of the account exceeds \$1,000;
    - (iv) on a day (in this section also called the *infringement day*), being at least 30 days after the transaction day, the aggregate of the amounts credited to the account within the last 30 days exceeds \$2,000; or
  - (b) on a day after the commencement of this section (in this section also called the *infringement day*) a person:
    - (i) opens an account with a cash dealer, being a facility or arrangement for a safety deposit box or for any other form of safe deposit; or
    - (ii) becomes a signatory of such an account with a cash dealer.
- (1A) Subparagraphs (1)(a)(i) and (b)(i) do not apply if the account is opened after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* in circumstances that amount to the provision of a designated service.
- (1B) Subparagraphs (1)(a)(ii) and (b)(ii) do not apply if:
- (a) the person becomes a signatory of the account after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; and

(b) either:

- (i) the account is opened after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* in circumstances that amount to the provision of a designated service; or
- (ii) the account was opened before the commencement of that Division in circumstances that would have amounted to the provision of a designated service if all the provisions of Parts 1 and 2 of that Act had been in force at the relevant time.

(2) If, at the end of the infringement day, the cash dealer does not have the account information about the account, the account is blocked with respect to each signatory until the cash dealer has the information or the AUSTRAC CEO gives a notice under subsection 19(2).

Note: a cash dealer is not required to obtain any information that has already been obtained in relation to another account.

(2A) If, at the end of the infringement day, the cash dealer does not have the signatory information about the person (*unverified signatory*), the account is blocked with respect to that signatory until the cash dealer has that information or the AUSTRAC CEO gives a notice under subsection 19(2).

Note: a cash dealer is not required to obtain any information that has already been obtained in relation to another account.

(3) At the end of the infringement day, the cash dealer commits an offence against this subsection unless it has made reasonable efforts, on or before that day, to obtain the account information and the signatory information.

(3A) Subsection (3) does not apply in relation to accounts that are RSAs.

(4) If:

- (a) a signatory, knowing that the account is blocked, makes a withdrawal from the account at any time when the account is blocked under subsection (2); or
- (b) the unverified signatory, knowing that the account is blocked, makes a withdrawal from the account at any time when the account is blocked under subsection (2A);

the signatory commits an offence against this subsection.

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- (4A) If:
- (a) a signatory makes a withdrawal from the account at any time when the account is blocked under subsection (2); or
  - (b) the unverified signatory makes a withdrawal from the account at any time when the account is blocked under subsection (2A);
- the cash dealer commits an offence against this subsection.
- (4B) Subsections (2), (2A), (4) and (4A) do not apply in relation to withdrawals:
- (a) made as a result of a request under paragraph 50(1)(a) of the *Retirement Savings Accounts Act 1997*; or
  - (b) made as a result of the death of the person who is the holder of the account for the purposes of the *Retirement Savings Accounts Act 1997*; or
  - (c) made under section 89, 195 or 196 of the *Retirement Savings Accounts Act 1997*; or
  - (ca) made in accordance with section 17 or 18 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or
  - (d) that are used to make payments of insurance premiums in accordance with the terms and conditions of the account.
- (6) An offence against subsection (3), (4) or (4A) is punishable, upon conviction, by imprisonment for not more than 2 years.
- Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.
- (8) Where an account other than an RSA has been blocked for 12 months after the infringement day, the cash dealer shall, within 14 days after the end of that period, give the AUSTRAC CEO written notice of that fact, setting out the balance of an account and such other particulars as are prescribed.

- (8A) If:
- (a) an account other than an RSA has been blocked for 12 months after the infringement day; and
  - (b) as a result of the cash dealer's obtaining account information or signatory information after the commencement of this subsection, the account ceases to be blocked with respect to a signatory with respect to whom it had been blocked;
- the cash dealer must, within 14 days after the day on which the dealer obtained the information, give the AUSTRAC CEO written notice that the account has become unblocked to that extent and for that reason.
- (9) A cash dealer who contravenes subsection (8) or (8A) is guilty of an offence against this subsection punishable, upon conviction, by a fine of not more than 10 penalty units.
- Note: If a body corporate is convicted of an offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence. The amount of a penalty unit is stated in section 4AA of that Act.
- (9A) Subsection (9) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (10) The regulations may prescribe:
- (a) an amount instead of an amount specified in subparagraph (1)(a)(iii) or (iv); or
  - (b) a period instead of the period of 30 days last referred to in subparagraph (1)(a)(iv).

## **19 Unblocking or forfeiture of account**

- (1) The AUSTRAC CEO shall, as soon as practicable after receiving a notice under subsection 18(8), give notice in writing to the signatory or signatories to the account at the address or addresses given to the cash dealer in relation to the account, stating the effect of this section.
- (2) If, within 3 months after the notice, or the last of the notices, is given under subsection (1), the AUSTRAC CEO is satisfied that:
  - (a) there are reasonable grounds to believe that section 18 did not apply to the account; or

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- (b) the cash dealer has the account and signatory information and the account should not, as a result, be blocked; or
  - (c) if the account was blocked only because of subsection 18(2A)—the unverified signatory has ceased to be a signatory of the account;

the AUSTRAC CEO shall give written notice of that fact to the cash dealer and the signatory or signatories to the account.
- (3) If, at the end of the period referred to in subsection (2), the AUSTRAC CEO is not satisfied that paragraph (2)(a), (b) or (c) applies, the AUSTRAC CEO shall:
  - (a) give written notice of that fact to the cash dealer and the signatory or signatories to the account, setting out the effect of subsections (4) and (5); and
  - (b) give a copy of the notice to the Minister.
- (4) If the AUSTRAC CEO gives a notice under subsection (3), all rights and interests in relation to the account held by the unverified signatory are forfeited to the Commonwealth, and the Minister, the AUSTRAC CEO or an officer of AUSTRAC authorised by the AUSTRAC CEO may, on behalf of the Commonwealth, do whatever is necessary to realise those rights and interests (including closing the account).
- (5) If:
  - (a) the AUSTRAC CEO's decision under subsection (3) is set aside by a court; or
  - (b) a person satisfies the court that:
    - (i) immediately before the time when subsection (4) had effect in relation to the account, the person had a beneficial interest in a right or interest in relation to the account held by the unverified signatory; and
    - (ii) an amount standing to the credit of the account immediately before that time had not been derived from unlawful activities;

the court may make such orders as it thinks fit in relation to that amount, including directions to the Commonwealth to make restitution of so much of that amount as has been recovered by the Commonwealth under subsection (4).
- (6) An expression used in this section has the same meaning as in section 18.

**20 Cash dealers to hold information**

- (1) A cash dealer must maintain, in relation to each account, in a way that can be audited:
  - (a) any account information obtained by the cash dealer for the purposes of compliance with this Part; and
  - (b) any signatory information obtained by the cash dealer for the purposes of compliance with this Part in relation to each signatory to the account;(whether or not subsection 18(1) has applied to the account).
- (2) Subsection (1) does not apply to information obtained by the cash dealer before the commencement of Part 2 of the *Crimes Legislation Amendment Act 1992*.

**20A Identification record**

- (1) For the purposes of this Act, a cash dealer has an identification record for a signatory to an account if, and only if:
  - (a) the cash dealer has an identification reference for the signatory (whether or not the reference was obtained in connection with that account); or
  - (b) the cash dealer is an identifying cash dealer and:
    - (i) the cash dealer has carried out, and has a record of, the prescribed verification procedure to identify the signatory; or
    - (ii) the cash dealer has carried out, and has a record of, a verification procedure to identify the signatory, being a procedure approved by the AUSTRAC CEO for the cash dealer;(whether or not the verification procedure was carried out in connection with that account).

**Example:** A solicitor administered the estate of a deceased person who held an account with an identifying cash dealer. The cash dealer carried out the prescribed verification procedure to identify the solicitor when the solicitor closed the deceased person's account.

The solicitor is now administering the estate of another deceased person who also held an account with the cash dealer. If the cash dealer has a record of the verification procedure used to identify the solicitor in relation to the first deceased person's account, it also has an identification record for the solicitor in relation to the other deceased person's account.

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- (2) A verification procedure that was prescribed for the purposes of subsection 20(8) before the commencement of this section is taken to have been prescribed for the purposes of subparagraph (1)(b)(i).

**21 Identification references**

- (1) An identification reference for a signatory to an account is a written reference by an acceptable referee, signed by the referee and setting out the name to be used by the signatory in relation to the account and stating that:
- (a) the referee has known the signatory for the period specified in the reference;
  - (b) during the whole of that period, or for so much of that period as is specified in the reference, the signatory has been commonly known by that name; and
  - (c) the referee has examined:
    - (i) a specified primary identification document for the signatory in that name;
    - (ii) a specified secondary identification document for the signatory in that name and a specified primary identification document for the signatory in a former name of the person; or
    - (iii) only a specified secondary identification document for the signatory in that name.
- (2) An identification reference for a person by an acceptable referee shall also set out:
- (a) the name, address and occupation of the referee and the basis on which the referee claims to be an acceptable referee;
  - (b) if the reference states that the referee examined a primary identification document for the person in a name different from the name to be used by the person in relation to the account—the explanation that the person gave the referee for the difference in names;
  - (c) if the reference states that the referee examined only a secondary identification document for the person—the explanation that the person gave the referee for the failure to produce a primary identification document; and
  - (d) the required details of the identification document or documents examined by the referee.

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- (3) An identification reference for a person by an acceptable referee shall be signed by the person in the presence of the referee and shall contain a statement by the referee to the effect that the reference was so signed.
- (3A) An acceptable referee, or any other person, must not:
- (a) intentionally make a statement in an identification reference, reckless as to the fact that the statement is false or misleading in a material particular; or
  - (b) intentionally omit from an identification reference any matter or thing, reckless as to the fact that without the matter or thing the reference is misleading in a material particular.

Penalty: Imprisonment for 4 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

- (4) For the purposes of this Act, a failure by a person to produce a primary identification document shall not be taken to be sufficiently explained merely by the assertion that a primary identification document is not presently available to the person if the person could obtain a primary identification document within a reasonable time if the person took reasonable steps to obtain it.
- (5) Nothing in subsection (4) shall be taken to require a person to apply for the issue of a citizenship certificate or a passport.

### 21A Change of name

- (1) Subject to subsections (1A) and (1B), this section applies to an individual (*signatory*) who wishes to open, or become a signatory to, an account with an identifying cash dealer in a name by which the signatory intends to be commonly known (*new name*), being a name:
- (a) which the signatory has adopted by marriage; or
  - (b) by which the signatory, being a woman who has previously changed the surname by which she is known to that of her spouse or de facto spouse, was formerly known; or

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- (c) which the signatory, being a person who has been the victim of violence or threats of violence, or the dependent child of such a person, has adopted or intends to adopt to ensure his or her personal safety; or
  - (d) if the signatory is an Aborigine or Torres Strait Islander— which is a traditional name of the signatory.
- (1A) This section does not apply to an individual who wishes to open an account if the account is opened after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* in circumstances that amount to the provision of a designated service.
- (1B) This section does not apply to an individual who wishes to become a signatory to an account with an identifying cash dealer in a name by which the individual intends to be commonly known if:
- (a) the individual wishes to become a signatory to the account in that name after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*; and
  - (b) either:
    - (i) the account is opened after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* in circumstances that amount to the provision of a designated service; or
    - (ii) the account was opened before the commencement of that Division in circumstances that would have amounted to the provision of a designated service if all the provisions of Parts 1 and 2 of that Act had been in force at the relevant time.
- (2) If the signatory gives to the identifying cash dealer change of name statements signed by the signatory and by a prescribed person:
- (a) the new name is taken to be a name by which the signatory is commonly known; and
  - (b) the statements are taken to constitute an identification reference for the signatory in the new name.

- (3) A person must not:
- (a) intentionally make a statement in a change of name statement, reckless as to the fact that it is false or misleading in a material particular; or
  - (b) intentionally omit from a change of name statement any matter or thing, reckless as to the fact that without the matter or thing the change of name statement is misleading in a material particular.

Penalty: Imprisonment for 4 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

- (4) For the purposes of this section:

***change of name statement***, in relation to a signatory, means a statement that:

- (a) sets out the name or names by which the signatory has been commonly known; and
- (b) states which paragraph of subsection (1) applies to the signatory; and
- (c) sets out the reasons why this section applies to the signatory; and
- (d) sets out the new name; and
- (e) states that the new name is one by which the signatory will be commonly known.

## **22 Notice to AUSTRAC CEO if no primary identification document examined**

- (1) If an identification reference for a signatory to an account is given to a cash dealer for the purposes of compliance with this Part and the reference states that the referee examined only a secondary identification document for the signatory, the cash dealer must give the AUSTRAC CEO written notice:
- (c) setting out sufficient details of the account for the account to be identified;

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- (d) setting out the name used by the signatory in relation to the account; and
  - (e) stating that the identification reference for the signatory was not supported by a primary identification document.
- (2) A cash dealer who contravenes subsection (1) is guilty of an offence against this subsection punishable, upon conviction, by imprisonment for a period of not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

**23 Cash dealer to keep documents**

- (1) If a cash dealer makes or obtains a record of any information in the course of obtaining account information or signatory information for the purpose of compliance with this Part, the cash dealer must retain the record or a copy of it for 7 years after the day on which the relevant account is closed.
- (4) If any information is part of the account information or signatory information of more than one account with the cash dealer, subsection (1) applies as if the reference to the day on which the account is closed were a reference to the day on which the last of those accounts is closed.
- (5) A cash dealer required to retain documents under subsection (1) shall retain and store them in a way that makes retrieval of the documents reasonably practical.
- (6) Subsection (1) does not limit any other obligation of a cash dealer to retain documents.
- (7) Where a cash dealer is required by law to release a document to which subsection (1) applies before the end of the period referred to in that subsection, the cash dealer shall retain a complete copy of the document until the period has ended or the document is returned, whichever occurs first.

- (8) The cash dealer shall maintain a register of documents released under subsection (7).

Penalty: Imprisonment for 1 year.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

### **23A Active ADI accounts transferred to another ADI—obligations of ADIs in relation to records of information**

*When section applies*

- (1) This section applies to a record of information if:
- (a) the record is in the possession of an ADI (the **transferor ADI**) in fulfilment of an obligation imposed on the transferor ADI by subsection 23(1) or (7); and
  - (b) the record relates wholly or partly to an account (the **transferred account**) that has been, or is proposed to be, transferred to another ADI (the **transferee ADI**) under:
    - (i) a law of the Commonwealth or of a State or Territory; or
    - (ii) an arrangement between the transferor ADI and the transferee ADI.

*Transferor ADI to give records to transferee ADI*

- (2) The transferor ADI must comply with whichever of the following rules is applicable:
- (a) if the record relates wholly to the transferred account—the transferor ADI must give the record to the transferee ADI within the 120-day period beginning 30 days before the transfer;
  - (b) if the record relates partly to the transferred account and partly to an account that is not so transferred or proposed to be so transferred—the transferor ADI must:

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- (i) make a copy of so much of the record as relates to the transferred account; and
  - (ii) give the copy to the transferee ADI;
- within the 120-day period beginning 30 days before the transfer.

*Offence*

- (3) A person who intentionally contravenes subsection (2) is guilty of an offence punishable on conviction by a fine not exceeding 10 penalty units.

Note: The amount of a penalty unit is stated in section 4AA of the *Crimes Act 1914*. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

*Transferor ADI released from obligations under section 23*

- (4) If the transferor ADI complies with subsection (2) of this section in relation to the record, the transferor ADI does not contravene section 23 in relation to so much of the record as relates to the transferred account.

*Obligations of transferee ADI—section 23*

- (5) If the transferee ADI is given a document under subsection (2) of this section, section 23 applies to the transferee ADI in relation to the document as if the document were a record made or obtained by the transferee ADI in the course of obtaining account information or signatory information about the transferred account.

*Certain records to be treated as identification records in the hands of the transferee ADI*

- (6) If the transferee ADI is given a document under subsection (2) of this section, section 20A applies to the transferee ADI in relation to the document as follows:
- (a) if the document (or its original) was covered by paragraph 20A(1)(a)—as if the document were an identification reference for the signatory to the transferred account;
  - (b) if the document (or its original) was covered by subparagraph 20A(1)(b)(i)—as if:

- (i) the transferee ADI had carried out the prescribed verification procedure (within the meaning of that subparagraph) to identify the signatory to the transferred account; and
- (ii) the document were a record of that procedure;
- (c) if the document (or its original) was covered by subparagraph 20A(1)(b)(ii)—as if:
  - (i) the transferee ADI had carried out a verification procedure to identify the signatory to the transferred account; and
  - (ii) the procedure had been approved by the AUSTRAC CEO for the transferee ADI; and
  - (iii) the document were a record of that procedure.

*Definition*

- (7) In this section:

*record* includes a copy of a record.

**23B Closed ADI accounts transferred to another ADI—obligations of ADIs in relation to records of information**

*When section applies*

- (1) This section applies to a record of information if:
- (a) the record is in the possession of an ADI (the *transferor ADI*) in fulfilment of an obligation imposed on the transferor ADI by subsection 23(1) or (7); and
  - (b) the record relates wholly or partly to a closed account; and
  - (c) the transferor ADI complies with an obligation imposed on it under subsection 23A(2) in relation to another ADI (the *transferee ADI*) during the 120-day period mentioned in that subsection; and
  - (d) the transferor ADI and the transferee ADI agree in writing that so much of the record as relates to the closed account should be transferred by the transferor ADI to the transferee ADI during that 120-day period.

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*Transferor ADI may give records to transferee ADI*

- (2) The transferor ADI may:
  - (a) if the record relates wholly to the closed account—give the record to the transferee ADI within that 120-day period; or
  - (b) if the record relates partly to the closed account and partly to some other account (whether active or otherwise):
    - (i) make a copy of so much of the record as relates to the closed account; and
    - (ii) give the copy to the transferee ADI; within that 120-day period.

*Transferor ADI released from obligations under section 23*

- (3) If the transferor ADI gives a document to the transferee ADI under subsection (2) of this section, the transferor ADI does not contravene section 23 in relation to so much of the document as relates to the closed account.

*Obligations of transferee ADI—section 23*

- (4) If the transferee ADI is given a document under subsection (2) of this section, section 23 applies to the transferee ADI in relation to the document as if the document were a record made or obtained by the transferee ADI in the course of obtaining account information or signatory information about the closed account.

*Certain records to be treated as identification records in the hands of the transferee ADI*

- (5) If the transferee ADI is given a document under subsection (2) of this section, section 20A applies to the transferee ADI in relation to the document as follows:
  - (a) if the document (or its original) was covered by paragraph 20A(1)(a)—as if the document were an identification reference for the signatory to the closed account;
  - (b) if the document (or its original) was covered by subparagraph 20A(1)(b)(i)—as if:
    - (i) the transferee ADI had carried out the prescribed verification procedure (within the meaning of that subparagraph) to identify the signatory to the closed account; and

- (ii) the document were a record of that procedure;
- (c) if the document (or its original) was covered by subparagraph 20A(1)(b)(ii)—as if:
  - (i) the transferee ADI had carried out a verification procedure to identify the signatory to the closed account; and
  - (ii) the procedure had been approved by the AUSTRAC CEO for the transferee ADI; and
  - (iii) the document were a record of that procedure.

*Definition*

- (6) In this section:
  - record* includes a copy of a record.

## **24 Opening account etc. in false name**

- (1) A person shall not open an account with a cash dealer in a false name.
- (2) A person shall not operate an account with a cash dealer in a false name.
- (2A) A person must not operate, or authorise the operation of, an account with a cash dealer if the account is in a false name.
- (3) Where a person is commonly known by 2 or more different names, the person shall not use one of those names in opening an account with a cash dealer unless the person has previously disclosed the other name or names to the cash dealer.
- (4) Where a person is commonly known by 2 or more different names, the person shall not use one of those names in operating an account with a cash dealer unless the person has previously disclosed the other name or names to the cash dealer.
- (5) Where a person using a particular name in dealings with a cash dealer discloses to the dealer a different name or different names by which the person is commonly known, the dealer shall make a record of the disclosure and shall, upon request in writing from the AUSTRAC CEO, give the AUSTRAC CEO a copy of that record.

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- (6) A person who contravenes subsection (1), (2), (2A), (3), (4) or (5) is guilty of an offence against this subsection punishable, upon conviction, by imprisonment for not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (7) For the purposes of this section:
- (a) a person opens an account in a false name if the person, in opening the account, or becoming a signatory to the account, uses a name other than a name by which the person is commonly known; and
  - (b) a person operates an account in a false name if the person does any act or thing in relation to the account (whether by way of making a deposit or withdrawal or by way of communication with the cash dealer concerned or otherwise) and, in doing so, uses a name other than a name by which the person is commonly known; and
  - (c) an account is in a false name if it was opened in a false name, whether before or after the commencement of this paragraph.
- (8) This section does not apply in relation to a person and an account that is an RSA within the meaning of the *Retirement Savings Accounts Act 1997* if:
- (a) the person (the **employer**) is an employer, within the meaning of that Act, of another person (the **employee**); and
  - (b) the employer made the application for the account on behalf of the employee.
- (9) This section does not apply in relation to the opening of an account if the account is opened after the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* in circumstances that amount to the provision of a designated service.
- (10) This section does not apply in relation to the operation of an account after the commencement of Division 1 of Part 2 of the

*Anti-Money Laundering and Counter-Terrorism Financing Act 2006* if:

- (a) the account was opened in circumstances that amount to the provision of a designated service; or
- (b) allowing a transaction in relation to the account would amount to the provision of a designated service.

## Part IIIA—Bullion sellers

### 24A Definitions

**bullion transaction** means a transaction (other than an exempt transaction) in relation to bullion.

**exempt transaction**, in relation to bullion, means a transaction in relation to bullion in respect of which an exemption is in force under section 24B.

### 24B Exemptions

The AUSTRAC CEO may, by signed writing, exempt from the application of this Part all transactions, or a particular class of transactions, in relation to bullion that may be entered into by a particular bullion seller.

### 24C Bullion seller to hold identification record for other parties to bullion transaction

- (1) A bullion seller must not, before the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, enter into a bullion transaction unless the seller has an identification record for the other party, or for each other party, to the transaction.

Penalty: Imprisonment for 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (2) For the purposes of subsection (1), a bullion seller has an identification record for a party to a bullion transaction if, and only if, the seller is an identifying cash dealer and:

- (a) has carried out, and has a record of, the prescribed verification procedure to identify the party; or
- (b) has carried out, and has a record of, a verification procedure to identify the party, being a procedure approved by the AUSTRAC CEO for the seller;

whether or not the procedure was carried out in connection with the transaction.

#### **24D Bullion seller to keep documents**

- (1) If a bullion seller makes or obtains a record of any information in the course of obtaining information identifying a party to a bullion transaction that occurred before the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, the seller must retain the record or a copy of it for seven years after the day on which the transaction occurs.
- (2) If any information is part of information identifying a party to 2 or more bullion transactions entered into by the bullion seller, subsection (1) applies as if the reference to the day on which the transaction occurs were a reference to the day on which the last of those transactions occurs.
- (3) A bullion seller who is required to retain documents under subsection (1) must retain and store them in a way that makes retrieval of the documents reasonably practicable.
- (4) Subsection (1) does not limit any other obligation of a bullion seller to retain documents.
- (5) If a bullion seller is required by law to release a document to which subsection (1) applies before the end of the period referred to in that subsection, the seller must retain a complete copy of the document until the period has ended or the document is returned, whichever occurs first.
- (6) The bullion seller must keep a register of documents released under subsection (5).

Penalty: Imprisonment for 1 year.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of

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imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

## Part IVA—Powers of inspection

### 27A Authorised officers

The AUSTRAC CEO may, by signed writing, appoint a member of the staff of AUSTRAC to be an authorised officer for the purposes of this Act.

### 27B Identity cards

- (1) The AUSTRAC CEO must cause each authorised officer to be issued with an identity card in a form approved by the AUSTRAC CEO and bearing a recent photograph of the officer.
  - (2) A person who ceases to be an authorised officer must, as soon as practicable, return his or her identity card to the AUSTRAC CEO.
  - (3) A person must not fail to comply with subsection (2).
  - (4) A person who contravenes subsection (2) or (3) is guilty of an offence against this subsection punishable, upon conviction, by a fine of not more than 1 penalty unit.
- (4A) Subsections (3) and (4) do not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (4A) (see subsection 13.3(3) of the *Criminal Code*).
- (4B) Subsection (4) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (5) An authorised officer is not entitled to exercise any powers under this Part in relation to premises if:
    - (a) the occupier of the premises has required the officer to produce his or her identity card for inspection by the occupier; and
    - (b) the officer fails to comply with the requirement.

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**27C Powers of inspection of premises of a cash dealer**

- (1) This section applies if an authorised officer is given access to business premises of a cash dealer in compliance with a notice under section 27E.
- (2) For the purpose of monitoring a cash dealer's compliance with sections 7, 16 and 17B, the officer may inspect:
  - (a) any records kept at, or accessible from, the premises that relate to the dealer's obligations under those sections; and
  - (b) any system used by the dealer at the premises for keeping those records; and
  - (c) any reports retained at, or accessible from, the premises under those sections; and
  - (d) any system used by the dealer in connection with:
    - (i) preparing reports under those sections; or
    - (ii) sending such reports to the AUSTRAC CEO; or
    - (iii) retaining such reports.
- (2A) For the purpose of monitoring the compliance of a cash dealer who is an approved cash carrier with the record-keeping obligations referred to in section 8, the officer may inspect:
  - (a) records containing reportable details (within the meaning of that section) of significant cash transactions to which the cash dealer is a party that are kept at, or accessible from, the premises; and
  - (b) any system used by the dealer at those premises for keeping such records.
- (3) For the purpose of monitoring a cash dealer's compliance with section 20 and any undertaking given under section 8A, the officer may inspect:
  - (a) records of account information and signatory information kept at, or accessible from, the premises; and
  - (b) any system used by the dealer at those premises for keeping such records.
- (4) For the purpose of monitoring compliance, by a cash dealer who is a bullion seller, with sections 24C and 24D, the officer may inspect:

- (a) records of information compiled or obtained in the course of obtaining an identification record for a party to a bullion transaction, being records kept at, or accessible from, the premises; and
  - (b) any system used by the bullion seller at the premises for keeping such records.
- (5) An authorised officer who is empowered under this section to inspect records or reports of a cash dealer may also receive or make copies of, or take extracts from, those records or reports.

**27D Powers of inspection of premises of a solicitor**

- (1) This section applies if an authorised officer is given access to business premises of a solicitor, a solicitor corporation or a partnership of solicitors in compliance with a notice under section 27E.
- (2) For the purpose of monitoring compliance by the solicitor, corporation or partnership with section 15A, the officer may inspect:
- (a) any records kept at, or accessible from, the premises that relate to the obligations of the solicitor, corporation or partnership under that section; and
  - (b) any system used by the solicitor, corporation or partnership at the premises for keeping those records; and
  - (c) any reports retained at, or accessible from, the premises under that section; and
  - (d) any system used by the solicitor, corporation or partnership in connection with:
    - (i) preparing reports under that section; or
    - (ii) sending such reports to the AUSTRAC CEO; or
    - (iii) retaining such reports.
- (3) An authorised officer who is empowered under this section to inspect records or reports of a solicitor, a solicitor corporation or a partnership of solicitors may also receive or make copies of, or take extracts from, those records or reports.

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**27E Notice to give access to business premises**

- (1) The AUSTRAC CEO may, by written notice to a cash dealer, a solicitor, a solicitor corporation or a partnership of solicitors, require the dealer, solicitor, corporation or partnership to give the authorised officer named in the notice access on the day and during the hours stated in the notice to the business premises described in the notice of the dealer, solicitor, corporation or partnership.
- (2) The hours stated in the notice must occur during business hours in the place where the business premises are situated.
- (3) A cash dealer, a solicitor, a solicitor corporation or a partnership of solicitors to whom or to which a notice is given under subsection (1) must comply with the notice.
- (4) If an authorised officer is given access to business premises in compliance with a notice under this section, the officer is entitled to be accompanied by a person engaged under section 40A for the purpose of receiving advice from the person in connection with the exercise of the officer's powers under this Part.

## Part V—Enforcement

### 28 Failure to provide information

- (1) A cash dealer commits an offence against this section if the cash dealer refuses or fails:
  - (a) to communicate information to the AUSTRAC CEO when and as required under Part II or III; or
  - (b) to comply with a notice as required by subsection 27E(3).
  - (c) to retain reports as required under subsection 17B(5).
- (2) A financial institution commits an offence against this section if the institution:
  - (a) fails to maintain an exemption register as required under Division 1 of Part II; or
  - (b) refuses or fails to comply with a notice under subsection 13(1) or (5).
- (3) If a solicitor, a solicitor corporation or a partnership of solicitors refuses or fails:
  - (a) to communicate information to the AUSTRAC CEO when required under section 15A; or
  - (b) to comply with a notice as required by subsection 27E(3);the solicitor or corporation, or each member of the partnership, as the case may be, commits an offence against this section.
- (4) A person who commits an offence against this section is punishable, upon conviction, by imprisonment for not more than 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

**29 False or misleading information**

- (1) A cash dealer shall not, in communicating information to the AUSTRAC CEO as required under Part II or III:
  - (a) intentionally make a statement that the cash dealer knows is false or misleading in a material particular; or
  - (b) intentionally omit from a statement any matter or thing without which the cash dealer knows the statement is misleading in a material particular.
- (2) A financial institution shall not, in maintaining the institution's exemption register as required under Division 1 of Part II:
  - (a) intentionally make a statement that the financial institution knows is false or misleading in a material particular; or
  - (b) intentionally omit from a statement any matter or thing without which the financial institution knows the statement is misleading in a material particular.
- (2A) A person must not, in communicating information to the AUSTRAC CEO as required under section 15A:
  - (a) intentionally make a statement that the person knows is false or misleading in a material particular; or
  - (b) intentionally omit from a statement anything without which the person knows the statement is misleading in a material particular.
- (3) A person must not:
  - (a) intentionally make a report for the purposes of section 15, a statement for the purposes of section 18 or a declaration for the purposes of section 33, that the person knows is false or misleading in a material particular; or
  - (b) intentionally omit from such a report, statement or declaration any matter or thing without which the person knows the report, statement or declaration is misleading in a material particular.
- (4) A person shall not make a statement, either orally or in writing, or present a document that is, to the person's knowledge, false or misleading in a material particular and is capable of:
  - (aa) misleading an identifying cash dealer in the carrying out of a verification procedure under paragraph 20A(1)(b); or

- (ab) misleading a bullion seller in the carrying out of a verification procedure under paragraph 24C(2)(a) or (b); or
  - (a) being used for the purposes of inducing a financial institution to enter a transaction or a class of transactions in the institution's exemption register; or
  - (b) causing a cash dealer to make a report of a cash transaction, or of an international funds transfer instruction, that is false or misleading in a material particular; or
  - (c) causing a carrier not to make a report under section 15.
- (5) A person who contravenes subsection (1), (2), (2A), (3) or (4) commits an offence against this subsection punishable, upon conviction, by imprisonment for not more than 5 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

### **30 Incomplete information**

- (1) A cash dealer commits an offence against this section if the dealer, in communicating information to the AUSTRAC CEO in relation to a transaction as required under Part II, knows that the information is incomplete in relation to the transaction.
- (2) A financial institution commits an offence against this section if the institution, in maintaining the institution's exemption register as required under Division 1 of Part II, knows that the register is incomplete.
- (3) A person commits an offence against this section if the person, in communicating information to the AUSTRAC CEO in relation to a transaction as required under section 15A, knows that the information is incomplete in relation to the transaction.

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- (4) A person who commits an offence against this section is punishable, upon conviction, by a fine of not more than 10 penalty units.

Note: If a body corporate is convicted of an offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence. The amount of a penalty unit is stated in section 4AA of that Act.

**31 Offence to conduct transactions so as to avoid reporting requirements**

- (1) A person commits an offence against this section if:
- (a) the person is a party to 2 or more non-reportable cash transactions; and
  - (b) having regard to:
    - (i) the manner and form in which the transactions were conducted, including, without limiting the generality of this, all or any of the following:
      - (A) the value of the currency involved in each transaction;
      - (B) the aggregated value of the transactions;
      - (C) the period of time over which the transactions took place;
      - (D) the interval of time between any of the transactions;
      - (E) the locations at which the transactions took place; and
    - (ii) any explanation made by the person as to the manner or form in which the transactions were conducted; it would be reasonable to conclude that the person conducted the transactions in that manner or form for the sole or dominant purpose of ensuring, or attempting to ensure, that the currency involved in the transactions was transferred in a manner and form that:
      - (iii) would not give rise to a significant cash transaction; or
      - (iv) would give rise to exempt cash transactions.
- (2) A person commits an offence against this section if:
- (a) the person conducts 2 or more non-reportable transfers of currency; and
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- (b) having regard to:
- (i) the manner and form in which the transfers were conducted, including, without limiting the generality of this, all or any of the following:
    - (A) the value of the currency involved in each transfer;
    - (B) the aggregated value of the currency involved in the transfers;
    - (C) the period of time over which the transfers occurred;
    - (D) the interval of time between any of the transfers;
    - (E) the locations at which the transfers were initiated or conducted; and
  - (ii) any explanation made by the person as to the manner or form in which the transfers were conducted;
- it would be reasonable to conclude that the person conducted the transfers in that manner or form for the sole or dominant purpose of ensuring, or attempting to ensure, that no report in relation to the currency involved in the transfers would be made under section 15.

- (3) A person who commits an offence against this section is punishable, upon conviction, by imprisonment for not more than 5 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

### **32 Injunction**

- (1) Where, on the application of the AUSTRAC CEO, a prescribed court is satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute:
- (a) a contravention of Part II or III or this Part;

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- (b) attempting to contravene such a provision;
  - (c) aiding, abetting, counselling or procuring a person to contravene such a provision;
  - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene such a provision;
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or
  - (f) conspiring with others to contravene such a provision;
- the court may grant an injunction in such terms as the court determines to be appropriate.
- (2) Where, in the opinion of a prescribed court, it is desirable to do so, the court may grant an interim injunction pending determination of an application under subsection (1).
  - (3) The court may rescind or vary an injunction granted under subsection (1) or (2).
  - (4) The power of a prescribed court to grant an injunction restraining a person from engaging in conduct may be exercised:
    - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
    - (b) whether or not the person has previously engaged in conduct of that kind.
  - (5) The power of a prescribed court to grant an injunction requiring a person to do an act or thing may be exercised:
    - (a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
    - (b) whether or not the person has previously refused or failed to do that act or thing.
  - (6) In this section:

***prescribed court*** means the High Court of Australia or the Federal Court of Australia.

**33 Questioning and search powers**

- (1) Any person who is about to leave Australia before the commencement of Division 1 of Part 4 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* shall, if requested to do so by an officer:
    - (a) declare whether or not the person has with him or her any Australian currency or foreign currency;
    - (b) declare the amount of any Australian currency or foreign currency that the person has with him or her;
    - (c) declare whether or not, to the best of the person's knowledge and belief, a report under section 15 has been given in respect of any Australian currency or foreign currency that the person has with him or her;
    - (d) produce to the officer any Australian currency or foreign currency that the person has with him or her.
  
  - (2) Any person who arrives in Australia before the commencement of Division 1 of Part 4 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* shall, if requested to do so by an officer:
    - (a) declare whether or not the person has with him or her any Australian currency or foreign currency;
    - (b) declare the amount of any Australian currency or foreign currency that the person has with him or her;
    - (c) declare whether or not, to the best of the person's knowledge and belief, a report under section 15 has been given in respect of any Australian currency or foreign currency that the person has with him or her; and
    - (d) produce to the officer any Australian or foreign currency that the person has with him or her.
  
  - (3) An officer may, with such assistance as is reasonable and necessary, examine an article which a person has with him or her if the person:
    - (a) is about to leave Australia or has arrived in Australia; or
    - (b) is about to board or leave, or has boarded or left, any ship or aircraft;for the purpose of finding out whether the person has with him or her any currency in respect of which a report under section 15 is required.
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- (3A) A police officer or a customs officer (being an officer in respect of whom a declaration under section 219ZA of the *Customs Act 1901* is in force) may, with such assistance as is reasonable and necessary, search a person if:
- (a) the person is about to leave Australia, or has arrived in Australia, or the person is about to board or leave, or has boarded or left, any ship or aircraft; and
  - (b) the officer has reasonable grounds to suspect that there is on the person, or in clothing being worn by the person, currency in respect of which a report under section 15 is required; for the purpose of finding out whether the person has with him or her any such currency.
- (4) Where an officer has reasonable grounds to believe that currency found in the course of an examination or search under subsection (3) or (3A) may afford evidence as to the commission of an offence against section 15, the officer may seize the currency.
- (5) A person shall not be searched under subsection (3A) except by a person of the same sex.
- (6) An officer, and any person assisting an officer, may board any ship or aircraft for the purpose of exercising the powers conferred by subsection (1), (2), (3), (3A) or (4).
- (7) An officer may, with such assistance as is reasonable and necessary, board any ship or aircraft and examine or search the ship or aircraft and any goods found on the ship or aircraft for the purpose of ascertaining whether there is on board the ship or aircraft any currency in respect of which a report under section 15 is required.
- (7A) An officer may, with such assistance as is reasonable and necessary, go onto or enter any prescribed place and examine the place, and any goods found at or in it, for the purpose of finding out whether there is at or in the place, or the goods, any currency in respect of which a report under section 15 is required.
- (8) Where an officer has reasonable grounds to believe that currency found in the course of an examination or search under subsection (7) or (7A) may afford evidence as to the commission of an offence against section 15, the officer may seize the currency.

- (9) A person who contravenes subsection (1) or (2) commits an offence against this subsection punishable, upon conviction, by imprisonment for not more than 1 year.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. The maximum fine that a court can impose on an individual is worked out by multiplying the maximum term of imprisonment (in months) by 5, and then multiplying the resulting number by the amount of a penalty unit. The amount of a penalty unit is stated in section 4AA of that Act.

- (10) In this section:

***offence against section 15*** includes an offence against section 6 of the *Crimes Act 1914* or section 11.1, 11.4 or 11.5 of the *Criminal Code* that relates to an offence against section 15 of this Act.

***officer*** means:

- (a) a police officer; or
- (b) a customs officer.

***prescribed place*** means:

- (a) a place for the examination of goods on landing, being a place appointed under section 17 of the *Customs Act 1901*; or
- (b) a warehouse in respect of which a warehouse licence, within the meaning of Part V of that Act, is in force; or
- (c) a port, airport, wharf or boarding station appointed under section 15 of that Act.

### **33A Arrest without warrant**

- (1) Where an officer has reasonable grounds to believe that a person is guilty of an offence against section 15, the officer may arrest the person without warrant.
- (2) Where an officer has reasonable grounds to believe that a person has assaulted any officer in the execution of that officer's duties, the first-mentioned officer may arrest the person without warrant.
- (3) A person must not resist, obstruct or prevent the arrest of any person under this section.

Penalty: 10 penalty units.

Note: The amount of a penalty unit is stated in section 4AA of the *Crimes Act 1914*.

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- (4) Where a person is arrested under this section, sections 212 and 213 of the *Customs Act 1901* apply as though the person had been arrested under section 210 of that Act.
- (5) In this section:
  - offence against section 15* and *officer* have the same respective meanings as in section 33.

**34 Conduct by directors, servants or agents**

- (1) Where it is necessary, for the purposes of this Act, to establish the state of mind of a body corporate in respect of conduct engaged in, or deemed by subsection (2) to have been engaged in, by the body corporate, it is sufficient to show that a director, servant or agent of the body corporate, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.
- (2) Any conduct engaged in on behalf of a body corporate:
  - (a) by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or
  - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;shall be deemed, for the purposes of this Act, to have been engaged in by the body corporate unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) Where it is necessary, for the purposes of this Act, to establish the state of mind of a person in relation to conduct deemed by subsection (4) to have been engaged in by the person, it is sufficient to show that a servant or agent of the person, being a servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

- (4) Conduct engaged in on behalf of a person other than a body corporate:
- (a) by a servant or agent of the person within the scope of his or her actual or apparent authority; or
  - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;
- shall be deemed, for the purposes of this Act, to have been engaged in by the first-mentioned person unless the first-mentioned person establishes that that person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) A reference in this section to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the reasons for the intention, opinion, belief or purpose.
- (6) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

## Part VI—Administration

### 38 Functions of AUSTRAC CEO

- (1) The functions of the AUSTRAC CEO include:
  - (b) to collect, retain, compile, analyse and disseminate FTR information; and
  - (c) to monitor entries made in financial institutions' exemption registers; and
  - (d) to provide advice and assistance to the Commissioner in relation to FTR information; and
  - (e) to issue guidelines to cash dealers about their obligations under this Act and the regulations.
- (2) In performing the AUSTRAC CEO's functions under this Act, the AUSTRAC CEO must:
  - (a) consult with cash dealers, or the representatives of cash dealers, in relation to the performance of the AUSTRAC CEO's functions under this Act; and
  - (b) take into account any comments made in the course of consultations referred to in paragraph (a).
- (3) In performing the AUSTRAC CEO's functions under this Act, the AUSTRAC CEO must have regard to the desirability of:
  - (a) avoiding duplication in the analysis of information by the AUSTRAC CEO and the Commissioner;
  - (b) attaining compatibility and integration of FTR information and other information held by the Commissioner;
  - (c) maximising the utilisation of FTR information for taxation purposes; and
  - (d) consulting with the Commissioner in relation to the performance of the AUSTRAC CEO's functions under this Act.
- (4) In performing the AUSTRAC CEO's functions under this Act, the AUSTRAC CEO must:
  - (a) take into account any comments made by the Commissioner in the course of consultations referred to in subsection (3); and

- (b) carry out, as far as is practicable, analysis of FTR information at the request of the Commissioner.
- (5) Any failure to comply with the requirements of subsection (2) in relation to the performance of a function of the AUSTRAC CEO does not affect the validity of the performance of the function.

## **Part VIA—Retaining financial transaction documents**

### **Division 1—Meaning of key terms used in this Part**

#### **40C Definitions**

In this Part:

***account*** means any facility or arrangement through which a financial institution accepts deposits or allows withdrawals, and includes a facility or arrangement for:

- (a) an interest bearing deposit lodged for a fixed period; and
- (b) a safety deposit box.

***financial transaction document***, in relation to a financial institution, means any document that relates to a financial transaction carried out, before the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, by the institution in its capacity as a financial institution and, without limiting the generality of this, includes a document relating to:

- (a) the opening, operating or closing of an account held with the institution; and
- (b) the opening or use of a safety deposit box held with the institution.

#### **40D Meaning of *customer-generated financial transaction document***

In this Part:

***customer-generated financial transaction document***, in relation to a financial institution, means a financial transaction document of the institution:

- (a) that relates to one or more of the following financial transactions carried out before the commencement of Division 1 of Part 2 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*:

- (i) the opening or closing by a person of an account with the institution;
  - (ii) the operation by a person of an account with the institution;
  - (iii) the opening or use by a person of a safety deposit box held by the institution;
  - (iv) the telegraphic or electronic transfer of funds by the institution on behalf of a person to another person;
  - (v) the transmission of funds between Australia and a foreign country or between foreign countries on behalf of a person;
  - (vi) an application by a person for a loan from the institution (where a loan is made to the person pursuant to the application); and
- (b) that is given to the institution by or on behalf of the person (whether or not the document is signed by or on behalf of the person).

#### **40E Meaning of *minimum retention period***

The *minimum retention period*, in relation to a financial transaction document of a financial institution, is:

- (a) if the document relates to the opening of an account with the institution—the period of 7 years after the day on which the account is closed; or
- (b) if the document relates to the opening by a person of a safety deposit box held by the institution—the period of 7 years after the day on which the safety deposit box ceases to be used by the person; or
- (c) in any other case—the period of 7 years after the day on which the transaction takes place.

## **Division 2—Retaining financial transaction documents**

### **40F Customer-generated financial transaction documents not relating to operation of accounts**

- (1) A financial institution is guilty of an offence if:
- (a) it does not retain, for the minimum retention period, the original of a customer-generated financial transaction document; and
  - (b) the document does not relate to the operation of an account held with the institution; and
  - (c) the document is not a cheque or payment order; and
  - (d) the financial institution is not required by law to release the original before the end of the minimum retention period.

Penalty: 100 penalty units.

- (2) An offence against this section is an offence of strict liability.

Note 1: For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2: This section does not apply to documents relating to certain transferred accounts (see sections 40L and 40P).

### **40G Releasing original documents if required by law**

- (1) A financial institution is guilty of an offence if:
- (a) before the end of the minimum retention period, it releases the original of a document that, but for paragraph 40F(1)(d), it would be obliged by section 40F to retain; and
  - (b) it does not retain a complete copy of the document until one of the following occurs:
    - (i) the period ends;
    - (ii) the original is returned.

Penalty: 100 penalty units.

- (2) A financial institution is guilty of an offence if it does not maintain a register of documents released as mentioned in paragraph (1)(a).

Penalty: 100 penalty units.

- (3) An offence against this section is an offence of strict liability.

Note 1: For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2: This section does not apply to documents relating to certain transferred accounts (see sections 40L and 40P).

#### **40H Customer-generated financial transaction documents relating to operation of accounts**

- (1) A financial institution is guilty of an offence if:
- (a) it does not retain, for the minimum retention period, either the original or a copy of a customer-generated financial transaction document; and
  - (b) the document relates to the operation of an account held with the institution; and
  - (c) the document is not a cheque or payment order.

Penalty: 100 penalty units.

- (2) Subsection (1) does not apply to a document that relates to a single deposit, credit, withdrawal, debit or transfer of an amount not exceeding:
- (a) \$200; or
  - (b) such higher amount as is specified in the regulations for the purposes of this subsection.

Note 1: A defendant bears an evidential burden in relation to the defence in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Subsection (1) also does not apply to documents relating to certain transferred accounts (see sections 40L and 40P).

- (3) An offence against this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

#### **40J Retaining other financial transaction documents**

- (1) A financial institution is guilty of an offence if:
- (a) it does not retain, for the minimum retention period, either the original or a copy of a financial transaction document that is not a customer-generated financial transaction document; and
  - (b) retaining the document is necessary to preserve a record of the transactions concerned; and

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(c) the document is not a cheque or payment order.

Penalty: 100 penalty units.

(2) Subsection (1) does not apply to a document that relates to a single deposit, credit, withdrawal, debit or transfer of an amount not exceeding:

(a) \$200; or

(b) such higher amount as is specified in the regulations for the purposes of this subsection.

Note 1: A defendant bears an evidential burden in relation to the defence in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Subsection (1) also does not apply to documents relating to certain transferred accounts (see sections 40L and 40P).

(3) An offence against this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

### **Division 3—Obligations relating to active ADI accounts transferred to another ADI**

#### **40K Transferor ADI must give documents to transferee ADI**

An ADI (the *transferor ADI*) is guilty of an offence if:

- (a) a document is in its possession in fulfilment of an obligation imposed on it by section 40F, subsection 40G(1) or section 40H or 40J; and
- (b) the document relates to an active account that has been, or is proposed to be, transferred to another ADI (the *transferee ADI*) under:
  - (i) a law of the Commonwealth or of a State or Territory; or
  - (ii) an arrangement between the transferor ADI and the transferee ADI; and
- (c) the transferor ADI intentionally fails to give the relevant document to the transferee ADI within the 120-day period beginning 30 days before the transfer of the account.

Penalty: 10 penalty units.

#### **40L Compliant transferor ADIs released from retention obligations**

Sections 40F to 40J do not apply to the transferor ADI, in relation to the document, if it gave the original and all copies of the document to the transferee ADI within the 120-day period beginning 30 days before the transfer of the account.

Note: A defendant bears an evidential burden in relation to the defence in this section (see subsection 13.3(3) of the *Criminal Code*).

#### **40M Retention obligations of transferee ADIs**

If the transferee ADI is given the original and all copies of the document within the 120-day period beginning 30 days before the transfer of the account, this Part applies to the transferee ADI in relation to the document as follows:

- (a) if the document was covered by paragraphs 40F(1)(a) to (d)—as if the document were covered by those paragraphs in relation to the transferee ADI;

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**Division 3** Obligations relating to active ADI accounts transferred to another ADI

**Section 40M**

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- (b) if the document was covered by subsection 40H(1)—as if the document were covered by that subsection in relation to the transferee ADI;
- (c) if the document was covered by subsection 40J(1)—as if the document were covered by that subsection in relation to the transferee ADI;
- (d) in any case—as if the minimum retention period applicable to the document were the period of 7 years after the day on which the transferred account is closed.

## **Division 4—Obligations relating to closed ADI accounts transferred to another ADI**

### **40N Transferor ADI may give documents to transferee ADI**

An ADI (the *transferor ADI*) may give the original and copies of a document (the *second document*) relating to an account to another ADI (the *transferee ADI*) if:

- (a) the transferor ADI has given another document (the *first document*) relating to the same account to the transferee ADI in accordance with section 40K; and

Note: Paragraph 40K(1)(c) requires the document to have been given during a 120-day period.

- (b) the second document is in the transferor ADI's possession in fulfilment of an obligation imposed on it by section 40F, subsection 40G(1) or section 40H or 40J; and
- (c) the second document relates to a closed account; and
- (d) the transferor ADI and the transferee ADI agree in writing that the second document should be given by the transferor ADI to the transferee ADI within the 120-day period relating to the giving of the first document.

### **40P Compliant transferor ADIs released from retention obligations**

Sections 40F to 40J do not apply to the transferor ADI, in relation to the second document, if it gave the original or a copy of that document to the transferee ADI within the 120-day period relating to the giving of the first document.

Note: A defendant bears an evidential burden in relation to the defence in this section (see subsection 13.3(3) of the *Criminal Code*).

### **40Q Retention obligations of transferee ADIs**

If the transferee ADI is given the original or a copy of the second document within the 120-day period relating to the giving of the first document, this Part applies to the transferee ADI in relation to the second document as follows:

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- (a) if the second document was covered by paragraphs 40F(1)(a) to (d)—as if the second document were covered by those paragraphs in relation to the transferee ADI;
- (b) if the second document was covered by subsection 40H(1)—as if the second document were covered by that subsection in relation to the transferee ADI;
- (c) if the document was covered by subsection 40J(1)—as if the document were covered by that subsection in relation to the transferee ADI;
- (d) in any case—as if the minimum retention period applicable to the second document were the period of 7 years after the day on which the account was closed.

## **Division 5—Miscellaneous**

### **40R Retrieving documents must be reasonably practicable**

- (1) A financial institution is guilty of an offence if:
  - (a) it is required to retain documents under this Part; and
  - (b) does not retain and store them in a way that makes their retrieval reasonably practicable.

Penalty: 100 penalty units.

- (2) An offence against this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

### **40S This Part does not limit any other retention obligations**

This Part does not limit any other obligation of a financial institution to retain documents.

## **Part VII—Miscellaneous**

### **41 Act not to limit Commissioner's powers**

Nothing in this Act limits any power that the Commissioner has, under any other law, to obtain information.

### **42 *Administrative Decisions (Judicial Review) Act 1977* not to apply to decisions under this Act**

The *Administrative Decisions (Judicial Review) Act 1977* does not apply to decisions under this Act, other than a decision by the AUSTRAC CEO under subsection 17B(4) or 19(2) or (3).

### **42A Amendment of Schedules by regulations**

The regulations may amend Schedule 1, 2, 3, 3A or 4:

- (a) by varying or omitting any of the details referred to in the Schedule or any other matter contained in the Schedule; and
- (b) by inserting new details, or other matter, in the Schedule.

### **43 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Schedule 1—Reportable details for purposes of section 7**

Subsection 7(4)

### **Part A**

The reportable details of a significant cash transaction, to which a cash dealer is a party, that:

- (a) must be included in a report made to the AUSTRAC CEO under paragraph 7(3)(a); or
- (b) may be included in a report if the AUSTRAC CEO has approved, under paragraph 7(3)(b), reporting by the dealer electronically;

are:

1. In relation to the cash dealer:
  - (a) the name, identifying number and business of the cash dealer; and
  - (b) the name and address of the branch of the cash dealer at which the transaction was conducted.
2. The nature of the transaction.
3. The date of the transaction.
4. For each person conducting the transaction with the cash dealer:
  - (a) the name of the person; and
  - (b) the business or residential address of the person; and
  - (c) the occupation, business or principal activity of the person; and
  - (d) the date of birth of the person; and
  - (e) the signature of the person; and
  - (f) the method used by the cash dealer to verify the identity of the person; and
  - (g) whether the transaction was conducted on behalf of the person or on behalf of another person.

5. For any person on whose behalf the transaction was conducted:
  - (a) the name of the person; and
  - (b) the address of the person; and
  - (c) the occupation of the person (or, where appropriate, the business or principal activity of the person).
6. For any cheque or banker's draft involved in the transaction:
  - (a) the name of the drawer of the cheque or banker's draft; and
  - (b) the name of the payee, the favouree or the beneficiary of the cheque or banker's draft (if any); and
  - (c) the name and branch of the financial institution or foreign financial institution on which the cheque or banker's draft was drawn, and the country in which the branch is located.
7. For any transfer of currency, within a financial institution or from a financial institution or foreign financial institution to another financial institution or foreign financial institution, that forms part of the transaction:
  - (a) the name of the payee, the favouree or the beneficiary of the transfer (if any); and
  - (b) the name and branch of the financial institution or foreign financial institution involved in the transfer, and the country in which the branch is located.
8. For the purchase or sale of any security that forms part of the transaction:
  - (a) the name of the payee, the favouree or the beneficiary of the security (if any); and
  - (b) the name and branch of the financial institution or foreign financial institution involved in the purchase or sale, and the country in which the branch is located.
9. The type and identifying number of any account with a cash dealer that is affected by the transaction.
10. The total amount of currency involved in the transaction.
11. The total monetary amount of the transaction.
12. The foreign currency involved in the transaction (if any).

## **Part B**

If:

- (a) the AUSTRAC CEO has approved, under paragraph 7(3)(b), reporting by a cash dealer electronically; and
- (b) the cash dealer chooses to report the details referred to in this Part instead of the details referred to in Part A;

the reportable details of a significant cash transaction, to which the dealer is a party, that are to be included in the report, are:

1. In relation to the cash dealer:

- (a) the name, identifying number and business of the cash dealer; and
- (b) the name and address of the branch of the cash dealer at which the transaction was conducted.

2. The nature of the transaction.

3. The date of the transaction.

4. For each person conducting the transaction with the cash dealer:

- (a) the name of the person; and
- (b) the date of birth of the person; and
- (c) the method used by the cash dealer to verify the identity of the person; and
- (d) whether the person is a customer of the cash dealer who carries on a business and, if so, the industry code for that business that is published by the Australian Bureau of Statistics in the publication entitled:
  - (i) “Australian Standard Industrial Classification”, as in force on 1 July 1990; or
  - (ii) “Australian and New Zealand Standard Industrial Classification”, as in force on 31 March 1997.

5. For any person on whose behalf the transaction was conducted:

- (a) the name of the person; and
- (b) the business or residential address of the person; and
- (c) the occupation, business or principal activity of the person; and

- (d) whether the person is a customer of the cash dealer who carries on a business and, if so, the industry code for that business that is published by the Australian Bureau of Statistics in the publication entitled:
  - (i) “Australian Standard Industrial Classification”, as in force on 1 July 1990; or
  - (ii) “Australian and New Zealand Standard Industrial Classification”, as in force on 31 March 1997.
- 6. The type and identifying number of any account with a cash dealer that is affected by the transaction.
- 7. The total amount of currency involved in the transaction.
- 8. The total monetary amount of the transaction.

## **Schedule 2—Prescribed details for purposes of section 12**

### Subsection 12(5)

For the purposes of section 12, the following are the prescribed details of a transaction, or class of transactions, conducted by a person with a financial institution:

1. For each person conducting the transaction with the financial institution:
  - (a) the name of the person; and
  - (b) the business or residential address of the person; and
  - (c) the occupation, business or principal activity of the person.
2. A statement whether the exemption covers deposits, withdrawals or both.
3. The total amount of currency involved in the transaction or the range of amounts of currency involved in the class of transactions.
- 3A. The total monetary amount of the transaction or the range of monetary amounts of the class of transactions.
- 3B. The amount and types of any foreign currency involved in a transaction.
4. The date of the transaction or the period during which the class of transactions is to be exempt.
5. The name of, and the office held by, the person making the decision to grant or amend the exemption.

## **Schedule 3—Reportable details for purposes of section 15**

Subsection 15(9)

For the purposes of section 15, the following are the reportable details of a transfer or receipt of currency:

1. The amount of currency
2. Whether the currency is Australian currency or foreign currency and, if foreign currency, which foreign currency
3. If the person making the report is to carry the currency into or out of Australia:
  - (a) the name, address, date of birth and occupation (or, where appropriate, the business or principal activity) of the person;
  - (aa) the international travel document number and country of issue of the international travel document or international travel documents held by the person;
  - (b) if the person is not an Australian resident—that person's address while in Australia;
  - (c) the name of the city in Australia from which the person is to depart or at which the person will arrive;
  - (d) the name of the foreign country and the city in that country from which the currency is being imported or to which the currency is being exported;
  - (e) if the person is to carry the currency on behalf of another person:
    - (i) the name, address and occupation (or, where appropriate, business or principal activity) of that person; and
    - (ii) the name and address, and occupation, business or principal activity of the person to whom the currency is to be delivered;
  - (f) the day on which the person is to enter or leave Australia and the number of the flight or the name of the vessel on which the person is entering or leaving.

4. If the person making the report is mailing or shipping the currency or receiving currency mailed or shipped:
  - (a) the name, address and occupation (or, where appropriate, business or principal activity) of the person;
  - (aa) the method by which the person received the currency or by which the person is to send the currency out of Australia; and
  - (b) the place of despatch and the place of receipt;
  - (c) the name, address, date of birth and occupation (or, where appropriate, business or principal activity) of the recipient or sender; and
  - (d) if the person is mailing, shipping or receiving the currency on behalf of another person:
    - (i) the name, address and occupation (or, where appropriate, business or principal activity) of the other person; and
    - (ii) the name and address, and occupation, business or principal activity of the person to whom the currency is to be delivered;
  - (e) if the person is mailing or shipping the currency—the day on which the mailing or shipping takes place and the day on which the currency is to enter or leave Australia;
  - (f) if the person is receiving currency mailed or shipped—the day on which the person receives the currency and, if the person knows, the day on which the currency entered Australia
5. If a person is to carry the currency out of Australia—the name and address of that person.

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## Schedule 3A—Reportable details for the purposes of section 15A

### 1 Reportable details

- (1) The reportable details of a significant cash transaction that a solicitor, a solicitor corporation or a partnership must include in a report prepared under subsection 15A(1) are set out in the following table.
- (2) The reportable details required by items 3 and 4 of the table are those details as known to the person making the report.

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<b>Reportable details of significant cash transactions</b>		
<b>Item</b>	<b>Element of the transaction</b>	<b>Reportable details</b>
1	The significant cash transaction	1.1 The nature of the transaction. 1.2 The date of the transaction. 1.3 The total amount of currency involved in the transaction. 1.4 The total monetary amount of the transaction. 1.5 The foreign currency (if any) involved in the transaction.
2	The solicitor, corporation or partnership	2.1 The name of the solicitor, corporation or partnership. 2.2 The address of the office of the solicitor, corporation or partnership or, if there is more than one such office, the principal office. 2.3 The address of the place at which the transaction was conducted.
3	Each other person who is a party to the transaction	3.1 The name or names of the person. 3.2 The business or residential address of the person. 3.3 The occupation, business or principal activity of the person. 3.4 The date of birth of the person.

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<b>Reportable details of significant cash transactions</b>		
<b>Item</b>	<b>Element of the transaction</b>	<b>Reportable details</b>
4	Any person (the <i>principal</i> ) on whose behalf another party to the transaction conducted the transaction	4.1 The principal's name. 4.2 An address for the principal. 4.3 The principal's occupation (or, if appropriate, the principal's business or principal activity).
5	Any cheque or banker's draft involved in the transaction	5.1 The name of the drawer of the cheque or banker's draft. 5.2 The name of the payee, the favouree or the beneficiary of the cheque or banker's draft (if any). 5.3 The name and branch of the financial institution or foreign financial institution on which the cheque or banker's draft was drawn, and the country in which the branch is located.

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## **Schedule 4—Reportable details for purposes of section 16**

Subsection 16(6)

For the purposes of section 16, the following are the reportable details of a transaction to which a cash dealer is a party:

1. The name, address and business of the cash dealer
2. The nature of the transaction
3. The date of the transaction
4. The place where the transaction was conducted by the cash dealer
5. The names of, or other means of identifying, the persons conducting the transaction on behalf of the cash dealer
6. The identity of any other cash dealer known by the person preparing the report to be involved in the transaction
7. Details, so far as known to the person preparing the report, of the identity of:
  - (a) each person conducting the transaction other than the persons referred to in item 5; and
  - (b) any person on whose behalf the transaction was so conducted;including;
  - (c) the name; and
  - (d) the business or residential address; and
  - (e) the postal address (if different from the address referred to in paragraph (d)); and
  - (f) the occupation or, where appropriate, the business or principal activity;of the person; and
  - (g) the date of birth of each person to whom paragraph (a) applies
8. The methods used to ascertain and verify the details referred to in item 7

9. If a cheque is part of the transaction:
  - (a) the name of the drawer of the cheque; and
  - (b) the name of the payee of the cheque; and
  - (c) the name and branch of the financial institution or foreign financial institution on which the cheque is drawn, and the country in which the branch is located; and
  - (d) if the payee of the cheque is not the beneficiary of the amount of the cheque, the name of the beneficiary;so far as known to the person preparing the report
10. If the purchase or sale of a security forms part of the transaction:
  - (a) the name of the payee, the favouree or the beneficiary of the security (if any); and
  - (b) the name and branch of the financial institution or foreign financial institution involved in the purchase or sale, and the country in which the branch is located
11. If a transfer of currency, within a financial institution or from a financial institution or foreign financial institution to another financial institution or foreign financial institution, forms part of the transaction:
  - (a) the name of the payee, the favouree or the beneficiary of the transfer (if any); and
  - (b) the name and branch of the financial institution or foreign financial institution involved in the transfer, and the country in which the branch is located
12. The name, type, and identifying number, of any account known by the person preparing the report to be affected by the transaction
13. The amounts involved in the transaction
14. The beneficiary of those amounts, so far as known to the person preparing the report
15. The currencies involved in the transaction
16. The name of the person preparing the report
17. The title of the office of the person preparing the report.



**Table of Acts****Notes to the *Financial Transaction Reports Act 1988*****Note 1**

The *Financial Transaction Reports Act 1988* as shown in this compilation comprises Act No. 64, 1988 amended as indicated in the Tables below.

The *Financial Transaction Reports Act 1988* was amended by the *Financial Transaction Reports Regulations 1990* (1990 No. 36 as amended by 1990 No. 162; 1992 No. 423; 1997 No. 63; 2001 No. 64). The amendments are incorporated in this compilation.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 17 April 1997 is not included in this compilation. For subsequent information see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Cash Transaction Reports Act 1988</i>	64, 1988	15 June 1988	Ss. 1 and 2: Royal Assent Ss. 3–6, 24, Parts IV, V, VI and VII (ss. 25–43): 1 July 1988 (see <i>Gazette</i> 1988, No. S192) Ss. 7–15: 1 July 1990 (see <i>Gazette</i> 1989, No. S359) Ss. 16 and 17: 1 Jan 1990 (see <i>Gazette</i> 1989, No. S359) Remainder: 1 Feb 1991 (see <i>Gazette</i> 1990, No. S288)	

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Crimes Legislation Amendment Act (No. 2) 1989</i>	4, 1990	17 Jan 1990	Ss. 1, 2, 36–38, 46, 47, 50(2), 51–53 and Part 4 (ss. 54, 55): Royal Assent Ss. 20–22: 30 June 1990 (see s. 2(2)) Ss. 39 and 48: 1 July 1990 (see s. 2(3)) Ss. 40(1) and 50(1): 1 July 1990 (see s. 2(5) and <i>Gazette</i> 1990, No. S158) S. 40(2): 1 July 1990 (see s. 2(7) and <i>Gazette</i> 1989, No. S359) Ss. 41–45 and 49: 1 Feb 1991 (see s. 2(8)–(12) and <i>Gazette</i> 1990, No. S288) Remainder: 17 July 1990	—
<i>Corporations Legislation Amendment Act 1990</i>	110, 1990	18 Dec 1990	Ss. 8, 9(1) and Parts 4–6 (ss. 10–20): 1 Jan 1991 (see <i>Gazette</i> 1990, No. S335) S. 9(2): 8 Apr 1991 (see <i>Gazette</i> 1991, No. S79) Remainder: Royal Assent	—
<i>Crimes Legislation Amendment Act 1991</i>	28, 1991	4 Mar 1991	Ss. 20–22: Royal Assent (a) S. 23: 29 Apr 1991 (see <i>Gazette</i> 1991, No. S108) (a)	—
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June 1991	Ss. 4(1), 10(b) and 15–20: 1 Dec 1988 Ss. 28(b)–(e), 30 and 31: 10 Dec 1991 (see <i>Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Crimes Legislation Amendment Act (No. 2) 1991</i>	123, 1991	23 Aug 1991	Ss. 5–34 and 38–50: 20 Sept 1991 Ss. 35–37: 6 Dec 1991 (see <i>Gazette</i> 1991, No. S330) S. 51: 23 Feb 1992 (see s. 2 (5)) Remainder: Royal Assent	—
<i>Cash Transaction Reports Amendment Act 1991</i>	188, 1991	6 Dec 1991	Ss. 1–3 and 7: Royal Assent Remainder: 6 Dec 1992 (see <i>Gazette</i> 1992, No. GN25)	Ss. 14 and 15
<i>Crimes Legislation Amendment Act 1992</i>	164, 1992	11 Dec 1992	Part 1 (ss. 1, 2) and Parts 3–11 (ss. 18–53): 8 Jan 1993 Remainder: 1 Feb 1993 (see <i>Gazette</i> 1993, No. GN1)	S. 17
<b>as amended by</b>				
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (items 11, 12): 11 Dec 1992 (b)	—
<i>Banking (State Bank of South Australia and Other Matters) Act 1994</i>	69, 1994	9 June 1994	Ss. 63–65: Royal Assent (c)	S. 63
<i>Law and Justice Legislation Amendment Act 1994</i>	84, 1994	23 June 1994	Part 7 (ss. 45–47): 1 July 1994 (see <i>Gazette</i> 1994, No. S242) (d)	S. 45
<i>Royal Commission into the New South Wales Police Service (Access to Information) Act 1994</i>	170, 1994	16 Dec 1994	16 Dec 1994	—
<i>Crimes and Other Legislation Amendment Act 1994</i>	182, 1994	19 Dec 1994	S. 31: 16 Jan 1995 (e)	—
<i>Mutual Assistance in Criminal Matters Legislation Amendment Act 1996</i>	40, 1996	9 Oct 1996	Ss. 1–3: Royal Assent Remainder: 1 Mar 1997 (see <i>Gazette</i> 1997, No. S50)	—
<i>Financial Transaction Reports Amendment Act 1997</i>	33, 1997	17 Apr 1997	15 May 1997	Sch. 1 (item 76) [see Table A]
<i>Retirement Savings Accounts (Consequential Amendments) Act 1997</i>	62, 1997	28 May 1997	2 June 1997 (see s. 2 and <i>Gazette</i> 1997, No. S202)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<b>as amended by</b>				
<i>Crimes Legislation Enhancement Act 2003</i>	41, 2003	3 June 2003	Schedule 2 (item 17): (ea)	—
<i>Telecommunications (Interception) and Listening Device Amendment Act 1997</i>	160, 1997	11 Nov 1997	Schedule 4: Royal Assent (f)	—
<i>Financial Sector Reform (Consequential Amendments) Act 1998</i>	48, 1998	29 June 1998	Schedule 1 (items 64–81): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (g)	—
<b>as amended by</b>				
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 6 (item 18): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (h)	—
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act 1998</i>	54, 1998	29 June 1998	Schedule 18 (item 47): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (i)	—
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 7 (items 46–49): 1 July 1999 (see <i>Gazette</i> 1999, No. S283) (j) Schedule 8: Royal Assent (j)	Sch. 8 (items 22, 23) [see Table A] S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4])
<b>as amended by</b>				
<i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001	—
<i>Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999</i>	128, 1999	13 Oct 1999	Schedule 1 (items 1, 2): 13 Oct 1999 (k)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 482–485): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (l)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 12 (items 1, 25): 24 Nov 2000 (m)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Security Intelligence Organisation Legislation Amendment Act 1999</i>	161, 1999	10 Dec 1999	Schedule 4: Royal Assent ( <i>n</i> )	—
<i>Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001</i>	24, 2001	6 Apr 2001	S. 4(1), (2) and Schedule 29: ( <i>o</i> )	S. 4(1), (2) [see Table A]
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 195–198): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) ( <i>p</i> )	Ss. 4–14 [see Note 1]
<i>General Insurance Reform Act 2001</i>	119, 2001	19 Sept 2001	Schedule 3 (item 12): 1 July 2002 ( <i>q</i> )	—
<i>Financial Services Reform (Consequential Provisions) Act 2001</i>	123, 2001	27 Sept 2001	Schedule 1 (items 232–236): 11 Mar 2002 (see <i>Gazette</i> 2001, No. GN42) ( <i>r</i> )	—
<i>National Crime Authority Legislation Amendment Act 2001</i>	135, 2001	1 Oct 2001	Schedules 1–7, 9–12: 12 Oct 2001 (see <i>Gazette</i> 2001, No. S428) Schedule 8: 13 Oct 2001 (see <i>Gazette</i> 2001, No. S428) Remainder: Royal Assent	—
<i>Measures to Combat Serious and Organised Crime Act 2001</i>	136, 2001	1 Oct 2001	Schedule 6: 29 Oct 2001 ( <i>s</i> )	—
<i>Royal Commissions and Other Legislation Amendment Act 2001</i>	166, 2001	1 Oct 2001	1 Oct 2001	—
<i>Statute Law Revision Act 2002</i>	63, 2002	3 July 2002	Schedule 1 (item 19): Royal Assent	—
<i>Suppression of the Financing of Terrorism Act 2002</i>	66, 2002	5 July 2002	Schedule 2: Royal Assent	Sch. 2 (items 9B, 21) [see Table A]
<i>Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002</i>	86, 2002	11 Oct 2002	Ss. 1–3: Royal Assent Remainder: 1 Jan 2003 (see s. 2(1) and <i>Gazette</i> 2002, No. GN44)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Crime Commission Establishment Act 2002</i>	125, 2002	10 Dec 2002	Schedule 2 (items 41–76, 226): 1 Jan 2003	Sch. 2 (item 226) [see Table A]
<i>Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Act 2002</i>	141, 2002	19 Dec 2002	Schedules 1, 2 and Schedule 3 (items 1–22, 24–26): 16 Jan 2003 Schedule 3 (item 23): 1 Jan 2003 (see s. 2(1) (item 4) and <i>Gazette</i> 2002, No. GN44) Remainder: Royal Assent	—
<i>Telecommunications Interception and Other Legislation Amendment Act 2003</i>	113, 2003	12 Nov 2003	Schedule 1: 6 Feb 2004 (see <i>Gazette</i> 2004, No. S27) Remainder: Royal Assent	—
<i>Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003</i>	122, 2003	5 Dec 2003	Schedule 2 (items 4–13): Royal Assent	Sch. 2 (item 13) [see Table A]
<i>Statute Law Revision Act 2005</i>	100, 2005	6 July 2005	Schedule 1 (items 15–20): Royal Assent	—
<i>Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005</i>	129, 2005	8 Nov 2005	Schedule 6: Royal Assent	—
<i>Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Act 2005</i>	136, 2005	15 Nov 2005	16 Nov 2005	—
<i>Anti-Terrorism Act (No. 2) 2005</i>	144, 2005	14 Dec 2005	S. 4 and Schedule 9 (items 3, 4, 7): Royal Assent Schedule 3 (item 4): 15 Dec 2005 Schedule 9 (items 1, 2, 5, 6, 8–21): (t)	S. 4 [see Table A] S. 2(1) (items 8, 10, 11, 13–19) (am. by 170, 2006, Sch. 1 [items 2–11])

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<b>as amended by</b>				
<i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i>	170, 2006	12 Dec 2006	Schedule 1 (items 2–11): (ta)	—
<i>Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006</i>	86, 2006	30 June 2006	Schedule 1 (items 33–40): 30 Dec 2006 (see s. 2(1))	—
<i>Financial Transaction Reports Amendment Act 2006</i>	134, 2006	9 Nov 2006	Schedule 1: (u) Remainder: Royal Assent	S. 2(1) (item 2) (am. by 170, 2006, Sch. 1 [item 147])
<b>as amended by</b>				
<i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i>	170, 2006	12 Dec 2006	Schedule 1 (item 147): (ua)	—
<i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i>	170, 2006	12 Dec 2006	Schedule 1 (items 40–57, 59–78, 80–89, 93–112, 114–119, 121, 123, 125–128, 131–146): 13 Dec 2006 (see s. 2(1)) Schedule 1 (items 58, 79, 90–92, 113, 120, 122, 124, 129, 130): (v)	—
<b>as amended by</b>				
<i>Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2007</i>	52, 2007	12 Apr 2007	Schedule 1 (item 53): 13 Apr 2007	—
<i>Australian Citizenship (Transitional and Consequentials) Act 2007</i>	21, 2007	15 Mar 2007	Schedules 1–3: 1 July 2007 (see s. 2(1) and F2007L01653) Remainder: Royal Assent	—
<i>Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007</i>	32, 2007	30 Mar 2007	Schedule 2 (item 11): 1 Apr 2007 (see s. 2(1))	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2007</i>	52, 2007	12 Apr 2007	Schedule 1 (item 57A): (w) Schedule 1 (item 58): 13 Apr 2007 Schedule 1 (items 59–61): 13 Dec 2006	—

**Act Notes**

- (a) The *Financial Transaction Reports Act 1988* was amended by sections 20–23 only of the *Crimes Legislation Amendment Act 1991*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (2) Section 23, paragraph 30(b), subsection 61(2) and sections 62, 63, 67 and 73 commence on a day to be fixed by Proclamation, being the day on which Schedule 1(3) to the *State Drug Crime Commission (Amendment) Act 1990* of New South Wales commences.
- (b) The *Crimes Legislation Amendment Act 1992* was amended by Schedule 3 (items 11 and 12) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (c) The *Financial Transaction Reports Act 1988* was amended by sections 63–65 only of the *Banking (State Bank of South Australia and Other Matters) Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (d) The *Financial Transaction Reports Act 1988* was amended by Part 7 (sections 45–47) only of the *Law and Justice Legislation Amendment Act 1994*, subsection 2(6) of which provides as follows:
- (6) Part 7 commences on a day to be fixed by Proclamation.
- (e) The *Financial Transaction Reports Act 1988* was amended by section 31 only of the *Crimes and Other Legislation Amendment Act 1994*, subsection 2(4) of which provides as follows:
- (4) The amendments made by this Act to the *Australian Federal Police Act 1979*, the *Crimes (Aviation) Act 1991* (other than the amendment made to Schedule 5 to that Act), the *Crimes (Hostages) Act 1989*, the *Crimes (Internationally Protected Persons) Act 1976*, the *Crimes (Overseas) Act 1964*, the *Crimes (Superannuation Benefits) Act 1989*, the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*, the *Customs Act 1901*, the *Director of Public Prosecutions Act 1983*, the *Extradition Act 1988*, the *Financial Transaction Reports Act 1988* and to sections 23 and 59 of the *Proceeds of Crime Act 1987* commence on the 28th day after the day on which this Act receives the Royal Assent.
- (ea) Subsection 2(1) (item 11) of the *Crimes Legislation Enhancement Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

**Commencement information**

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
11. Schedule 2, item 17	Immediately after the <i>Retirement Savings Accounts (Consequential Amendments) Act 1997</i> received the Royal Assent	28 May 1997

- (f) The *Financial Transaction Reports Act 1988* was amended by Schedule 4 only of the *Telecommunications (Interception) and Listening Device Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

## Act Notes

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- (g) The *Financial Transaction Reports Act 1988* was amended by Schedule 1 (items 64–81) only of the *Financial Sector Reform (Consequential Amendments) Act 1998*, subsection 2(2) of which provides as follows:
- (2) Subject to subsections (3) to (14), Schedules 1, 2 and 3 commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*.
- (h) The *Financial Sector Reform (Consequential Amendments) Act 1998* was amended by Schedule 6 (item 18) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsection 3(9) of which provides as follows:
- (9) Items 18 and 19 of Schedule 6 are taken to have commenced immediately before the commencement of the *Australian Prudential Regulation Authority Act 1998*.
- (i) The *Financial Transaction Reports Act 1988* was amended by Schedule 18 (item 47) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1998*, subsection 2(2)(p) of which provides as follows:
- (2) The following provisions of this Act commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*:
    - (p) Schedule 18, other than the items amending the *Australian Prudential Regulation Authority Act 1998*.
- (j) The *Financial Transaction Reports Act 1988* was amended by Schedule 7 (items 46–49) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(1), (2)(e) and (16) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (2) The following provisions commence on the transfer date:
    - (e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).
  - (16) The Governor-General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.
- (k) The *Financial Transaction Reports Act 1988* was amended by Schedule 1 (items 1 and 2) only of the *Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this section, **commencing time** means the time when the *Superannuation (Unclaimed Money and Lost Members) Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (l) The *Financial Transaction Reports Act 1988* was amended by Schedule 1 (items 482–485) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (m) The *Financial Transaction Reports Act 1988* was amended by Schedule 12 (items 1 and 25) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(4) of which provides as follows:
- (4) If an item in Schedule 11 or 12 does not commence under subsection (2) within the period of 12 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
- (n) The *Financial Transaction Reports Act 1988* was amended by Schedule 4 only of the *Australian Security Intelligence Organisation Legislation Amendment Act 1999*, subsection 2(1) of which provides as follows:
- (1) This Act (other than Schedule 3) commences on the day on which it receives the Royal Assent.

**Act Notes**

- (o) The *Financial Transaction Reports Act 1988* was amended by Schedule 29 only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:
- (1) Subject to this section, this Act commences at the later of the following times:
    - (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
 Item 15 commenced on 24 May 2001.
- (p) The *Financial Transaction Reports Act 1988* was amended by Schedule 3 (items 195–198) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (q) The *Financial Transaction Reports Act 1988* was amended by Schedule 3 (item 12) only of the *General Insurance Reform Act 2001*, subsection 2(2) of which provides as follows:
- (2) Schedules 1 and 3 to this Act commence, or are taken to have commenced, on 1 July 2002.
- (r) The *Financial Transaction Reports Act 1988* was amended by Schedule 1 (items 232–236) only of the *Financial Services Reform (Consequential Provisions) Act 2001*, subsections 2(1) and (6) of which provide as follows:
- (1) In this section:  
**FSR commencement** means the commencement of item 1 of Schedule 1 to the *Financial Services Reform Act 2001*.
  - (6) Subject to subsections (7) to (17), the other items of Schedule 1 commence on the FSR commencement.
- (s) The *Financial Transaction Reports Act 1988* was amended by Schedule 6 only of the *Measures to Combat Serious and Organised Crime Act 2001*, subsection 2(5) of which provides as follows:
- (5) The remainder of this Act commences on the 28th day after the day on which it receives the Royal Assent.
- (t) Subsection 2(1) (items 8, 10, 11, 13–19) of the *Anti-Terrorism Act (No. 2) 2005* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
8. Schedule 9, items 1 and 2	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
10. Schedule 9, item 5	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence

**Act Notes**

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
11. Schedule 9, item 6	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
13. Schedule 9, items 8 and 9	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
14. Schedule 9, item 10	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
15. Schedule 9, item 11	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
16. Schedule 9, items 12 and 13	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
17. Schedule 9, items 14 and 15	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
18. Schedule 9, items 16 and 17	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
19. Schedule 9, items 18 to 24	14 December 2006. However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence

**Act Notes**

(ta) Subsection 2(1) (item 3) of the *Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
3. Schedule 1, items 2 to 11	Immediately after the commencement of section 2 of the <i>Anti-Terrorism Act (No. 2) 2005</i> .	14 December 2005

(u) Subsection 2(1) (item 2) of the *Financial Transaction Reports Amendment Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
2. Schedule 1	Immediately after the commencement of item 10 of Schedule 9 to the <i>Anti-Terrorism Act (No. 2) 2005</i> .  However, if section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence

(ua) Subsection 2(1) (item 21) of the *Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
21. Schedule 1, item 147	Immediately after the commencement of section 2 of the <i>Financial Transaction Reports Amendment Act 2006</i> .	9 November 2006

(v) Subsection 2(1) (items 5, 7, 9, 11, 13, 15, 17, 19) of the *Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

**Act Notes**

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
5. Schedule 1, item 58	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
7. Schedule 1, item 79	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
9. Schedule 1, items 90 to 92	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
11. Schedule 1, item 113	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
13. Schedule 1, item 120	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
15. Schedule 1, item 122	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Does not commence
17. Schedule 1, item 124	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.	Does not commence

**Act Notes**

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
	However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	
19. Schedule 1, items 129 and 130	At the same time as section 3 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> commences.  However, if that section commences before 14 December 2006, the provision(s) do not commence at all.	Do not commence
(w)	Subsection 2(1) (item 6A) of the <i>Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2007</i> provides as follows:  (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.	
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
6A. Schedule 1, item 57A	Immediately after the commencement of item 56 of Schedule 1 to the <i>Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006</i> .	13 December 2006



**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 188, 1991; No. 170, 2006
<b>Part I</b>	
S. 1 .....	am. No. 188, 1991
S. 3 .....	am. Nos. 4 and 110, 1990; No. 188, 1991; No. 164, 1992; No. 170, 1994; Nos. 33, 62 and 160, 1997; No. 48, 1998; Nos. 44, 146 and 156, 1999; Nos. 55, 119, 123, 136 and 166, 2001; Nos. 86, 125 and 141, 2002; No. 122, 2003; No. 144, 2005; Nos. 86 and 170, 2006; Nos. 21, 32 and 52, 2007
S. 3A .....	ad. No. 144, 2005
S. 5 .....	am. No. 33, 1997
S. 6A .....	ad. No. 24, 2001
<b>Part II</b>	
<b>Division 1</b>	
Heading to Div. 1 of Part II .....	rs. No. 33, 1997
Heading to s. 7 .....	am. No. 33, 1997
S. 7 .....	am. No. 164, 1992; No. 170, 2006; No. 52, 2007
S. 8 .....	am. No. 170, 2006
S. 8A .....	ad. No. 4, 1990 am. No. 164, 1992; No. 33, 1997; No. 170, 2006
S. 9 .....	am. No. 123, 2001; No. 170, 2006
S. 11 .....	am. No. 170, 2006
Heading to s. 13 .....	am. No. 170, 2006
S. 13 .....	am. No. 170, 2006
S. 14 .....	rep. No. 33, 1997
S. 14A .....	ad. No. 4, 1990 am. No. 164, 1992 rep. No. 33, 1997
<b>Division 1A</b>	
Heading to Div. 1A of Part II .....	ad. No. 33, 1997
S. 15 .....	am. No. 4, 1990; No. 188, 1991; No. 182, 1994; No. 33, 1997; No. 48, 1998; No. 136, 2001; No. 170, 2006
<b>Division 1B</b>	
Div. 1B of Part II .....	ad. No. 33, 1997
S. 15A .....	ad. No. 33, 1997 am. No. 170, 2006
<b>Division 2</b>	
S. 16 .....	am. Nos. 28, 123 and 188, 1991; No. 33, 1997; Nos. 24 and 135, 2001; Nos. 66 and 125, 2002; Nos. 100, 136 and 144, 2005; Nos. 86 and 170, 2006
S. 17 .....	am. No. 141, 2002

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 17A .....	ad. No. 123, 1991 rep. No. 33, 1997
<b>Division 3</b>	
Div. 3 of Part II .....	ad. No. 188, 1991
S. 17B .....	ad. No. 188, 1991 am. No. 48, 1998; No. 170, 2006
S. 17C .....	ad. No. 188, 1991 rs. No. 48, 1998
Ss. 17D–17F .....	ad. No. 188, 1991
S17G .....	ad. No. 188, 1991 rep. No. 33, 1997
<b>Division 4</b>	
Div. 4 of Part II .....	ad. No. 164, 1992
Heading to s. 17H .....	am. No. 136, 2001
S. 17H .....	ad. No. 164, 1992
S. 17J .....	ad. No. 136, 2001
<b>Part III</b>	
S. 18 .....	am. No. 4, 1990; No. 164, 1992; No. 33, 1997; No. 62, 1997 (as am. by No. 41, 2003); No. 128, 1999; No. 24, 2001; No. 170, 2006
S. 19 .....	am. No. 4, 1990; No. 188, 1991; No. 164, 1992; No. 170, 2006
S. 20 .....	am. No. 4, 1990 rs. No. 164, 1992 am. No. 170, 2006
S. 20A .....	ad. No. 164, 1992 am. No. 170, 2006
Example to s. 20A(1).....	ad. No. 129, 2005
S. 21 .....	am. No. 4, 1990; No. 33, 1997; No. 24, 2001
S. 21A .....	ad. No. 164, 1992 am. No. 33, 1997; No. 24, 2001; No. 170, 2006
Heading to s. 22 .....	am. No. 170, 2006
S. 22 .....	am. No. 164, 1992; No. 33, 1997; No. 170, 2006
S. 23 .....	am. No. 4, 1990; No. 123, 1991; No. 164, 1992; No. 33, 1997; No. 170, 2006
Heading to s. 23A.....	rs. No. 48, 1998
Subhead. to s. 23A(2) .....	am. No. 48, 1998
Subheads. to s. 23A(4)–(6).....	am. No. 48, 1998
S. 23A .....	ad. No. 69, 1994 am. No. 33, 1997; No. 48, 1998; No. 24, 2001; No. 170, 2006
Heading to s. 23B.....	rs. No. 48, 1998
Subheads. to s. 23B(2)–(5).....	am. No. 48, 1998
S. 23B .....	ad. No. 69, 1994 am. No. 48, 1998; No. 170, 2006

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Heading to s. 24 .....	am. No. 48, 1998
S. 24 .....	am. Nos. 33 and 62, 1997; No. 123, 2001; No. 170, 2006
<b>Part IIIA</b>	
Part IIIA .....	ad. No. 33, 1997
S. 24A .....	ad. No. 33, 1997
Ss. 24B–24D .....	ad. No. 33, 1997 am. No. 170, 2006
Part IV .....	rep. No. 170, 2006
S. 25 .....	am. No. 4, 1990; No. 188, 1991; No. 33, 1997 rep. No. 170, 2006
S. 26 .....	am. No. 28, 1991; No. 33, 1997; No. 135, 2001; No. 125, 2002 rep. No. 170, 2006
Subhead. to s. 27(1A) .....	ad. No. 66, 2002 rep. No. 170, 2006
Subhead. to s. 27(2).....	ad. No. 66, 2002 rep. No. 170, 2006
Subhead. to s. 27(3).....	ad. No. 66, 2002 am. No. 122, 2003 rep. No. 170, 2006
Subheads. to s. 27(4), (5) .....	ad. No. 66, 2002 rep. No. 170, 2006
Subheads. to s. 27(12)–(14) .....	ad. No. 66, 2002 rep. No. 170, 2006
S. 27 .....	am. No. 4, 1990; Nos. 28, 123 and 188, 1991; No. 170, 1994; No. 40, 1996; Nos. 33 and 160, 1997; No. 54, 1998; Nos. 55, 135, 136 and 166, 2001; Nos. 63, 66 and 125, 2002; Nos. 113 and 122, 2003; No. 100, 2005 rep. No. 170, 2006
Subheads. to s. 27AA(2)–(4).....	ad. No. 66, 2002 rep. No. 170, 2006
Subheads. to s. 27AA(6)–(8).....	ad. No. 66, 2002 rep. No. 170, 2006
S. 27AA .....	ad. No. 161, 1999 am. No. 66, 2002 rep. No. 170, 2006
Note 2 to s. 27AA(7).....	rs. No. 66, 2002 rep. No. 170, 2006
<b>Part IVA</b>	
Part IVA .....	ad. No. 33, 1997
S. 27A .....	ad. No. 33, 1997 am. No. 170, 2006
S. 27B .....	ad. No. 33, 1997 am. No. 24, 2001; No. 170, 2006
S. 27C .....	ad. No. 33, 1997 am. No. 136, 2001; No. 170, 2006
Ss. 27D, 27E .....	ad. No. 33, 1997 am. No. 170, 2006

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part V</b>	
S. 28 .....	am. No. 4, 1990; Nos. 123 and 188, 1991; No. 182, 1994; No. 33, 1997; No. 170, 2006; No. 52, 2007
S. 29 .....	am. No. 4, 1990; No. 164, 1992; No. 33, 1997; No. 24, 2001; No. 170, 2006; No. 52, 2007
S. 30 .....	am. No. 33, 1997; No. 24, 2001; No. 170, 2006; No. 52, 2007
S. 31 .....	am. No. 33, 1997
S. 32 .....	am. No. 170, 2006
S. 33 .....	am. No. 4, 1990; No. 123, 1991; No. 33, 1997; No. 24, 2001; No. 170, 2006
S. 33A .....	ad. No. 4, 1990 am. No. 33, 1997
S. 34 .....	am. No. 33, 1997
<b>Part VI</b>	
S. 35 .....	am. No. 188, 1991 rep. No. 170, 2006
S. 36 .....	am. Nos. 122 and 188, 1991 rep. No. 170, 2006
S. 36A .....	ad. No. 122, 1991 rep. No. 170, 2006
S. 36B .....	ad. No. 122, 1991 am. No. 146, 1999 rep. No. 170, 2006
S. 37 .....	am. No. 188, 1991 rep. No. 170, 2006
Heading to s. 38 .....	am. No. 170, 2006
S. 38 .....	am. Nos. 123 and 188, 1991; No. 164, 1992; No. 170, 2006
S. 39 .....	am. No. 188, 1991 rs. No. 33, 1997 rep. No. 170, 2006
S. 40 .....	am. No. 188, 1991; No. 84, 1994; No. 146, 1999 rep. No. 170, 2006
S. 40A .....	ad. No. 4, 1990 am. No. 188, 1991 rep. No. 170, 2006
S. 40B .....	ad. No. 123, 1991 am. No. 188, 1991 rep. No. 170, 2006
<b>Part VIA</b>	
Part VIA .....	ad. No. 86, 2002
<b>Division 1</b>	
Ss. 40C, 40D .....	ad. No. 86, 2002 am. No. 170, 2006
S. 40E .....	ad. No. 86, 2002
<b>Division 2</b>	
Ss. 40F–40H .....	ad. No. 86, 2002

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 40J .....	ad. No. 86, 2002
<b>Division 3</b>	
Ss. 40K–40M .....	ad. No. 86, 2002
<b>Division 4</b>	
S. 40N .....	ad. No. 86, 2002
Ss. 40P, 40Q .....	ad. No. 86, 2002
<b>Division 5</b>	
Ss. 40R, 40S .....	ad. No. 86, 2002
<b>Part VII</b>	
S. 42 .....	am. No. 188, 1991; No. 170, 2006
S. 42A .....	ad. No. 4, 1990 am. No. 33, 1997
<b>Schedule 1</b>	
Schedule 1 .....	am. Statutory Rules 1990 No. 162; Statutory Rules 1997 No. 63; No. 170, 2006
<b>Schedule 2</b>	
Schedule 2 .....	am. Statutory Rules 1990 No. 162
<b>Schedule 3</b>	
Schedule 3 .....	am. Statutory Rules 1990 No. 162; Statutory Rules 1992 No. 423
<b>Schedule 3A</b>	
Schedule 3A .....	ad. No. 33, 1997
<b>Schedule 4</b>	
Schedule 4 .....	am. Statutory Rules 1990 No. 36; Statutory Rules 1992 No. 423; Statutory Rules 2001 No. 64

**Table A**

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**Table A**

**Application, saving or transitional provision**

*Financial Transaction Reports Amendment Act 1997* (No. 33, 1997)

**Schedule 1**

**76 Transitional and saving provisions**

- (1) A member of the staff of AUSTRAC who was an authorised officer immediately before the commencement of this Act for the purposes of the *Financial Transaction Reports Act 1988* continues to be such an officer as if he or she had been appointed under section 27A of that Act as amended by this Act.
- (2) A delegation in force under section 39 of the *Financial Transaction Reports Act 1988* immediately before the commencement of this Act continues in force as if it had been made under section 39 of that Act as amended by this Act.

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*Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (No. 44, 1999)

**Schedule 8**

**22 Regulations may deal with transitional, saving or application matters**

- (1) The regulations may deal with matters of a transitional, saving or application nature relating to:
  - (a) the transition from the application of provisions of the replaced legislation to the application of provisions of the *Banking Act 1959*, the *Life Insurance Act 1995*, the *Financial Sector (Transfers of Business) Act 1999*, the *Financial Sector (Shareholdings) Act 1998* or the *Australian Prudential Regulation Authority Act 1998*; or
  - (b) the transition, for The Cairns Cooperative Weekly Penny Savings Bank Limited, from the application of provisions of the *Financial Intermediaries Act 1996* of Queensland to the

**Table A**

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- application of provisions of any of the Acts referred to in paragraph (a); or
- (c) the amendments and repeals made by the Schedules to this Act.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
- (a) by applying (with or without modifications) to the matter:
- (i) provisions of a law of the Commonwealth, or of a State or Territory; or
- (ii) provisions of a repealed or amended law of the Commonwealth, or of a State or Territory, in the form that those provisions took before the repeal or amendment; or
- (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
- (b) by otherwise specifying rules for dealing with the matter;
- (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of a law of the Commonwealth.
- (3) Without limiting subitems (1) and (2), the regulations may provide for the continued effect, for the purposes of a provision of a law of the Commonwealth, of a thing done or instrument made, or a class of things done or instruments made, before the transfer date under or for the purposes of a provision of a law of a State or Territory. In the case of an instrument or class of instruments, the regulations may provide for the instrument or instruments to continue to have effect subject to modifications.
- (4) Without limiting subitem (3), regulations providing for the continued effect of things done or instruments made may permit all or any of the following matters to be determined in writing by a specified person, or by a person included in a specified class of persons:
- (a) the identification of a thing done or instrument made, or a class of things done or instruments made, that is to continue to have effect;
- (b) the purpose for which a thing done or instrument made, or a class of things done or instruments made, is to continue to have effect;
-

**Table A**

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- (c) any modifications subject to which an instrument made, or a class of instruments made, is to continue to have effect.
- (5) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations for the purposes of this item:
- (a) may be expressed to take effect from a date before the regulations are notified in the *Gazette*; and
  - (b) may provide for a determination of a kind referred to in subitem (4) to take effect from a date before the determination is made (including a date before the regulations are notified in the *Gazette*).
- (6) In this item, a reference to a **law**, whether of the Commonwealth or of a State or Territory, includes a reference to an instrument made under such a law.
- (7) In this item:
- replaced legislation*** means:
- (a) the AFIC Codes; and
  - (b) the Financial Institutions Codes; and
  - (c) the Friendly Societies Codes; and
  - (d) the *Australian Financial Institutions Commission Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* of Queensland; and
  - (e) the *Financial Institutions (Queensland) Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* of Queensland; and
  - (f) the **Friendly Societies (Victoria) Act 1996** of Victoria, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in the Schedule to the **Friendly Societies (Victoria) Act 1996** of Victoria; and
  - (g) the *Friendly Societies (Western Australia) Act 1999*; and
  - (h) any other law of a State or Territory prescribed by the regulations for the purposes of this definition.

### **23 Power to make regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed.

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*Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001* (No. 24, 2001)

### **4 Application of amendments**

- (1) Subject to subsection (3), each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

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*Suppression of the Financing of Terrorism Act 2002* (No. 66, 2002)

## **Schedule 2**

### **9B Saving of authorisations and undertakings**

For the purposes of subsection 27(1B) of the *Financial Transaction Reports Act 1988* as amended by this Schedule, neither of the following is affected by the amendments of that Act by this Schedule:

- (a) an authorisation conferred on the Anti-Corruption Commission of Western Australia by the Director;
- (b) an undertaking by that Commission to the Director.

### **21 Application—items 1-8**

The amendments made by items 1 to 8 of this Schedule apply to transactions completed on or after the day on which this Schedule commences.

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**Table A**

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*Australian Crime Commission Establishment Act 2002* (No. 125, 2002)

**Schedule 2**

**226 Transitional regulations**

- (1) The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising out of the amendments made by this Schedule.
- (2) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations made under this item within 1 year after commencement of this item may commence on a day earlier than the day on which they are made, but not earlier than the commencement of this item.

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*Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003* (No. 122, 2003)

**Schedule 2**

**13 Application**

The amendments of the *Financial Transaction Reports Act 1988* made by this Schedule apply to FTR information obtained by the Director before, on or after the commencement of this Schedule.

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*Anti-Terrorism Act (No. 2) 2005* (No. 144, 2005)

**4 Review of anti-terrorism laws**

- (1) The Council of Australian Governments agreed on 27 September 2005 that the Council would, after 5 years, review the operation of:
  - (a) the amendments made by Schedules 1, 3, 4 and 5; and
  - (b) certain State laws.
- (2) If a copy of the report in relation to the review is given to the Attorney-General, the Attorney-General must cause a copy of the report to be laid before each House of Parliament within 15 sitting days after the Attorney-General receives the copy of the report.