

Financial Transaction Reports Act 1992 No 99

[1992-99]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
Independent Commission Against Corruption Amendment Act 2016 No 65 (not commenced)

Authorisation

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Financial Transaction Reports Act 1992 No 99



New South Wales

An Act to provide for the giving of further information in relation to suspect transactions reported under the *Financial Transaction Reports Act 1988* of the Commonwealth and the giving of information in relation to other suspect transactions, and for related purposes.

1 Name of Act

This Act may be cited as the *Financial Transaction Reports Act 1992*.

2 Commencement

This Act commences on 6 December 1992.

3 Object of Act

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

4 Interpretation

(1) In this Act:

Commonwealth Act means the *Financial Transaction Reports Act 1988* of the Commonwealth.

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

protected information means information that is obtained under this Act.

(2) Unless the contrary intention appears, expressions used in the Commonwealth Act have the same respective meanings in this Act.

5 Act binds Crown

This Act binds the Crown in right of the State and, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

6 Further reports of suspect transactions

(1) If a cash dealer communicates information to the Director under section 16 (1) of the

Commonwealth Act, the cash dealer must, if requested to do so by:

- (a) the Commissioner of Police, or
- (b) the Commissioner of the New South Wales Crime Commission, or
- (c) the Commissioner for the Independent Commission Against Corruption, or
- (d) a police officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information,

give such further information as is specified in the request to the person requesting it.

(2) The further information is to be information that:

- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State, or
- (b) may be of assistance in the enforcement of the *Confiscation of Proceeds of Crime Act 1989* or the *Criminal Assets Recovery Act 1990* or in the administration of the *Independent Commission Against Corruption Act 1988*.

(3) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Maximum penalty: 400 penalty units or imprisonment for 2 years, or both.

7 Reports of suspect transactions not reported under Commonwealth Act

(1) A cash dealer who is a party to a transaction, and has reasonable grounds to suspect that information that the cash dealer has concerning the transaction:

- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State, or
- (b) may be of assistance in the enforcement of the *Confiscation of Proceeds of Crime Act 1989* or the *Criminal Assets Recovery Act 1990* or in the administration of the *Independent Commission Against Corruption Act 1988*,

must, as soon as practicable after forming the suspicion, prepare a report of the transaction and communicate the information contained in it to the Director.

Maximum penalty: 400 penalty units or imprisonment for 2 years, or both.

(2) Subsection (1) applies whether or not the cash dealer is required to report the transaction under Division 1 of Part II of the Commonwealth Act, but only if the cash dealer is not required to report the transaction under Division 2 of Part II of the Commonwealth Act.

(3) The report must:

- (a) be in the form approved by the Director for the purposes of section 16 of the Commonwealth Act, and
 - (b) contain the reportable details of the transaction, and
 - (c) contain a statement of the grounds on which the cash dealer holds the suspicion mentioned in subsection (1), and
 - (d) be signed by the cash dealer.
- (4) The communication to the Director of the information contained in the report must be made:
- (a) by giving the Director a copy of the report, or
 - (b) in any other way approved by the Director.
- (5) An approval for the purposes of subsection (4) (b):
- (a) must be in writing, and
 - (b) may relate to a specified cash dealer or class of cash dealers.
- (6) If a cash dealer communicates information to the Director under subsection (1), the cash dealer must, if requested to do so by:
- (a) the Commissioner of Police, or
 - (b) the Commissioner of the New South Wales Crime Commission, or
 - (c) the Commissioner for the Independent Commission Against Corruption, or
 - (d) a police officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information,
- give such additional information as is specified in the request to the person requesting it.
- (7) The additional information is to be information that:
- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State, or
 - (b) may be of assistance in the enforcement of the *Confiscation of Proceeds of Crime Act 1989* or the *Criminal Assets Recovery Act 1990* or in the administration of the *Independent Commission Against Corruption Act 1988*.
- (8) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Maximum penalty: 400 penalty units or imprisonment for 2 years, or both.

(9) In this section:

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

Note—

The text of Schedule 4 to the Commonwealth Act is set out in the Note at the end of this Act.

8 Protection of cash dealers etc

(1) An action, suit or proceeding does not lie against:

(a) a cash dealer in relation to anything done by the cash dealer:

- (i) that was required under this Act, or
- (ii) in the mistaken belief that it was required under this Act, or

(b) an officer, employee or agent of a cash dealer in relation to anything done by the person in the course of the person's appointment, employment or agency:

- (i) that was required under this Act, or
- (ii) in the mistaken belief that it was required under this Act.

(2) If a cash dealer, or a person who is an officer, employee or agent of a cash dealer, communicates or gives information under section 16 of the Commonwealth Act or section 6 or 7 of this Act, the cash dealer or person is taken, for the purposes of section 73 (Money laundering) of the *Confiscation of Proceeds of Crime Act 1989*, not to have been in possession of the information at any time.

9 False or misleading statements

A person must not, in communicating or giving information under this Act:

- (a) make a statement that the person knows is false or misleading in a material particular, or
- (b) omit anything from a statement knowing that without the thing the statement is misleading in a material particular.

Maximum penalty: 1,000 penalty units or imprisonment for 5 years, or both.

10 Secrecy

(1) This section applies to a person who is or has been:

- (a) the Commissioner of Police, or
- (b) the Commissioner of the New South Wales Crime Commission or a member of the staff of the Commission within the meaning of the *Crime Commission Act 2012*, or

(c) the Commissioner for the Independent Commission Against Corruption or an officer of the Commission within the meaning of the *Independent Commission Against Corruption Act 1988*, or

(d) a police officer.

(2) A person must not:

(a) make a record of protected information, or

(b) whether directly or indirectly, divulge or communicate any such information,

unless the record is made, or the information divulged or communicated, in the performance of duties relating to the enforcement of the laws of the State, the Commonwealth, another State or a Territory.

Maximum penalty: 400 penalty units or imprisonment for 2 years, or both.

(3) A person is not required to divulge or communicate information obtained under this Act to a court unless it is necessary to do so for the enforcement of the laws of the State, the Commonwealth, another State or a Territory.

11 Proceedings for offences

(1) Proceedings for an offence against this Act are to be dealt with on indictment, except as provided by this section.

(2) Proceedings for an offence under section 6 or 7 may be dealt with summarily before the Local Court if:

(a) the prosecutor proposes that it be so dealt with, and

(b) the Local Court is satisfied that it is appropriate for the offence to be so dealt with.

(3) If proceedings for an offence under section 6 or 7 are brought in the Local Court, the maximum penalty that the Court may impose for the offence is, despite any other provision of this Act, 100 penalty units or imprisonment for 12 months, or both.

12 Review of Act

(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) A review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.