



# **Suppression of the Financing of Terrorism Act 2002**

**No. 66, 2002**

***An Act to amend the *Criminal Code Act 1995*, the  
*Extradition Act 1988*, the *Financial Transaction  
Reports Act 1988*, the *Mutual Assistance in Criminal  
Matters Act 1987* and the *Charter of the United  
Nations Act 1945*, and for related purposes***

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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Reports Act 1988*, the *Mutual Assistance in Criminal  
Matters Act 1987* and the *Charter of the United  
Nations Act 1945*, and for related purposes**

[Assented to 5 July 2002]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Suppression of the Financing of  
Terrorism Act 2002*.

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## 2 Commencement

- (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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	5 July 2002
2. Schedule 1, item 1	The day on which this Act receives the Royal Assent, subject to subsection (3)	5 July 2002
3. Schedule 1, item 2	The day after this Act receives the Royal Assent, subject to subsection (4)	6 July 2002
4. Schedule 1, item 3	Immediately after the start of the day after this Act receives the Royal Assent	6 July 2002
5. Schedule 2	The day on which this Act receives the Royal Assent	5 July 2002
6. Schedule 3	A single day to be fixed by Proclamation, subject to subsection (5)	13 December 2002 ( <i>Gazette</i> 2002, No. S471)
7. Schedule 4	Immediately after the start of the day after this Act receives the Royal Assent	6 July 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If either:
- the *Criminal Code Amendment (Espionage and Related Offences) Act 2002* receives the Royal Assent on or before the day on which this Act receives the Royal Assent; or

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- (b) the *Security Legislation Amendment (Terrorism) Act 2002* receives the Royal Assent before the day on which this Act receives the Royal Assent;  
the provision covered by item 2 of the table does not commence at all.
- (4) If the *Security Legislation Amendment (Terrorism) Act 2002* receives the Royal Assent before the day on which this Act receives the Royal Assent, the provision covered by item 3 of the table does not commence at all.
- (5) If a provision covered by item 6 of the table does not commence within the period of 6 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.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendment of the Criminal Code Act 1995

### 1 The Schedule (after Chapter 4 of the *Criminal Code*)

Insert:

## Chapter 5—The security of the Commonwealth

Note: If either condition in subsection 2(3) is met, this item does not commence at all. See subsection 2(3).

### 2 The Schedule (at the end of Chapter 5 of the *Criminal Code*)

Add:

## Part 5.3—Terrorism

### Division 100—Preliminary

#### 100.1 Definitions

(1) In this Part:

*Commonwealth place* has the same meaning as in the *Commonwealth Places (Application of Laws) Act 1970*.

*constitutional corporation* means a corporation to which paragraph 51(xx) of the Constitution applies.

*funds* means:

- (a) property and assets of every kind, whether tangible or intangible, movable or immovable, however acquired; and
- (b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such property or assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit.

*organisation* means:

- (a) a body corporate; or
- (b) an unincorporated body;

whether or not the body is based outside Australia, consists of persons who are not Australian citizens, or is part of a larger organisation.

**terrorist act** means an action or threat of action where:

- (a) the action falls within subsection (2) and does not fall within subsection (2A); and
  - (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
  - (c) the action is done or the threat is made with the intention of:
    - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
    - (ii) intimidating the public or a section of the public.
- (2) Action falls within this subsection if it:
- (a) causes serious harm that is physical harm to a person; or
  - (b) causes serious damage to property; or
  - (ba) causes a person's death; or
  - (c) endangers a person's life, other than the life of the person taking the action; or
  - (d) creates a serious risk to the health or safety of the public or a section of the public; or
  - (e) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:
    - (i) an information system; or
    - (ii) a telecommunications system; or
    - (iii) a financial system; or
    - (iv) a system used for the delivery of essential government services; or
    - (v) a system used for, or by, an essential public utility; or
    - (vi) a system used for, or by, a transport system.
- (2A) Action falls within this subsection if it:
- (a) is advocacy, protest, dissent or industrial action; and
  - (b) is not intended:

- (i) to cause serious harm that is physical harm to a person;  
or
  - (ii) to cause a person's death; or
  - (iii) to endanger the life of a person, other than the person taking the action; or
  - (iv) to create a serious risk to the health or safety of the public or a section of the public.
- (3) In this Division:
- (a) a reference to any person or property is a reference to any person or property wherever situated, within or outside Australia; and
  - (b) a reference to the public includes a reference to the public of a country other than Australia.

### **100.2 Constitutional basis for offences**

- (1) This Part applies to a terrorist act constituted by an action, or threat of action, in relation to which the Parliament has power to legislate.
- (2) Without limiting the generality of subsection (1), this Part applies to a terrorist act constituted by an action, or threat of action, if:
  - (a) the action affects, or if carried out would affect, the interests of:
    - (i) the Commonwealth; or
    - (ii) an authority of the Commonwealth; or
    - (iii) a constitutional corporation; or
  - (b) the threat is made to:
    - (i) the Commonwealth; or
    - (ii) an authority of the Commonwealth; or
    - (iii) a constitutional corporation; or
  - (c) the action is carried out by, or the threat is made by, a constitutional corporation; or
  - (d) the action takes place, or if carried out would take place, in a Commonwealth place; or
  - (e) the threat is made in a Commonwealth place; or
  - (f) the action involves, or if carried out would involve, the use of a postal service or other like service; or
  - (g) the threat is made using a postal or other like service; or

- (h) the action involves, or if carried out would involve, the use of an electronic communication; or
- (i) the threat is made using an electronic communication; or
- (j) the action disrupts, or if carried out would disrupt, trade or commerce:
  - (i) between Australia and places outside Australia; or
  - (ii) among the States; or
  - (iii) within a Territory, between a State and a Territory or between 2 Territories; or
- (k) the action disrupts, or if carried out would disrupt:
  - (i) banking (other than State banking not extending beyond the limits of the State concerned); or
  - (ii) insurance (other than State insurance not extending beyond the limits of the State concerned); or
- (l) the action is, or if carried out would be, an action in relation to which the Commonwealth is obliged to create an offence under international law; or
- (m) the threat is one in relation to which the Commonwealth is obliged to create an offence under international law; or
- (n) the action takes place, or if carried out would take place, outside Australia; or
- (o) the threat is made outside Australia.

### **3 The Schedule (at the end of Part 5.3 of the *Criminal Code*)**

Add:

## **Division 103—Financing terrorism**

### **103.1 Financing terrorism**

- (1) A person commits an offence if:
  - (a) the person provides or collects funds; and
  - (b) the person is reckless as to whether the funds will be used to facilitate or engage in a terrorist act.

Penalty: Imprisonment for life.

Note: Intention is the fault element for the conduct described in paragraph (1)(a). See subsection 5.6(1).

- (2) A person commits an offence under subsection (1) even if the terrorist act does not occur.
- (3) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

## **Schedule 2—Amendments relating to the reporting of financial transactions**

### ***Financial Transaction Reports Act 1988***

#### **1 After subsection 16(1)**

Insert:

(1A) 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;

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 Director.

#### **2 Subsection 16(2)**

Omit “The report”, substitute “A report under subsection (1) or (1A)”.

#### **3 Paragraph 16(2)(c)**

Omit “subsection (1)”, substitute “the subsection under which the report is prepared”.

#### **4 Subsection 16(3)**

Omit “The communication”, substitute “A communication under subsection (1) or (1A)”.

#### **5 Subsections 16(4) and 16(5A)**

After “subsection (1)”, insert “or (1A)”.

## **6 Subparagraphs 16(5D)(a)(i) and 16(5D)(b)(i)**

After “subsection (1)”, insert “or (1A)”.

## **7 Subsection 16(5E)**

After “subsection (1)”, insert “or (1A)”.

## **8 Subsection 16(6)**

Insert:

*financing of terrorism offence* means an offence under:

- (a) section 103.1 of the *Criminal Code*; or
- (b) section 20 or 21 of the *Charter of the United Nations Act 1945*.

## **9 Paragraph 27(1)(d)**

Repeal the paragraph, substitute:

- (d) the Director may, in writing, authorise the Commissioner of the Australian Federal Police to have access to FTR information for the purposes of communicating the information to a foreign law enforcement agency under subsection (1B).

Note 1: The following heading to subsection 27(1A) is inserted “*Limitations on the Director’s power to authorise access under paragraph (1)(b)*”.

Note 2: The following heading to subsection 27(2) is inserted “*Director’s authorisation must state FTR information, or class of FTR information, to which access authorised*”.

Note 3: The following heading to subsection 27(3) is inserted “*Who, within an agency, may access information once access by the agency is authorised under paragraph (1)(b), (c) or (ca)*”.

Note 4: The following heading to subsection 27(4) is inserted “*Application of section 3C of the Taxation Administration Act 1953 where a taxation officer accesses FTR information*”.

Note 5: The following heading to subsection 27(5) is inserted “*Dealings with information once accessed*”.

Note 6: The following heading to subsection 27(12) is inserted “*Use of accessed information in court proceedings*”.

Note 7: The following heading to subsection 27(13) is inserted “*Dealings in contravention of this section*”.

Note 8: The following heading to subsection 27(14) is inserted “*Interpretation*”.

**9A Subsection 27(1B)**

Repeal the subsection, substitute:

- (1B) Despite paragraph (1)(b), the Director may only authorise under that paragraph one of the following law enforcement agencies if the agency undertakes that it will comply with the information privacy principles set out in section 14 of the *Privacy Act 1988* in respect of FTR information obtained under the authorisation:
- (a) the Crime and Misconduct Commission of Queensland;
  - (b) the Anti-Corruption Commission of Western Australia;
  - (c) the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer.

**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.

**10 Subsection 27(3A)**

Repeal the subsection.

**11 Subsection 27(6)**

Omit “subsection (7), (9) and (10)”, substitute “subsections (7), (9), (10) and (11D)”.

**12 Subparagraph 27(6)(a)(ii)**

Omit “; and”, substitute “; or”.

**13 At the end of paragraph 27(6)(a)**

Add:

- (iii) where communication to a foreign law enforcement agency is permitted under subsections (11B) to (11D)—the foreign law enforcement agency; and

**14 After subsection 27(11)**

Insert:

*Circumstances in which the Director may communicate FTR information to a foreign country*

- (11A) Despite anything in section 25, the Director may communicate FTR information to a foreign country if:
- (a) the Director is satisfied that the foreign country has given appropriate undertakings for:
    - (i) protecting the confidentiality of the information; and
    - (ii) controlling the use that will be made of it; and
    - (iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and
  - (b) it is appropriate, in all the circumstances of the case, to do so.

*Circumstances in which the Commissioner of the Australian Federal Police may communicate FTR information to a foreign law enforcement agency*

- (11B) The Commissioner of the Australian Federal Police may communicate FTR information to a foreign law enforcement agency if:
- (a) the Commissioner is satisfied that the foreign law enforcement agency has given appropriate undertakings for:
    - (i) protecting the confidentiality of the information; and
    - (ii) controlling the use that will be made of it; and
    - (iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and
  - (b) it is appropriate, in all the circumstances of the case, to do so.
- (11C) The Commissioner of the Australian Federal Police may, in writing, authorise a member of the Australian Federal Police to communicate the FTR information to the foreign law enforcement agency on behalf of the Commissioner.
- (11D) If:
- (a) the Commissioner of the Australian Federal Police is authorised by the Director to access FTR information under

paragraph (1)(d) (for the purposes of communicating it to a foreign law enforcement agency); and

- (b) the Director could not have authorised the Commissioner to access the information under paragraph (1)(b) (for the purposes of performing the functions of the Australian Federal Police);

then, despite subparagraphs (6)(a)(i) and (ii):

- (c) the Commissioner must not record, communicate or divulge the information except for the purposes of communicating it to the foreign law enforcement agency, and in accordance with subsections (11B) and (11C); and
- (d) a person authorised by the Commissioner under subsection (11C) to communicate the information to the foreign law enforcement agency on the Commissioner's behalf must not record, communicate or divulge the information except for the purposes of communicating it to the foreign law enforcement agency.

**14A Paragraph 27(16)(d)**

Repeal the paragraph.

**14B Paragraph 27(16)(h)**

Repeal the paragraph, substitute:

- (h) the Crime and Misconduct Commission of Queensland; and

**14C At the end of subsection 27(16)**

Add:

- ; and (j) the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer.

**14D Paragraphs 27(17)(k) to (m)**

Repeal the paragraphs.

**14E Paragraphs 27(17)(t) and (u) (the paragraphs (t) and (u) inserted by item 7 of Schedule 6 to the *Measures to Combat Serious and Organised Crime Act 2001*)**

Repeal the paragraphs.

**14F Before paragraph 27(17)(v)**

Insert:

- (ua) a Commissioner of the Crime and Misconduct Commission of Queensland; and
- (ub) an Assistant Commissioner, Senior Officer or member of the staff of that Commission; and

**14G At the end of subsection 27(17)**

Add:

- ; and (x) the person constituting the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer; and
- (y) a member of the staff of that Royal Commission.

**15 At the end of section 27**

Add:

- (20) A reference in this section to a *foreign law enforcement agency* is a reference to an agency that has responsibility for law enforcement in a foreign country.

**16 Subparagraph 27AA(4)(a)(iii)**

Omit “; and”, substitute “; or”.

**17 At the end of paragraph 27AA(4)(a)**

Add:

- (iv) where communication to a foreign intelligence agency is permitted under subsection (5A) or (5B)—the foreign intelligence agency; and

Note 1: The following heading to subsection 27AA(2) is inserted “*Director’s authorisation must state FTR information, or class of FTR information, to which access authorised*”.

Note 2: The following heading to subsection 27AA(3) is inserted “*Who, within ASIO, may access information once access by ASIO is authorised*”.

Note 3: The following heading to subsection 27AA(4) is inserted “*Dealings with information once accessed*”.

Note 4: The following heading to subsection 27AA(6) is inserted “*Use of accessed information in court proceedings*”.

Note 5: The following heading to subsection 27AA(7) is inserted “*Dealings in contravention of this section*”.

Note 6: The following heading to subsection 27AA(8) is inserted “*Interpretation*”.

## **18 After subsection 27AA(5)**

Insert:

*Circumstances in which the Director-General of Security may communicate FTR information to a foreign intelligence agency*

- (5A) The Director-General of Security may communicate FTR information to a foreign intelligence agency if:
- (a) the Director-General is satisfied that the foreign intelligence agency has given appropriate undertakings for:
    - (i) protecting the confidentiality of the information; and
    - (ii) controlling the use that will be made of it; and
    - (iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and
  - (b) it is appropriate, in all the circumstances of the case, to do so.
- (5B) The Director-General of Security may, in writing, authorise an ASIO officer to communicate the information to the foreign intelligence agency on the Director-General’s behalf.

## **19 Subsection 27AA(7) (note 2)**

Repeal the note, substitute:

Note 2: Subsections 27(6) to (11), 27(12) and 27(13) deal with the use by a police officer of FTR information obtained from ASIO.

## **20 Subsection 27AA(8)**

Insert:

*foreign intelligence agency* means an agency that has responsibility for:

- (a) intelligence gathering for a foreign country; or
- (b) the security of a foreign country.

## **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.

***Mutual Assistance in Criminal Matters Act 1987***

**22 Part VIA**

Repeal the Part.

## **Schedule 3—Amendment of the Charter of the United Nations Act 1945**

### *Charter of the United Nations Act 1945*

#### **1 After Part 3**

Insert:

### **Part 4—Offences to give effect to Security Council decisions**

#### **14 Definitions**

In this Part:

*asset* means:

- (a) an asset of any kind or property of any kind, whether tangible or intangible, movable or immovable, however acquired; and
- (b) a legal document or instrument in any form, including electronic or digital, evidencing title to, or interest in, such an asset or such property, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit.

*freezable asset* means an asset that:

- (a) is owned or controlled by a proscribed person or entity; or
- (b) is a listed asset; or
- (c) is derived or generated from assets mentioned in paragraph (a) or (b).

*listed asset* means an asset listed by the Minister under section 15.

*proscribed person or entity* means:

- (a) a person or entity listed by the Minister under section 15; or
- (b) a person or entity proscribed by regulation under section 18.

*superior court* means the Federal Court of Australia or the Supreme Court of a State or Territory.

### **15 Listing persons, entities and assets**

- (1) The Minister must list a person or entity under this section if the Minister is satisfied of the prescribed matters.
- (2) The Governor-General may make regulations prescribing the matters of which the Minister must be satisfied before listing a person or entity under subsection (1).
- (3) The Minister may list an asset, or class of asset, under this section if the Minister is satisfied of the prescribed matters.
- (4) The Governor-General may make regulations prescribing the matters of which the Minister must be satisfied before listing an asset under subsection (3).
- (5) A matter must not be prescribed under subsection (2) or (4) unless the prescription of the matter would give effect to a decision that:
  - (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and
  - (b) Article 25 of the Charter requires Australia to carry out; and
  - (c) relates to terrorism and dealings with assets.
- (6) A person or entity is listed by notice in the *Gazette*.
- (7) An asset or class of asset is listed by notice in the *Gazette*.

### **16 Minister may revoke the listing**

- (1) The Minister may revoke a listing under section 15 if the Minister is satisfied that the listing is no longer necessary to give effect to a decision that:
  - (a) the Security Council has made under Chapter VII of the Charter of the United Nations; and
  - (b) Article 25 of the Charter requires Australia to carry out; and
  - (c) relates to terrorism and dealings with assets.
- (2) The Minister may revoke the listing either at the Minister's own instigation or on application by the listed person or entity.

- (3) The listing is revoked by notice in the *Gazette*.
- (4) The listing is revoked at the start of the day immediately after the day on which notice is published in the *Gazette*.

### **17 Listed person or entity may apply to have the listing revoked**

- (1) A listed person or entity may apply to the Minister to have the listing revoked.
- (2) The application must:
  - (a) be in writing; and
  - (b) set out the circumstances relied upon to justify the application.
- (3) The Minister is not required to consider an application (the *current application*) by a listed person or entity under this section if the listed person or entity has made an application under this section within one year before the current application.

### **18 Proscription by regulation**

- (1) The Governor-General may make regulations proscribing persons or entities under this section.
- (2) A person or entity must not be proscribed under subsection (1) unless the proscription would give effect to a decision:
  - (a) that the Security Council has made under Chapter VII of the Charter of the United Nations; and
  - (b) that Article 25 of the Charter requires Australia to carry out; and
  - (c) that relates to terrorism and dealings with assets; and
  - (d) under which the person or entity is identified (whether in the decision or using a mechanism established under the decision) as a person or entity to which the decision relates.
- (3) The regulations may proscribe persons or entities under this section by incorporating a list of persons or entities identified, either in the decision itself or using a mechanism established under the decision, as persons or entities to which the decision relates. The list may be incorporated by the regulations as it exists from time to time.

## **19 Effect of resolution ceasing to bind Australia**

- (1) In so far as a listing under section 15 gives effect to a particular decision of the Security Council, the listing is revoked when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision.
- (2) In so far as regulations proscribing a person or entity under section 18 give effect to a particular decision of the Security Council:
  - (a) the regulations cease to have effect when Article 25 of the Charter of the United Nations ceases to require Australia to carry out that decision; and
  - (b) they do not revive, even if Australia again becomes required to carry out the decision.
- (3) However, to avoid doubt, nothing in this section prevents:
  - (a) the revocation, under section 16, of a listing; or
  - (b) the repeal of regulations; or
  - (c) the making of regulations that are the same in substance as regulations that have ceased to have effect because of this section.

## **20 Offence—dealing with freezable assets**

- (1) A person commits an offence if:
  - (a) the person holds an asset; and
  - (b) the person:
    - (i) uses or deals with the asset; or
    - (ii) allows the asset to be used or dealt with; or
    - (iii) facilitates the use of the asset or dealing with the asset; and
  - (c) the asset is a freezable asset; and
  - (d) the use or dealing is not in accordance with a notice under section 22.

Penalty: Imprisonment for 5 years.

- (2) Strict liability applies to the circumstance that the use or dealing with the asset is not in accordance with a notice under section 22.

- (3) It is a defence if the person proves that the use or dealing was solely for the purpose of preserving the value of the asset.
- (4) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subsection (1).

## **21 Offence—giving an asset to a proscribed person or entity**

- (1) A person commits an offence if:
  - (a) the person, directly or indirectly, makes an asset available to a person or entity; and
  - (b) the person or entity to whom the asset is made available is a proscribed person or entity; and
  - (c) the making available of the asset is not in accordance with a notice under section 22.

Penalty: Imprisonment for 5 years.

- (2) Strict liability applies to the circumstance that the making available of the asset is not in accordance with a notice under section 22.
- (3) Section 15.1 of the *Criminal Code* (extended geographical jurisdiction—category A) applies to an offence against subsection (1).

## **22 Authorised dealings**

- (1) The owner of a freezable asset may apply in writing to the Minister for permission to use or deal with the asset in a specified way.
- (2) The owner of an asset may apply in writing to the Minister for permission to make the asset available to a proscribed person or entity specified in the application.
- (3) The Minister may, by written notice:
  - (a) permit a freezable asset specified in the notice to be used or dealt with in a specified way; or
  - (b) permit an asset specified in the notice to be made available to a proscribed person or entity specified in the notice.
- (4) The notice may be subject to conditions.

- (5) The notice must be given to the owner of the asset as soon as practicable after it is made.
- (6) The Minister may delegate the Minister's powers and functions under this section to:
  - (a) the Secretary of the Department; or
  - (b) an SES employee, or acting SES employee, in the Department.The delegation must be in writing.
- (7) The delegate must comply with any directions of the Minister in exercising powers or functions under the delegation.

## **22A Regulations on procedures relating to freezable assets**

- (1) The Governor-General may make regulations relating to procedures relating to assets that are, may be or may become freezable assets.
- (2) The regulations may provide for procedures relating to information (including personal information) relating to such assets in circumstances involving:
  - (a) a listing, or proposed listing, of a person, entity, asset or class of asset under section 15; or
  - (b) a question whether an asset is or may become a freezable asset; or
  - (c) an application for, or grant of, permission under section 22.
- (3) Subsection (2) does not limit subsection (1).

## **23 Part prevails over conflicting legal obligations**

This Part prevails over provisions in laws of the Commonwealth, or of a State or Territory, that would otherwise require a person to act in contravention of this Part.

## **24 Indemnity for holder of assets**

A person is not liable to an action, suit or proceeding for anything done or omitted to be done in good faith and without negligence in compliance or purported compliance with this Part.

## **25 Compensation for persons wrongly affected**

If:

- (a) the owner or controller of an asset instructs a person holding the asset to use or deal with it; and
  - (b) the holder refuses to comply with the instruction; and
  - (c) the refusal was in good faith, and without negligence, in purported compliance with this Part; and
  - (d) the asset was not a freezable asset; and
  - (e) the owner of the asset suffered loss as a result of the refusal;
- the owner of the asset is entitled to be compensated by the Commonwealth for that loss.

## **26 Injunctions**

- (1) If a person has engaged, is engaging, or proposes to engage, in conduct involving a contravention of this Part, a superior court may by order grant an injunction restraining the person from engaging in conduct specified in the order.
- (2) An injunction may only be granted on application by the Attorney-General.
- (3) On an application, the court may, if it thinks it appropriate, grant an injunction by consent of all parties to the proceedings, whether or not the court is satisfied that subsection (1) applies.
- (4) A superior court may, if it thinks it desirable, grant an interim injunction pending its determination of an application.
- (5) A court is not to require the Attorney-General or anyone else, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (6) A court may discharge or vary an injunction it has granted.
- (7) The power to grant or vary 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 such conduct; and
  - (b) whether or not the person has previously engaged in such conduct.

## **Schedule 4—Amendment of the Extradition Act 1988**

### **1 Section 5 (after subparagraph (a)(ii) of the definition of *political offence*)**

Insert:

- (ia) Article 2 of the International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999; or

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*[Minister's second reading speech made in—  
House of Representatives on 12 March 2002  
Senate on 14 March 2002]*

(33/02)