



# Cash Transaction Reports Amendment Act 1991

No. 188 of 1991

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An Act to amend the *Cash Transaction Reports Act 1988*,  
and for related purposes

[Assented to 6 December 1991]

The Parliament of Australia enacts:

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Cash Transaction Reports Amendment Act 1991*.

### Commencement

2.(1) Sections 1, 2, 3 and 7 commence on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act commence on a day to be fixed by Proclamation.

(3) If the provisions referred to in subsection (2) do not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, those provisions commence on the first day after the end of that period.

## **PART 2—AMENDMENTS OF THE CASH TRANSACTION REPORTS ACT 1988**

### **Principal Act**

3. In this Part, “**Principal Act**” means the *Cash Transaction Reports Act 1988*<sup>1</sup>.

### **Amendment of long title**

4. The title of the Principal Act is amended by omitting “a Cash Transaction Reports Agency” and substituting “an Australian Transaction Reports and Analysis Centre”.

### **Short title**

5. Section 1 of the Principal Act is amended by omitting “Cash” and substituting “*Financial*”.

### **Interpretation**

6. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘**AUSTRAC**’ means the Australian Transaction Reports and Analysis Centre;

‘**FTR information**’ means information obtained by the Director under Part II and includes:

(a) information included in a notice under subsection 18(5), (5A) or (7) or 22(1) or in a copy of a record given under subsection 24(5); and

(b) information obtained by the Director under section 243D of the ASC Law of a State or Territory;

‘**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;”.

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

7. Section 15 of the Principal Act is amended:

(a) by inserting after subsection (7A) the following subsections:

“(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:

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- (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.”;

- (b) by inserting after subsection (8) the following subsections:

“(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.”.

### **Reports of suspect transactions**

8. Section 16 of the Principal Act is amended by inserting in subsection (1) “or 3” after “Division 1”.

9. After section 17A of the Principal Act the following Division is inserted:

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

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

“17B.(1) If:

- (a) 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 a bank;
  - (ii) the cash dealer is not a bank;

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 Director in the approved way and form before the reporting time.

“(4) The Director 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.

**Bank acting on behalf of another bank**

“17C. For the purposes of this Division, if:

- (a) a bank (in this section called the **‘first bank’**) is acting on behalf of, or at the request of, another bank (in this section called the **‘second bank’**); and
- (b) the second bank 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 a bank;

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

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

“17D. 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.

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

“17E. 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
- (d) in the mistaken belief that such action was required under that section.

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

“17F.(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.

**Inspection of record systems etc.**

“17G.(1) The Director may, by written notice to a cash dealer, require the dealer to give the authorised officer specified in the notice access to the dealer’s premises so specified on the day and during the hours so specified.

“(2) The hours specified in a notice to a cash dealer must occur during the dealer’s normal business hours.

“(3) A cash dealer must comply with a notice given to the dealer.

“(4) Where an authorised officer is given access to premises in compliance with a notice, the officer may, for the purposes of monitoring the cash dealer’s compliance with section 17B, inspect:

- (a) any records relating to international funds transfer instructions to which the dealer is a party, being records kept on, or accessible from the premises; and
- (b) any system used by the dealer at those premises for keeping such records; and
- (c) any reports retained under that section; and
- (d) any system used by the dealer in connection with:
  - (i) preparing reports under that section; or
  - (ii) sending such reports to the Director; or
  - (iii) retaining such reports.

“(5) Where an authorised officer may inspect records or reports of a cash dealer, the officer may also make copies of, or take extracts from, those records or reports.”.

**Failure to provide information**

**10.** Section 28 of the Principal Act is amended:

- (a) by omitting from paragraph (1)(b) “or 17A(1).” and substituting “, 17A(1) or 17G(1); or”;
- (b) by adding at the end of subsection (1) the following paragraph:
  - “(c) fails to retain reports as required under subsection 17B(5).”.

**Establishment of AUSTRAC**

11. Section 35 of the Principal Act is amended:

- (a) by omitting from subsection (1) “Cash Transaction Reports Agency” and substituting “Australian Transaction Reports and Analysis Centre”;
- (b) by omitting from subsection (2) “The Agency” and substituting “AUSTRAC”.

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

12. Section 42 of the Principal Act is amended by inserting “17B(4) or” after “subsection”.

**Amendments relating to changing the name of the Cash Transaction Reports Agency to the Australian Transaction Reports and Analysis Centre (AUSTRAC)**

13. The Principal Act is amended as set out in the Schedule.

**Application of amendments**

14. The amendments made by sections 6, 8, 9, 10 and 12 apply in relation to instructions transmitted from, or received in, Australia after the commencement of this section.

**Transitional—CTR information to be FTR information**

15. For the purposes of the Principal Act as amended by this Act, information that was CTR information immediately before the commencement of this section is taken to be FTR information.

**PART 3—CONSEQUENTIAL AMENDMENTS OF THE AUSTRALIAN SECURITIES COMMISSION ACT 1989**

**Principal Act**

16. In this Part, “Principal Act” means the *Australian Securities Commission Act 1989*<sup>2</sup>.

**Financial transaction reports**

17. Section 243D of the Principal Act is amended:

- (a) by omitting “Cash Transaction Reports Act” (wherever occurring) and substituting “Financial Transaction Reports Act”;
- (b) by omitting from paragraph (1)(d) “Cash Transaction Reports Agency” and substituting “Australian Transaction Reports and Analysis Centre”;
- (c) by omitting from subsection (7) “entent” and substituting “extent”.

**PART 4—CONSEQUENTIAL AMENDMENTS OF THE MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 1987**

**Principal Act**

18. In this Part, “**Principal Act**” means the *Mutual Assistance in Criminal Matters Act 1987*.

**Application of Act**

19. Section 7 of the Principal Act is amended:

- (a) by omitting from subsection (2A) “CTR” and substituting “FTR”;
- (b) by omitting from subsection (4) the definition of “CTR information” and substituting the following definition:  
“‘**FTR information**’ has the same meaning as in the *Financial Transaction Reports Act 1988*.”.

**Heading to Part VIA**

20. The heading to Part VIA of the Principal Act is amended by omitting “CTR” and substituting “FTR”.

**Requests for FTR information**

21. Section 37A of the Principal Act is amended:

- (a) by omitting from subsection (1) “Cash Transaction Reports Agency” and substituting “Australian Transaction Reports Analysis Centre”;
- (b) by omitting from subsection (1) “CTR” and substituting “FTR”;
- (c) by omitting from subsection (2) the definition of “CTR information” and substituting the following definition:  
“‘**FTR information**’ has the same meaning as in the *Financial Transaction Reports Act 1988*.”.

**Transitional—CTR information to be FTR information**

22. For the purposes of the Principal Act as amended by this Act, information that was CTR information immediately before the commencement of this section is taken to be FTR information.



**SCHEDULE**

Section 13

**AMENDMENTS RELATING TO CHANGING THE NAME OF  
THE CASH TRANSACTION REPORTS AGENCY TO THE  
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS  
CENTRE (AUSTRAC)**

**Subsection 3(1) (definition of “authorised officer”):**

Omit “the Agency”, substitute “AUSTRAC”.

**Subsection 3(1) (definition of “Director”):**

Omit “the Cash Transaction Reports Agency”, substitute “AUSTRAC”.

**Subsection 3(1) (definitions of “Agency” and “CTR information”):**

Omit the definitions.

**Subsection 19(4):**

Omit “the Agency”, substitute “AUSTRAC”.

**Paragraph 25(1)(b):**

Omit “the Agency”, substitute “AUSTRAC”.

**Section 27:**

Omit “CTR” (wherever occurring), substitute “FTR”.

**Section 36:**

Omit “the Agency”, substitute “AUSTRAC”.

**Section 37:**

Omit “the Agency” (wherever occurring), substitute “AUSTRAC”.

**Section 38:**

Omit “CTR” (wherever occurring), substitute “FTR”.

**Subsection 39(1):**

Omit “the Agency”, substitute “AUSTRAC”.

**Section 40:**

Omit “the Agency”, substitute “AUSTRAC”.

**Subsection 40A(1):**

Omit “the Agency”; substitute “AUSTRAC”.

**SCHEDULE—continued**

**Section 40B:**

Omit “the Agency’s”, substitute “AUSTRAC’s”.

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**NOTES**

1. No. 64, 1988, as amended. For previous amendments, see Nos. 4 and 110, 1990; and Nos. 28, 122 and 123, 1991.
2. No. 90, 1989, as amended. For previous amendments, see Nos. 41 and 110, 1990; and Nos. 110 and 122, 1991.
3. No. 85, 1987, as amended. For previous amendments, see Nos. 66 and 120, 1988; and No. 123, 1991.

**NOTES ABOUT SECTION HEADINGS**

1. On the commencement of this Act, the heading to section 27 of the *Cash Transaction Reports Act 1988* is altered by omitting “CTR” and substituting “FTR”.
  2. On the commencement of this Act, the heading to section 35 of the *Cash Transaction Reports Act 1988* is altered by omitting “Agency” and substituting “AUSTRAC”.
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[*Minister’s second reading speech made in—  
House of Representatives on 15 October 1991  
Senate on 7 November 1991*]