



Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011

No. 55, 2011

**An Act to provide for the collection of levies
imposed on persons regulated by the Australian
Transaction Reports and Analysis Centre, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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related purposes**

[Assented to 28 June 2011]

The Parliament of Australia enacts:

*Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection)
Act 2011 No. 55, 2011 1*

Section 1

1 Short title

This Act may be cited as the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*.

2 Commencement

- (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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2011
2. Sections 3 to 8	At the same time as section 3 of the <i>Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011</i> commences.	1 July 2011
3. Section 9	At the end of 6 months after section 3 of the <i>Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011</i> commences.	1 January 2012
4. Sections 10 to 16	At the same time as section 3 of the <i>Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011</i> commences.	1 July 2011
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

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- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Act binds the Crown

This Act binds the Crown in each of its capacities.

4 External Territories

This Act extends to every external Territory.

5 Extraterritorial application

This Act extends to acts, omissions, matters and things outside Australia.

6 Definitions

- (1) In this Act:

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

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

business day means a day that is not a Saturday, a Sunday, a public holiday or a bank holiday in the place concerned.

late payment penalty means penalty payable under section 9.

leviable entity, in relation to a financial year, has the same meaning as in the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

levy means levy imposed by the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

levy month means one of the 12 months of the calendar year.

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

- (2) This Act applies to a partnership, unincorporated association or trust as if the partnership, unincorporated association or trust were a person, but with the following changes:
 - (a) an obligation that would otherwise be imposed on the partnership by this Act is imposed on each partner instead, but may be discharged by any of the partners;
 - (b) an obligation that would otherwise be imposed on the association by this Act is imposed on each member of the association's committee of management instead, but may be discharged by any of the members;
 - (c) an obligation that would otherwise be imposed on the trust by this Act is imposed on each trustee instead, but may be discharged by any of the trustees.

7 Liability to AUSTRAC cost recovery levy

A person who is a liable entity for a financial year that ends after the commencement of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011* is liable to pay levy in respect of that financial year.

8 When levy due for payment

- (1) Levy payable by a person for a financial year under section 7 is due and payable on a business day that is:
 - (a) specified in a notice that the AUSTRAC CEO gives to the person in relation to the financial year; and
 - (b) not earlier than 30 days after the beginning of the financial year; and
 - (c) not earlier than 30 days after the day on which the notice is given.
- (2) If the person nominates another person by written notice given to the AUSTRAC CEO:
 - (a) the notice under paragraph (1)(a) of this section may be given to the nominated person; and

- (b) the obligation imposed on the person by subsection (1) of this section may be discharged by the nominated person.
- (3) To avoid doubt, subsection (2) does not otherwise affect the person's liability under section 7.

9 Late payment penalty

- (1) If any levy payable by a person remains unpaid at the start of a levy month after the levy became due for payment, the person is liable to pay the Commonwealth, for that levy month, a penalty worked out using the following formula:

$$\text{Amount of the levy remaining} \times \frac{0.2}{12}$$

unpaid at the start of the levy month

- (2) Late payment penalty for a levy month is due and payable at the end of the levy month.
- (3) However, the AUSTRAC CEO may, by written notice given to the person before, on or after the day on which late payment penalty would be due and payable apart from this subsection, specify a later day as the day on which the late payment penalty is due and payable. The notice has effect, and is taken always to have had effect, according to its terms.

10 Payment of levy and late payment penalty

Levy and late payment penalty are payable to the AUSTRAC CEO on behalf of the Commonwealth.

11 Waiver of levy and late payment penalty

- (1) The AUSTRAC CEO may, on behalf of the Commonwealth, if the AUSTRAC CEO considers it is appropriate to do so, waive the payment of the whole or a part of an amount of levy or late payment penalty (or both) that is payable by a person.
- (2) The AUSTRAC CEO may do so on his or her own initiative or on written application by a person.

12 Recovery of levy and late payment penalty

- (1) The following amounts may be recovered by the Commonwealth from a person as debts due to the Commonwealth:
 - (a) levy that is due and payable by the person;
 - (b) late payment penalty that is due and payable by the person.
- (2) The AUSTRAC CEO is authorised, as agent of the Commonwealth, to bring proceedings in the name of the Commonwealth for the recovery of a debt due to the Commonwealth of a kind mentioned in subsection (1).

13 Exempting laws ineffective

- (1) Nothing in a law passed before the commencement of this section exempts a person from liability to pay levy.
- (2) If a law (including a provision of a law) passed after the commencement of this section purports to exempt a person from:
 - (a) liability to pay taxes under laws of the Commonwealth; or
 - (b) liability to pay certain taxes under laws of the Commonwealth that would otherwise include levy;the law does not operate to exempt the person from liability to pay levy unless the exemption expressly refers to levy under this Act.
- (3) To avoid doubt, this section does not apply in relation to an exemption under this Act or the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

14 Internal review of certain decisions

- (1) A person who is affected by a decision of the AUSTRAC CEO under section 11 may, if dissatisfied with the decision, request the AUSTRAC CEO to reconsider the decision.
- (2) The request must:
 - (a) be made by notice given to the AUSTRAC CEO within:
 - (i) the period of 21 days after the day on which the person first receives notice of the decision; or
 - (ii) any further period that the AUSTRAC CEO allows; and

- (b) set out the reasons for making the request.
- (3) After receiving the request, the AUSTRAC CEO must review the decision or cause the decision to be reviewed by a person:
 - (a) to whom the AUSTRAC CEO's power under this section is delegated; and
 - (b) who was not involved in the making of the decision; and
 - (c) who occupies a position in AUSTRAC that is senior to that occupied by a person involved in the making of the decision.
- (4) Within 42 days after receiving the request, the person reviewing the decision must:
 - (a) reconsider the decision; and
 - (b) confirm, revoke or vary the decision, as the person thinks fit.
- (5) If the person reviewing the decision does not confirm, revoke or vary the decision within the period of 42 days after receiving the request, he or she is taken to have confirmed the decision under subsection (4) immediately after the end of that period.
- (6) The person reviewing the decision must give a notice in writing to the person that made the request that sets out the result of the reconsideration of the decision and gives the reasons for his or her decision.

15 Administrative Appeals Tribunal review of certain decisions

Applications may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision of the AUSTRAC CEO that has been confirmed or varied under subsection 14(4) or a decision that has been taken to have been confirmed under subsection 14(5); or
- (b) a decision of the AUSTRAC CEO under subsection 14(4) to revoke a decision.

16 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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*[Minister's second reading speech made in—
House of Representatives on 12 May 2011
Senate on 14 June 2011]*

(83/11)

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(Collection) Act 2011 No. 55, 2011*