



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

No. 56, 2011

**An Act to deal with consequential matters relating
to the enactment of the *Australian Transaction
Reports and Analysis Centre Supervisory Cost
Recovery Levy Act 2011*, and for related purposes**

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

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**An Act to deal with consequential matters relating
to the enactment of the *Australian Transaction
Reports and Analysis Centre Supervisory Cost
Recovery Levy Act 2011*, and for related purposes**

[Assented to 28 June 2011]

The Parliament of Australia enacts:

*Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy
(Consequential Amendments) Act 2011 No. 56, 2011 1*

1 Short title

This Act may be cited as the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Consequential Amendments) 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 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2011
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 November 2011 (see F2011L02035)
3. Schedule 2, Part 1	The later of: (a) the commencement of item 31 of Schedule 1 to the <i>Combating the Financing of People Smuggling and Other Measures Act 2011</i> ; and (b) immediately after the commencement of the provision(s) covered by table item 2. However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.	1 November 2011
4. Schedule 2, Part 2	Immediately after the commencement of the provision(s) covered by table item 2.	1 November 2011

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Note: This table relates only to the provisions of this Act as originally enacted.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.

- (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 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.

4 Review of operation of AUSTRAC cost recovery levy

- (1) The Minister must cause an independent review of the operation of the levy imposed by the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011* to be undertaken as soon as possible after the second anniversary of the commencement of section 3 of that Act.
- (2) The person who undertakes the review must give the Minister a written report of the review within 6 months after the second anniversary of the commencement of section 3 of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.
- (3) The Minister must cause a copy of the report of the review to be tabled in each House of Parliament within 15 sitting days of receiving it.
- (4) A report prepared under subsection (1) must include but is not limited to:
- (a) a review of the levy calculation methodology;
 - (b) consultation with industry participants including small and micro businesses about the impact of the levy and the costs of complying with the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011*.

Schedule 1—Amendment of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006

1 Section 5

Insert:

enrolment details, in relation to a person, means such information relating to the person as is specified in the AML/CTF Rules.

2 After Part 3

Insert:

Part 3A—Reporting Entities Roll

51A Simplified outline

The following is a simplified outline of this Part:

- Providers of designated services must be entered on the Reporting Entities Roll.

51B Reporting entities must enrol

- (1) If a person's name is not entered on the Reporting Entities Roll, the person must:
 - (a) if the person provided a designated service during the period of 28 days before the commencement of this section—apply in writing to the AUSTRAC CEO under subsection 51E(1) within 28 days after the commencement of this section; or
 - (b) if the person commences to provide a designated service after the commencement of this section—apply in writing to the AUSTRAC CEO under subsection 51E(1) within 28 days after commencing to provide the designated service.
- (2) Subsection (1) does not apply if the person:

- (a) has applied under subsection 51E(1) in relation to the provision of another designated service; and
- (b) has not since requested under section 51G that the AUSTRAC CEO remove the person's name and enrolment details from the Reporting Entities Roll.

Civil penalty

- (3) Subsection (1) is a civil penalty provision.

51C Reporting Entities Roll

- (1) The AUSTRAC CEO must maintain a roll for the purposes of this Part, to be known as the Reporting Entities Roll.
- (2) The AUSTRAC CEO may maintain the Reporting Entities Roll by electronic means.
- (3) The Reporting Entities Roll is not a legislative instrument.
- (4) The AML/CTF Rules may make provision for and in relation to either or both of the following:
 - (a) the correction of entries in the Reporting Entities Roll;
 - (b) any other matter relating to the administration or operation of the Reporting Entities Roll, including the removal of names and enrolment details from the Reporting Entities Roll.

51D Enrolment

If a person applies to the AUSTRAC CEO under subsection 51E(1) and the person's name is not already entered on the Reporting Entities Roll, the AUSTRAC CEO must enter on the Reporting Entities Roll:

- (a) the person's name; and
- (b) the person's enrolment details.

51E Applications for enrolment

- (1) A person may apply in writing to the AUSTRAC CEO for enrolment as a reporting entity.
 - (2) The application must:
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- (a) be in accordance with the approved form, or in a manner specified in the AML/CTF Rules; and
- (b) contain the information required by the AML/CTF Rules.

51F Enrolled persons to advise of change in enrolment details

- (1) A person who is enrolled under this Part must advise the AUSTRAC CEO, in accordance with subsection (2), of any change in the person's enrolment details that is of a kind specified in the AML/CTF Rules.
- (2) A person who is required by subsection (1) to advise the AUSTRAC CEO of a change in enrolment details must do so:
 - (a) within 14 days of the change arising; and
 - (b) in accordance with the approved form, or in a manner specified in the AML/CTF Rules.

Civil penalty

- (3) Subsection (1) is a civil penalty provision.

51G Removal of entries from the Reporting Entities Roll

- (1) A person may, in writing, request the AUSTRAC CEO to remove the person's name and enrolment details from the Reporting Entities Roll.
- (2) The request must:
 - (a) be in the approved form; and
 - (b) contain the information required by the AML/CTF Rules.
- (3) The AUSTRAC CEO must consider the request and remove the person's name and enrolment details from the Reporting Entities Roll if the AUSTRAC CEO is satisfied that it is appropriate to do so, having regard to:
 - (a) whether the person has ceased to provide designated services; and
 - (b) the likelihood of the person providing a designated service in the financial year beginning after the request is given; and
 - (c) any outstanding obligations the person has (if any) to provide a report under any of the following provisions:

- (i) section 43 (threshold transaction reports);
- (ii) section 45 (international funds transfer instruction reports);
- (iii) section 47 (AML/CTF compliance reports).

Schedule 2—Infringement notice provisions

Part 1—Amendments

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

1 Before paragraph 184(1A)(a)

Insert:

- (aaa) subsection 51B(1) (which deals with the requirement for reporting entities to enrol on the Reporting Entities Roll);
- (aa) subsection 51F(1) (which deals with reporting entities notifying changes of their enrolment details);

2 Subsection 186A(1)

Before “by a body corporate”, insert “or subsection 51B(1) or 51F(1) (a *Part 3A infringement notice provision*)”.

Note: The heading to section 186A is altered by adding at the end “**or Part 3A**”.

3 Subsection 186A(2)

After “Part 6 infringement notice provision”, insert “or a Part 3A infringement notice provision”.

4 Paragraphs 186A(3)(a) and (4)(a)

After “Part 6 infringement notice provision”, insert “or a Part 3A infringement notice provision”.

5 Paragraph 186A(4)(b)

After “Part 6 infringement notice provisions”, insert “or Part 3A infringement notice provisions”.

6 Paragraph 186A(4)(b)

After “Part 6 infringement notice provision”, insert “or a Part 3A infringement notice provision”.

Part 2—Transitional provision

7 Transitional

- (1) If this item commences before the commencement of Part 1 of this Schedule, Division 3 of Part 15 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* applies with the modifications set out in this item for the period:
 - (a) beginning immediately after the commencement of this item; and
 - (b) ending just before the commencement of Part 1 of this Schedule.
- (2) Treat a reference in that Division to “subsection 53(3) or 59(4)” as a reference to “subsection 51B(1), 51F(1), 53(3) or 59(4)”.
- (3) Assume the following subsection was added at the end of section 185 of that Act:
 - (2) An infringement notice may specify more than one alleged contravention of one or more of the provisions referred to in subsection 184(1). If it does so, the infringement notice must set out the details referred to in paragraph (1)(c) in relation to each alleged contravention.
- (4) Assume that the following section was inserted after section 186 of that Act:

186A Amount of penalty—breaches of certain provisions of Part 3A

The penalty to be specified in an infringement notice for an alleged contravention of subsection 51B(1) or 51F(1) must be:

- (a) for an alleged contravention by a body corporate—a pecuniary penalty equal to 60 penalty units; and
- (b) for an alleged contravention by a person other than a body corporate—12 penalty units.

*[Minister's second reading speech made in—
House of Representatives on 12 May 2011
Senate on 14 June 2011]*

(82/11)

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(Consequential Amendments) Act 2011 No. 56, 2011*