Cash Transaction Reports Regulations (Amendment) 1991 No. 7

EXPLANATORY STATEMENT

Statutory Rules 1991 No. 7

Cash Transaction Reports Act 1988

Cash Transaction Reports Regulations (Amendment)

Section 4 of the Acts Interpretation Act 1901 provides that where a provision of an Act which has not yet come into operation confers a power to make regulations then, unless the contrary intention appears, the power may be exercised before the provision comes into operation as if it had come into operation.

Section 43 of the Cash Transaction Reports Act 1988 (the CTR Act) provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed. Section 20 of the CTR Act, which does not come into operation until 1 February 1991, requires that where a person opens an account with a cash dealer, or becomes a signatory to such an account, then the person shall give the cash dealer a statement in writing which indicates, amongst other things, whether the account is a trust account. Subsection 20(6) of the CTR Act then provides that the statement in relation to a trust account shall set out the name of each beneficiary under the trust. Subsection 20(6) permits the making of regulations which modify the requirement to name each beneficiary to the trust.

The purpose of the Regulations is to exempt certain types of trust accounts from the requirement to name all beneficiaries in the section 20 statement, and to modify the requirement in relation to other trust accounts.

Details of the Regulations are attached.

Minister of State for Justice and Consumer Affairs

ATTACHMENT

Details of the Regulations

Cash Transaction Reports Act 1988

Cash Transaction Reports Regulations (Amendment)

Details of the Regulations are:

Regulation l: Regulation 1 is the commencement provision for the Regulations. It provides that Regulations 1 and 2, subregulations 3.1 and 3.2 and Regulation 5 commence on 1 February 1991, which is the date upon which section 20 of the CTR Act commences operation. Subregulations 3.3 and 3.4 and Regulation 4, which amend Regulations which will not commence operation until 1 February 1991, commence operation on 2 February 1991.

Regulation 2: Regulation 2 identifies the Cash Transaction Reports Regulations as the principal Regulations amended by the Regulations.

Regulation 3: Regulation 3.1 amends the definition provision of the principal Regulations by inserting two new definitions, "exempt superannuation fund" and "local government body". Regulation 3.2 supplements the definition of "exempt superannuation fund". Regulations 3.3 and 3.4 make minor amendments to two definitions appearing in the definition provision of the principal Regulations.

Regulation 4: Regulation 4 corrects a misspelling in Regulation 7 of the principal Regulations.

Regulation 5: Regulation 5 inserts a new Regulation 11A into the principal Regulations.

Subregulation 11A(1) exempts certain trust accounts from the requirement imposed by subsection 20(6) of the CTR Act to name each beneficiary to the trust in the section 20 statement provided in relation to the account. The requirement will not apply to a section 20 statement provided in relation to an account held by, or operated in connection with, an exempt superannuation fund as defined in Regulation 3.1. Similarly, the requirement will not apply in relation to a trust account held by the Commonwealth Government, a State or Territory Government. a public authority or a local government body. The expression "public authority" is already defined in the principal Regulations and a definition of "local government body" is contained in Regulation 3.1.

Subregulation 11A(2) modifies the requirement of subsection 20(6) of the CTR Act in relation to other trust accounts. A section 20 statement in relation to a trust account, other than an account exempted under subregulation 11A(1), shall include the name and address of the trustee and, if the terms of the trust identify the beneficiaries by reference only to membership of a class, shall also provide details of the class.