

**NORTHERN TERRITORY OF AUSTRALIA**

**FINANCIAL TRANSACTION REPORTS ACT**

As in force at 21 July 2010

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## NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 21 July 2010. Any amendments that commence after that date are not included.

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### FINANCIAL TRANSACTION REPORTS ACT

**An Act to provide for the giving of further information or documents in relation to matters reported under the *Financial Transaction Reports Act 1988* (Cth) or *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and the giving of information in relation to other suspect transactions, and for related purposes**

**1 Short title**

This Act may be cited as the *Financial Transaction Reports Act*.

**2 Commencement**

This Act shall come into operation or be deemed to have come into operation on 6 December 1992.

**3 Interpretation**

(1) In this Act:

**AMLCTF Act** means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).

**court** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

**designated authority** means:

- (a) the Commissioner of Police; or
- (b) a police officer who is carrying out an investigation arising from, or relating to matters referred to in, information communicated to the AUSTRAC CEO.

**FTR Act** means the *Financial Transaction Reports Act 1988* (Cth).

**protected information** means information obtained under this Act.

(2) Unless the contrary intention appears, expressions used in the FTR Act or AMLCTF Act have the same respective meanings in this Act.

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**4 Act binds Crown**

- (1) This Act binds the Crown, not only in right of the Territory but, to the extent that the legislative power of the Legislative Assembly permits, in all its other capacities.
- (2) Nothing in subsection (1) renders the Crown liable to be prosecuted for an offence against this Act.

**5 Further information about matters reported by cash dealers under FTR Act**

- (1) This section applies if a cash dealer communicates information to the AUSTRAC CEO under section 16(1) or (1A) of the FTR Act.
- (2) A designated authority may request the cash dealer to give to the designated authority the further information as stated in the request.
- (3) The further information must be information that:
  - (a) may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the Territory; or
  - (b) may be of assistance in the enforcement of the *Criminal Property Forfeiture Act*.
- (4) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Maximum penalty: 85 penalty units or imprisonment for 2 years.

**5A Further information or documents about matters reported by reporting entities under AMLCTF Act**

- (1) This section applies if a reporting entity communicates information to the AUSTRAC CEO under section 41, 43 or 45 of the AMLCTF Act.
- (2) A designated authority may give a written notice to the reporting entity requesting the reporting entity, within the period and in the way stated in the notice, to:
  - (a) give to the designated authority the further information as stated in the notice; or
  - (b) produce to the designated authority the documents about the matter to which the communication under section 41, 43 or 45 of the AMLCTF Act relates, as stated in the notice.

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- (3) The further information or documents must be information or documents that:
- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the Territory; or
  - (b) may be of assistance in the enforcement of the *Criminal Property Forfeiture Act*.
- (4) The reporting entity must comply with the request to the extent that the reporting entity has the further information or documents.

Maximum penalty: 85 penalty units or imprisonment for 2 years.

**6 Reports by cash dealers of suspect transactions not reported under FTR Act or AMLCTF Act**

- (1) This section applies if:
- (a) a cash dealer is a party to a transaction; and
  - (b) the cash dealer has reasonable grounds to suspect that information that the cash dealer has concerning the transaction:
    - (i) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the Territory; or
    - (ii) may be of assistance in the enforcement of the *Criminal Property Forfeiture Act*; and
  - (c) the cash dealer is not required to report the transaction under:
    - (i) Part II, Division 2 of the FTR Act; or
    - (ii) if the cash dealer is a reporting entity – Part 3, Division 2, 3 or 4 of the AMLCTF Act;
- and whether or not the cash dealer is required to report the transaction under Part II, Division 1 of the FTR Act.
- (2) The cash dealer must, as soon as practicable after forming the suspicion mentioned in subsection (1)(b), prepare a report of the transaction and communicate the information contained in it to the AUSTRAC CEO.

Maximum penalty: 85 penalty units or imprisonment for 2 years.

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- (3) The report must:
    - (a) be in the form approved by the AUSTRAC CEO for the purposes of section 41 of the AMLCTF Act; and
    - (b) contain the reportable details of the transaction; and
    - (c) contain a statement of the grounds on which the cash dealer holds the suspicion mentioned in subsection (1)(b); and
    - (d) be signed by the cash dealer.
  - (4) The communication to the AUSTRAC CEO of the information contained in the report must be made:
    - (a) by giving the AUSTRAC CEO a copy of the report; or
    - (b) in another way approved by the AUSTRAC CEO.

**6A Further information about suspect transactions not reported under FMR Act or AMLCTF Act**

- (1) This section applies if a cash dealer communicates information to the AUSTRAC CEO under section 6(2).
- (2) A designated authority may request the cash dealer to give to the designated authority the further information as stated in the request.
- (3) The further information must be information that:
  - (a) may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the Territory; or
  - (b) may be of assistance in the enforcement of the *Criminal Property Forfeiture Act*.
- (4) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Maximum penalty: 85 penalty units or imprisonment for 2 years.

**7 Protection of cash dealers, reporting entities etc.**

- (1) A proceeding does not lie against:
  - (a) an entity in relation to anything done by the entity:
    - (i) that was required under this Act; or

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- (ii) in the mistaken belief that it was required under this Act;  
or
  - (b) an officer, employee or agent of an entity in relation to anything done by the person in the course of the person's appointment, employment or agency:
    - (i) that was required under this Act; or
    - (ii) in the mistaken belief that it was required under this Act.
  - (2) If an entity, or a person who is an officer, employee or agent of an entity, communicates or gives information or produces documents under a prescribed provision, the entity or person is taken, for sections 231B and 231C of the Criminal Code, not to have been in possession of the information at any time.

(3) In this section:

**entity** means a cash dealer or a reporting entity.

**prescribed provision** means:

- (a) section 5, 5A, 6 or 6A; or
- (b) section 16 of the FTR Act; or
- (c) section 41, 43 or 45 of the AMLCTF Act.

## **8 False or misleading statements**

A person shall not, in giving information under this Act:

- (a) make a statement that the person knows is false or misleading in a material particular; or
- (b) omit anything from a statement knowing that without the thing the statement is misleading in a material particular.

Maximum penalty: 220 penalty units or imprisonment for 5 years.

## **9 Secrecy**

- (1) This section applies to a person who is or has been the Commissioner of Police or a police officer.
- (2) A person shall not:
  - (a) make a record of protected information; or

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(b) whether directly or indirectly, divulge or communicate protected information,

unless the record is made, or the information divulged or communicated, in the performance of duties relating to the enforcement of a law of the Territory, the Commonwealth, a State or another Territory of the Commonwealth.

Maximum penalty: 85 penalty units or imprisonment for 2 years.

(3) A person is not required to divulge or communicate protected information to a court unless it is necessary to do so for the enforcement of a law of the Territory, the Commonwealth, a State or another Territory of the Commonwealth.

**10 Law relating to legal professional privilege not affected**

To remove any doubt, it is declared that this Act does not affect the law relating to legal professional privilege.

**11 Transitional matters for *Financial Transaction Reports Amendment Act 2010***

It is declared that section 6 of the *Financial Transaction Reports Amendment Act 2010* effects a repeal to which section 12 of the *Interpretation Act* applies.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Financial Transaction Reports Act 1992 (Act No. 71, 1992)***

Assent date	14 December 1992
Commenced	6 December 1992 (s 2)

***Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)***

Assent date	20 May 2010
Commenced	1 July 2010 ( <i>Gaz</i> G24, 16 June 2010, p 2)

***Financial Transaction Reports Amendment Act 2010 (Act No. 23, 2010)***

Assent date	30 June 2010
Commenced	21 July 2010 ( <i>Gaz</i> G29, 21 July 2010, p 6)

**3 LIST OF AMENDMENTS**

lt	amd No. 23, 2010, s 4
s 3	amd No. 23, 2010, s 5
s 5	amd No. 12, 2010, s 3
	sub No. 23, 2010, s 6
s 5A	ins No. 23, 2010, s 6
s 6	amd No. 12, 2010, s 3
	sub No. 23, 2010, s 6
s 6A	ins No. 23, 2010, s 6
s 7	sub No. 23, 2010, s 6
ss 8 – 9	amd No. 12, 2010, s 3
s 10	sub No. 23, 2010, s 7
s 11	ins No. 23, 2010, s 7