

NORTHERN TERRITORY OF AUSTRALIA

FINANCIAL TRANSACTION REPORTS AMENDMENT ACT 2010

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Act No. 23 of 2010

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 23 of 2010

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An Act to amend the *Financial Transaction Reports Act*

[Assented to 30 June 2010]  
[Second reading 6 May 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

**1 Short title**

This Act may be cited as the *Financial Transaction Reports Amendment Act 2010*.

**2 Commencement**

This Act commences on the day fixed by the Administrator by *Gazette* notice.

**3 Act amended**

This Act amends the *Financial Transaction Reports Act*.

**4 Amendment of long title**

Long title

*omit*

**in relation to suspect transactions reported under the  
*Financial Transaction Reports Act 1988* of the Commonwealth**

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*substitute*

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)***

**5 Amendment of section 3 (Interpretation)**

- (1) Section 3(1), definition ***Commonwealth Act***

*omit*

- (2) Section 3(1)

*insert (in alphabetical order)*

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

***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)*.

- (3) Section 3(2)

*omit*

Commonwealth Act

*substitute*

FTR Act or AMLCTF Act

**6 Repeal and substitution of sections 5, 6 and 7**

Sections 5, 6 and 7

*repeal, substitute*

**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.

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- (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.
- (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.

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**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.

- (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.

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- (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
    - (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.

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(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.

**7 Repeal and substitution of section 10**

Section 10

*repeal, substitute*

**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.