



TASMANIA

FINANCIAL TRANSACTION REPORTS ACT 1993

No. 16 of 1993

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FINANCIAL TRANSACTION REPORTS ACT 1993

No. 16 of 1993

AN ACT to provide for the giving of further information in relation to suspect transactions reported under the *Financial Transaction Reports Act 1988* of the Commonwealth and the giving of information in relation to other suspect transactions, and for related purposes

[Royal Assent 3 June 1993]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title

1—This Act may be cited as the *Financial Transaction Reports Act 1993*.

Commencement

2—This Act commences on a day to be proclaimed.

Object of Act

3—The object of this Act is to facilitate the enforcement of the laws of the State.

Interpretation

4—(1) In this Act—

“**Commonwealth Act**” means the *Financial Transaction Reports Act 1988* of the Commonwealth;

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

“**protected information**” means information that is obtained under this Act.

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

Act binds Crown

5—This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

Further reports of suspect transactions

6—(1) If a cash dealer communicates information to the Director under section 16 (1) of the Commonwealth Act, the cash dealer must, if requested to do so by—

(a) the Commissioner of Police; or

(b) a police officer who is carrying out an investigation arising from, or relating to the matters referred to in, the information—

give the Commissioner or police officer such further information as is specified in the request.

(2) The further information is to be information that—

(a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or

(b) may be of assistance in the enforcement of the *Crime (Confiscation of Profits) Act 1993*.

(3) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Penalty: Fine not exceeding 400 penalty units or imprisonment for a term not exceeding 2 years, or both.

Reports of suspect transactions not reported under Commonwealth Act

7—(1) A cash dealer who is a party to a transaction, and has reasonable grounds to suspect that information that the cash dealer has concerning the transaction—

(a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or

(b) may be of assistance in the enforcement of the *Crime (Confiscation of Profits) Act 1993*—

must, as soon as practicable after forming the suspicion, prepare a report of the transaction and communicate the information contained in it to the Director.

Penalty: Fine not exceeding 400 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) Subsection (1) applies whether or not the cash dealer is required to report the transaction under Division 1 of Part II of the Commonwealth Act, but only if the cash dealer is not required to report the transaction under Division 2 of Part II of the Commonwealth Act.

(3) The report must—

(a) be in the form approved by the Director for the purposes of section 16 of the Commonwealth 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); and

(d) be signed by the cash dealer.

(4) The communication to the Director of the information contained in the report must be made—

- (a) by giving the Director a copy of the report; or
- (b) in any other way approved by the Director.

(5) An approval for the purposes of subsection (4) (b)—

- (a) must be in writing; and
- (b) may relate to a specified cash dealer or class of cash dealers.

(6) If a cash dealer communicates information to the Director under subsection (1), the cash dealer must, if requested to do so by—

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

give the Commissioner or police officer such further information as is specified in the request.

(7) The further information is to be information that—

- (a) may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State; or
- (b) may be of assistance in the enforcement of the *Crime (Confiscation of Profits) Act 1993*.

(8) The cash dealer must comply with the request to the extent that the cash dealer has the further information.

Penalty: Fine not exceeding 400 penalty units or imprisonment for a term not exceeding 2 years, or both.

(9) In this section, “**reportable details**”, in relation to a transaction, means the details of the transaction that are referred to in Schedule 4 to the Commonwealth Act.

Protection of cash dealers, &c.

8—(1) An action or a suit or proceeding does not lie against—

- (a) a cash dealer in relation to anything done by the cash dealer—
 - (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 a cash dealer 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 a cash dealer, or a person who is an officer, employee or agent of a cash dealer, communicates or gives information under section 16 of the Commonwealth Act or section 6 or 7 of this Act, the cash dealer or person is taken, for the purpose of section 67 (Money laundering) of the *Crime (Confiscation of Profits) Act 1993*, not to have been in possession of the information at any time.

False or misleading statements

9—A person must 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 any matter from a statement knowing that without the matter the statement is misleading in a material particular.

Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 5 years or both.

Secrecy

10—(1) This section applies to a person who is or has been the Commissioner of Police or a police officer.

(2) A person must not—

- (a) make a record of protected information; or
- (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 the laws of the State, the Commonwealth, another State or a Territory.

Penalty: Fine not exceeding 400 penalty units or imprisonment for a term not exceeding 2 years or both.

(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 the laws of the State, the Commonwealth, another State or a Territory.

Administration of Act

11—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the Department responsible to the Minister for Justice in relation to the administration of this Act is the Department of Justice.

[*Second reading presentation speech made in:—
House of Assembly on 31 March 1993
Legislative Council on 21 April 1993*]