

EXPLANATORY STATEMENT

Cash Transaction Reports Act 1988

Cash Transaction Reports Regulations (Amendment)

1990 No. 162

Section 43 of the Cash Transaction Reports Act 1988 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act, or necessary or convenient to be prescribed for the carrying out or giving effect to the Act. Under section 42A the regulations may amend Schedules 1, 2, 3 or 4 by varying or omitting any of the details referred to in the Schedule or any matter contained in the Schedule; and by inserting new details, or other matter, in the Schedule.

The purpose of the Cash Transaction Reports Regulations (Amendment) is to replace the details which are required, under Schedule 1 to the Act, to be reported in relation to a significant cash transaction report made under section 7 of the Act. The details to be prescribed by the Regulations have been prepared in consultation with law enforcement agencies, cash dealers and the Cash Transaction Reports Agency.

The Regulations also amend the details which are required, under Schedule 2 to the Act, to be entered in an exemption register maintained under section 12 of the Act.

Finally, the Regulations amend the details that are required, under Schedule 3 to the Act, to be reported in relation to a transfer of currency (whether foreign currency or Australian currency) into or out of Australia pursuant to section 15 of the Act.

It is necessary that the Regulations commence on 1 July 1990 as this will coincide with the date of commencement of sections 7, 12 and 15 of the Act, the sections which create the duty to report or record the details contained in Schedules 1, 2 and 3 respectively.

The Cash Transaction Reports Regulations (Amendment) ensure that the amendment to the reportable details contained in Schedules 1, 2 and 3 will coincide with the commencement of the duty to report or record those details, which is imposed by sections 7, 12 and 15 of the Act respectively.

Details of the Regulations are attached.

Attorney-General

ATTACHMENT

Details of the Cash Transaction Reports Regulations (Amendment)

Clause 1: This clause is the commencement provision, specifying that the Regulations will commence on 1 July 1990. This will coincide with the commencement of those sections of the Act to which each Schedule relates, namely section 7 'Reports of significant cash transactions' (Schedule 1), section 12 'Financial institution to maintain exemption register' (Schedule 2) and section 15 'Reports in relation to transfer of currency into or out of Australia' (Schedule 3).

Clause 2: This clause inserts new regulations 2A, 2B and 2C into the Cash Transaction Reports Regulations. Regulation 2A amends Schedule 1 to the Act (Reportable details for purposes of section 7) by removing all of the existing reportable details and inserting new reportable details divided into 2 Parts.

Section 7 of the Act requires a cash dealer which is a party to a significant cash transaction to prepare a report of the transaction and to communicate the information in the report to the Director of the Cash Transaction Reports Agency. (A significant cash transaction means a cash transaction involving the transfer of currency of not less than \$10,000 in value.) Subsection 7(2) requires that the report contain 'the reportable details of the transaction'. Subsection 7(4) provides that 'reportable details' means the details of the transaction that are referred to in Schedule 1.

Subsection 7(3) of the Act provides that the communication shall be made to the Director either by giving the Director a copy of the report or in such other manner and form as is approved by the Director, in writing, in relation to the cash dealer or to a class of cash dealers that includes the cash dealer. The Director of the Cash Transaction Reports Agency proposes giving approval for certain cash dealers to communicate the reportable details under section 7 by electronic means, which will involve the details being communicated by providing a computer tape or by direct transfer of computer data. Electronic reporting will be permissible in relation to transactions through an account with certain cash dealers. Accordingly, some reports will be made in paper format and some reports will be made electronically.

Where the report is made electronically it is necessary to modify the reportable details that are required for paper

reports. Because electronic reporting will occur only in relation to transactions through an account, as opposed to transactions 'across the counter', the reportable details which concern the identity of the transactor will be much simplified. Accordingly, Part A of the amendments to Schedule 1, which applies in the case of reports in paper form, is somewhat longer than Part B, which applies in the case of electronic reports.

Regulation 2B amends Schedule 2 to the Act (Prescribed details for purposes of section 12) by omitting items 1, 2 and 3 and inserting new items 1, 2, 3, 3A and 3B.

Section 12 of the Act requires a financial institution (which means a bank, a building society or a credit union) to maintain a register in which the financial institution enters the prescribed details of transactions which are eligible for exemption from reporting under section 7 of the Act to the Director of the Cash Transaction Reports Agency. Subsection 12(5) provides that 'prescribed details' means the details of the transaction or class of transactions that are referred to in Schedule 2.

Regulation 2C amends Schedule 3 to the Act (Reportable details for the purposes of section 15) by omitting item 3(f) and inserting a new item 3(f).

Section 15 of the Act requires that where a person transfers currency into or out of Australia, and the amount of currency involved in the transfer is not less than \$5,000 in value, then a report of the transfer must be made before the transfer takes place. Paragraph 15(7)(b) provides that the report shall contain the reportable details in relation to the transfer. Subsection 15(9) provides that 'reportable details' means the details that are referred to in Schedule 3.