
1 relevant to a matter that relates to the doing of a terrorist act
2 (whether or not a terrorist act has occurred or will occur).

3 (2) The officer may:

4 (a) ask the operator questions relating to the aircraft or ship, or
5 its cargo, crew, passengers, stores or voyage, that are relevant
6 to the matter; or

7 (b) request the operator to produce documents relating to the
8 aircraft or ship, or its cargo, crew, passengers, stores or
9 voyage:

10 (i) that are relevant to the matter; and

11 (ii) that are in the possession or under the control of the
12 operator.

13 (3) A person who is asked a question or requested to produce a
14 document under subsection (2) must answer the question or
15 produce the document as soon as practicable.

16 *Offence*

17 (4) A person commits an offence if:

18 (a) the person is an operator of an aircraft or ship; and

19 (b) the person is asked a question or requested to produce a
20 document under subsection (2); and

21 (c) the person fails to answer the question or produce the
22 document.

23 Penalty: 60 penalty units.

24 (5) Subsection (4) is an offence of strict liability.

25 Note: For strict liability, see section 6.1 of the *Criminal Code*.

26 (6) It is a defence to a prosecution for an offence against subsection (4)
27 if the person charged had a reasonable excuse for:

28 (a) failing to answer the question; or

29 (b) failing to produce the document.

30 *Definitions*

31 (7) In this section:

32 *operator* has the meaning given by section 4 of the *Customs Act*
33 *1901*.

1 *terrorist act* has the meaning given by section 100.1 of the
2 *Criminal Code*.

3 **Subdivision C—Power to obtain documents relating to serious**
4 **terrorism and non-terrorism offences**

5 **3ZQN Power to obtain documents relating to serious terrorism**
6 **offences**

- 7 (1) This section applies if an authorised AFP officer considers on
8 reasonable grounds that a person has documents (including in
9 electronic form) that are relevant to, and will assist, the
10 investigation of a serious terrorism offence.
- 11 (2) The officer may give the person a written notice requiring the
12 person to produce documents that:
- 13 (a) relate to one or more of the matters set out in section 3ZQP,
14 as specified in the notice; and
15 (b) are in the possession or under the control of the person.
- 16 (3) The notice must:
- 17 (a) specify the name of the person to whom the notice is given;
18 and
19 (b) specify the matters to which the documents to be produced
20 relate; and
21 (c) specify the manner in which the documents are to be
22 produced; and
23 (d) specify the place at which the documents are to be produced;
24 and
25 (e) state that the person must comply with the notice as soon as
26 practicable; and
27 (f) set out the effect of section 3ZQS (offence for failure to
28 comply); and
29 (g) if the notice specifies that information about the notice must
30 not be disclosed—set out the effect of section 3ZQT (offence
31 for disclosing existence or nature of a notice).

32 **3ZQO Power to obtain documents relating to serious offences**

- 33 (1) An authorised AFP officer may apply to a Federal Magistrate for a
34 notice under this section in respect of a person if the AFP officer
-

1 considers on reasonable grounds that the person has documents
2 (including in electronic form) that are relevant to, and will assist,
3 the investigation of a serious offence.

4 (2) If the Magistrate is satisfied on the balance of probabilities, by
5 information on oath or by affirmation, that a person has documents
6 (including in electronic form) that are relevant to, and will assist,
7 the investigation of a serious offence, the Magistrate may give the
8 person a written notice requiring the person to produce documents
9 that:

10 (a) relate to one or more of the matters set out in section 3ZQP,
11 as specified in the notice; and

12 (b) are in the possession or under the control of the person.

13 (3) The Magistrate must not give the notice unless the authorised AFP
14 officer or some other person has given to the Magistrate, either
15 orally or by affidavit, such further information (if any) as the
16 Magistrate requires concerning the grounds on which the issue of
17 the notice is being sought.

18 (4) The notice must:

19 (a) specify the name of the person to whom the notice is given;
20 and

21 (b) specify the matters to which the documents to be produced
22 relate; and

23 (c) specify the manner in which the documents are to be
24 produced; and

25 (d) specify the place at which the documents are to be produced;
26 and

27 (e) state that the person must comply with the notice within 14
28 days after the day on which the notice is given; and

29 (f) set out the effect of section 3ZQS (offence for failure to
30 comply); and

31 (g) if the notice specifies that information about the notice must
32 not be disclosed—set out the effect of section 3ZQT (offence
33 for disclosing existence or nature of a notice).

34 **3ZQP Matters to which documents must relate**

35 A document to be produced under a notice under section 3ZQN or
36 3ZQO must relate to one or more of the following matters:

- 1 (a) determining whether an account is held by a specified person
2 with a specified financial institution, and details relating to
3 the account (including details of any related accounts);
- 4 (b) determining whether a specified person is a signatory to an
5 account with a specified financial institution, and details
6 relating to the account (including details of any related
7 accounts);
- 8 (c) determining whether a transaction has been conducted by a
9 specified financial institution on behalf of a specified person,
10 and details relating to the transaction (including details
11 relating to other parties to the transaction);
- 12 (d) determining whether a specified person travelled or will
13 travel between specified dates or specified locations, and
14 details relating to the travel (including details relating to
15 other persons travelling with the specified person);
- 16 (e) determining whether assets have been transferred to or from a
17 specified person between specified dates, and details relating
18 to the transfers (including details relating to the names of any
19 other persons to or from whom the assets were transferred);
- 20 (f) determining whether an account is held by a specified person
21 in respect of a specified utility (such as gas, water or
22 electricity), and details relating to the account (including the
23 names of any other persons who also hold the account);
- 24 (g) determining who holds an account in respect of a specified
25 utility (such as gas, water or electricity) at a specified place,
26 and details relating to the account;
- 27 (h) determining whether a telephone account is held by a
28 specified person, and details relating to the account
29 (including:
- 30 (i) details in respect of calls made to or from the relevant
31 telephone number; or
- 32 (ii) the times at which such calls were made or received; or
- 33 (iii) the lengths of such calls; or
- 34 (iv) the telephone numbers to which such calls were made
35 and from which such calls were received);
- 36 (i) determining who holds a specified telephone account, and
37 details relating to the account (including details mentioned in
38 paragraph (h));
- 39 (j) determining whether a specified person resides at a specified
40 place;
-

1 (k) determining who resides at a specified place.

2 **3ZQQ Powers conferred on Federal Magistrates in their personal**
3 **capacity**

- 4 (1) A power conferred on a Federal Magistrate by section 3ZQO is
5 conferred on the Magistrate in a personal capacity and not as a
6 court or a member of a court.
- 7 (2) A Federal Magistrate need not accept the power conferred.
- 8 (3) A Federal Magistrate exercising a power conferred by
9 section 3ZQO has the same protection and immunity as if he or she
10 were exercising that power as, or as a member of, the court of
11 which the Magistrate is a member.

12 **3ZQR Documents must be produced**

- 13 (1) A person is not excused from producing a document under
14 section 3ZQN or 3ZQO on the ground that to do so:
15 (a) would contravene any other law; or
16 (b) might tend to incriminate the person or otherwise expose the
17 person to a penalty or other liability; or
18 (c) would disclose material that is protected against disclosure
19 by legal professional privilege or any other duty of
20 confidence; or
21 (d) would be otherwise contrary to the public interest.
- 22 (2) However, neither:
23 (a) the production of the document; nor
24 (b) any information, document or thing obtained as a direct or
25 indirect consequence of producing the document;
26 is admissible in evidence against the person in proceedings other
27 than proceedings for an offence against section 137.1, 137.2 or
28 149.1 of the *Criminal Code* that relates to this Act.
- 29 (3) A person is not liable to any penalty by reason of his or her
30 producing a document when required to do so under section 3ZQN
31 or 3ZQO.
- 32 (4) The fact that a person is not excused under subsection (1) from
33 producing a document does not otherwise affect a claim of legal

1 professional privilege that anyone may make in relation to that
2 document.

3 **3ZQS Offence for failure to comply with notice under section 3ZQN**
4 **or 3ZQO**

5 A person commits an offence if:

- 6 (a) the person is given a notice under section 3ZQN or 3ZQO;
7 and
8 (b) the person fails to comply with the notice.

9 Penalty: 30 penalty units.

10 **3ZQT Offence for disclosing existence or nature of notice**

11 (1) A person commits an offence if:

- 12 (a) the person is given a notice under section 3ZQN or 3ZQO;
13 and
14 (b) the notice specifies that information about the notice must
15 not be disclosed; and
16 (c) the person discloses the existence or nature of the notice.

17 Penalty: 120 penalty units or imprisonment for 2 years, or both.

18 (2) Subsection (1) does not apply if:

- 19 (a) the person discloses the information to another person in
20 order to obtain a document that is required by the notice in
21 order to comply with it, and that other person is directed not
22 to inform the person to whom the document relates about the
23 matter; or
24 (b) the disclosure is made to obtain legal advice or legal
25 representation in relation to the notice; or
26 (c) the disclosure is made for the purposes of, or in the course of,
27 legal proceedings.

28 Note: A defendant bears an evidential burden in relation to the matters in
29 subsection (2): see subsection 13.3(3) of the *Criminal Code*.

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Schedule 7—Sedition

Crimes Act 1914

1 Paragraph 4J(7)(b)

Omit “section 80.1 or 91.1”, substitute “Division 80 or section 91.1”.

2 Sections 24A to 24E

Repeal the sections.

3 Paragraph 30A(1)(b)

Omit “as defined in section 24A”, substitute “(see subsection (3))”.

4 At the end of section 30A

Add:

(3) In this section:

seditions intention means an intention to effect any of the following purposes:

- (a) to bring the Sovereign into hatred or contempt;
- (b) to urge disaffection against the following:
 - (i) the Constitution;
 - (ii) the Government of the Commonwealth;
 - (iii) either House of the Parliament;
- (c) to urge another person to attempt to procure a change, otherwise than by lawful means, to any matter established by law of the Commonwealth;
- (d) to promote feelings of ill-will or hostility between different groups so as to threaten the peace, order and good government of the Commonwealth.

Criminal Code Act 1995

5 Part 5.1 of the *Criminal Code* (heading)

Repeal the heading, substitute:

1 **Part 5.1—Treason and seditio**

2 **6 Division 80 of the *Criminal Code* (heading)**

3 Repeal the heading, substitute:

4 **Division 80—Treason and seditio**

5 **7 Before section 80.1 of the *Criminal Code***

6 Insert:

7 **80.1A Definition of *organisation***

8 In this Division:

9 *organisation* means:

10 (a) a body corporate; or

11 (b) an unincorporated body;

12 whether or not the body is based outside Australia, consists of
13 persons who are not Australian citizens, or is part of a larger
14 organisation.

15 **8 Subsection 80.1(1A) of the *Criminal Code* (note)**

16 Omit “Note”, substitute “Note 1”.

17 **9 At the end of subsection 80.1(1A) of the *Criminal Code***

18 Add:

19 Note 2: There is a defence in section 80.3 for acts done in good faith.

20 **10 Subsections 80.1(3), (4), (6) and (7) of the *Criminal Code***

21 Repeal the subsections.

22 **11 Subsection 80.1(8) of the *Criminal Code* (definition of
23 *organisation*)**

24 Repeal the definition.

25 **12 At the end of Division 80 of the *Criminal Code***

26 Add:

1 **80.2 Sedition**

2 *Urging the overthrow of the Constitution or Government*

- 3 (1) A person commits an offence if the person urges another person to
4 overthrow by force or violence:
5 (a) the Constitution; or
6 (b) the Government of the Commonwealth, a State or a
7 Territory; or
8 (c) the lawful authority of the Government of the
9 Commonwealth.

10 Penalty: Imprisonment for 7 years.

- 11 (2) Recklessness applies to paragraphs (1)(a), (b) and (c).

12 *Urging interference in Parliamentary elections*

- 13 (3) A person commits an offence if the person urges another person to
14 interfere by force or violence with lawful processes for an election
15 of a member or members of a House of the Parliament.

16 Penalty: Imprisonment for 7 years.

- 17 (4) Recklessness applies to the element of the offence that it is lawful
18 processes for an election of a member or members of a House of
19 the Parliament that the first-mentioned person urges the other
20 person to interfere with.

21 *Urging violence within the community*

- 22 (5) A person commits an offence if:
23 (a) the person urges a group or groups (whether distinguished by
24 race, religion, nationality or political opinion) to use force or
25 violence against another group or other groups (as so
26 distinguished); and
27 (b) the use of the force or violence would threaten the peace,
28 order and good government of the Commonwealth.

29 Penalty: Imprisonment for 7 years.

- 30 (6) Recklessness applies to the element of the offence that it is a group
31 or groups that are distinguished by race, religion, nationality or

1 political opinion that the first-mentioned person urges the other
2 person to use force or violence against.

3 *Urging a person to assist the enemy*

- 4 (7) A person commits an offence if:
5 (a) the person urges another person to engage in conduct; and
6 (b) the first-mentioned person intends the conduct to assist, by
7 any means whatever, an organisation or country; and
8 (c) the organisation or country is:
9 (i) at war with the Commonwealth, whether or not the
10 existence of a state of war has been declared; and
11 (ii) specified by Proclamation made for the purpose of
12 paragraph 80.1(1)(e) to be an enemy at war with the
13 Commonwealth.

14 Penalty: Imprisonment for 7 years.

15 *Urging a person to assist those engaged in armed hostilities*

- 16 (8) A person commits an offence if:
17 (a) the person urges another person to engage in conduct; and
18 (b) the first-mentioned person intends the conduct to assist, by
19 any means whatever, an organisation or country; and
20 (c) the organisation or country is engaged in armed hostilities
21 against the Australian Defence Force.

22 Penalty: Imprisonment for 7 years.

23 *Defence*

- 24 (9) Subsections (7) and (8) do not apply to engagement in conduct by
25 way of, or for the purposes of, the provision of aid of a
26 humanitarian nature.

27 Note 1: A defendant bears an evidential burden in relation to the matter in
28 subsection (9). See subsection 13.3(3).

29 Note 2: There is a defence in section 80.3 for acts done in good faith.

30 **80.3 Defence for acts done in good faith**

- 31 (1) Sections 80.1 and 80.2 do not apply to a person who:
-

- 1 (a) tries in good faith to show that any of the following persons
2 are mistaken in any of his or her counsels, policies or actions:
3 (i) the Sovereign;
4 (ii) the Governor-General;
5 (iii) the Governor of a State;
6 (iv) the Administrator of a Territory;
7 (v) an adviser of any of the above;
8 (vi) a person responsible for the government of another
9 country; or
10 (b) points out in good faith errors or defects in the following,
11 with a view to reforming those errors or defects:
12 (i) the Government of the Commonwealth, a State or a
13 Territory;
14 (ii) the Constitution;
15 (iii) legislation of the Commonwealth, a State, a Territory or
16 another country;
17 (iv) the administration of justice of or in the
18 Commonwealth, a State, a Territory or another country;
19 or
20 (c) urges in good faith another person to attempt to lawfully
21 procure a change to any matter established by law in the
22 Commonwealth, a State, a Territory or another country; or
23 (d) points out in good faith any matters that are producing, or
24 have a tendency to produce, feelings of ill-will or hostility
25 between different groups, in order to bring about the removal
26 of those matters; or
27 (e) does anything in good faith in connection with an industrial
28 dispute or an industrial matter.
- 29 Note: A defendant bears an evidential burden in relation to the matter in
30 subsection (1). See subsection 13.3(3).
- 31 (2) In considering a defence under subsection (1), the Court may have
32 regard to any relevant matter, including whether the acts were
33 done:
34 (a) for a purpose intended to be prejudicial to the safety or
35 defence of the Commonwealth; or
36 (b) with the intention of assisting an enemy:
37 (i) at war with the Commonwealth; and

- 1 (ii) specified by Proclamation made for the purpose of
2 paragraph 80.1(1)(e) to be an enemy at war with the
3 Commonwealth; or
4 (c) with the intention of assisting another country, or an
5 organisation, that is engaged in armed hostilities against the
6 Australian Defence Force; or
7 (d) with the intention of assisting a proclaimed enemy of a
8 proclaimed country (within the meaning of subsection
9 24AA(4) of the *Crimes Act 1914*); or
10 (e) with the intention of assisting persons specified in paragraphs
11 24AA(2)(a) and (b) of the *Crimes Act 1914*; or
12 (f) with the intention of causing violence or creating public
13 disorder or a public disturbance.

14 **80.4 Extended geographical jurisdiction for offences**

15 Section 15.4 (extended geographical jurisdiction—category D)
16 applies to an offence against this Division.

17 **80.5 Attorney-General's consent required**

- 18 (1) Proceedings for an offence against this Division must not be
19 commenced without the Attorney-General's written consent.
20 (2) Despite subsection (1):
21 (a) a person may be arrested for an offence against this Division;
22 or
23 (b) a warrant for the arrest of a person for such an offence may
24 be issued and executed;
25 and the person may be charged, and may be remanded in custody
26 or on bail, but:
27 (c) no further proceedings may be taken until that consent has
28 been obtained; and
29 (d) the person must be discharged if proceedings are not
30 continued within a reasonable time.

31 **80.6 Division not intended to exclude State or Territory law**

32 It is the intention of the Parliament that this Division is not to apply
33 to the exclusion of a law of a State or a Territory to the extent that
34 the law is capable of operating concurrently with this Division.

1 ***Migration Act 1958***

2 **13 Subparagraph 203(1)(c)(i)**

3 Omit “24C,”.

4 **14 Subparagraph 203(1)(c)(ia)**

5 Omit “section 80.1”, substitute “Division 80”.

6 ***Surveillance Devices Act 2004***

7 **15 Subparagraph 30(1)(a)(v)**

8 Repeal the subparagraph.

9 **16 Subparagraph 30(1)(a)(vi)**

10 Omit “, 80.1”.

11 **17 Subparagraph 30(1)(a)(vii)**

12 Repeal the subparagraph.

13 **18 Subparagraph 30(1)(a)(viii)**

14 After “Division”, insert “72, 80, 101, 102, 103 or”.

1
2 **Schedule 8—Optical surveillance devices at**
3 **airports and on board aircraft**
4

5 *Aviation Transport Security Act 2004*

6 **1 Title**

7 Omit “related”, substitute “other”.

8 **2 At the end of subsection 3(1)**

9 Add:

10 Note: Division 10 of Part 4 has additional purposes (see section 74J).

11 **3 Section 4 (at the end of the paragraph relating to Part 4)**

12 Add “It also allows the Minister to determine a code regulating and
13 authorising the use of optical surveillance devices at airports and on
14 board aircraft.”.

15 **4 Section 9**

16 Insert:

17 *optical surveillance device* has the same meaning as in the
18 *Surveillance Devices Act 2004*.

19 **5 At the end of Part 4**

20 Add:

21 **Division 10—Optical surveillance devices**

22 **74J Purposes of this Division**

23 In addition to the purposes of this Act, the purposes of this
24 Division include the following:

- 25 (a) preventing and detecting contraventions of, or offences
26 against:
27 (i) this Act; or
28 (ii) any other law of the Commonwealth;
29 at airports or on board aircraft;

1 (b) safeguarding Commonwealth interests.

2 **74K Minister may determine code**

- 3 (1) For the purposes of this Division, the Minister may, by legislative
4 instrument, determine a code that regulates and authorises, despite
5 any law of a State or a Territory, the use of optical surveillance
6 devices by aviation industry participants:
- 7 (a) at a security controlled airport; or
 - 8 (b) on board an aircraft that:
 - 9 (i) is at a security controlled airport; or
 - 10 (ii) is a prescribed aircraft; or
 - 11 (c) in a vehicle that:
 - 12 (i) is on board an aircraft covered by paragraph (b); or
 - 13 (ii) is at a security controlled airport.
- 14 (2) The code may also regulate and authorise the use or disclosure of a
15 signal, image or other information obtained by the use of the
16 optical surveillance devices.
- 17 (3) Regulations made for the purposes of this section may prescribe
18 penalties for offences against the code. The penalties must not
19 exceed 50 penalty units.

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Schedule 9—Financial transaction reporting

Financial Transaction Reports Act 1988

1 Subsection 3(1)

Insert:

bearer negotiable instrument means a document that is:

- (a) a bill of exchange; or
- (b) a cheque; or
- (c) a promissory note; or
- (d) a traveller's cheque; or
- (e) a money order, postal order or similar order; or
- (f) a negotiable instrument not covered by any of the above paragraphs.

For the purposes of determining whether a document is covered by paragraph (e) or (f), it is immaterial that the document is incomplete because the document does not specify:

- (g) an amount to be paid; or
- (h) a payee.

2 Subsection 3(1)

Insert:

bill of exchange has the same meaning as in paragraph 51(xvi) of the Constitution, but does not include a cheque unless the cheque is a cheque that an ADI, bank or other institution draws on itself.

3 Subsection 3(1) (definition of *non-reportable currency transfer*)

Repeal the definition.

4 Subsection 3(1)

Insert:

non-reportable transfer, in relation to currency, means a transfer of currency out of Australia or into Australia in respect of which a report under section 15 is not required.

1 **5 Subsection 3(1)**

2 Insert:

3 *prescribed particulars* means particulars prescribed by the
4 regulations for the purposes of sections 24E and 24F.

5 **6 Subsection 3(1)**

6 Insert:

7 *promissory note* has the same meaning as in paragraph 51(xvi) of
8 the Constitution.

9 **7 After section 3**

10 Insert:

11 **3A Translation of foreign currency to Australian currency**

12 In determining, for the purposes of this Act, whether an amount of
13 foreign currency (including an amount in which a bearer negotiable
14 instrument or other document is denominated) is not less than an
15 Australian dollar amount, the amount of foreign currency is to be
16 translated to Australian currency at the exchange rate applicable at
17 the relevant time.

18 **8 Division 1A of Part II (heading)**

19 Repeal the heading, substitute:

20 **Division 1A—Reports about transfers of currency and**
21 **bearer negotiable instruments**

22 **9 At the end of Division 1A of Part II**

23 Add:

24 **15AA Reports in relation to bearer negotiable instruments taken**
25 **into or out of Australia**

26 (1) If, under section 33AA:

27 (a) a person produces to an officer a bearer negotiable instrument
28 that the person has with him or her; or

- 1 (b) an officer conducts an examination or search and finds a
2 bearer negotiable instrument;
3 the officer may request the person to prepare a report for the
4 Director.
- 5 (2) The report must:
6 (a) be in the approved form; and
7 (b) contain the reportable details in relation to the matter being
8 reported; and
9 (c) be signed by the person giving the report.
- 10 (3) The report must be given to an officer as soon as possible after the
11 request is made.
- 12 (4) A person commits an offence if:
13 (a) the person is requested to prepare a report; and
14 (b) the person fails to comply with the request.
- 15 **Penalty:** Imprisonment for 2 years.
- 16 **Note:** Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in
17 respect of an offence an appropriate fine instead of, or in addition to, a
18 term of imprisonment. The maximum fine that a court can impose on
19 an individual is worked out by multiplying the maximum term of
20 imprisonment (in months) by 5, and then multiplying the resulting
21 number by the amount of a penalty unit. The amount of a penalty unit
22 is stated in section 4AA of that Act.
- 23 (5) The officer must, as soon as practicable after receiving the report,
24 forward the report to the Director.
- 25 (6) In this section:
26 **officer** means:
27 (a) a police officer; or
28 (b) a customs officer.
- 29 **reportable details**, in relation to a matter being reported, means the
30 details of the matter that are referred to in Schedule 3AA.

31 10 After Division 3 of Part II

32 Insert:

1 **Division 3A—Customer information to be included in**
2 **international funds transfer instructions**

3 **17FA Customer information in international funds transfer**
4 **instructions transmitted out of Australia**

5 (1) If:

- 6 (a) a cash dealer in Australia is the sender of an international
7 funds transfer instruction transmitted out of Australia; and
8 (b) at least one of the following applies:
9 (i) the cash dealer is acting on behalf of, or at the request
10 of, another person who is not an ADI;
11 (ii) the cash dealer is not an ADI;

12 the instruction must also include customer information relating to
13 the instruction.

14 Note: Failure to include the customer information relating to the instruction
15 is an offence: see paragraph 28(1)(a).

16 (2) For the purposes of this section:

- 17 (a) if a cash dealer transmits an instruction on behalf of, or at the
18 request of, another person, the cash dealer is taken to be the
19 sender of the instruction; and
20 (b) if a person, not being a cash dealer, transmits an instruction
21 on behalf of, or at the request of, a cash dealer, the cash
22 dealer is taken to be the sender of the instruction.

23 (3) In this section:

24 **customer information**, in relation to an international funds transfer
25 instruction transmitted out of Australia, means the following
26 information about the ordering customer on whose behalf, or at
27 whose request, a cash dealer sends the instruction:

- 28 (a) the ordering customer's name and full business or residential
29 address (not being a post office box);
30 (b) either:
31 (i) the number of the ordering customer's account with the
32 cash dealer; or
33 (ii) if the customer does not have an account with the cash
34 dealer—the identification code assigned to the
35 instruction by the cash dealer.
-

1 **financial organisation** means an organisation that transmits,
2 receives, handles or executes international funds transfer
3 instructions.

4 **ordering customer** means a person or organisation (including a
5 financial organisation) on whose behalf, or at whose request, an
6 international funds transfer instruction is sent.

7 **17FB Customer information in international funds transfer**
8 **instructions transmitted into Australia**

9 *Application.*

- 10 (1) This section applies if:
- 11 (a) a cash dealer in Australia is the recipient of two or more
12 international funds transfer instructions transmitted into
13 Australia by a particular ordering organisation; and
 - 14 (b) at least one of the international funds transfer instructions
15 does not include customer information relating to the
16 instruction.

17 *Direction to cash dealer*

- 18 (2) The Director may direct, in writing, the cash dealer to request the
19 ordering organisation to include, in all future international funds
20 transfer instructions the ordering organisation transmits to the cash
21 dealer, customer information relating to the instructions. The
22 direction must state that the cash dealer must comply with the
23 direction within 14 days after the date of the direction.

24 *Offence*

- 25 (3) A person commits an offence if:
- 26 (a) the person is given a direction under subsection (2); and
 - 27 (b) the person fails to comply with the direction within 14 days
28 after the date of the direction.

29 **Penalty:** Imprisonment for 2 years.

30 **Note:** Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in
31 respect of an offence an appropriate fine instead of, or in addition to, a
32 term of imprisonment. If a body corporate is convicted of an offence,
33 subsection 4B(3) of that Act allows a court to impose a fine of an
34 amount that is not greater than 5 times the maximum fine that could

1 be imposed by the court on an individual convicted of the same
2 offence.

3 *Report by cash dealer*

4 (4) The cash dealer must report, in writing, to the Director on the
5 ordering organisation's response, or lack of response, to the cash
6 dealer's request within:

- 7 (a) 28 days after the date of the direction; or
8 (b) such further time as is allowed by the Director.

9 Note: Failure to report to the Director is an offence: see paragraph 28(1)(a).

10 (5) To avoid doubt, a cash dealer may make available funds received
11 from an international funds transfer instruction even if the
12 instruction transmitted to the cash dealer did not include customer
13 information relating to the instruction.

14 *Definitions*

15 (6) In this section:

16 **customer information**, in relation to an international funds transfer
17 instruction transmitted into Australia, means the following
18 information about the ordering customer on whose behalf, or at
19 whose request, an ordering organisation sends the instruction:

- 20 (a) the ordering customer's name;
21 (b) any one of the following:
22 (i) the ordering customer's full business or residential
23 address (not being a post office box);
24 (ii) the ordering customer's date and place of birth;
25 (iii) a unique identification number given to the ordering
26 customer by a foreign government;
27 (iv) the identification number given to the ordering customer
28 by the ordering organisation;
29 (c) either:
30 (i) the number of the ordering customer's account with the
31 ordering organisation; or
32 (ii) if the ordering customer does not have an account with
33 the ordering organisation—the identification code
34 assigned to the instruction by the ordering organisation.

1 **financial organisation** means an organisation that transmits,
2 receives, handles or executes international funds transfer
3 instructions.

4 **ordering customer** means a person or organisation (including a
5 financial organisation) on whose behalf, or at whose request, an
6 international funds transfer instruction is sent.

7 **ordering organisation**, in relation to an international funds transfer
8 instruction, means the financial organisation:

9 (a) that the ordering customer originally asked to send the
10 instruction; or

11 (b) that initiated the sending of the instruction on its own behalf.

12 **11 After Part IIIA**

13 Insert:

14 **Part IIIB—Register of Providers of Remittance**
15 **Services**
16

17 **24E Advice by certain cash dealers to the Director**

18 (1) If a person carries on a business mentioned in subparagraph (k)(ib)
19 or paragraph (l) of the definition of *cash dealer*, the person must
20 advise the Director, in writing, of:

21 (a) the person's name and all prescribed particulars; and

22 (b) the fact that the person carries on such a business.

23 (2) A person commits an offence if:

24 (a) the person carries on a business mentioned in
25 subparagraph (k)(ib) or paragraph (l) of the definition of *cash*
26 *dealer*; and

27 (b) the person fails to comply with subsection (1):

28 (i) if the person starts to carry on the business on or after
29 the day on which this section commences—within 30
30 days of starting to carry on the business; and

31 (ii) in any other case—within 30 days after the day on
32 which this section commences.

33 Penalty: Imprisonment for 2 years.

1 Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in
2 respect of an offence an appropriate fine instead of, or in addition to, a
3 term of imprisonment. If a body corporate is convicted of an offence,
4 subsection 4B(3) of that Act allows a court to impose a fine of an
5 amount that is not greater than 5 times the maximum fine that could
6 be imposed by the court on an individual convicted of the same
7 offence.

8 **24F Register of Providers of Remittance Services**

- 9 (1) The Director must maintain a register, to be known as the Register
10 of Providers of Remittance Services, in which the Director is to
11 include:
12 (a) the names; and
13 (b) prescribed particulars;
14 of cash dealers who carry on a business mentioned in
15 subparagraph (k)(ib) or paragraph (l) of the definition of *cash*
16 *dealer*.
- 17 (2) The register may be maintained by electronic means.

18 *Requirement to provide name and prescribed particulars*

- 19 (3) For the purposes of ensuring that the register is accurate and
20 complete, if:
21 (a) an authorised officer has reason to believe that a person
22 carries on a business mentioned in subparagraph (k)(ib) or
23 paragraph (l) of the definition of *cash dealer*; and
24 (b) the Director does not have the name, and all prescribed
25 particulars, of the person;
26 the authorised officer:
27 (c) may, either orally or in writing, require the person to give the
28 authorised officer the person's name and all prescribed
29 particulars; and
30 (d) if paragraph (c) applies—must, either orally or in writing,
31 inform the person of the effect of subsection (4).

32 *Offence*

- 33 (4) A person commits an offence if:
34 (a) the person is required to give information under
35 paragraph (3)(c); and

1 (b) the person fails to give the information within 14 days after
2 the day on which the request for information is made.

3 Penalty: Imprisonment for 2 years.

4 Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose in
5 respect of an offence an appropriate fine instead of, or in addition to, a
6 term of imprisonment. If a body corporate is convicted of an offence,
7 subsection 4B(3) of that Act allows a court to impose a fine of an
8 amount that is not greater than 5 times the maximum fine that could
9 be imposed by the court on an individual convicted of the same
10 offence.

11 **12 Paragraph 28(1)(a)**

12 Omit "to the Director".

13 **13 Subsection 29(1)**

14 Omit "to the Director".

15 **14 Paragraph 29(3)(a)**

16 After "section 15", insert "or 15AA".

17 **15 Paragraph 29(3)(a)**

18 After "section 33", insert "or 33AA".

19 **16 After paragraph 29(4)(b)**

20 Insert:

21 (ba) causing a cash dealer to include customer information
22 relating to an international funds transfer instruction under
23 section 17FA that is false or misleading in a material
24 particular; or

25 **17 Subsection 30(1)**

26 Omit "to the Director".

27 **18 After section 33**

28 Insert:

1 **33AA Questioning and search powers in relation to bearer**
2 **negotiable instruments**

3 *Officer may ask questions about bearer negotiable instruments*

- 4 (1) Any person who is about to leave Australia must, if requested to do
5 so by an officer:
- 6 (a) declare whether or not the person has with him or her any
7 bearer negotiable instruments; and
 - 8 (b) declare the amount payable under each bearer negotiable
9 instrument that the person has with him or her; and
 - 10 (c) produce to the officer each bearer negotiable instrument that
11 the person has with him or her.
- 12 (2) Any person who arrives in Australia must, if requested to do so by
13 an officer:
- 14 (a) declare whether or not the person has with him or her any
15 bearer negotiable instruments; and
 - 16 (b) declare the amount payable under each bearer negotiable
17 instrument that the person has with him or her; and
 - 18 (c) produce to the officer each bearer negotiable instrument that
19 the person has with him or her.

20 *Officer may copy bearer negotiable instruments*

- 21 (3) If a person produces a bearer negotiable instrument to an officer,
22 the officer may make a copy of the bearer negotiable instrument.
23 Once copied, the officer must return the bearer negotiable
24 instrument to the person.

25 *Application of subsections (5) and (6)*

- 26 (4) Subsections (5) and (6) apply only if:
- 27 (a) an officer has asked a person questions under subsection (1)
28 or (2); and
 - 29 (b) the officer has reasonable grounds to suspect that the person
30 has made a declaration that is false or misleading (a *false*
31 *declaration*).

Officer may conduct searches

1
2 (5) The officer may, with such assistance as is reasonable and
3 necessary, examine an article which the person has with him or her
4 if the person:

5 (a) is about to leave Australia or has arrived in Australia; or

6 (b) is about to board or leave, or has boarded or left, any ship or
7 aircraft;

8 for the purpose of finding out whether the person has with him or
9 her any bearer negotiable instruments in respect of which a false
10 declaration has been made.

11 (6) The officer may, with such assistance as is reasonable and
12 necessary, search the person if:

13 (a) the person is about to leave Australia, or has arrived in
14 Australia, or the person is about to board or leave, or has
15 boarded or left, any ship or aircraft; and

16 (b) the officer has reasonable grounds to suspect that there is on
17 the person, or in clothing being worn by the person, a bearer
18 negotiable instrument in respect of which a false declaration
19 has been made;

20 for the purpose of finding out whether the person has with him or
21 her any such bearer negotiable instrument.

22 (7) A customs officer may only exercise the powers under
23 subsection (6) if the customs officer is one in respect of whom a
24 declaration under section 219ZA of the *Customs Act 1901* is in
25 force.

26 (8) A person must not be searched under subsection (6) except by a
27 person of the same sex.

Officer may conduct searches on board a ship or aircraft

28
29 (9) The officer, and any person assisting the officer, may:

30 (a) board any ship or aircraft; or

31 (b) go onto or enter any prescribed place;

32 for the purpose of exercising the powers conferred by
33 subsection (1), (2), (5), (6) or (10).

1 *officer* has the same meaning as in section 33.

2 **21 After Schedule 3**

3 Insert:

4 **Schedule 3AA—Reportable details for**
5 **purposes of section 15AA**

6 Note: See subsection 15AA(6).
7

8 For the purposes of section 15AA, the following are the reportable
9 details in respect of bearer negotiable instruments:

- 10 1. The amount payable under each bearer negotiable instrument.
- 11 2. Whether the bearer negotiable instrument is denominated in
12 Australian currency or foreign currency and, if foreign currency,
13 which foreign currency.
- 14 3. If the person making the report is to carry the bearer negotiable
15 instruments into or out of Australia:
- 16 (a) the name, address, date of birth and occupation (or, where
17 appropriate, the business or principal activity) of the person;
18 and
- 19 (b) the international travel document number and country of
20 issue of the international travel document or international
21 travel documents held by the person; and
- 22 (c) if the person is not an Australian resident—that person's
23 address while in Australia; and
- 24 (d) the name of the city in Australia from which the person is to
25 depart or at which the person will arrive; and
- 26 (e) the name of the foreign country and the city in that country
27 from which the bearer negotiable instruments are being
28 imported or to which the bearer negotiable instruments are
29 being exported; and
- 30 (f) if the person is to carry the bearer negotiable instruments on
31 behalf of another person:
- 32 (i) the name, address and occupation (or, where
33 appropriate, business or principal activity) of that
34 person; and

- 1 (ii) the name and address, and occupation, business or
2 principal activity of the person to whom the bearer
3 negotiable instruments are to be delivered; and
4 (g) the day on which the person is to enter or leave Australia and
5 the number of the flight or the name of the vessel on which
6 the person is entering or leaving.
- 7 4. If a person is to carry the bearer negotiable instruments out of
8 Australia—the name and address of that person.

9 ***Proceeds of Crime Act 2002***

10 **22 Subsection 29(3)**

11 After “section 15,” insert “15AA.”

12 **23 Section 338 (after subparagraph (c)(i) of the definition of**
13 ***serious offence*)**

14 Insert:

15 (ia) section 15AA (reports in respect of bearer negotiable
16 instruments); or

17 ***Surveillance Devices Act 2004***

18 **24 Subsection 6(1) (paragraph (c) of the definition of *relevant***
19 ***offence*)**

20 After “section 15”, insert “, 15AA”.

1
2 **Schedule 10—ASIO powers etc.**
3

4 ***Australian Security Intelligence Organisation Act 1979***

5 **1 Section 4**

6 Insert:

7 *data storage device* means a thing (for example, a disk or file
8 server) containing (whether temporarily or permanently), or
9 designed to contain (whether temporarily or permanently), data for
10 use by a computer.

11 **2 After section 22**

12 Insert:

13 **23 Requesting information or documents from operators of aircraft**
14 **or vessels**

- 15 (1) For the purposes of carrying out the Organisation's functions, an
16 authorised officer or employee may:
- 17 (a) ask an operator of an aircraft or vessel questions relating to
18 the aircraft or vessel, or its cargo, crew, passengers, stores or
19 voyage; or
- 20 (b) request an operator of an aircraft or vessel to produce
21 documents relating to the aircraft or vessel, or its cargo, crew,
22 passengers, stores or voyage, that are in the possession or
23 under the control of the operator.
- 24 (2) A person who is asked a question or requested to produce a
25 document under subsection (1) must answer the question or
26 produce the document as soon as practicable.

27 *Offence*

- 28 (3) A person commits an offence if:
- 29 (a) the person is an operator of an aircraft or vessel; and
30 (b) the person is asked a question or requested to produce a
31 document under subsection (1); and
32 (c) the person fails to answer the question or produce the
33 document.
-

1 Penalty: 60 penalty units.

2 (4) Subsection (3) is an offence of strict liability.

3 Note: For strict liability, see section 6.1 of the *Criminal Code*.

4 (5) It is a defence to a prosecution for an offence against subsection (3)
5 if the person charged had a reasonable excuse for:

6 (a) failing to answer the question; or

7 (b) failing to produce the document.

8 (6) The Director-General, or a senior officer of the Organisation
9 appointed by the Director-General in writing to be an authorising
10 officer for the purposes of this subsection, may authorise, in
11 writing, an officer or employee of the Organisation, or a class of
12 such officers or employees, for the purposes of this section.

13 (7) In this section:

14 *authorised officer or employee* means an officer or employee who
15 is authorised under subsection (6) for the purposes of this section:

16 *operator* has the meaning given by section 4 of the *Customs Act*
17 1901.

18 *senior officer of the Organisation* means an officer of the
19 Organisation who holds or performs the duties of an office that is:

20 (a) equivalent to a position occupied by an SES employee; or

21 (b) designated as an office of Coordinator by the
22 Director-General under section 85.

23 **3 Paragraphs 25(4)(d) and (4A)(c)**

24 Omit "for such time as is reasonable".

25 **4 After subsection 25(4B)**

26 Insert:

27 *Time period for retaining records and other things*

28 (4C) A record or other thing retained as mentioned in paragraph (4)(d)
29 or (4A)(c) may be retained for only such time as is reasonable,
30 unless returning the record or thing would be prejudicial to
31 security.

1 **5 Paragraph 25(5)(a)**

2 After "or other electronic equipment" (first occurring), insert ", or a
3 data storage device, brought to or".

4 **6 Paragraph 25(5)(a)**

5 Omit "or other electronic equipment" (second and third occurring),
6 substitute ", equipment or device".

7 **7 Paragraph 25(5)(b)**

8 Omit "or other electronic equipment", substitute ", equipment or
9 device".

10 **8 Subparagraph 25(5)(b)(iii)**

11 Omit "a storage device", substitute "any data storage device".

12 **9 Subparagraph 25(5)(b)(iii)**

13 Omit "the storage device", substitute "the device".

14 **10 Subsection 25(6)**

15 Omit "of the computer or other electronic equipment by other persons",
16 substitute "by other persons of a computer or other electronic
17 equipment, or a data storage device, found on the subject premises".

18 **11 Subsection 25(6)**

19 Omit "or other electronic equipment" (second occurring), substitute "
20 equipment or device".

21 **12 Subsection 25(10)**

22 Omit "28 days", substitute "90 days".

23 **13 Before paragraph 25A(4)(a)**

24 Insert:

25 (aa) entering specified premises for the purposes of doing the
26 things mentioned in this subsection;

27 **14 After subparagraph 25A(4)(a)(iii)**

28 Insert:

29 or (iv) a data storage device;

1 **15 After subsection 25A(5)**

2 Insert:

3 *Authorisation of entry measures*

4 (5A) The warrant must:

- 5 (a) authorise the use of any force that is necessary and
6 reasonable to do the things specified in the warrant; and
7 (b) state whether entry is authorised to be made at any time of
8 the day or night or during stated hours of the day or night.

9 **16 Subsection 27(4)**

10 Omit "90 days", substitute "6 months".

11 **17 Subsection 27AA(9)**

12 Omit "90 days", substitute "6 months".

13 **18 Paragraph 27A(3)(a)**

14 Omit "28 days", substitute "90 days".

15 **19 Paragraph 27A(3)(b)**

16 Omit "or 26C(3)—6 months; or", substitute ", 26C(3), 27(2) or (3) or
17 27AA(5) or (8)—6 months;".

18 **20 Paragraph 27A(3)(c)**

19 Repeal the paragraph.

20 **21 Paragraph 34G(5)(b)**

21 Omit "in a material particular".

22 **22 After subsection 34G(5)**

23 Insert:

24 (5A) Subsection (5) does not apply if the statement is not false or
25 misleading in a material particular.

26 Note: A defendant bears an evidential burden in relation to the matter in
27 subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

28 **23 Paragraphs 34N(1)(a) and (c)**

29 Omit "for such time as is reasonable".

1 **24 At the end of section 34N**

2 Add:

- 3 (3) A record or other thing, or an item, retained as mentioned in
4 paragraph (1)(a) or (c) may be retained for only such time as is
5 reasonable, unless returning the record, thing or item would be
6 prejudicial to security.

7 **25 Application of items**

- 8 (1) The amendments made by items 1, 3 to 20, 23 and 24 apply to warrants
9 issued after this item commences.
- 10 (2) The amendments made by items 21 and 22 apply to statements made
11 after this item commences.

12 **26 Section 35**

13 Before "In this Part", insert "(1)".

14 **27 Section 35 (at the end of the definition of *prescribed***
15 ***administrative action*)**

16 Add:

17 Note: An obligation, prohibition or restriction imposed by a control order is
18 not prescribed administrative action: see subsection (2).

19 **28 At the end of section 35**

20 Add:

- 21 (2) To avoid doubt, an obligation, prohibition or restriction imposed
22 on a person by a control order made under Division 104 of the
23 *Criminal Code* is not prescribed administrative action.

24 ***Customs Act 1901***

25 **29 After subparagraph 186A(1)(b)(ii)**

26 Insert:

- 27 or (iii) the performance of functions under section 17 of the
28 *Australian Security Intelligence Organisation Act 1979*;
29 or
30 (iv) the performance of functions under section 6 of the
31 *Intelligence Services Act 2001*; or
-

1 (v) security (within the meaning of section 4 of the
2 *Australian Security Intelligence Organisation 1979*);

3 ***Customs Administration Act 1985***

4 **30 After paragraph 16(9)(i)**

5 Insert:

6 (ia) a purpose relating to the performance of functions under
7 section 17 of the *Australian Security Intelligence*
8 *Organisation Act 1979*;

9 (ib) a purpose relating to the performance of functions under
10 section 6 of the *Intelligence Services Act 2001*;

11 ***Migration Act 1958***

12 **31 Paragraph 202(1)(a)**

13 Omit “the security of the Commonwealth, of a State or of an internal or
14 external Territory”, substitute “security”.

15 **32 Subsection 202(6)**

16 Insert:

17 *security* has the meaning given by section 4 of the *Australian*
18 *Security Intelligence Organisation Act 1979*.