



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. Financial institutions to report suspicious transactions</p> <p>3. Protection of persons reporting suspicious transactions</p> <p>4. Protection of identity of persons making suspicious transaction reports</p> <p>5. Offences</p>	<p>6. Application of Privacy Act 1993</p> <p>7. Obligation to keep transaction records</p> <p>8. Consultation not required for consolidation of certain regulations</p> <p>9. New Schedule substituted</p>
<p>SCHEDULE</p> <p>New Schedule Substituted in Principal Act</p>	

1998, No. 46

An Act to amend the Financial Transactions Reporting Act 1996 [3 June 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Financial Transactions Reporting Amendment Act 1998, and is part of the Financial Transactions Reporting Act 1996 (“the principal Act”).

2. Financial institutions to report suspicious transactions—(1) Section 15 (2) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

“(ca) Be signed by a person authorised by the financial institution to sign suspicious transaction reports (except where the suspicious transaction report is forwarded by electronic mail or other similar means of communication); and”.

(2) Section 15 (3) of the principal Act is amended by inserting, after the expression “paragraph (a)”, the expression “or paragraph (ca)”.

3. Protection of persons reporting suspicious transactions—(1) Section 17 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

“(1) If any person—

“(a) Discloses or supplies any information in any suspicious transaction report made under section 15; or

“(b) Supplies any information in connection with such a report, whether at the time the report is made or afterwards,—

that person has immunity from civil, criminal, and disciplinary proceedings in accordance with subsection (1A).

“(1A) No civil, criminal, and disciplinary proceedings lie against a person to whom subsection (1) applies—

“(a) In respect of the disclosure or supply, or the manner of the disclosure or supply, by that person, of the information referred to in that subsection; or

“(b) For any consequences that follow from the disclosure or supply of that information,—

unless the information was disclosed or supplied in bad faith.”

(2) Section 17 (3) of the principal Act is amended by inserting, after the expression “subsection (1)”, the expression “or subsection (1A)”.

4. Protection of identity of persons making suspicious transaction reports—(1) Section 21 (1) of the principal Act is amended by adding the following paragraph:

“(c) Any information that discloses or is reasonably likely to disclose the existence of a suspicious transaction report.”

(2) Section 21 (3) of the principal Act is amended by omitting the words “shall be required to”, and substituting the word “may”.

5. Offences—(1) Section 22 (3) of the principal Act is amended by inserting, after the words “suspicious transaction report”, the words “or in supplying information in connection with such a report”.

(2) Section 22 of the principal Act is amended by adding the following subsection:

“(8) Every person commits an offence and is liable to a fine not exceeding \$10,000 who acts in contravention of section 21 (3).”

6. Application of Privacy Act 1993—Section 28 of the principal Act is amended by inserting, after the words “suspicious transaction report”, the words “or supplied in connection with such a report”.

7. Obligation to keep transaction records—Section 29 (2) of the principal Act is amended by adding the following paragraph:

“(f) The name of the officer, employee, or agent of the financial institution who handled the transaction, if that officer, employee, or agent—

“(i) Has face to face dealings in respect of the transaction with any of the parties to the transaction; and

“(ii) Has formed a suspicion (of the kind referred to in section 15 (1) (b)) about the transaction.”

8. Consultation not required for consolidation of certain regulations—The principal Act is amended by inserting, after section 56, the following section:

“56A. The Minister of Justice is not required to comply with section 56 (2) in respect of the making of any regulations to the extent that the regulations—

“(a) Revoke any regulations made pursuant to any of paragraphs (d) to (g) of section 56 (1); and

“(b) At the same time, consolidate the revoked regulations, so that they have the same effect as those revoked regulations.”

9. New Schedule substituted—The principal Act is amended by repealing the Schedule, and substituting the Schedule set out in the Schedule.

SCHEDULE

Section 9

NEW SCHEDULE SUBSTITUTED IN PRINCIPAL ACT

"SCHEDULE

Section 15 (2) (b)

DETAILS TO BE INCLUDED IN SUSPICIOUS TRANSACTION REPORTS

1. The name, address, date of birth, and occupation (or, where appropriate, business or principal activity) of each person conducting the transaction (if known to the person making the report).

2. The name, address, date of birth, and occupation (or, where appropriate, business or principal activity) of any person on whose behalf the transaction is conducted (if known to the person making the report).

3. Where a facility with a financial institution is involved in the transaction,—

(a) The type and identifying number of the facility:

(b) The name, address, date of birth, and occupation of the person in whose name the facility is operated:

(c) The names of the signatories to the facility.

4. The nature of the transaction.

5. The amount involved in the transaction.

6. The type of currency involved in the transaction.

7. The date of the transaction.

8. If available, details of any documentary or other evidence held by the financial institution that is involved in the transaction and that may assist in establishing the identity of the person who conducted the transaction or the identity of any person on whose behalf the transaction was conducted.

9. If available, details of any documentary or other evidence held by the financial institution through which the transaction was conducted and that may assist in establishing the identity of the person who conducted the transaction or the identity of any person on whose behalf the transaction was conducted.

10. The name, position, phone number, and fax number of the person who prepared the report.

11. If applicable, the branch name, address, and telephone number of the financial institution which provided the facility involved in the transaction or the financial institution through which the transaction was conducted, as the case may be."

This Act is administered in the Ministry of Justice.
