

Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill

(Divided from the Organised Crime and Anti-corruption Legislation Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Organised Crime and Anti-corruption Legislation Bill as reported from the Law and Order Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- Crimes Amendment Bill comprising clauses 1 and 2, and Part 1
- this Bill comprising subpart 1 of Part 2
- Companies Amendment Bill comprising subpart 2 of Part 2
- Criminal Investigations (Bodily Samples) Amendment Bill comprising subpart 3 of Part 2
- Criminal Proceeds (Recovery) Amendment Bill comprising subpart 4 of Part 2
- Customs and Excise Amendment Bill (No 3) comprising subpart 5 of Part 2
- Extradition Amendment Bill comprising subpart 5A of Part 2
- Financial Service Providers (Registration and Dispute Resolution) Amendment Bill comprising subpart 5B of Part 2
- Financial Transactions Reporting Amendment Bill comprising subpart 6 of Part 2
- Income Tax Amendment Bill comprising subpart 7 of Part 2
- Limited Partnerships Amendment Bill comprising subpart 7A of Part 2
- Misuse of Drugs Amendment Bill comprising subpart 8 of Part 2
- Mutual Assistance in Criminal Matters Amendment Bill comprising subpart 9 of Part 2
- Policing Amendment Bill comprising subpart 10 of Part 2
- Secret Commissions Amendment Bill comprising subpart 11 of Part 2.

Hon Amy Adams

Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act **2015**.

2 Commencement

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This Act comes into force on **1 July 2017**.

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18 Principal Act

This **Act** amends the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **principal Act**).

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18A Section 4 amended (Overview)

(1) In section 4(3), replace “6 subparts” with “7 subparts”.

(2) After section 4(3)(b), insert:

(ba) **subpart 2A** sets out requirements on reporting entities to report certain prescribed transactions:

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19 Section 5 amended (Interpretation)

(1) In section 5, insert in their appropriate alphabetical order:

domestic physical cash transaction means a transaction in New Zealand involving the use of physical currency

international wire transfer means a wire transfer where—

(a) at least one of the following institutions is in New Zealand:

(i) the ordering institution: 5

(ii) the intermediary institution:

(iii) the beneficiary institution; and

(b) at least one of the following institutions is outside New Zealand:

(i) the ordering institution:

(ii) the intermediary institution: 10

(iii) the beneficiary institution

prescribed transaction, in relation to a reporting entity, means a transaction conducted through the reporting entity in respect of—

(a) an international wire transfer of a value greater than the applicable threshold value; or 15

(b) a domestic physical cash transaction of a value greater than the applicable threshold value

prescribed transaction report means a report made under **section 48A**

(2) In section 5, definition of **law enforcement purposes**, replace paragraph (b)(iv) with: 20

(iv) an offence within the meaning of section 243(1) of the Crimes Act 1961:

20 Section 40 amended (Reporting entities to report suspicious transactions)

In section 40(1)(b)(v), replace “a serious offence” with “an offence”.

21 Section 42 amended (Privileged communication defined) 25

In section 42(1), replace “section 40(3)” with “sections 40(3) and **48A(2)**”.

22 Section 43 amended (Auditors may report suspicious transactions)

In section 43(1)(e), replace “a serious offence” with “an offence”.

23 New subpart 2A of Part 2 inserted

After section 48, insert: 30

Subpart 2A—Prescribed transaction reports

48A Reporting entities to report certain prescribed transactions

(1) Despite any other enactment or rule of law, but subject to any regulations made under section 154, if a person conducts a prescribed transaction through a re-

porting entity, the reporting entity must (as soon as practicable, but not later than 10 working days after the transaction) report the transaction to the Commissioner in accordance with **section 48B**.

- (2) Nothing in **subsection (1)** requires any lawyer to disclose any privileged communication (as defined in section 42). 5

48B Prescribed transaction reports

- (1) Except as provided in **subsection (2)**, a report made under **section 48A(1)** must—

(a) be in the form or forms (if any) prescribed by regulations made under section 153(c); and 10

(b) contain the following information:

(i) a description of the nature of the transaction:

(ii) the amount of the transaction and the currency in which it was denominated:

(iii) the date on which the transaction was conducted: 15

(iv) the parties to the transaction:

(v) if applicable, the name of the facility through which the transaction was conducted, and any other facilities (whether or not provided by the reporting entity) directly involved in the transaction:

(vii) any other information prescribed by regulations made under section 153(c); and 20

(c) be signed by a person authorised by the reporting entity to sign prescribed transaction reports (unless the report is provided by electronic means other than an electronic copy of the signed report); and

(d) be forwarded, in writing, to the Commissioner— 25

(i) by way of secure electronic transmission specified or provided by the Commissioner for this purpose; or

(ii) by another means (including, without limitation, by way of transmission by post, fax, or email) that may be agreed from time to time between the Commissioner and the reporting entity concerned. 30

- (2) The Commissioner may confer the authority to receive a prescribed transaction report under **subsection (1)** on—

(a) any specified Police employee; or

(b) Police employees of any specified rank or class; or 35

(c) any Police employee or Police employees for the time being holding any specified office or specified class of offices.

- 48C Sections 43 to 48 apply to prescribed transactions**
Sections 43 to 48 apply, with all necessary modifications, to prescribed transactions.
- 23A Section 57 amended (Minimum requirements for AML/CFT programmes)**
After section 57(d), insert: 5
(da) reporting prescribed transactions; and
- 23B Section 78 amended (Meaning of civil liability act)**
After section 78(d), insert:
(da) fails to report transactions in accordance with **subpart 2A** of Part 2:
- 23C Section 90 amended (Pecuniary penalties for civil liability act)** 10
In section 90(3), replace “section 78(a), (e), or (f),” with “section 78(a), **(da)**, (e), or (f),”.
- 24 Cross-heading above section 92 replaced**
Replace the cross-heading above section 92 with:
Offences relating to suspicious transaction reports and prescribed transaction reports 15
- 25 Section 92 amended (Failing to report suspicious transaction)**
(2) In section 92(b)(v), replace “a serious offence” with “an offence”.
- 26 Section 93 amended (Providing false or misleading information in connection with suspicious transaction report)** 20
(1) In the heading to section 93, replace “**suspicious transaction report**” with “**suspicious transaction reports or prescribed transaction reports**”.
(2) In section 93, replace “a suspicious transaction report or in supplying information in connection with that report” with “a suspicious transaction report or a prescribed transaction report, or in supplying information in connection with a suspicious transaction report or a prescribed transaction report” 25
- 27 Section 94 amended (Unlawful disclosure of suspicious transaction report)**
(1) In the heading to section 94, replace “**suspicious transaction report**” with “**suspicious transaction reports or prescribed transaction reports**”.
(2) In section 94(2)(b), after “a suspicious transaction report”, insert “or a prescribed transaction report” 30

- 28 Section 95 amended (Failure to keep or retain adequate records relating to suspicious transaction)**
- (1) In the heading to section 95, replace “**suspicious transaction**” with “**suspicious transactions or prescribed transactions**”.
- (2) In section 95, after “suspicious transaction”, insert “or a prescribed transaction”. 5
- 29 Section 96 amended (Obstruction of investigation relating to suspicious transaction report)**
- (1) In the heading to section 96, replace “**suspicious transaction report**” with “**suspicious transaction reports or prescribed transaction reports**”. 10
- (2) In section 96, after “report”, insert “or prescribed transaction report”.
- 30 Section 97 amended (Contravention of section 47(1))**
- (1) In the heading to section 97, after “**47(1)**”, insert “or **48A(1)**”.
- (2) In section 97, after “47(1)”, insert “or **48A(1)**”.
- 31 Section 99 amended (Time limit for prosecution of offences relating to civil liability act and suspicious transaction reports)** 15
- In the heading to section 99, after “**reports**”, insert “or prescribed transaction reports”.
- 32 Section 101 amended (Structuring transaction to avoid application of AML/CFT requirements)** 20
- In section 101, insert as subsection (2):
- (2) For the purposes of this section, **transaction** includes, but is not limited to, a suspicious transaction or a prescribed transaction.
- 33 Section 142 amended (Financial intelligence functions of Commissioner)**
- (1) After section 142(j), insert: 25
- (ja) receive, analyse, and (if appropriate) refer to investigative branches of the New Zealand Police and to other law enforcement agencies, any prescribed transaction reports:
- (2) In section 142(f), after “reports”, insert “and prescribed transaction reports”.
- (3) In section 142(g), after “reports”, insert “and prescribed transaction reports”. 30
- (4) In section 142(h), after “reports”, insert “and prescribed transaction reports” in each place.
- 34 Section 143 amended (Powers relating to financial intelligence functions of Commissioner)**
- (1) In section 143(a), after “report”, insert “or a prescribed transaction report”. 35

(2) In section 143(b), after “suspicious transaction reports,” insert “prescribed transaction reports.”

35 Section 145 amended (Guidelines relating to reporting of suspicious transactions)

In section 145(1)(a)(v), replace “a serious offence” with “an offence”. 5

35A Section 154 amended (Regulations relating to application of Act)

After section 154(1)(c), insert:

(ca) exempting a reporting entity or a class of reporting entity from the obligation to report under **section 48A** in relation to international wire transfers: 10

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Legislative history

21 October 2015

Divided from Organised Crime and Anti-corruption Legislation
Bill (Bill 219–2) as Bill 219–3B