



AeroSpace Technologies of Australia Limited Sale Act 1994

Act No. 144 of 1994 as amended

This compilation was prepared on 1 March 2005
taking into account amendments up to Act No. 8 of 2005

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act relating to the sale of AeroSpace Technologies of Australia Limited, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *AeroSpace Technologies of Australia Limited Sale Act 1994*.

2 Commencement [see Note 1]

- (1) The following provisions of this Act are taken to have commenced on 12 October 1994:
 - (a) this Part;
 - (b) sections 7, 8, 9, 10 and 11;
 - (c) Divisions 2 and 3 of Part 2;
 - (d) Part 3.
- (2) The remaining provisions of this Act commence on the ASTA sale day.
- (3) If a provision of this Act does not commence within the period of 2 years beginning on the day on which this Act receives the Royal Assent, the provision is taken to have been repealed at the end of that period.

3 Definitions

In this Act, unless the contrary intention appears:

ASTA means the body corporate known before the ASTA sale day as AeroSpace Technologies of Australia Limited:

- (a) by whatever name called from time to time; and
- (b) in whatever form that body corporate takes from time to time.

ASTA body means ASTA or an ASTA subsidiary.

Section 4

ASTA sale day means the day declared under section 5.

ASTA subsidiary means a body corporate that:

- (a) is a subsidiary of ASTA; or
- (b) was a subsidiary of ASTA on 12 October 1994.

employee includes apprentice.

sale day, in relation to an ASTA body, means:

- (a) if:
 - (i) the body is an ASTA subsidiary; and
 - (ii) a day is declared under section 6 to be the sale day for the subsidiary;
the day declared under that section; or
- (b) in any other case—the ASTA sale day.

share, in relation to a body corporate, means a share in the body's share capital.

subsidiary has the meaning given by section 4.

voting share has the same meaning as in the *Corporations Act 2001*.

4 Subsidiaries

For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the *Corporations Act 2001*.

5 ASTA sale day

- (1) This section applies to a day if:
 - (a) the day is after the day (the **assent day**) on which this Act receives the Royal Assent; and
 - (b) the day is before the end of the period of 2 years beginning on the assent day; and
 - (c) in the opinion of the Minister, the day is the first day after the assent day on which a majority of the voting shares in ASTA are acquired by a person, or persons, other than the Commonwealth or a nominee of the Commonwealth.

- (2) The Minister must, by notice in the *Gazette*, declare the day to be the ASTA sale day.
- (3) The notice must be published within 14 days after the day concerned.

6 ASTA subsidiary sale day

- (1) This section applies to a day and a particular ASTA subsidiary if:
 - (a) the day is before the ASTA sale day; and
 - (b) the day is before the end of the period of 2 years beginning on the day on which this Act receives the Royal Assent; and
 - (c) in the opinion of the Minister, the day is the first day after 12 October 1994 on which a majority of the voting shares in the subsidiary are acquired by a person, or persons, other than:
 - (i) ASTA or a nominee of ASTA; or
 - (ii) the Commonwealth or a nominee of the Commonwealth.
- (2) The Minister must, by notice in the *Gazette*, declare the day to be the sale day for the subsidiary.
- (3) The notice must be published within 14 days after the day concerned.

Part 2—Superannuation

Division 1—Superannuation schemes

7 Deferred benefits under the *Superannuation Act 1922*

- (1) This section applies in relation to an ASTA body if, immediately before the body's sale day, an employee of the body was a person to whom deferred benefits were applicable under section 119W of the *Superannuation Act 1922*.
- (2) For the purposes of Division 3 of Part XA of the *Superannuation Act 1922*, the employee is taken to continue in public employment, on and after the body's sale day, while the employee continues to be employed by any of the following:
 - (a) the body;
 - (b) if:
 - (i) the body is a subsidiary of a particular body corporate (the *parent entity*); and
 - (ii) another ASTA body is a subsidiary of the parent entity; the other ASTA body.
- (3) This section is subject to Division 3 of Part XA of the *Superannuation Act 1922*.

8 Deferred benefits under the *Superannuation Act 1976*

- (1) This section applies in relation to an ASTA body if, immediately before the body's sale day, an employee of the body was a person to whom deferred benefits were applicable under Division 3 of Part IX of the *Superannuation Act 1976*.
- (2) For the purposes of Division 3 of Part IX of the *Superannuation Act 1976*, the employee is taken to continue in public employment, on and after the body's sale day, while the employee continues to be employed by any of the following:
 - (a) the body;
 - (b) if:
 - (i) the body is a subsidiary of a particular body corporate (the *parent entity*); and

- (ii) another ASTA body is a subsidiary of the parent entity;
the other ASTA body.
- (3) This section is subject to Division 3 of Part IX of the
Superannuation Act 1976.

**9 Period of eligible employment for the purposes of Division 3 of
Part IX of the *Superannuation Act 1976***

- (1) This section applies in relation to an ASTA body if, immediately
before the body's sale day, a particular period of employment of a
person by the body was a period of eligible employment for the
purposes of Division 3 of Part IX of the *Superannuation Act 1976*.
- (2) If employment by the body ceases to be eligible employment for
the purposes of Division 3 of Part IX of the *Superannuation Act*
1976 on the body's sale day, then, despite that cessation, the period
of employment continues to be a period of eligible employment for
the purposes of that Division.

**10 Deferred benefits under the *Defence Force Retirement and Death*
*Benefits Act 1973***

- (1) This section applies in relation to an ASTA body if, immediately
before the body's sale day, an employee of the body was a person
to whom deferred benefits were applicable under section 78 of the
Defence Force Retirement and Death Benefits Act 1973.
- (2) For the purposes of Division 3 of Part IX of the *Defence Force*
Retirement and Death Benefits Act 1973, the employee is taken to
continue in public employment, on and after the body's sale day,
while the employee continues to be employed by any of the
following:
 - (a) the body;
 - (b) if:
 - (i) the body is a subsidiary of a particular body corporate
(the *parent entity*); and
 - (ii) another ASTA body is a subsidiary of the parent entity;
the other ASTA body.
- (3) This section is subject to Division 3 of Part IX of the *Defence*
Force Retirement and Death Benefits Act 1973.

Section 11

11 Period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This section applies in relation to an ASTA body if, immediately before the body's sale day, a particular period of employment of a person by the body was a period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.
- (2) If employment by the body ceases to be eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973* on the body's sale day, then, despite that cessation, the period of employment continues to be a period of eligible employment for the purposes of that Division.

12 Application of the *Superannuation Act 1976*

On and after the ASTA sale day, ASTA is not an approved authority for the purposes of the *Superannuation Act 1976*.

13 Application of the *Superannuation Act 1990*

On and after the ASTA sale day, ASTA is not an approved authority for the purposes of the *Superannuation Act 1990*.

Division 2—The Crimes (Superannuation Benefits) Act 1989

14 Continuing application of the *Crimes (Superannuation Benefits) Act 1989*

Continuing application of Act

- (1) Subject to subsection (2), if a person who was an employee of an ASTA body before the body's sale day committed a corruption offence while such an employee, then, on and after the body's sale day, the *Crimes (Superannuation Benefits) Act 1989* continues to apply in relation to the person in respect of the offence as if the body continued to be a Commonwealth authority.

Limitation on superannuation orders

- (2) A superannuation order may not be made under the *Crimes (Superannuation Benefits) Act 1989* in relation to employer contributions or benefits paid or payable to a superannuation scheme by an ASTA body on or after the body's sale day.

Superannuation schemes

- (3) A superannuation scheme in relation to which employer contributions or benefits are paid or payable by an ASTA body on or after the body's sale day is not a superannuation scheme for the purposes of the application of the *Crimes (Superannuation Benefits) Act 1989* to a corruption offence committed by a person after the body's sale day.

Paragraph 19(3)(d) orders

- (4) Despite paragraph 19(3)(d) of the *Crimes (Superannuation Benefits) Act 1989*, for the purposes of the application of that Act to an ASTA body, an order made under that paragraph on or after the body's sale day may only specify that an amount paid to the Commonwealth before the body's sale day by or on behalf of the body belongs to the Commonwealth.

Section 14

Paragraph 19(4)(b) orders

(5) If:

- (a) a person who was an employee of an ASTA body before the body's sale day committed a corruption offence while such an employee; and
- (b) the person was paid benefits before, on or after the body's sale day out of the Consolidated Revenue Fund;

then, despite paragraph 19(4)(b) of the *Crimes (Superannuation Benefits) Act 1989*, for the purposes of the application of that Act to the corruption offence, an order made under that paragraph on or after the body's sale day may only specify that an amount equal to the total benefits paid out of the Consolidated Revenue Fund be paid to the Commonwealth.

Interpretation

- (6) Unless the contrary intention appears, an expression used in this section that is also used in the *Crimes (Superannuation Benefits) Act 1989* has the same meaning in this section as it has in that Act.

Division 3—The Superannuation Benefits (Supervisory Mechanisms) Act 1990

15 An ASTA body is not to be an eligible or relevant body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*

Eligible body notice

- (1) A notice published in the *Gazette* before an ASTA body's sale day that declares the body to be an eligible body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* has effect, on and after the body's sale day, as if the notice did not contain a reference to the body.

Relevant body notice

- (2) A notice published in the *Gazette* before an ASTA body's sale day that declares the body to be a relevant body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* has effect, on and after the body's sale day, as if the notice did not contain a reference to the body.

Application to subsidiaries

- (3) This section does not apply to an ASTA subsidiary unless the subsidiary ceased to be a Commonwealth authority on the subsidiary's sale day.

Amendment or revocation of notice

- (4) Subsections (1) and (2) do not prevent a declaration affected by either of those subsections from being amended or revoked by the Minister.

Definitions

- (5) In this section:

Commonwealth authority means a company covered by paragraph (a), (b) or (c) of the definition of ***relevant body*** in

Part 2 Superannuation

Division 3 The Superannuation Benefits (Supervisory Mechanisms) Act 1990

Section 15

subsection 3(1) of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

Minister has the same meaning as in the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

Part 3—Prosecutions

16 Continuing application of the *Director of Public Prosecutions Act 1983*

If the *Director of Public Prosecutions Act 1983* ceases to apply to particular acts, omissions or proceedings in connection with an ASTA body on the body's sale day because the body ceases to be an authority of the Commonwealth for the purposes of that Act on that day, then, despite that cessation, that Act continues to apply in relation to:

- (a) acts or omissions that occurred in relation to the body before the body's sale day; and
- (b) civil remedies connected with, or arising out of, a prosecution that relates to acts or omissions referred to in paragraph (a).

Part 4—ASTA not to be an agency of the Commonwealth etc.

17 ASTA not to be an agency of the Commonwealth etc

- (1) On and after the ASTA sale day, ASTA is not taken, for the purposes of a law, to be:
- (a) a Commonwealth authority; or
 - (b) established for a public purpose or for a purpose of the Commonwealth; or
 - (c) a public authority or an agency or instrumentality of the Crown;
- unless a law expressly provides otherwise.

- (2) In subsection (1):

law means:

- (a) an Act of the Commonwealth or of a State or Territory; or
- (b) regulations or any other instrument made under such an Act.

Part 5—Regulations connected with the sale of ASTA

18 Regulations connected with the sale of ASTA

- (1) Subsection 48(2) of the *Acts Interpretation Act 1901* does not apply to regulations made under any Act that:
 - (a) are connected with the sale of ASTA; and
 - (b) include a declaration that the Governor-General is satisfied that they are connected with the sale of ASTA; and
 - (c) are expressed to take effect on the ASTA sale day.
- (2) Regulations covered by subsection (1) take effect on the ASTA sale day.

Part 6—Cessation Of Mobility Rights

19 Cessation of mobility rights

- (1) If Division 2 or 3 of Part IV of the *Public Service Act 1922* applied to an employee of ASTA immediately before the ASTA sale day, then that Division stops applying to the employee on the ASTA sale day.
- (2) If Division 4 of Part IV of the *Public Service Act 1922* applied to an employee of ASTA immediately before the ASTA sale day, then:
 - (a) the *Officers' Rights Declaration Act 1928*; and
 - (b) Division 4 of Part IV of the *Public Service Act 1922*;stop applying to the employee on the ASTA sale day.

Part 7—Commonwealth Borrowing Levy

20 Ending ASTA’s liability under the *Commonwealth Borrowing Levy Act 1987*

- (1) Subject to subsection (2), ASTA is not liable, on or after the ASTA sale day, to pay an amount of levy imposed by the *Commonwealth Borrowing Levy Act 1987* on a borrowing undertaken before the ASTA sale day.
- (2) Subsection (1) does not apply in relation to an amount of levy that was payable before the ASTA sale day.

21 Consequential amendment of the *Commonwealth Borrowing Levy Act 1987*

The Schedule to the *Commonwealth Borrowing Levy Act 1987* is amended by omitting item 1AA.

Table of Acts**Notes to the *AeroSpace Technologies of Australia Limited Sale Act 1994*****Note 1**

The *AeroSpace Technologies of Australia Limited Sale Act 1994* as shown in this compilation comprises Act No. 144, 1994 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

For all other relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>AeroSpace Technologies of Australia Limited Sale Act 1994</i> | 144, 1994 | 8 Dec 1994 | Part 1 (ss. 1–6), ss. 7–11, Divs. 2 and 3 of Part 2 (ss. 14, 15) and Part 3 (s. 16): 12 Oct 1994 Remainder: (a) | |
| <i>Superannuation Legislation Amendment Act (No. 1) 1995</i> | 54, 1995 | 23 June 1995 | S. 3(8) and Schedule 9: Royal Assent (b) | — |
| as amended by <i>Statute Law Revision Act 1996</i> | 43, 1996 | 25 Oct 1996 | Schedule 3 (item 117): 23 June 1995 (c) | — |
| <i>Corporations (Repeals, Consequentials and Transitionals) Act 2001</i> | 55, 2001 | 28 June 2001 | Ss. 4–14 and Schedule 3 (items 16, 17): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (d) | Ss. 4–14 |
| <i>Financial Framework Legislation Amendment Act 2005</i> | 8, 2005 | 22 Feb 2005 | S. 4 and Schedule 1 (items 71, 496): Royal Assent | S. 4 and Sch. 1 (item 496) |

Act Notes

- (a) (2) The remaining provisions of this Act commence on the ASTA sale day.
The ASTA sale day was 27 June 1995 (see *Gazette* 1995, No. S271).
- (b) The *AeroSpace Technologies of Australia Limited Sale Act 1994* was amended by the *Superannuation Legislation Amendment Act (No. 1) 1995*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (c) The *Superannuation Legislation Amendment Act (No. 1) 1995* was amended by Schedule 3 (item 117) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
 - (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (d) The *AeroSpace Technologies of Australia Limited Sale Act 1994* was amended by Schedule 3 (items 16 and 17) only of the *Corporations (Repeals, Consequential and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
 - (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision affected | How affected |
|--------------------|--------------|
|--------------------|--------------|

Part 1

Ss. 3, 4..... am. No. 55, 2001

Part 2

Division 1

S. 8..... am. No. 54, 1995

Division 2

S. 14..... am. No. 8, 2005

Table A

Table A

Application, saving or transitional provisions

Financial Framework Legislation Amendment Act 2005 (No. 8, 2005)

4 Saving of matters in Part 2 of Schedule 1

(1) If:

- (a) a decision or action is taken or another thing is made, given or done; and
- (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;

then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

(2) In this section:

Part 2 Act means an Act that is amended by an item in Part 2 of Schedule 1.

Schedule 1

496 Saving provision—Finance Minister's determinations

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.