



AeroSpace Technologies of Australia Limited Sale Act 1994

No. 144, 1994

Compilation No. 4

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About this compilation

This compilation

This is a compilation of the *AeroSpace Technologies of Australia Limited Sale Act 1994* that shows the text of the law as amended and in force on 30 March 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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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

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

2 Commencement

- (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

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(b) in whatever form that body corporate takes from time to time.

ASTA body means ASTA or an ASTA subsidiary.

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;

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- (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*.

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

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Commonwealth before the body's sale day by or on behalf of the body belongs to the Commonwealth.

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:

Part 2 Superannuation

Division 3 The Superannuation Benefits (Supervisory Mechanisms) Act 1990

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

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
AeroSpace Technologies of Australia Limited Sale Act 1994	144, 1994	8 Dec 1994	s 1–11, 14–16: 12 Oct 1994 (s 2(1)) Remainder: 27 June 1995 (s 2(2))	
Superannuation Legislation Amendment Act (No. 1) 1995	54, 1995	23 June 1995	s 3(8) and Sch 9: 23 June 1995 (s 2(1))	—
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 3 (item 117): 23 June 1995 (s 2(3))	—
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	s 4–14 and Sch 3 (items 16, 17): 15 July 2001 (s 2(1), (3))	s 4–14
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s 4 and Sch 1 (items 71, 496): 22 Feb 2005 (s 2(1) items 1, 13)	s 4 and Sch 1 (item 496)
Treasury Laws Amendment (2018 Measures No. 1) Act 2018	23, 2018	29 Mar 2018	Sch 1 (items 3, 9): 30 Mar 2018 (s 2(1) item 2)	Sch 1 (item 9)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3, 4	am No 55, 2001
Part 2	
Division 1	
s 8	am No 54, 1995
Division 2	
s 14	am No. 8, 2005
Part 7	rep No 23, 2018
s 20	rep No 23, 2018
s 21	rep No 23, 2018