



AeroSpace Technologies of Australia Limited Sale Act 1994

No. 144 of 1994

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Definitions
4. Subsidiaries
5. ASTA sale day
6. ASTA subsidiary sale day

PART 2—SUPERANNUATION

Division 1—Superannuation schemes

7. Deferred benefits under the *Superannuation Act 1922*

TABLE OF PROVISIONS—*continued*

- Section
8. Deferred benefits under the *Superannuation Act 1976*
 9. Period of eligible employment for the purposes of Division 3 of Part IX of the *Superannuation Act 1976*
 10. Deferred benefits under 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*
 12. Application of the *Superannuation Act 1976*
 13. Application of the *Superannuation Act 1990*

Division 2—The Crimes (Superannuation Benefits) Act 1989

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

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*

PART 3—PROSECUTIONS

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

PART 4—ASTA NOT TO BE AN AGENCY OF THE COMMONWEALTH
ETC.

17. ASTA not to be an agency of the Commonwealth etc.

PART 5—REGULATIONS CONNECTED WITH THE SALE OF ASTA

18. Regulations connected with the sale of ASTA

PART 6—CESSATION OF MOBILITY RIGHTS

19. Cessation of mobility rights

PART 7—COMMONWEALTH BORROWING LEVY

20. Ending ASTA's liability under the *Commonwealth Borrowing Levy Act 1987*
21. Consequential amendment of the *Commonwealth Borrowing Levy Act 1987*



AeroSpace Technologies of Australia Limited Sale Act 1994

No. 144 of 1994

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

[Assented to 8 December 1994]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

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

AeroSpace Technologies of Australia Limited Sale
No. 144, 1994

Commencement

2.(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.

Definitions

3. 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;

“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 Law.

Subsidiaries

4. 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 Law.

ASTA sale day

5.(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.

ASTA subsidiary sale day

6.(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

Deferred benefits under the *Superannuation Act 1922*

7.(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:

AeroSpace Technologies of Australia Limited Sale
No. 144, 1994

- (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*.

Deferred benefits under the *Superannuation Act 1976*

8.(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 139 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*.

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

9.(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.

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

10.(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*.

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

11.(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.

Application of the *Superannuation Act 1976*

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

Application of the *Superannuation Act 1990*

13. 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

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

Continuing application of Act

14.(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 into the Consolidated Revenue Fund 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.

AeroSpace Technologies of Australia Limited Sale
No. 144, 1994

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

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

15.(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 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

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

16. 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.

ASTA not to be an agency of the Commonwealth etc.

17.(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

Regulations connected with the sale of ASTA

18.(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

Cessation of mobility rights

19.(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

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

20.(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.

Consequential amendment of the *Commonwealth Borrowing Levy Act 1987*

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

[*Minister's second reading speech made in—*
House of Representatives on 20 October 1994
Senate on 8 November 1994]