

EXPLANATORY STATEMENT

Statutory Rules 1988 No 358

Maternity Leave (Commonwealth Employees) Regulations (Amendment)

(Issued by the Authority of the Minister for Industrial Relations)

Section 15 of the Maternity Leave (Commonwealth Employees) Act 1973 (the ML Act) provides:

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Section 3 of the ML Act is amended by Part III of the OTC (Conversion into Public Company) Act 1988 (the OTC Act) by inserting a revised definition of "prescribed authority" which provides that:

- (a) a body corporate (other than an incorporated company, society or association) that is incorporated for a public purpose by a law of the Commonwealth or of a Territory (other than the Northern Territory) and is declared by the regulations to be a body corporate in relation to which this Act applies;
- (b) an unincorporated body that is established for a public purpose by a law of the Commonwealth or of a Territory (other than the Northern Territory) and is declared by the regulations to be an unincorporated body in relation to which this Act applies; or
- (c) a company that:
 - (i) is incorporated under a law of the Commonwealth or a law in force in a State or Territory;
 - (ii) is a trading corporation, or a financial corporation, within the meaning of paragraph 51(20) of the Constitution; and
 - (iii) is declared by the regulations to be a body corporate to which this paragraph applies.

The revised definition of "prescribed authority" came into effect from the date the OTC Act received the Royal Assent.

OTC is currently a "prescribed authority" within the meaning of the ML Act by virtue of its status as a body corporate established by a law of the Commonwealth, to be a body corporate for the purposes of the definition of "prescribed authority" in paragraph (a) of the definition of "prescribed authority" in section 3 of the ML Act. The effect of this is that OTC employees accrue rights under the ML Act.

Section 11 of the OTC (Conversion into Public Company) Act 1988 amends the enabling legislation of OTC, the OTC Act 1946, by inserting Part IIB which has the effect of converting OTC into a public company registered under the Companies Act 1981 by the name OTC Limited. Section 11 of the OTC (Conversion into Public Company) Act 1988 commences on a day to be fixed by Proclamation.

On OTC's conversion to a public company it will cease to be a "prescribed authority" under the ML Act. To maintain the coverage of OTC employees under the ML Act it is necessary that a regulation declare OTC Limited to be a body corporate under paragraph (c) of the definition of "prescribed authority" in section 3 of that Act. This places OTC Limited within the definition of "prescribed authority".

The amendment to Regulation 4 of the Maternity Leave (Commonwealth Employees) Regulations declares OTC Limited to be a body corporate for the purposes of the definition of "prescribed authority" in section 3 of the ML Act. This Regulation commences on the day on which section 11 of the OTC (Conversion into Public Company) Act 1988 commences.