

EXPLANATORY STATEMENT

Statutory Rules 1988 No 356

Long Service Leave (Commonwealth Employees) Regulations (Amendment)  
(Issued by the Authority of the Minister for Industrial Relations)

Section 26 of the Long Service Leave (Commonwealth Employees) Act 1976 (the LSL) Act) provides:

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

Subsection 4(6) of the LSL Act provides that:

A reference in this Act to a person who is employed by, remunerated by, in the service of, on loan to or appointed or engaged by the Commonwealth shall be read as including a reference to a person who is employed by, remunerated by, in the service of, on loan to or appointed or engaged by -

- (a) a public authority of the Commonwealth;
- (b) a body (not being a public authority of the Commonwealth) established by or under a law of the Commonwealth or of an internal Territory that is declared by the regulations to be a body to which this subsection applies; or
- (c) a company that:
  - (i) is incorporated (whether before or after the commencement of this paragraph) 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.

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.

Employees of OTC are currently covered by the provisions of the LSL Act by means of OTC being a "public authority of the Commonwealth" for the purposes of paragraph 4(6)(a) of that Act.

On OTC's conversion to a public company it will cease to be a "public authority of the Commonwealth". To continue the coverage of OTC employees under the LSL Act it is necessary that a regulation declare OTC Limited to be a body corporate under paragraph 4(6)(c).

The amendment to Regulation 3 of the Long Service Leave (Commonwealth Employees) Regulations declares OTC Limited to be a body corporate to which paragraph 4(6)(c) of the LSL Act applies by creating a new Schedule 1A to the Regulations for this purpose. The only other declaration under paragraph 4(6)(c) is in respect of Australian Airlines Limited and this company is also included in the new Schedule 1A by the proposed amendment. This amendment comes into effect on the day on which OTC becomes a public company.