



AUSTRALIAN CAPITAL TERRITORY

Territory Owned Corporations (Amendment) Act 1991

No. 87 of 1991

An Act to amend the *Territory Owned Corporations Act 1990* and for related purposes

[Notified in ACT Gazette S152 : 20 December 1991]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Territory Owned Corporations (Amendment) Act 1991*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on 1 January 1992.

Principal Act

3. In this Act, "Principal Act" means the *Territory Owned Corporations Act 1990*.¹

Interpretation**4.** In this Act—

“Australian Capital Territory Totalcare Industries Advance Account” means the bank account so named maintained under subsection 27 (1) of the *Audit Act 1989*;

“Totalcare Industries Trust Account” means the Trust Account established by that name under subsection 85 (2) of the *Audit Act 1989*.

Insertion

5. After section 33 of the Principal Act the following sections are inserted:

Benefits retained and preserved

“33A. (1) This section applies to a person employed by, or engaged as a member of the staff of, a Territory owned corporation established on or after 1 January 1992 who, immediately before being employed or engaged by the corporation, was appointed or employed under the *Public Service Act 1922* of the Commonwealth.

“(2) A person to whom this section applies retains the benefits, if any, in respect of—

- (a) long service leave;
- (b) maternity leave;
- (c) parental leave in accordance with Determination 1983/10 made under the *Public Service Act 1922* of the Commonwealth;
- (d) recreation leave; and
- (e) leave of absence on account of illness;

that had accrued to that person immediately before being employed or engaged by the relevant Territory owned corporation.

“(3) A person to whom this section applies shall, on or after 1 January 1992, be entitled to the benefits in respect of the matters referred to in paragraphs (2) (a) to (e) (inclusive) that are no less favourable to that person than the benefits to which that person would have been entitled from time to time in respect of those matters if he or she had continued to be appointed or employed under the *Public Service Act 1922* of the Commonwealth.

Affirmative action

“33B. (1) The provisions of the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* of the Commonwealth apply, by force of this section, to a Territory owned corporation or a subsidiary, as if the corporation or the subsidiary were not an authority within the meaning of that Act.

“(2) The provisions referred to in subsection (1) apply with such modifications (if any) as are prescribed.”.

Schedule 1

6. Schedule 1 to the Principal Act is amended by adding at the end “Totalcare Industries Limited”.

Application of section 30 of Principal Act to Totalcare Industries Limited in relation to capital gains tax

7. (1) For the purposes of section 30 of the Principal Act as amended by this Act, an asset vested in the Company on 1 January 1992—

- (a) which was acquired by the Territory before 20 September 1985 is deemed to have been acquired by the Company before that date; or
- (b) which was acquired by the Territory on or after 20 September 1985 and is disposed of by the Company is deemed to have been acquired by the Company at a cost base to the Company equal to the cost base that would have been the cost base, or the indexed cost base, as the case may be, to the Territory of that asset if the asset had been disposed of by the Territory.

(2) In this section—

“acquired”, in relation to an asset, means a change in the ownership of the asset that is an acquisition of the asset for the purposes of Part IIIA of the Commonwealth Act;

“asset” has the same meaning as in Part IIIA of the Commonwealth Act;

“Commonwealth Act” means the *Income Tax Assessment Act 1936* of the Commonwealth;

“Company” means Totalcare Industries Limited;

“cost base” has the meaning given by section 160ZH of the Commonwealth Act;

“disposed of”, in relation to an asset, means a change in the ownership of the asset that is a disposal of the asset for the purposes of Part IIIA of the Commonwealth Act;

“indexed cost base” has the meaning given by section 160ZH of the Commonwealth Act.

Transitional

8. (1) The amounts that, immediately before 1 January 1992—

- (a) stood to the credit of—
 - (i) the Totalcare Industries Trust Account; or
 - (ii) the Australian Capital Territory Totalcare Industries Advance Account; or
- (b) represented the undrawn balance of moneys consisting of working capital and capital advance, being moneys included in moneys appropriated by the *Appropriation Act 1991-92* for the purposes of the Totalcare Industries Trust Account;

shall be paid into the Consolidated Revenue Fund.

(2) To the extent that the amounts referred to in subsection (1) are moneys that, immediately before 1 January 1992, were lawfully available for the purposes of the Totalcare Industries Trust Account, then to that extent, those amounts are by this Act appropriated from the Consolidated Revenue Fund for payment to Totalcare Industries Limited to be applied by that company for similar purposes.

(3) Where, immediately before 1 January 1992, an amount was payable to the Territory for the credit of the Totalcare Industries Trust Account but had not been paid into that account, the amount is payable into the Consolidated Revenue Fund and that amount is then, by this Act, appropriated from the Consolidated Revenue Fund for payment to Totalcare Industries Limited to be applied by that company for similar purposes.

Contracts and agreements

9. A contract or agreement entered into on behalf of the Territory for the purposes of the Totalcare Industries Trust Account that has effect immediately before 1 January 1992 continues to have that effect on and after that date, as if—

- (a) Totalcare Industries Limited were substituted for the Territory as a party to the contract or agreement; and

- (b) any reference in the contract or agreement to the Territory were (except in relation to matters that occurred before that date) a reference to Totalcare Industries Limited.

NOTE

1. Act No. 53, 1990.

[Presentation speech made in Assembly on 28 November 1991]

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