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AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL 1991

EXPLANATORY MEMORANDUM

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Rosemary Follett, Chief Minister

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Territory Owned Corporations (Amendment) Bill 1991

Outline

The Territory Owned Corporations (Amendment) Bill 1991 amends the Territory Owned Corporations Act 1990 (the TOC Act) to provide for the addition of Totalcare Industries Limited (Totalcare) to Schedule 1 to the TOC Act.

It also provides for preservation of existing long service leave quantum and parental, maternity, recreation and sick leave entitlements for ACT Government Service employees who immediately before becoming employed with TOCs were public servants. This will ensure that these employees are not disadvantaged by becoming employees of Totalcare Industries Limited or any other TOC.

The Bill also adopts the substance of the Commonwealth Affirmative Action (Equal Employment Opportunity for Women) Act. The Commonwealth Act does not apply to TOCs of its own force but, by adopting the substance of the Commonwealth Act, the Bill will put TOCs in the same position as companies trading in the ACT to which the Commonwealth Act does apply. The Bill provides for the modification of provisions of that Act by regulation in its application to TOCs.

Financial Considerations

No new costs will be incurred by the Government. Costs to Totalcare for complying with affirmative action legislation are the same as for other companies.

Notes on Clauses

Clause 1 provides that the Act may be cited as the Territory Owned Corporations (Amendment) Act 1991.

Clause 2 provides for the commencement of the Act.

Clause 3 states that the Principal Act is the Territory Owned Corporations Act 1990.

Clause 4 defines "Australian Capital Territory Totalcare Industries Advance Account" and "Totalcare Industries Trust Account" for the purposes of this Act.

Clause 5 amends the Principal Act by insertion of two new Sections:

Section 33A, which applies to a TOC established on or after 1 January 1992, enables a Public Servant who accepts an offer of employment with that TOC, to retain any accrued benefits in respect of long service leave, maternity leave, parental leave, sick leave and recreation leave.

This places existing employees who transfer to a TOC in at least an equivalent position with respect to their statutory and other leave entitlements as they were in prior to corporatisation. Other employment conditions have been agreed without the need for legislation.

Section 33B extends to all Territory Owned Corporations the substance of the Commonwealth Affirmative Action (Equal Employment Opportunity for Women) Act 1986, and provides scope for modification, by way of prescription of that Act, to meet local circumstances.

Clause 6 amends the Schedule 1 to the Principal Act to list Totalcare Industries Limited, formerly Mitchell Health Services Centre, as a Territory Owned Corporation.

Clause 7 seeks to ensure that the Company does not become liable for a higher rate of capital gains tax through the process of corporatisation than would otherwise be the case.

Clause 8 is a transitional provision to enable the payment of funds in the Totalcare Industries Trust Account, the Australian Capital Territory Totalcare Industries Advance Account and the undrawn balance of working capital and capital advance moneys appropriated by the Appropriation Act 1991-92 for the purposes of the Totalcare Industries Trust Account, to be paid into the Consolidated Revenue Fund on 1 January 1992 and then to be appropriated to Totalcare Industries Limited. It also provides that any amounts which would have been payable to Totalcare Industries Trust Account but which have not been paid into that account by 1 January 1992 shall be payable into the Consolidated Revenue Fund for payment to Totalcare Industries Limited.

Clause 9 provides that contracts or agreements which were entered into for the purposes of the Totalcare Industries Trust Account and have effect immediately before 1 January 1992 continue to apply after that date to Totalcare Industries Limited.