

AUSTRALIAN CAPITAL TERRITORY  
COMPANIES (LIFE INSURANCE HOLDING COMPANIES) ORDINANCE 1973

Explanatory Statement

Issued by the Authority of the Treasurer

The purpose of this Ordinance is to amend the Companies (Life Insurance Holding Companies) Ordinance 1968-1970 to remove some practical defects which have come to light in the course of administration of the Ordinance.

Shares Held by Foreign Nominees for Australian and New Zealand Residents

As the Ordinance now stands, a share in a specified company is a foreign share if it is held by a foreign corporation notwithstanding that the beneficial interest vests in a resident of Australia or New Zealand. The result is that a foreign shareholder acting as a trustee for an Australian or New Zealand resident can be disenfranchised. This goes beyond the original intention of the Ordinance.

Clauses 3(a), 4, 5 and 7 contain amendments to remedy this situation. These amendments will enable the Commissioner to take account of any beneficial interest in determining whether a share is a foreign share. Provision is also made to ensure that shares which may be foreign shares will be assumed to be such until otherwise determined by the Commissioner.

Definition of Commissioner

Clause 3(b) amends the definition of the Commissioner in section 6(1) so that it will accord with

amendments provided for in the Life Insurance Act 1973 whereby "the Insurance Commissioner" became "the Life Insurance Commissioner".

Requirement that Application for Allotment of Shares be in Writing

Section 16(2.) provides that a specified company shall not allot its shares except to a person who has applied in writing. In practice it has been found that there is no need for applications for allotment to be in writing where issues such as bonus issues are made equally to all shareholders and the relative proportion of foreign to non-foreign shareholdings is not disturbed. The section has been amended to permit allotments in such instances without application in writing.

Variation of Certificates

Under section 17(3.) the Commissioner can give a certificate that shares are foreign shares and under section 19 he may cancel a certificate if satisfied that all of the shares referred to in the certificate are no longer foreign shares. No provision is made, however, for the Commissioner to appropriately vary a certificate where only some of the shares referred to in the certificate are no longer foreign shares. Provision has now been made to cover this situation.

Similarly provision has been made to remove the weakness in section 20 where no provision exists enabling the Commissioner to vary a certificate given under section 18(3.).

Clauses 8 and 9 therefore amend sections 19 and

3.

20 so that the Commissioner will have adequate powers to vary certificates previously given under sections 17 and 18. Following on the amendments to sections 19 and 20, minor consequential amendments have been made to section 21.