

WESTERN AUSTRALIA

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# **R&I BANK AMENDMENT ACT 1994**

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**No. 6 of 1994**

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**AN ACT to amend the R&I Bank Act 1990.**

*[Assented to 11 April 1994.]*

The Parliament of Western Australia enacts as follows:

## **Short title**

**1.** This Act may be cited as the *R&I Bank Amendment Act 1994*.

**Commencement**

2. (1) Subject to subsection (2), this Act comes into operation on the day on which it receives the Royal Assent.

(2) Sections 5, 6, 7, 8, 12 and 13 and Schedule 1 come into operation on such day as is, or days as are respectively, fixed by proclamation.

**Principal Act**

3. In this Act the *R&I Bank Act 1990\** is referred to as the principal Act.

[\* *Act No. 73 of 1990 as amended by Act No. 6 of 1993.*]

**Long title amended**

4. The long title to the principal Act is amended by deleting "R&I".

**Section 1 amended**

5. Section 1 of the principal Act is amended by deleting "*R&I Bank*" and substituting the following —

" *Bank of Western Australia* ".

**Heading to Part 3 amended**

6. The heading to Part 3 of the principal Act is amended by deleting "R&I".

**Section 22 amended**

7. Section 22 (1) of the principal Act is repealed and the following subsection is substituted —

“

(1) After the commencement of section 8 of the *R&I Bank Amendment Act 1994* the public company referred to in section 3 (2) (a) continues to be constituted as a bank under the name “Bank of Western Australia Ltd”.

”.

**Section 24 repealed and a section substituted**

8. Section 24 of the principal Act is repealed and the following section is substituted —

“

**Name of Bank**

24. (1) On the commencement of section 8 of the *R&I Bank Amendment Act 1994* the name of the Bank is changed to the name “Bank of Western Australia Ltd”.

(2) Schedule 4 has effect.

(3) The name of the Bank as set out in subsection (1) shall not be changed under the provisions of the Corporations Law.

(4) Notwithstanding subsection (3), the Bank may use and operate under a business name being —

(a) an abbreviation or adaptation of its company name; or

- (b) a name approved by the Minister, other than its company name or an abbreviation or adaptation of its company name.

”.

**Section 30 amended**

**9. Section 30 of the principal Act is amended —**

- (a) in subsection (2) by deleting “risk weighted assets of the Bank” (as that expression is defined by the regulations)” and substituting the following —

“

value of the risk weighted assets of the Bank

”;

- (b) by inserting after subsection (2) the following subsections —

“

(2a) The board of directors of the Bank shall —

- (a) cause a fresh determination to be made by the Bank of the value of the risk weighted assets of the Bank each year for inclusion in the directors’ statement for the Bank under Division 5 of Part 3.6 of the Corporations Law and as often as is required for the purpose of complying with subsection (2b) (b) and (c); and
- (b) specify a date as at which each determination is to be made.

(2b) The board of directors of the Bank shall notify the Minister in writing of the value of the risk weighted assets of the Bank determined under subsection (2a) —

- (a) by sending to the Minister a copy of the directors' statement referred to in subsection (2a) (a), as soon as is practicable in each year after the signing of that statement;
- (b) at such times as the Minister may request in writing; and
- (c) whenever the board of directors is of the opinion that, having regard to the most recent determination of that value or other matters of which it is aware, subsection (2) may apply to a contract, arrangement or other transaction proposed to be entered into by the Bank or a subsidiary of the Bank.

”;

and

- (c) by inserting after subsection (3) the following subsection —

“

(4) In this section, **“value of the risk weighted assets of the Bank”** means —

- (a) the value that is determined in accordance with the requirements of the Reserve Bank of Australia from time to

time for the determination of the capital adequacy of banks supervised by it; or

- (b) if the Reserve Bank of Australia at any time ceases to notify banks supervised by it of requirements for the determination of capital adequacy, the value that is determined in accordance with requirements recommended from time to time by the board of directors of the Bank for calculating the value of the risk weighted assets of the Bank and approved by the Minister for that purpose.

”.

### **Section 33 amended**

#### **10. Section 33 of the principal Act is amended —**

- (a) in subsection (1) by deleting “The” and substituting the following —

“ Subject to subsections (2) and (2a), the ”;

- (b) in subsection (2) (a) by deleting “8” and substituting the following —

“ 8 (1) (a) ”; and

- (c) by inserting after subsection (2) the following subsections —

“

(2a) On and from the fixed day the payment of the financial obligations of the Bank is guaranteed under subsection (1) to the extent set out in subsections (2b) and (2c) and to that extent only.

(2b) On and from the fixed day until the fifth anniversary of the fixed day, the payment of money standing to the credit of any account with the Bank that was in existence at the close of business on the day preceding the fixed day, other than a term deposit, continues to be guaranteed under subsection (1) to the extent of the amount calculated by deducting from the amount that was standing to the credit of the account at the close of business on the day preceding the fixed day the aggregate of all amounts debited to the account on or after the fixed day.

(2c) On and from the fixed day the payment of the financial obligations of the Bank (including contingent liabilities) continues to be guaranteed under subsection (1) to the extent that those obligations arise from —

- (a) any term deposit made with the Bank, or other term liability incurred by the Bank before the fixed day;
- (b) securities issued by the Bank before the fixed day;
- (c) a deed, agreement, instrument, undertaking or other document

entered into, given or issued by the Bank before the fixed day; or

- (d) any other event involving the Bank which occurred, or arrangements which were entered into by the Bank, before the fixed day, other than an account to which subsection (2b) applies.

(2d) In subsections (2a), (2b) and (2c) “fixed day” means the day fixed for the purposes of subsection (2a) by proclamation.

”.

**Amendment of references to “Code”**

11. The sections of the principal Act referred to in Column 1 of the Table to this section are amended in the manner set out opposite them in Column 2.

TABLE

Column 1	Column 2
Section 4	in the definitions of “articles”, “memorandum” and “subsidiary”, delete “Code” and substitute “Corporations Law”
Section 5	delete “ <i>Companies (Western Australia) Code</i> ” and substitute “Corporations Law”
	delete “that Code” and substitute “the Corporations Law”
Section 22 (4)	delete “Code” and substitute “Corporations Law”



- Section 22 (5) delete “section 68 of the Code” and substitute “section 162 of the Corporations Law”
- Section 24(1) delete “Code” and substitute “Corporations Law”
- Section 25 (2) delete “Code” and substitute “Corporations Law”
- Section 26 (3) delete “Code” and substitute “Corporations Law”
- Section 26 (6) delete “82 and 364 (1) (d) of the Code” and substitute “186 and 461 (d) of the Corporations Law”
- Section 28 (1) delete “Code” and substitute “Corporations Law”
- Section 31 (3) delete “Code” and substitute “Corporations Law”
- Section 34 (1) delete “sections 280 and 281 of the Code” and substitute “sections 327 and 328 of the Corporations Law”
- Section 34 (1) delete “with the Code” and substitute “with the Corporations Law”
- Section 34 (3) delete “Code” and substitute “Corporations Law”
- Section 35 (1) (c) delete “Part VI of the Code” and substitute “Parts 3.6 and 3.7 of the Corporations Law”
- Section 40 delete “Code” wherever it occurs and substitute in each place “Corporations Law”

Schedule 1, delete “Code” and substitute “Corporations  
Clause 1 (3) Law”

Schedule 1, delete “Code” and substitute “Corporations  
Clause 10 (3) Law”

### **Schedule 4 added**

**12.** After Schedule 3 to the principal Act the following Schedule is added —

“

#### **SCHEDULE 4**

[section 24]

#### **TRANSITIONAL AND ENABLING PROVISIONS**

##### **Definitions**

1. In this Schedule, unless the contrary intention appears —

“**amended provisions**” means the provisions inserted into this Act by sections 7, 8 and 12 of the *R&I Bank Amendment Act 1994*;

“**commencement day**” means the day on which section 8 of the *R&I Bank Amendment Act 1994* comes into operation;

“**former name**” means “R&I Bank of Western Australia Ltd”.

##### **Name deemed to be changed under Corporations Law**

2. (1) The name “Bank of Western Australia Ltd” is to be regarded as having been reserved for the Bank and registered in respect of the Bank, and the registration of the name “R&I Bank of Western Australia Ltd” is to be

regarded as having been cancelled in respect of the Bank, under section 375 of the Corporations Law.

(2) Section 382 (4) of the Corporations Law applies to the change of name of the Bank made by section 24 (1) as if it had been made under that subsection of the Corporations Law.

### **References to former name**

3. On and from the commencement day a reference in —

- (a) the memorandum and articles of the Bank;
- (b) any other Act or any other instrument made under any Act; or
- (c) any document of any kind,

to the former name of the Bank is to be construed as if it had been amended to be, or to include, a reference to the name of the Bank, except where the context requires otherwise.

### **Registration of documents**

4. The Registrar of Titles, the Registrar of Deeds, the Ministers respectively administering the *Land Act 1933* and the *Mining Act 1978*, the Commissioner for Corporate Affairs, and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property, shall take cognizance of the amended provisions and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to the amended provisions.

**Use of former name and derivatives of it**

5. (1) Except as provided for or permitted by this Act, on and from the commencement day no person is to —

- (a) use the former name of the Bank or the name “The Rural and Industries Bank of Western Australia”; or
- (b) use any company, corporate, business, trading or other name substantially similar to either of the names referred to in paragraph (a); or
- (c) use the prefix “R&I” as part of any bank description without the approval in writing of the Minister.

(2) In subclause (1) (c) “**bank description**” means any company, corporate, business, trading or other name, or other trade description or symbol, used in connection with banking business or the provision of financial services.

(3) The Bank, or any officer or other person acting on behalf of the Bank, shall not be taken to be in breach of subclause (1) or of section 219 of the Corporations Law by reason of the use of any instrument or document of any kind or any sign or other form of publication bearing the former name of the Bank.

(4) Subclause (3) applies for the period of 30 months commencing on the commencement day.

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**Consequential amendments**

13. The Acts referred to in Schedule 1 are amended in the manner set out in that Schedule.

## SCHEDULE 1

[section 13]

## CONSEQUENTIAL AMENDMENTS

<i>Short title of Act</i>	<i>Amendment</i>
1. <i>Constitution Acts Amendment Act 1899</i>	<p>In Part 3 of Schedule V —</p> <p>(a) delete the item relating to the board of directors of the R&amp;I Bank of Western Australia Ltd and substitute the following —</p> <p style="padding-left: 40px;">“ The board of directors of the Bank of Western Australia Ltd referred to in section 22 of the <i>Bank of Western Australia Act 1990</i>. ”;</p> <p style="padding-left: 40px;">and</p> <p>(b) delete the item relating to the Commissioners of The Rural and Industries Bank of Western Australia.</p>
2. <i>Country Areas Water Supply Act 1947</i>	<p>(1) In section 81, delete “the Rural and Industries Bank of Western Australia” and substitute the following —</p> <p style="padding-left: 40px;">“ the Bank of Western Australia Ltd referred to in section 22 of the <i>Bank of Western Australia Act 1990</i> ”.</p> <p>(2) In section 95, delete “the Rural and Industries Bank of Western</p>

Australia” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

- (3) In section 99, in the passage beginning “Thirdly”, delete “the Rural and Industries Bank of Western Australia” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

3. *Country Towns Sewerage Act 1948*

- (1) In section 89, delete “The Rural and Industries Bank of Western Australia” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

- (2) In section 93, in the passage beginning “Thirdly”, delete “The Rural and Industries Bank of Western Australia” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

4. *Financial Administration and Audit Act 1985* In section 3 (1), in the definition of “bank”, delete subparagraph (a) (ii) and substitute the following subparagraph —
- “ (ii) Bank of Western Australia Ltd; and ”.
5. *Freedom of Information Act 1992* In Schedule 2, delete the reference to “The R&I Bank of Western Australia Ltd.” and substitute the following —
- “ The Bank of Western Australia Ltd ”.
6. *Industry Advances Act 1947* (1) In the long title delete “**The Rural and Industries**” and substitute the following —
- “ **the** ”.
- (2) In section 2, delete the definition of “Bank” and substitute the following definition —
- “ “**Bank**” means the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990*; ”.
7. *Land Act 1933* (1) In section 61, delete “The Rural and Industries Bank of Western Australia” and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

- (2) In section 89B, delete “the Commissioners of The Rural and Industries Bank of Western Australia, constituted pursuant to the provisions of the Rural and Industries Bank Act 1944” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

8. *Local Government Act 1960*

- (1) In section 6 (1), in the definition of “owner” delete paragraph (h) and substitute the following paragraph —

“ (h) does not include the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* as mortgagee in possession or otherwise; ”.

- (2) In section 560 (1), delete “the R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.



- (3) In section 569 (7), delete paragraph (d) and substitute the following paragraph —

“ (d) the Bank of Western  
Australia Ltd  
referred to in section  
22 of the *Bank of  
Western Australia  
Act 1990* ”.

- (4) In section 578 (5) (d), delete “the R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of Western  
Australia Ltd referred  
to in section 22 of the  
*Bank of Western  
Australia Act 1990* ”.

- (5) In section 578 (7), delete “The Commissioners of the Rural and Industries Bank of Western Australia” and substitute the following —

“ the Bank of Western  
Australia Ltd referred  
to in section 22 of the  
*Bank of Western  
Australia Act 1990* ”.

- (6) In section 581, delete “the R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of Western  
Australia Ltd referred

to in section 22 of the  
*Bank of Western  
Australia Act 1990* ”.

- (7) In section 586, delete “the R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of Western  
Australia Ltd referred  
to in section 22 of the  
*Bank of Western  
Australia Act 1990* ”.

- (8) In section 589 —

- (a) in the passage beginning “secondly”, in paragraph (b), delete “R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of  
Western Australia  
Ltd referred to in  
section 22 of the  
*Bank of Western  
Australia Act 1990* ”;

and

- (b) delete the passage beginning “thirdly” and ending with “1990;”, and substitute the following —

“ thirdly — in  
payment of  
money due under

mortgage of the  
land to the Bank of  
Western Australia  
Ltd referred to in  
section 22 of the  
*Bank of Western  
Australia Act 1990*; ”.

(9) In section 593 —

- (a) in subsection (1) (b), delete  
“the R&I Bank of Western  
Australia Ltd referred to in  
section 22 of the *R&I Bank  
Act 1990*” and substitute the  
following —

“ the Bank of  
Western Australia  
Ltd referred to in  
section 22 of the  
*Bank of Western  
Australia Act 1990* ”;

and

- (b) in subsection (3) (b), delete  
“the R&I Bank of Western  
Australia Ltd referred to in  
section 22 of the *R&I Bank  
Act 1990*” and substitute the  
following —

“ the Bank of  
Western Australia  
Ltd referred to in  
section 22 of the  
*Bank of Western  
Australia Act 1990* ”.

- (10) In section 594 (6), delete “the R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

- (11) In section 596 (2), delete “the R&I Bank of Western Australia Ltd referred to in section 22 of the *R&I Bank Act 1990*” and substitute the following —

“ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

9. *Real Estate and Business Agents Act 1978*

In section 131O (1) (c), delete “The Commissioners of the Rural and Industries Bank of Western Australia” and substitute the following —

“ the directors of the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

10. *Rural Adjustment and Finance Corporation Act 1993*

In section 15 (1), delete “the R&I Bank” and substitute the following —

“ the Bank ”.

11. *Soil and Land Conservation Act 1945* In section 36 (1) (d), delete "The Rural and Industries Bank of Western Australia" and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.
12. *Stamp Act 1921* (1) In section 112I (1), in the definition of "bank", delete paragraph (a) and substitute the following paragraph —
- “ (a) Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990*; ”.
- (2) In the Third Schedule, in item 1 (4) (b), delete "Savings Bank Division of the R&I Bank of Western Australia" and substitute the following —
- “ savings bank of the Bank of Western Australia Ltd ”.
13. *Superannuation and Family Benefits Act 1938* In section 6 (1), in the definition of "department", delete "The Rural and Industries Bank of Western Australia" and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.

14. *Unclaimed Money Act 1990* In section 16 (3), delete “The Rural and Industries Bank of Western Australia” and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.
15. *War Service Land Settlement Scheme Act 1954* In section 6 (4a), delete “the Commissioners of The Rural and Industries Bank of Western Australia” and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.
16. *Water Boards Act 1904* (1) In section 108 (6), delete “The Rural and Industries Bank of Western Australia” and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.
- (2) In section 108 (7), in the passage beginning “Fourthly” delete “The Rural and Industries Bank of Western Australia” and substitute the following —
- “ the Bank of Western Australia Ltd referred to in section 22 of the *Bank of Western Australia Act 1990* ”.