

Western Australia

R & I Holdings Act 1990

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R & I Holdings Act 1990

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NOTES

Western Australia

R & I Holdings Act 1990

An Act to make provision for a body called R & I Holdings and to provide for its dissolution when it has completed its functions.

[Long title amended by No. 14 of 1995 s.43 (3).]

[Assented to 20 December 1990.]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *R & I Holdings Act 1990*.

[Section 1 amended by No. 6 of 1994 s.5; No. 14 of 1995 s.43(3).]

2. Commencement

- (1) This section and sections 1, 3 and 4 come into operation on the day on which this Act receives the Royal Assent.
- (2) The other provisions of this Act come into operation on such day as is fixed by proclamation, but the proclamation cannot be made until section 3 (4) has been complied with.

3. Arrangements for commencement of Act

- (1) The Under Treasurer shall as soon as is practicable after this section comes into operation ensure that such steps are taken as are required to complete the arrangements necessary for the commencement of the remaining provisions of this Act.
- (2) The arrangements to be so completed are —
 - (a) that there is in existence a public company limited by shares incorporated under the Code by the name “R & I Bank of Western Australia Ltd”; and
 - (b) that the memorandum and articles of that company —
 - (i) comply in all respects with the provisions of this Act and, subject to section 5, the Code;
 - (ii) contain such provisions as are, and are in a form that is, approved by the Minister; and
 - (iii) are lodged with the Commission, as defined for the purposes of the Code.
- (3) The Under Treasurer may delegate to any person any of the duties required to be performed under subsection (1).

- (4) As soon as the Under Treasurer is satisfied that the necessary arrangements have been completed under subsection (1) he or she shall give a certificate to that effect to the Minister and a proclamation may be made under section 2 (2) at any time after the certificate is so given.

4. Interpretation

In this Act, unless the contrary intention appears —

“Account” means account referred to in section 14 (1);

“Bank” means the public company incorporated under the Corporations Law by the name “Bank of Western Australia Ltd”;

“repealed Act” means the Act repealed by section 43;

“subsidiary” in respect of the Bank means a company that is a subsidiary of the Bank as determined in accordance with the Corporations Law;

“R & I Holdings” means the body continued by section 6.

[Section 4 amended by No. 6 of 1994 s.11; No. 14 of 1995 s.43(3).]

- [5. Repealed by No. 14 of 1995 s.43(3).]*

Part 2 — R & I Holdings

Division 1 — Constitution and functions

6. Body corporate under repealed Act continued

- (1) The body corporate reconstituted by section 4 (1) of the repealed Act is continued as a body corporate under this Act.
- (2) The corporate identity of the body corporate referred to in subsection (1) is not affected by the repeal of the repealed Act.

7. Name etc. of body corporate

The body corporate continued by section 6 —

- (a) has the name “R & I Holdings”;
- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued in its corporate name.

8. Crown agent

R & I Holdings is an agent of the Crown in right of the State.

9. Director

R & I Holdings performs its functions through a director who shall be the person for the time being holding or acting in the office of Under Treasurer.

10. Functions and powers

- (1) The functions of R & I Holdings are —
 - (a) to do the things it is required or permitted to do, and to receive moneys, in connection with the privatisation of the Bank under the *Bank of Western Australia Act 1995*;
 - (b) to wind up its affairs after the privatisation of the Bank is completed; and

(c) subject to section 13 of the *Bank of Western Australia Act 1995*, to pay any funds in its hands to the Consolidated Fund when those funds are no longer needed for the performance of its functions.

[(d) repealed]

(2) R & I Holdings may do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

[Section 10 amended by No. 14 of 1995 s.43(3).]

11. Power to borrow

- (1) R & I Holdings may borrow moneys for the purpose of performing its functions or repaying any existing liability.
- (2) Moneys may be borrowed under subsection (1) from the Treasurer or, with the approval of the Treasurer and on such terms and conditions as the Treasurer may specify, from any other person.
- (3) Any moneys borrowed under this section may be raised as one loan or as several loans and in such manner as the Treasurer approves, but the amount of the moneys so borrowed shall not in any one financial year exceed in the aggregate such amount as the Treasurer approves.

[12. Repealed by No. 14 of 1995 s.43(3).]

13. Minister may give directions

- (1) The Minister may give directions in writing to R & I Holdings with respect to the performance of its functions, either generally or in relation to a particular matter, and R & I Holdings shall give effect to any such direction.
- (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable

authority of R & I Holdings under section 66 of the *Financial Administration and Audit Act 1985*.

[(3) repealed]

[Section 13 amended by No. 14 of 1995 s.43(3).]

Division 2 — Financial provisions

14. Account at Treasury

- (1) An account shall be established at the Treasury to be called the “R & I Holdings Account”.
- (2) There shall be paid into and placed to the credit of the Account —
 - (a) moneys from time to time appropriated by Parliament;
 - (b) moneys received —
 - (i) in respect of any investment of moneys in the Account; or
 - (ii) under the *Bank of Western Australia Act 1995*;and
 - (c) other moneys lawfully received by, made available to, or payable to R & I Holdings.
- (3) There shall be paid from the Account the sums required to be paid for the purpose of enabling R & I Holdings to perform its functions and carry out this Act, and for no other purpose.

[Section 14 amended by No. 14 of 1995 s.43(3).]

15. Application of *Financial Administration and Audit Act 1985*

- (1) Subject to subsection (2), the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of R & I Holdings and its operations.

- (2) Notwithstanding the *Financial Administration and Audit Act 1985* or the Treasurer's Instructions under that Act —
- (a) the financial year of R & I Holdings shall end on 30 September;
 - (b) the annual report of R & I Holdings for any year is not required to contain any financial statements of the Bank, or a report on the Bank's operations, for that year, and for the purposes of that Act or any other written law and the Treasurer's Instructions the Bank (including any subsidiary) is to be treated as not being a body that is subsidiary, related or affiliated to R & I Holdings.

16. Surplus

Any surplus in the Account at the end of any financial year shall, except to the extent that moneys are reasonably required to be retained for the purposes of R & I Holdings, be paid to the Consolidated Fund.

[Section 16 amended by No. 6 of 1993 ss.11 and 14.]

17. Guarantee

- (1) The payment of the financial obligations of R & I Holdings is guaranteed by the Treasurer.
- (2) Any liability of the Treasurer arising from the guarantee in subsection (1) shall be met out of the Consolidated Fund which is appropriated to the necessary extent.

[Section 17 amended by No. 6 of 1993 s.11.]

Division 3 — General

18. Staff etc.

- (1) R & I Holdings may appoint such officers or engage the services of such persons as may be necessary to enable it to perform its functions.

- (2) Subject to any relevant order, award or agreement under the *Industrial Relations Act 1979*, R & I Holdings may determine the remuneration and other terms and conditions of service of its employees.
- (3) R & I Holdings may by arrangement made between it and the Treasurer, and on such terms and conditions as may be mutually arranged by it with the Treasurer and with the chief executive officer of the Treasury Department, make use, either full time or part time, of the services of any officer, or of any facilities, of the Treasury Department.

[Section 18 amended by No. 32 of 1994 s.19.]

19. Delegation

R & I Holdings may, by instrument in writing, delegate to any person to whom section 18 applies the performance of such of its functions as are specified in the instrument, but not this power of delegation.

20. Execution of documents by R & I Holdings

- (1) A document is duly executed by R & I Holdings if —
 - (a) the common seal is affixed to it in the presence of its director under section 9, and that person signs the document to attest that the common seal was so affixed;
or
 - (b) it is signed on behalf of R & I Holdings by the director under section 9 or a person authorized by the director to do so.
- (2) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

21. Minister to have access to information

- (1) For parliamentary purposes or for the proper conduct of the Minister's public business, the Minister is entitled to have

information in the possession of R & I Holdings and to have and retain copies of documents.

- (2) For the purposes of subsection (1) the Minister may —
- (a) request R & I Holdings to furnish information to the Minister;
 - (b) request R & I Holdings to give the Minister access to information;
 - (c) for the purposes of paragraph (b) make use of persons referred to in section 18 to obtain the information and furnish it to the Minister.
- (3) R & I Holdings shall comply with a request under subsection (2) and make persons and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —
- “**information**” means documents or other information relating to the functions of R & I Holdings being information, as so defined, specified, or of a description specified, by the Minister;
- “**parliamentary purposes**” means the purpose of —
- (a) answering a question asked in a House of Parliament; or
 - (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

22. Repeal of Act

- (1) When the Under Treasurer is satisfied that R & I Holdings has completed its functions under section 10, he or she is to —
- (a) give a certificate to that effect to the Treasurer; and

- (b) report as required by section 66 of the *Financial Administration and Audit Act 1985* in respect of the period from the preceding 1 October to the date of that certificate as if that period were a full financial year.
 - (2) After section 69 of the *Financial Administration and Audit Act 1985* has been complied with in respect of the report of R & I Holdings, this Act is to be repealed on such day as is fixed by proclamation.
 - (3) Upon the repeal of this Act under subsection (2) —
 - (a) each of the following provisions is amended by deleting the item relating to R & I Holdings —
 - (i) the Schedule to the *Parliamentary Commissioner Act 1971*;
 - (ii) Schedule 1 to the *Financial Administration and Audit Act 1985*; and
 - (iii) Schedule 1 to the *Public Sector Management Act 1994*;
 - (b) any agreement or instrument to which R & I Holdings is a party or which contains a reference to R & I Holdings has effect as if —
 - (i) the State were substituted for R & I Holdings as a party to the agreement or instrument; and
 - (ii) any reference in the agreement or instrument to R & I Holdings were (unless the context otherwise requires) a reference to the State;
- and
- (c) any legal or other proceedings or any remedies that might have been commenced, continued, discontinued or available by or against or to R & I Holdings may be commenced, continued, discontinued, and are to be available, by or against or to the State, as the case requires.

[Section 22 inserted by No. 14 of 1995 s.43(3).]

[PARTS 3 and 4. Repealed by No. 14 of 1995 s.43(3).]

[Schedules 1, 2, 3 and 4. Repealed by No. 14 of 1995 s.43(3).]

Notes

- ^{1.} This is a compilation of the *R & I Holdings Act 1990* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>R & I Bank Act 1990</i>	73 of 1990	20 Dec 1990	Sections 1, 2, 3 and 4: 20 Dec 1990 (see section (2)); balance: 1 Jan 1991 (see <i>Gazette</i> 28 Dec 1990 p.6369)
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993
<i>R & I Bank Amendment Act 1994</i> (Correction by No.73 of 1994 section 4)	6 of 1994	11 Apr 1994	Sections 5, 6, 7, 8, 12 and 13 proclaimed 26 Apr 1994 (see <i>Gazette</i> 26 Apr 1994 p.1743);. balance on assent
<i>Acts Amendment (Public Sector Management) Act 1994, Part 4</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see <i>Gazette</i> 30 Sep 1994 p.4948)
<i>Bank of Western Australia Act 1995, Section 43</i> ²	14 of 1995	4 Jul 1995	Section 43 (1) and (2) operative 4 Jul 1995, section 43 (3) and (4) operative 1 Dec 1995 (see section 2 and <i>Gazette</i> 29 Nov 1995 p.5529)

- ² Division 2 of Schedule 1 reads as follows —

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Division 2 — Transitional provisions

11. Definitions

In this Division —

“**Bank**” has the meaning given by section 19;

“**the 1990 Act**” means the *Bank of Western Australia Act 1990*.

12. Auditor General may disclose information

- (1) Despite section 91 of the *Financial Administration and Audit Act 1985*, the Auditor General may disclose to another auditor or provide another auditor with access to, information in his or her possession or under his or her control for the purposes of the audit of the Bank's accounts for the financial year during which the Bank is privatised under Part 2.
- (2) In subsection (1) “**another auditor**” means an auditor, other than the Auditor General, who is appointed by the Bank to audit the Bank's accounts for the financial year referred to in subclause (1).

13. Payments under repealed section 31 up to day of privatisation

- (1) The repeal of section 31 of the 1990 Act does not affect the liability of the Bank under that section in respect of the period from the preceding 1 October to the day on which the Bank becomes liable to tax referred to in that section.
- (2) For the purposes of subsection (1), section 31 has effect, despite its repeal, as if the period referred to in subsection (1) were a financial year.

14. Agreements under section 33 (4a)

The repeal of section 33 of the 1990 Act does not affect any agreement made under subsection (4a) of that section so far as it applies to a period after the repeal, and any such agreement continues in force as if it had been made under section 21 (2) of this Act.

15. Securities taken as agent of Crown

- (1) Any security for the repayment of advances vested in the Bank immediately before the commencement of section 43 that was taken by the Bank or a predecessor of the Bank as agent, trustee or nominee of the Crown in right of the State is vested in the Treasurer on the commencement of that section.
- (2) Any relevant official who records or registers documents under a written law is to take cognizance of subclause (1) and is authorized to make any entry or memorial or register any document necessary to show the effect of that subclause.
- (3) A statement in an instrument executed by or on behalf of the Treasurer that any security has become vested in the Treasurer under subclause (1) is evidence of that fact.
- (4) If any question arises as to whether a security comes within subclause (1) the question is to be determined by the Treasurer after consultation with the Bank..

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