

# **Rural Business Development Corporation Bill 2000**

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Western Australia

LEGISLATIVE ASSEMBLY

**Rural Business Development Corporation  
Bill 2000**

**A Bill for**

**An Act to preserve and continue a body corporate as the Rural Business Development Corporation, to provide for financial assistance to be given to persons eligible for assistance under approved assistance schemes, to repeal the *Rural Adjustment and Finance Corporation Act 1993*, and for related purposes.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Rural Business Development Corporation Act 2000*.

5 **2. Commencement**

This Act comes into operation on a day fixed by proclamation.

**3. Objects**

10 The objects of this Act are to preserve and continue a body corporate as the Rural Business Development Corporation and to confer functions on the Corporation relating to the provision of financial assistance to foster the development of rural businesses.

**4. Definitions**

In this Act, unless the contrary intention appears —

15 **“approved assistance scheme”** has the meaning given in section 30;

**“board”** means the Corporation’s board of directors established by section 12;

20 **“chairman”** means the person appointed and holding office under section 12(4) as the chairman of the board;

**“chief executive officer”** means the person appointed and holding office under section 19 as the Corporation’s chief executive officer;

25 **“Corporation”** means the body corporate preserved and continued by section 5;

**“director”** means a director of the board, and includes the chairman;

**“Minister for Lands”** means the Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed;

5 **“officer of the Corporation”** means the chief executive officer or a person whose services are used by the Corporation under section 22;

**“repealed Act”** means the *Rural Adjustment and Finance Corporation Act 1993*.

## **Part 2 — Rural Business Development Corporation**

### **Division 1 — Continuation and status of Corporation**

#### **5. Continuation of Corporation as Rural Business Corporation**

- 5 (1) The body corporate preserved and continued by section 4(1) of the repealed Act under the name “Rural Adjustment and Finance Corporation of Western Australia” is preserved and continued under the name “Rural Business Development Corporation”.
- 10 (2) The corporate identity and the rights and obligations of the Corporation are not affected by the operation of subsection (1) or by the repeal of the repealed Act.
- (3) The Corporation has perpetual succession and a common seal.
- (4) Proceedings may be taken by or against the Corporation in its corporate name.
- 15 (5) The Corporation may use, and operate under, one or more trading names approved by the Minister.
- (6) A trading name can be —
- (a) an abbreviation or adaptation of the Corporation’s corporate name; or
- 20 (b) a name other than the Corporation’s corporate name.

#### **6. Corporation is agent of the Crown**

The Corporation is an agent of the Crown in right of the State and has the status, immunities, and privileges of the Crown.

### **Division 2 — Functions of Corporation**

#### **25 7. Functions of Corporation**

- (1) The Corporation’s functions are —
- (a) to administer approved assistance schemes and to ensure that such schemes administered by the Corporation are properly and fairly administered;



- 5                    (b) to give directly the financial assistance to be given under approved assistance schemes administered by the Corporation;
- (c) to provide moneys to a department of the Public Service, or to an agency or instrumentality of the Crown, for the purposes of the financial assistance to be given under an approved assistance scheme administered by the department, agency or instrumentality;
- 10                   (d) to carry out research into, and develop policies on, issues affecting persons likely to be given financial assistance under this Act;
- (e) to review and give advice to the Minister on —
- (i) proposed assistance schemes;
- 15                    (ii) the implementation of approved assistance schemes; and
- (iii) economic and other conditions in the rural sector;
- (f) to perform other functions given to the Corporation under this Act or another Act; and
- 20                   (g) to perform any other functions that may be prescribed.
- (2) An approved scheme administered by a department, agency or instrumentality referred to in subsection (1)(c) is not administered on behalf of the Corporation.

**8. Delegation of Corporation's functions**

- 25                   (1) The Corporation may delegate the performance of any of its functions under this Act, other than this power of delegation, to the chief executive officer or a director.
- (2) The delegation of a function to the chief executive officer may authorise the chief executive officer to subdelegate the function to any other officer of the Corporation or any other person in accordance with any conditions specified in the delegation.
- 30

(3) A function performed by a delegate or subdelegate is taken to be performed by the Corporation.

5 (4) A delegate or subdelegate performing a function under this section is taken to do so in accordance with the terms of the delegation or subdelegation unless the contrary is shown.

(5) Sections 58 and 59 of the *Interpretation Act 1984* apply to a subdelegation under subsection (2) as though it were a delegation.

(6) A delegation or subdelegation is to be in writing.

10 **Division 3 — Powers of Corporation**

**9. General powers of Corporation**

The Corporation has all the powers it needs to perform its functions.

**10. Power to acquire and dispose of property for schemes**

15 (1) Without limiting section 9, the Corporation may, to the extent and in the manner that is contemplated by and necessary for the administration by the Corporation of an approved assistance scheme —

- 20 (a) acquire and hold real and personal property; and  
(b) sell, lease, grant, exchange or otherwise deal with or dispose of real or personal property on the terms and conditions that it considers appropriate.

25 (2) If the written approval of the Minister for Lands has been obtained, then despite anything in the *Land Administration Act 1997* —

- (a) the holder of an estate or interest in land under that Act may dispose of that estate or interest to the Corporation; and

- (b) the Corporation may acquire and hold, surrender or otherwise deal with or dispose of an estate or interest in land under that Act.

- (3) The Minister for Lands may, if satisfied that it is necessary or convenient for the administration by the Corporation of an approved assistance scheme, transfer the fee simple in, or lease, any Crown land to the Corporation on the terms and conditions determined by that Minister.

**11. Restrictions on dealings in land applied for approved assistance schemes**

- (1) In this section —

“**Registrar**” means the Registrar of Titles or Registrar of Deeds, according to which of them is responsible for registering or otherwise acting on a dealing referred to in subsection (2).

- (2) If, under an approved assistance scheme, the Corporation disposes of an estate or interest in land to a person, the Corporation may deliver a memorial of that disposal to the Registrar who, for no fee, is to register the memorial and make appropriate endorsements on the title and records relating to that land.

- (3) If a memorial is registered under subsection (2), the Registrar is not to register or accept for registration without the Corporation’s consent, except as stated in subsection (4), an instrument effecting —

- (a) a transfer or assignment of the estate or interest in land; or
- (b) a lease of the land.

- (4) Subsection (3) does not prohibit the Registrar from registering or accepting for registration an instrument referred to in that subsection if —

- (a) the Corporation gives to the Registrar an appropriate authorisation signed by the chairman; and

- (b) the Registrar endorses the title and records relating to the land accordingly.

#### **Division 4 — Corporation's board of directors**

##### **12. The board**

- 5 (1) The Corporation is to have a board of directors.
- (2) The board is to consist of 5 directors appointed by the Minister.
- (3) A person appointed as a director is, in the Minister's opinion, to have —
  - 10 (a) qualifications and experience in financial management relevant to the Corporation's functions; or
  - (b) other qualifications and experience relevant to those functions.
- (4) One of the directors is to be appointed by the Minister as the Corporation's chairman.
- 15 (5) The chief executive officer is not eligible to be appointed as, or be, a director.

##### **13. Functions of board**

20 The board is the governing body of the Corporation and, in the name of the Corporation, is to perform the functions of the Corporation.

##### **14. Remuneration and allowances of directors**

25 A director is to be paid the remuneration and travelling and other allowances that are determined in his or her case by the Minister on the recommendation of the Minister for Public Sector Management.

##### **15. Constitution and proceedings**

Schedule 1 has effect in relation to the board's constitution and proceedings.

## **Division 5 — Relationship of Corporation with the Minister**

### **16. Minister may give directions**

- 5           (1) The Minister may in writing give to the Corporation —
- (a) general or particular directions relating to matters of administration; or
- (b) general directions relating to the performance of the Corporation's functions,
- and the Corporation is to give effect to any such direction.
- 10          (2) The Minister is not to give a direction to the Corporation relating to the performance of its functions in relation to —
- (a) a particular person;
- (b) a particular application under this Act; or
- (c) a matter relating to a particular application under this Act.
- 15          (3) The Minister is to cause the text of any direction under subsection (1) to be laid before each House of Parliament, or dealt with under subsection (4), within 14 days after the direction is given.
- 20          (4) If —
- (a) at the commencement of the period referred to in subsection (3) a House of Parliament is not sitting; and
- (b) the Minister is of the opinion that that House will not sit during that period,
- the Minister is to transmit a copy of the direction to the Clerk of that House.
- 25          (5) A copy of a direction transmitted to the Clerk of a House is to be regarded —
- (a) as having been laid before that House; and

(b) as being a document published by order or under the authority of that House.

5 (6) The laying of a copy of a direction that is regarded as having occurred under subsection (5)(a) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

10 (7) The text of a direction under subsection (1) is to be included in the annual report submitted by the Corporation's accountable authority under section 66 of the *Financial Administration and Audit Act 1985*.

**17. Minister to have access to information**

15 (1) Except as stated in section 18, the Minister is entitled to have information in the Corporation's possession and, if the information is in or on a document, to have, and make and retain copies of, that document.

20 (2) For the purposes of subsection (1), the Minister may —  
(a) request the Corporation to provide information to the Minister;  
(b) request the Corporation to give the Minister access to information; and  
(c) for the purposes of paragraph (b), make use of the Corporation's staff to obtain the information and provide it to the Minister.

25 (3) The Corporation is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —  
“**document**” includes any tape, disc or other device or medium on which information is recorded or stored;

**“information ”** means information specified, or of a description specified, by the Minister that relates to the Corporation’s functions.

**18. Confidential information**

- 5       (1) Nothing in section 17 entitles the Minister to have information in the Corporation’s possession that the Corporation considers to be confidential.
- (2) Subsection (1) does not apply to information the disclosure of which —
- 10           (a) is required or allowed under another written law; or
- (b) is made with the written consent of the person or persons to whom the information relates.

## **Part 3 — Staff**

### **19. Chief executive officer**

- (1) The Corporation is to have a chief executive officer appointed under Part 3 of the *Public Sector Management Act 1994*.
- 5        (2) Subject to the direction and control of the board, the chief executive officer is to administer the day to day operations of the Corporation.

### **20. Delegation of chief executive officer's functions**

- 10        (1) The chief executive officer may delegate the performance of any of his or her functions under this Act, other than this power of delegation, to another officer of the Corporation.
- (2) A function performed by a delegate is taken to be performed by the chief executive officer.
- 15        (3) A delegate performing a function under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) A delegation is to be in writing.

### **21. Consultants etc.**

- 20        With the approval of the Minister, the Corporation may engage persons under a contract for services or other arrangement to provide any professional, technical or other assistance the Corporation considers necessary to enable it to perform its functions.

### **22. Use of other government staff etc.**

- 25        (1) The Corporation may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
- (a) in the Public Service;



- (b) in a State agency or instrumentality; or
- (c) otherwise in the service of the Crown in right of the State.

(2) The Corporation may by arrangement with —

- 5 (a) a department of the Public Service; or
- (b) a State agency or instrumentality,

make use of any facilities of the department, agency or instrumentality.

10 (3) An arrangement under subsection (1) or (2) is to be made on the terms agreed to by the parties.

(4) If the services of a person are for the time being used by the Corporation under subsection (1), that use does not prejudice any rights of the person under the *Public Sector Management Act 1994*, or any other Act, and a period of service given to the Corporation is taken not to be a break in the service in which  
15 that person would otherwise have been employed.

## **Part 4 — Financial provisions**

### **23. Funds of Corporation**

The funds available for the purpose of enabling the Corporation to perform its functions consist of —

- 5 (a) moneys from time to time appropriated by Parliament;
- (b) moneys provided by the Commonwealth for the purposes of a scheme established under an agreement between the Commonwealth and the State;
- 10 (c) moneys received by way of a contribution to, or in support of, an approved assistance scheme;
- (d) moneys received by way of repayment of, or interest paid on, moneys given by the Corporation as financial assistance under this Act;
- 15 (e) moneys borrowed by the Corporation under section 25 or 26;
- (f) moneys credited to the Account referred to in section 24 under Schedule 2 clause 6;
- (g) fees paid to the Corporation under this Act; and
- 20 (h) any other moneys lawfully received by, made available to or payable to the Corporation.

### **24. Rural Business Development Corporation Operating Account**

- (1) The funds referred to in section 23 are to be credited to an account called the Rural Business Development Corporation Operating Account (“**the Account**”) —
  - 25 (a) at the Treasury that is to form part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*; or
  - (b) with the approval of the Treasurer, at a bank.

(2) The Account is to be charged with —

- (a) the costs of the administration of this Act;
- (b) the payment of moneys given by the Corporation as, or for the purposes of, financial assistance under approved assistance schemes;
- (c) the payment of remuneration and allowances to directors;
- (d) the payment of any moneys required to be paid under an arrangement referred to in section 22(3);
- (e) interest on, and repayment of, moneys borrowed by the Authority under section 25 or 26, and any fees payable in connection with the borrowing of those moneys; and
- (f) all other expenditure lawfully incurred under or for the purposes of this Act.

**25. Borrowing from Treasurer**

The Corporation may borrow from the Treasurer the amounts that the Treasurer approves on the terms and conditions relating to repayment and the payment of interest that the Treasurer imposes.

**26. Other borrowing**

- (1) In addition to its powers under section 25, the Corporation may, with the prior written approval of the Treasurer and on the terms and conditions that the Treasurer approves, borrow moneys for the purpose of performing its functions.
- (2) Any moneys borrowed by the Corporation under subsection (1) may be raised —
  - (a) as one loan or as several loans; and
  - (b) in the manner that the Treasurer approves.

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- (3) The total amount borrowed by the Corporation under subsection (1) in any one financial year is not to exceed the amount that the Treasurer approves.

**27. Guarantee by Treasurer**

- 5 (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee the payment of any moneys payable by the Corporation in respect of moneys borrowed by it under section 26.
- 10 (2) A guarantee is to be in the form and contain the terms and conditions that the Treasurer determines.
- (3) Before a guarantee is given, the Corporation is to —
- (a) give to the Treasurer any security that the Treasurer requires; and
- 15 (b) execute all instruments that are necessary for that purpose.

**28. Effect of guarantee**

- (1) The due payment of moneys payable by the Treasurer under a guarantee given under section 27 is guaranteed by the State.
- 20 (2) Any such payment is to be made by the Treasurer and charged to the Consolidated Fund, and this subsection appropriates that Fund accordingly.
- (3) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Corporation or otherwise in respect of any payment made by the Treasurer
- 25 under a guarantee given under section 27.

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

- (1) 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 the
- 30 Corporation and its operations.

- (2) In addition to the annual report submitted under section 66 of that Act, the Corporation is to provide to the Minister, promptly after each month, a written report of its operations during that month.

## **Part 5 — Financial assistance**

### **Division 1 — Approved assistance schemes**

#### **30. Approved assistance schemes**

- (1) An “**approved assistance scheme**” is a scheme that —
- 5           (a) states the purpose and nature of financial assistance that may be given under the scheme;
- (b) identifies the categories of persons eligible to be given financial assistance under the scheme; and
- (c) is approved by the Minister and the Treasurer.
- 10       (2) An approved assistance scheme may include conditions on which financial assistance is to be given under the scheme.
- (3) The Corporation may give financial assistance only —
- (a) under an approved assistance scheme administered, with the approval of the Minister, by the Corporation; or
- 15           (b) for the purposes of an approved assistance scheme administered, with the approval of the Minister, by a department of the Public Service or an agency or instrumentality of the Crown.

#### **31. Schemes established under agreements between Commonwealth and State taken to be approved assistance schemes**

20

A scheme established under an agreement between the Commonwealth and the State that —

- (a) is approved by the Treasurer;
- 25       (b) provides for financial assistance to be given under the scheme; and
- (c) is administered, with the approval of the Minister, by —
- (i) the Corporation; or

- (ii) a department of the Public Service or an agency or instrumentality of the Crown,

is taken to be an approved assistance scheme.

**Division 2 — Applications for, and grants of,  
financial assistance**

5

**32. Applications for financial assistance**

- (1) A person who may be eligible for financial assistance under an approved assistance scheme administered by the Corporation may apply to the Corporation, in the manner approved by the Corporation, for financial assistance under the scheme.  
10
- (2) The Corporation may by written notice require an applicant for financial assistance to provide any documents or information the Corporation may require for a proper assessment of the application or otherwise for the purposes of this Act.
- 15 (3) The Corporation may refuse to deal with an application made by a person who, without reasonable excuse, fails to comply with a requirement under subsection (2).
- (4) An applicant must not —
  - (a) wilfully make a false statement; or
  - 20 (b) wilfully provide false information,in, or in relation to, an application.  
Penalty: \$10 000.
- (5) The Corporation may refuse an application if the Corporation considers that granting the application would be inconsistent with —  
25
  - (a) a provision —
    - (i) of the approved assistance scheme concerned; or

- (ii) if that scheme is established under an agreement between the Commonwealth and the State — of the agreement;

or

- 5 (b) a direction given to the Corporation by the Minister in relation to the administration of that scheme.

- (6) If the Corporation refuses an application, the Corporation is to give the applicant written notice of the reasons for doing so.

**33. Grants of financial assistance**

- 10 (1) Subject to the provisions and directions to which subsection (2) applies, the Corporation may grant an application for financial assistance on the terms and conditions that it considers appropriate.

- (2) This subsection applies to —

- 15 (a) the provisions —

- (i) of the approved assistance scheme concerned; and

- (ii) if that scheme is established under an agreement between the Commonwealth and the State — of the agreement;

and

- (b) any directions given to the Corporation by the Minister in relation to the administration of that scheme.

**Division 3 — Other matters**

25 **34. Security for payments of financial assistance**

- (1) Repayment of all payments of financial assistance under an approved assistance scheme administered by the Corporation, and payment of interest on those payments, are to be secured to the Corporation by the best and most appropriate security available in each case, which may be a security that ranks in priority after another security.



(2) The Corporation may —

(a) fix a scale of fees to be charged to applicants for financial assistance under an approved assistance scheme administered by the Corporation for the making of necessary arrangements in relation to the taking of securities; and

(b) require an applicant to pay such a fee.

**35. Creditors to provide information**

(1) The Corporation may by written notice require a creditor of a person who has applied for financial assistance under an approved assistance scheme administered by the Corporation to provide any documents or information in the possession or under the control of the creditor that the Corporation requires for the purposes of this Act.

(2) A person must not without reasonable excuse fail to comply with a requirement under subsection (1) within 28 days after given notice of that requirement.

Penalty: \$5 000.

(3) A person must not in purported compliance with a requirement under subsection (1) —

(a) wilfully make a false statement; or

(b) wilfully provide false information.

Penalty: \$10 000.

## **Part 6 — Miscellaneous**

### **36.      Protection from liability for wrongdoing**

- 5            (1)    An action in tort does not lie against a person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (2)    The Corporation and the Crown are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (1).
- 10           (3)    The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4)    In this section, a reference to the doing of anything includes a reference to an omission to do anything.

### **37.      Confidentiality**

- 15           (1)    This section applies to a person —
- (a)    who is or has been a director or an officer of the Corporation;
- (b)    who is or has been engaged by the Corporation under section 21; or
- 20           (c)    whose services are or have been used by the Corporation under section 22(1).
- (2)    A person to whom this section applies must not, directly or indirectly, record, disclose or make use of any information obtained in the course of duty except —
- 25           (a)    for the purpose of performing a function under this Act;
- (b)    as required or allowed by this Act or under another written law;
- (c)    with the written consent of the person to whom the information relates; or

(d) in other prescribed circumstances.

Penalty: \$10 000.

**38. Common seal and execution of documents**

- 5 (1) A document is duly executed by the Corporation if —
- (a) the common seal of the Corporation is affixed to it in accordance with subsections (2) and (3); or
- (b) it is signed on behalf of the Corporation by a person or persons authorised to do so under subsection (4).
- 10 (2) The common seal of the Corporation is not to be affixed to any document except as authorised by the Corporation.
- (3) The common seal of the Corporation is to be affixed to a document in the presence of 2 directors, and each of them is to sign the document to attest that the common seal was so affixed.
- 15 (4) The Corporation may, by writing under its seal, authorise a director or directors or an officer or officers of the Corporation to sign documents on behalf of the Corporation, either generally or subject to any conditions or restrictions that are specified in the authorisation.
- 20 (5) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (6) A document executed by a person under this section without the common seal of the Corporation is not to be regarded as a deed unless the person executes it as a deed and is authorised under subsection (4) to do so.
- 25 (7) When a document is produced bearing a seal purporting to be the common seal of the Corporation, it is to be presumed that the seal is the common seal of the Corporation until the contrary is shown.

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**39. Time for commencing prosecutions**

A prosecution for an offence against this Act may be commenced at any time within 5 years after the offence was committed, but not later.

5     **40. Regulations**

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

10     (2) Without limiting subsection (1), regulations may be made prescribing —

- (a) fees payable for the provision of any services by the Corporation;
- 15     (b) the procedure to be adopted in relation to any application or proceeding;
- (c) the duties and conduct of applicants for assistance under approved assistance schemes administered by the Corporation; and
- 20     (d) penalties of not more than \$2 000 for offences against the regulations.

**41. Review of Act**

(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from its commencement.

25     (2) In the course of that review the Minister is to consider and have regard to —

- (a) the effectiveness of the operations of the Corporation;
- (b) the need for the continuation of the functions of the Corporation and for the continuation of this Act; and

- (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
  - (3) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause the report to be laid before each House of Parliament.
- 5

**Part 7 — Repeal, transitional provisions and  
consequential amendments**

**42.        Repeal**

5                      The *Rural Adjustment and Finance Corporation Act 1993* is  
repealed.

**43.        Transitional provisions**

The transitional provisions set out in Schedule 2 have effect.

**44.        Consequential amendments**

10                     The consequential amendments set out in Schedule 3 have  
effect.

## **Schedule 1 — The board**

[s. 15]

### **Division 1 — Constitution and proceedings of the board**

#### **1. Term of office**

- 5       (1) Subject to subclause (2), a director holds office for the term, not exceeding 3 years or, in the case of the chairman, not exceeding 5 years, specified in the instrument of his or her appointment, but may from time to time be reappointed.
- 10       (2) A director whose term of office expires by the passage of time continues in office until the director is reappointed or his or her successor comes into office.

#### **2. Resignation, removal etc.**

- 15       (1) The office of a director becomes vacant if the director —  
          (a) resigns the office by written notice addressed to the Minister;  
          (b) becomes employed by the Corporation;  
          (c) is an insolvent under administration as that expression is defined in the Corporations Law;  
          (d) is absent without leave of the board from 3 consecutive meetings of the board of which the director has had notice; or  
20       (e) is removed from office by the Minister under subclause (2).
- 25       (2) The Minister may remove a director from office if the Minister is satisfied that the director —  
          (a) has neglected his or her duty;  
          (b) has misbehaved;  
          (c) is incompetent; or  
          (d) is suffering from mental or physical incapacity impairing the performance of his or her functions.

#### **3. Leave of absence**

- 30       The board may grant leave of absence to a director on the terms and conditions that it thinks fit.

**Schedule 1      The board**

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**4.            Chairman unable to act**

5            If the chairman is unable to act by reason of sickness, absence or other cause, or during any vacancy in that office, a director chosen by the board is to be deputy chairman and is to perform the functions of the chairman.

**5.            Director unable to act**

10           (1)    If a director other than the chairman is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in his or her place and, while so acting according to the tenor of his or her appointment, that other person is taken to be a director of the board.

(2)    The appointment of a person under subclause (1) may be terminated at any time by the Minister.

**6.            Saving**

15           No act or omission of a person acting in place of another under clause 4 or 5 is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.

**7.            Meetings**

20           (1)    Subject to this clause, meetings of the board are to be held at the times and places that the board determines.

(2)    A special meeting of the board may at any time be convened by —  
         (a)    the Minister;  
         (b)    the chairman; or  
         (c)    any 3 directors.

25           (3)    The first meeting of the board after this Act comes into operation is to be convened by the chairman.

**8.            Presiding officer**

(1)    The chairman is to preside at all meetings of the board at which the chairman is present.



- (2) If both the chairman and the deputy chairman, if appointed, are absent from a meeting, a director chosen by the directors present is to preside.

**9. Quorum**

5 A quorum for a meeting of the board is 3 directors.

**10. Voting**

- (1) Each director present at a meeting of the board has a deliberative vote.
- (2) If the votes cast on a question at a meeting are equally divided, the chairman has a casting vote in addition to his or her deliberative vote.

10 **11. Chief executive officer**

- (1) The chief executive officer is to be given notice of the meetings of the board, and he or she is entitled to attend any meeting and participate in the discussion of any matter before the meeting.
- (2) The chief executive officer is not entitled to vote on any matter before a meeting of the board.

15

**12. Minutes**

The board is to cause accurate minutes to be kept of the proceedings at its meetings and is to submit to the Minister a copy of the minutes of each meeting within 14 days after the meeting at which the minutes are confirmed.

20

**13. Resolution without meeting**

A written resolution signed or assented to by each director by letter or facsimile is as valid as if it had been passed at a meeting of the board.

**14. Holding meetings remotely**

25 The presence of a person at a meeting of the board need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

**Schedule 1      The board**

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**15.      Committees**

- (1)    The board may appoint committees to assist it in the performance of its functions and may discharge or alter any committee so appointed.
- 5        (2)    A committee may include persons who are not directors but, unless the Minister approves, is to include at least one person who is a director or an officer of the Corporation.
- (3)    Subject to the directions of the board, a committee may determine its own procedures.

**16.      Board to determine own procedures**

- 10        Subject to this Act, the board is to determine its own procedures.

**Division 2 — Disclosure of interests etc.**

**17.      Disclosure of interests**

- 15        (1)    A director who has a material personal interest in a matter being considered or about to be considered by the board must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the board.
- Penalty: \$5 000.

- 20        (2)    A disclosure under subclause (1) is to be recorded in the minutes of the meeting.

**18.      Voting by interested directors**

A director who has a material personal interest in a matter that is being considered by the board —

- 25        (a)    must not vote whether at a meeting or otherwise —
- (i)    on the matter; or
- (ii)   on a proposed resolution under clause 19 in respect of the matter, whether relating to that director or a different director;
- and

- (b) must not be present while —
- (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),
- 5 is being considered at a meeting.

**19. Clause 18 may be declared inapplicable**

Clause 18 does not apply if the board has at any time passed a resolution that —

- (a) specifies the director, the interest and the matter; and
- 10 (b) states that the directors voting for the resolution are satisfied that the interest should not disqualify the director from considering or voting on the matter.

**20. Quorum where clause 18 applies**

- 15 (1) If a director is disqualified under clause 18 in relation to a matter, a quorum is present during the consideration of the matter if at least 2 directors are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.
- (2) The Minister may deal with a matter to the extent that the board cannot deal with it because of subclause (1).

20 **21. Minister may declare clauses 18 and 20 inapplicable**

- (1) The Minister may in writing declare that clause 18 or 20 or both of them do not apply in relation to a specified matter either generally or in relation to voting on particular resolutions.
- 25 (2) Within 14 days after a declaration under subclause (1) is made, the Minister is to cause a copy of the declaration to be laid before each House of Parliament.

## Schedule 2 — Transitional provisions

[s. 43]

### 1. Definitions

In this Schedule —

- 5       **“repealed Act Corporation”** means the body corporate preserved and continued by section 4(1) of the repealed Act;
- “repealed Act member”** means a person holding office as a member of the repealed Act Corporation under section 6(1) of the repealed Act immediately before the commencement of this Act.

### 10   2. Interpretation Act to apply

This Schedule does not limit the operation of the *Interpretation Act 1984*.

### 3. References to the Corporation under its former name in laws and documents

- 15       (1) In this clause —
- “former name”** means “Rural Adjustment and Finance Corporation of Western Australia”;
- “new name”** means “Rural Business Development Corporation”.
- 20       (2) If in a written law or in any agreement, instrument or other document there is —
- (a) a reference to the Corporation by its former name; or
- (b) a reference construed under section 55 of the repealed Act as a reference to the Corporation by its former name,
- 25       that reference is, unless the context otherwise requires, to be read, or have effect, on and after the commencement of this Act, as if it were a reference to the Corporation by its new name.
- (3) Subclause (2) does not limit section 5(2).

### 4. Repealed Act members to go out of office

- 30       A repealed Act member goes out of office on the commencement of this Act but, subject to this Act, is eligible to be appointed under section 12 as a director of the Corporation.

**5. Chief executive officer of repealed Act Corporation continues in office**

5 The person holding office as the chief executive officer of the repealed Act Corporation immediately before the commencement of this Act continues to hold office on and after that commencement as if the person had been appointed under section 19.

**6. Certain funds to be transferred to Rural Business Development Corporation Operating Account**

10 (1) On the commencement of this Act, any funds standing to the credit of —

- (a) the accounts referred to in section 16(1) of the repealed Act (the “**repealed Act accounts**”); or
  - (b) the Rural Adjustment and Finance Corporation Administration Account referred to in section 22 of the repealed Act (the “**Administration Account**”),
- 15

are to be credited to the Rural Business Development Corporation Operating Account referred to in section 24 of this Act, and the repealed Act accounts and the Administration Account are then to be closed.

20 (2) If in any agreement, instrument or other document there is a reference to a repealed Act account or the Administration Account, that reference is, unless the context otherwise requires, to be read, or have effect, on and after the commencement of this Act, as if it were a reference to the Rural Business Development Corporation Operating Account.

25

**7. Applications for assistance under repealed Act**

30 An application for assistance under section 24 of the repealed Act in respect of which a final decision has not been made before the commencement of this Act is taken to be an application for financial assistance under section 32 of this Act.

**8. Grants of assistance under repealed Act**

Financial assistance given under section 24 of the repealed Act under a scheme referred to in section 5(1)(a) of that Act that is being

**Schedule 2**      Transitional provisions

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administered by the repealed Act Corporation immediately before the commencement of this Act is taken to have been given under an approved assistance scheme administered by the Corporation.

**9. Transitional regulations**

- 5            (1) If there is no sufficient provision in this Schedule for dealing with the transition from the repealed Act to this Act, the Governor may make regulations prescribing all matters that are required, or are necessary or convenient, for dealing with that transition.
- 10           (2) Regulations made under subclause (1) may have effect before the day on which they are published in the *Gazette*.
- (3) To the extent that a regulation made under subclause (1) may have effect before the day of its publication in the *Gazette*, it does not —
- 15                (a) affect in a manner prejudicial to any person (other than the State or the Corporation) the rights of that person existing before the day of its publication; or
- (b) impose liabilities on any person (other than the State or the Corporation) in respect of anything done or omitted to be done before the day of its publication.

### Schedule 3 — Consequential amendments

[s. 44]

1. ***Constitution Acts Amendment Act 1899***

5 Part 3 of Schedule 5 is amended by deleting “The Rural Adjustment and Finance Corporation of Western Australia preserved and continued by the *Rural Adjustment and Finance Corporation Act 1993*.” and inserting instead —

“  
10 The Rural Business Development Corporation preserved and continued by the *Rural Business Development Corporation Act 2000*.  
”.

2. ***Financial Administration and Audit Act 1985***

15 Schedule 1 is amended by deleting the item “Rural Adjustment and Finance Corporation of Western Australia” and inserting the following item instead —

“ Rural Business Development Corporation ”.

3. ***Public Sector Management Act 1994***

20 Item 41 of Schedule 2 is deleted and the following item is inserted instead —

“  
41 Rural Business Development Corporation,  
preserved and continued by the *Rural Business Development Corporation Act 2000*  
25 ”.

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