ANALYSIS

Title
Preamble
1. Short Title and commencement
2. Interpretation
3. Act to bind the Crown
4. Vesting of undertaking of The Rural Bank
5. Consequential provisions on vesting of undertaking of The Rural Bank
6. Continuity of legal proceedings
7. Books and documents to remain evidence
8. Registers
9. Taxes and duties
10. Status of The National Bank
11. Notice to depositors
12. Repayment of deposits
13. Government guarantee of certain securities to continue
14. Consequential amendments
15. Repeals, revocations, and savings
16. Private Act
Schedule

1994, No. 3—*Private*

An Act to provide for—

(a) The transfer to The National Bank of New Zealand Limited of the undertaking of The Rural Bank Limited; and

(b) The dissolution of The Rural Bank Limited; and

(c) The repeal of the Rural Banking and Finance Corporation of New Zealand Act 1989; and

(d) Various consequential amendments and related matters [*27 May 1994*

WHEREAS—

A. The National Bank of New Zealand Limited is a duly incorporated company under the Companies Act 1955 and a registered bank within the meaning of the Reserve Bank of New Zealand Act 1989:

B. The Rural Bank Limited, which was formerly named Rural Banking and Finance Corporation of New Zealand Limited, is a duly incorporated company under the Companies Act 1955 and a registered bank within the meaning of the Reserve Bank of New Zealand Act 1989:

C. The Rural Bank Limited is a wholly owned subsidiary of The National Bank of New Zealand Limited:

D. It is expedient in the interests of banking efficiency that the banking business conducted by The Rural Bank Limited should be amalgamated with the banking business of The National Bank of New Zealand Limited, and that The Rural Bank Limited be dissolved:

E. Legislation is the only means by which the amalgamation of the banking business of both the banks can be effected efficiently and economically and without interference with the conduct and continuity of the business of banking in the interests of the banks, their customers, and other persons having business with them and the only means by which appropriate amendments to, and repeals of, existing legislation can be effected:

F. The objects of this Act cannot be attained without the authority of Parliament:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the National Bank of New Zealand Limited Act 1994.

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the day after the date on which it receives the Royal assent.

(3) Sections 4 to 10, 13, 14, and 15 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

(4) The date appointed by the Governor-General shall be a date that is not earlier than 28 days after the date on which the order is made.

2. Interpretation—In this Act, unless the context otherwise requires,—

"Appointed day" means the date appointed for the commencement of sections 4 to 10, 13, 14, and 15 of this Act:

"Inland Revenue Acts" means the Acts specified in the First Schedule to the Inland Revenue Department Act 1974:

"Instrument" includes—

(a) Any instrument (other than this Act) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy of it were lodged, filed, or registered under any enactment; and

(b) Any judgment, order, or a process of a court:

"Instrument by way of security" has the meaning assigned to it in section 2 of the Chattels Transfer Act 1924:

"Land" has the meaning assigned to it in section 2 of the Land Transfer Act 1952:

"Liabilities" means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere):

"National Bank" and "The National Bank" mean The National Bank of New Zealand Limited, an incorporated company having its registered office at Wellington:

"Property" means property of every kind, whether tangible or intangible, real or personal, corporeal or incorporeal and, without limiting the generality of the foregoing, includes—

(a) Choses in action and money:

(b) Goodwill:

(c) Rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent, or prospective:

"Rights" means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective:

"Rural Bank" and "The Rural Bank" mean The Rural Bank Limited incorporated as Rural Banking and Finance Corporation of New Zealand Limited under the Companies Act 1955 by virtue of the Rural

Banking and Finance Corporation of New Zealand Act 1989:

"Security" means a mortgage, submortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, indemnity, defeasance, hypothecation, instrument by way of security, lien, pledge, or other security for the payment of money or for the discharge of any other obligation or liability, and in any case whether upon demand or otherwise, whether present or future and whether actual or contingent; and includes an agreement or undertaking to give or execute, whether upon demand or otherwise, any of the foregoing:

"Subsidiary" has the same meaning as in the Companies Act 1955:

"Undertaking", in relation to The Rural Bank, means the property, rights, and liabilities of The Rural Bank.

3. Act to bind the Crown—This Act binds the Crown.

4. Vesting of undertaking of The Rural Bank—(1) On the appointed day the undertaking of The Rural Bank shall, by virtue of this Act, vest in The National Bank.

(2) On the appointed day—

(a) The Rural Bank shall be deemed to be dissolved; and

(b) Every person holding office as a director, secretary, or auditor of The Rural Bank shall cease to hold that office.

5. Consequential provisions on vesting of undertaking of The Rural Bank—(1) Without limiting the generality of section 4 of this Act, the following provisions shall apply on and after the appointed day:

(a) A reference (express or implied) to The Rural Bank in any other Act, or in any regulation, order, or notice made or given under any enactment, or in any contract, instrument, register, record, notice, security, document, or communication made, given, passed or executed before or after the appointed day shall, unless the context otherwise requires, be read and construed as a reference to The National Bank:

(b) A reference (express or implied) to the holder for the time being of a particular office within The Rural Bank in any instrument made, given, passed, or executed

before the appointed day shall be read and construed as a reference to the person for the time being holding office as Chief Executive of The National Bank or such other officer of The National Bank as is designated from time to time by the Chief Executive of The National Bank or by any other officer acting under delegation from the Chief Executive:

(c) The relationship between The Rural Bank and a customer shall become the same relationship between The National Bank and that customer and the same rights and liabilities, including rights of set-off, shall exist between The National Bank and a customer as existed immediately before the appointed day between The Rural Bank and that customer:

(d) All contracts (including contracts of employment), agreements, conveyances, deeds, leases, licences, securities, and other instruments, undertakings, and notices (whether or not in writing) entered into by, made with, given to or by, or addressed to The Rural Bank (whether alone or with any other person) before the appointed day and subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable by, against, or in favour of The Rural Bank, be binding on and enforceable by, against, or in favour of The National Bank as fully and effectually in every respect as if, instead of The Rural Bank, The National Bank had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed, as the case may be:

(e) Any instruction, order, direction, mandate, or authority given to The Rural Bank shall be deemed to have been given to The National Bank:

(f) A security held by The Rural Bank as security for a debt or other liability to The Rural Bank incurred before the appointed day shall be available to The National Bank as security for the discharge of that debt or liability and, where the security extends to future or prospective debts or liabilities, shall be available as security for the discharge of debts or liabilities to The National Bank incurred on or after the appointed day; and, in relation to a security, The National Bank shall be entitled to all the rights and priorities, however they arise, and shall be subject to all liabilities to

which The Rural Bank would have been entitled or subject if this Act had not been passed:

(g) All the rights and liabilities of The Rural Bank as bailor or bailee of documents or chattels shall be vested in and assumed by The National Bank:

(h) A negotiable instrument or order for payment of money which, before or on the appointed day, is drawn on or given to or accepted or endorsed by The Rural Bank or payable at a place of business of The Rural Bank shall, unless the context otherwise requires, have the same effect on and after the appointed day as if it had been drawn on or given to or accepted by or endorsed by The National Bank instead of The Rural Bank or was payable at the place of business of The National Bank:

(i) A reference (express or implied) to The Rural Bank in any notice or other communication served, given, or sent on or after the appointed day in relation to any instrument or other document subsisting immediately before the appointed day shall, unless the context otherwise requires, be read as a reference to The National Bank.

(2) On and after the appointed day, for the purposes of any agreement relating to any bonds, stock, debentures, and other securities issued before the appointed day by The Rural Bank and which by virtue of this Act vest in The National Bank, The Rural Bank and The National Bank shall be deemed to be the same legal entity.

(3) Nothing effected or authorised by this Act—

(a) Shall be regarded as placing The Rural Bank or The National Bank or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or

(b) Shall be regarded as placing The Rural Bank, The National Bank, or any other person, in breach of—

(i) Any enactment, rule of law, or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property; or

(ii) The Privacy Act 1993 or any other enactment, rule of law, or contractual provision relating to the collection, use, or disclosure of any information; or

(c) Shall release any surety wholly or in part from all or any of the surety's obligations; or

(d) Shall be regarded as giving rise to a right for any person to—

(i) Terminate or cancel or modify any contract or agreement; or

(ii) Enforce or accelerate the performance of an obligation; or

(iii) Require the performance of an obligation not otherwise arising for performance; or

(e) Shall invalidate or discharge any contract or security; or

(f) Shall affect the rights of The National Bank in respect of any promise, covenant, warranty, or guarantee given to it by any person relating to the liabilities of The Rural Bank.

6. Continuity of legal proceedings—(1) This section applies to—

(a) Any action, arbitration, or proceeding, or cause of action, arbitration or proceeding which, immediately before the appointed day, is pending or existing by, against, or in favour of The Rural Bank or to which The Rural Bank is a party:

(b) Any cause of action, arbitration, or proceeding that arises on or after the appointed day in respect of any contract entered into by The Rural Bank or any act done or omitted to be done by or to The Rural Bank, as the case may be, before the appointed day that would, but for this Act, be available to, against, or in favour of The Rural Bank or to which The Rural Bank could have been a party.

(2) Any action, arbitration, or proceeding and any cause of action, arbitration, or proceeding to which this section applies shall not abate or be discontinued or be prejudicially affected by this Act, but may be prosecuted and, without amendment of any writ, pleading, or other document, continued and enforced by, against, or in favour of The National Bank in its own name to the same extent that it might have been prosecuted, continued, and enforced by, against, or in favour of The Rural Bank if this Act had not been passed.

7. Books and documents to remain evidence—(1) Any document, matter, or thing which, if this Act had not been passed, would have been admissible in evidence in respect of any matter for or against The Rural Bank shall, on and after the appointed day, be admissible in evidence in respect of the same matter for or against The National Bank.

(2) In this section, "document" has the same meaning as in section 2 (1) of the Evidence Amendment Act (No. 2) 1980.

8. Registers—(1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the foregoing provisions of this Act to change the name of The Rural Bank to that of The National Bank in those books or registers or in any document.

(2) The presentation to any Registrar or other person of any instrument (whether or not comprising an instrument of transfer) by The National Bank—

(a) Executed or purporting to be executed by The National Bank; and

(b) Relating to any property held immediately before the appointed day by The Rural Bank; and

(c) Containing a recital that that property has become vested in The National Bank by virtue of the provisions of this Act—

shall, in the absence of evidence to the contrary, be sufficient evidence that the property is vested in The National Bank.

(3) Without limiting subsection (1) or subsection (2) of this section, where any security issued by any person or any rights or interests in property of any person are, by virtue of this Act, vested in The National Bank, that person, on presentation of a certificate signed by the Chief Executive of The National Bank or by an officer of The National Bank acting under delegation from the Chief Executive, stating that that security or any such rights or interests have, by virtue of this Act, vested in The National Bank, shall, notwithstanding any other enactment or rule of law or the provisions of any instrument, register The National Bank as the holder of that security or as the person entitled to such rights or interests, as the case may be.

(4) In subsection (3) of this section, "security" has the same meaning as in section 2 (1) of the Securities Act 1978.

(5) Except as provided in this section, nothing in this Act derogates from the provisions of the Land Transfer Act 1952.

9. Taxes and duties—(1) Subject to subsections (2) and (3) of this section, for the purposes of the Inland Revenue Acts, and any other enactment that imposes or provides for the collection of a tax, duty, levy, rate, or other charge,—

(a) On and from the appointed day The Rural Bank and The National Bank shall be deemed to be the same person; and

(b) All transactions entered into by, and acts of, The Rural Bank before the appointed day shall be deemed to have been entered into by, or to be those of, The

National Bank and to have been entered into or performed by The National Bank at the time when they were entered into or performed by The Rural Bank.

(2) For the purposes of the Income Tax Act 1976, any losses that may have been incurred by The Rural Bank—

(a) In The Rural Bank's non-standard accounting year ended on the 30th day of June 1993 (to the extent attributable, in accordance with section 188 (10) of the Income Tax Act 1976, to the period after the 18th day of December 1992), shall be deemed not to have been incurred by The Rural Bank, but to have been incurred by The National Bank, in its non-standard accounting year ended on the 31st day of December 1992; and

(b) In The Rural Bank's non-standard accounting year beginning on the 1st day of July 1993 shall be deemed not to have been incurred by The Rural Bank, but to have been incurred by The National Bank in its non-standard accounting year beginning on the 1st day of January 1993—

in each case to the extent not already set off against assessable income under section 188 or section 191 of the Income Tax Act 1976.

(3) Any credit balance in The Rural Bank's imputation credit account as at the appointed day shall be transferred to The National Bank's imputation credit account on the appointed day, and for the purposes of section 394E (1) (g) of the Income Tax Act 1976, the credits making up that credit balance shall be determined by applying the principles of section 394E (4) of that Act and shall be deemed to have arisen in The National Bank's imputation credit account at the same time as they were deemed to have arisen in The Rural Bank's imputation credit account under section 394D (2), as modified by section 394E (4) (b), of that Act.

10. Status of The National Bank—(1) Nothing in this Act exempts The National Bank from the provisions of any enactment relating to banks or banking.

(2) The Reserve Bank of New Zealand shall,—

(a) On the appointed day, remove the name "The Rural Bank Limited" from the register of registered banks maintained under the Reserve Bank of New Zealand Act 1989; and

(b) As soon as practicable after removing the name, give notice of the removal of the name in the *Gazette*.

11. Notice to depositors—(1) Not later than 21 days after the date on which an Order in Council is made under section 1 (3) of this Act, The National Bank shall—

(a) Give written notice of the matters set out in subsection (2) of this section to every depositor with The Rural Bank; and

(b) Give public notice of the matters set out in subsection (3) of this section in a principal metropolitan daily newspaper circulating in each of Auckland, Wellington, Christchurch, and Dunedin.

(2) The notice given under subsection (1) (a) of this section must state that—

(a) By virtue of this Act, the undertaking of The Rural Bank is to vest in The National Bank on the date (which must also be stated) specified in the Order in Council made under section 1 (3) of this Act:

(b) By virtue of this Act, all deposits with The Rural Bank will, on that date, become deposits with The National Bank:

(c) The depositor has the right to withdraw the amount standing to the credit of his or her account as a depositor as from the date of the notice at any time before the appointed day and to do so without penalty.

(3) The notice given under subsection (1) (b) of this section must state that—

(a) By virtue of this Act, the undertaking of The Rural Bank is to vest in The National Bank on the date (which must also be stated), specified in the Order in Council made under section 1 (3) of this Act:

(b) By virtue of this Act, all deposits with The Rural Bank will, on that date, become deposits with The National Bank:

(c) Every person who is a depositor at the date on which notices under subsection (1) (a) of this section are sent to all depositors has the right to withdraw the amount standing to the credit of his or her account as a depositor at any time before the appointed day and to do so without penalty.

(4) Every notice to a depositor under subsection (1) (a) of this section shall be sent to the depositor's last known address.

(5) A failure to comply with this section does not affect the validity of anything done by or under this Act or the validity of any Order in Council made under section 1 (3) of this Act.

12. Repayment of deposits—The Rural Bank shall, on receipt of a request in writing from a depositor, being a person who was a depositor as at the date on which notices under section 11 (1) (a) of this Act were sent to all depositors, repay without penalty the amount standing to the credit of the account of the depositor together with any interest accrued due.

13. Government guarantee of certain securities to continue—(1) All bonds, stock, debentures, and other securities to which section 16 of the Rural Banking and Finance Corporation of New Zealand Act 1989 applied immediately before the appointed day and that, by virtue of this Act, vest in The National Bank shall continue to be guaranteed in accordance with the following provisions of this section.

(2) If any default is made by The National Bank in the payment of any principal or interest payable by it in respect of any bonds, stock, debentures, or other securities specified in subsection (1) of this section, such principal or interest, as the case may be, shall forthwith be paid out of the Crown Bank Account without further appropriation than this section.

(3) All money paid under the authority of subsection (2) of this section on account of any bonds, stock, debentures, or other securities shall constitute a debt due by The National Bank to the Crown and shall be recoverable as such in any Court of competent jurisdiction.

14. Consequential amendments—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

15. Repeals, revocations, and savings—(1) The Rural Banking and Finance Corporation of New Zealand Act 1989 is hereby repealed.

(2) The Rural Banking and Finance Corporation Amendment Act Commencement Order 1988 (S.R. 1988/181) and the Rural Banking and Finance Corporation Act Commencement Order 1989 (S.R. 1989/303) are hereby revoked.

(3) Notwithstanding subsection (1) of this section, subsections (3) and (4) of section 21, and section 22, of the Rural Banking and Finance Corporation of New Zealand Act 1989 shall

continue in force in all respects as if that Act had not been repealed; and as if the references in those sections to "the company" were references to The National Bank.

16. Private Act—This Act is hereby declared to be a private Act.

SCHEDULE

Section 14

ENACTMENTS AMENDED

Enactments	Amendment
1946, No. 5—The Rural Intermediate Credit Amendment Act 1946 (R.S. Vol. 11, p. 275)	By repealing the definition of the term "Corporation" in section 2 (as amended by section 21 (1) of the Rural Banking and Finance Corporation Act 1989), and substituting the following definition: " 'Corporation' means The National Bank of New Zealand Limited:".
1974, No. 45—The Farm Ownership Savings Act 1974 (Reprinted 1976, Vol. 5, p. 3685)	By repealing the definition of the term "Corporation" in section 2 (as amended by section 21 (1) of the Rural Banking and Finance Corporation of New Zealand Act 1989), and substituting the following definition: " 'Corporation' means The National Bank of New Zealand Limited:".
1977, No. 62—The Fishing Vessel Ownership Savings Act 1977	By repealing the definition of the term "Corporation" in section 2 (as amended by section 21 (1) of the Rural Banking and Finance Corporation of New Zealand Act 1989), and substituting the following definition: " 'Corporation' means The National Bank of New Zealand Limited:".