

WESTERN AUSTRALIA

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**COLLIE COAL (WESTERN  
COLLIERIES) AGREEMENT  
AMENDMENT ACT 1994**

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**No. 57 of 1994**

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**AN ACT to amend the *Collie Coal (Western Collieries)  
Agreement Act 1979*.**

*[Assented to 2 November 1994.]*

The Parliament of Western Australia enacts as follows:

**Short title**

**1.** This Act may be cited as the *Collie Coal (Western Collieries)  
Agreement Amendment Act 1994*.

### **Commencement**

2. This Act comes into operation on the day on which it receives the Royal Assent.

### **Principal Act**

3. In this Act the *Collie Coal (Western Collieries) Agreement Act 1979\** is referred to as the principal Act.

[\* *Act No. 4 of 1979.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 36.]*

### **Section 2 amended**

4. Section 2 of the principal Act is amended —

- (a) by deleting the full stop at the end of the section and substituting a semicolon; and
- (b) by inserting at the end of the section the following definition —

“  
    **“the Supplementary Agreement (1994)”**  
    means the agreement a copy of which  
    is set out in Schedule 4.

”.

### **Section 6 inserted**

5. After section 5 of the principal Act the following section is inserted —

“  
    **Supplementary Agreement (1994)**

6. (1) The Supplementary Agreement (1994) is ratified.

(2) The implementation of the Supplementary Agreement (1994) is authorized.

(3) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Supplementary Agreement (1994) shall operate and take effect notwithstanding any other Act or law.

”

#### **Schedule 4 added**

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

“

#### **SCHEDULE 4** [section 6]

**THIS AGREEMENT** is made the 5th day of May 1994

**B E T W E E N :**

**THE HONOURABLE RICHARD FAIRFAX COURT, B. Com., M.L.A.**, Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called "the State") of the one part and **WESTERN COLLIERIES LTD.** a company incorporated in Western Australia and having its registered office at 10th Floor, 40 The Esplanade, Perth (hereinafter called "the Company") of the other part

**WHEREAS:**

- (a) the State and the Company are the parties to the agreement dated 17 January 1979 ratified by the *Collie Coal (Western Collieries) Agreement Act 1979* which agreement has been varied by -
  - (i) the agreement dated 7 October 1985 ratified by the *Collie Coal (Western Collieries) Agreement Amendment Act 1985*; and

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Amendment Act 1994*

- (ii) the agreement dated 30 April 1990 ratified by the Collie Coal (Western Collieries) Agreement Amendment Act 1990

and as so varied is hereinafter called "the principal Agreement";

- (b) the parties desire to vary the provisions of the principal Agreement.

**NOW THIS AGREEMENT WITNESSES:**

1. Subject to the context the words and expression used in this Agreement have the same meanings respectively as they have in and for the purpose of the principal Agreement.
2. The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act.
3. The subsequent clauses of this Agreement shall not operate unless and until the Bill to ratify this Agreement referred to in clause 2 hereof is passed as an Act before the 30th June 1994 or such later date if any as the parties hereto may mutually agree upon.
4. The principal Agreement is hereby varied as follows -
  - (1) Clause 5 -

by deleting "the State Energy Commission and such proportion of the said reserves (or so much thereof as the State Energy Commission may from time to time require) shall include coal to be mined by open-cut methods and coal to be mined by deep mining methods and shall be made available to the State Energy Commission pursuant to mutually acceptable commercial arrangements to be entered into between the

Company and the State Energy Commission"  
and substituting the following -

"strategic industries (including power generation) determined by the Minister from time to time and such proportion of the said reserves (or so much thereof as those industries may from time to time require) shall be made available to those industries pursuant to mutually acceptable commercial arrangements to be entered into between the Company and the persons conducting those industries".

(2) Clause 6 -

by inserting after "Clause 7." the following -

"Any requirements of the overall scheme which provide for underground mining of coal shall cease to have any effect after 30 June 1994."

(3) Clause 7(1)(a) -

by deleting ", including measures to be taken to achieve a fair balance between the mining of coal by open-cut methods and deep mining methods".

(4) Clause 7(1)(b) -

by deleting "Energy Commission have been met for the period covered by such proposals on a basis commercially acceptable to both the Company and the State Energy Commission" and substituting the following -

"for strategic industries (including power generation) have been met for the period covered by such proposals on commercially acceptable bases".

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Amendment Act 1994*

- (5) Clause 19(1) -

by inserting after "hereunder" the following -

"or any agreement between the Company and a person for the supply of water to that person which agreement has been approved by the Minister for the purpose of this subclause".

- (6) By inserting after Clause 21C the clauses set forth in the Schedule to this Agreement.

**THE SCHEDULE**

21D. Where, pursuant to an agreement between the Company and a person which agreement has been approved by the Minister for the purpose of this Clause, the Company surrenders land out of the Mining Lease ("the surrendered land") for the purpose of assisting that person to construct and operate a coal conveyor or coal conveyors on the surrendered land -

- (a) the State shall ensure that, during the period that the surrendered land is being used by that person for the conveyance of coal and for the period of 3 months after the cessation of that use, no person shall acquire any right under the mining laws of the said State in or over the surrendered land or any part thereof save with the consent of the Company; and
- (b) at any time during the period of 3 months referred to in paragraph (a) of this Clause the Company may apply to the Minister for Mines for the surrendered land to be included in the Mining Lease and upon such application the Minister for Mines shall include the surrendered land in the Mining Lease by endorsement on the Mining Lease and subject to the same terms covenants and conditions as apply to the Mining Lease.

For the purposes of this Clause, section 19 of the Mining Act shall be deemed to be modified to include the surrendered land in land that may be the subject of an exemption referred to in paragraph (a) of subsection (1) of that section.

- 21E. (1) If in order to recover coal from within the boundaries of the Mining Lease it is necessary for the Company to mine beyond any such boundaries on land which is the subject of a mining tenement ("the adjoining tenement") held by any third party ("the adjoining tenement holder") under or pursuant to an Agreement with the State which contains a corresponding provision to this Clause the Company shall be entitled to do so if the following conditions are first fulfilled:
- (a) the Company gives to the Minister and to the adjoining tenement holder notice ("notice of intention to mine") specifying the portion of the adjoining tenement wished to be mined by it and the anticipated time at which and period during which such mining works will be carried out; and
  - (b) the terms and conditions upon which the Company may carry out such mining works are agreed between the Company and adjoining tenement holder or failing such agreement within twenty four (24) months of service of the notice of intention to mine are determined by arbitration under the Commercial Arbitration Act 1985 on the basis that:
    - (i) all coal recovered from the adjoining tenement in consequence of the mining works carried out by the Company on the adjoining tenement shall belong to, and be

stockpiled by the Company on the adjoining tenement for the benefit of, the adjoining tenement holder;

(ii) works carried out by the Company on the adjoining tenement shall be carried out in accordance with good coal mining practices; and

(iii) such obligations as are fair and reasonable in the circumstances shall be imposed upon the Company with respect to removal and disposal of overburden and interburden, the management of ground and surface water, rehabilitation works and compliance with any relevant environmental requirements.

(2) If in order to recover coal from within the boundaries of any adjoining tenement held by any third party under or pursuant to an Agreement with the State which contains a corresponding provision to this Clause it is necessary for an adjoining tenement holder to mine beyond any such boundaries on land which is the subject of the Mining Lease the adjoining tenement holder shall be entitled to do so if the following conditions are first fulfilled:

(a) the adjoining tenement holder gives to the Minister and to the Company a notice of intention to mine specifying the portion of the Mining Lease to be mined by it and the anticipated time at which and period during which such mining works will be carried out; and



- (b) the terms and conditions upon which the adjoining tenement holder may carry out such mining works are agreed between the adjoining tenement holder and the Company (and if such terms and conditions are not agreed within twenty four (24) months of service of the notice of intention to mine the Company agrees that such terms and conditions shall be determined by arbitration under the Commercial Arbitration Act 1985) on the basis that:
- (i) all coal recovered from the Mining Lease in consequence of the mining works carried out by the adjoining tenement holder on the Mining Lease shall belong to, and be stockpiled by the adjoining tenement holder on the Mining Lease for the benefit of, the Company;
  - (ii) works carried out by the adjoining tenement holder on the Mining Lease shall be carried out in accordance with good coal mining practices; and
  - (iii) such obligations as are fair and reasonable in the circumstances shall be imposed upon the adjoining tenement holder with respect to removal and disposal of overburden, the management of ground and surface water, rehabilitation works and compliance with any relevant environmental requirements.

**IN WITNESS WHEREOF** this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore written.

SIGNED by the said )  
**THE HONOURABLE RICHARD** )  
**FAIRFAX COURT** in the )  
presence of - )

**COLIN BARNETT**  
**MINISTER FOR RESOURCES DEVELOPMENT**

**THE COMMON SEAL of** )  
**WESTERN COLLIERIES LTD.** ) [C.S]  
was hereunto affixed in the )  
presence of: )

**Director: THOMAS J R KUZMAN**

**Director/Secretary: MICHAEL A EGERT**

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