

WESTERN AUSTRALIA

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**IRON ORE (MOUNT NEWMAN)  
AGREEMENT AMENDMENT  
ACT 1994**

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**No. 8 of 1994**

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**AN ACT to amend the *Iron Ore (Mount Newman) Agreement Act 1964*.**

[Assented to 15 April 1994.]

The Parliament of Western Australia enacts as follows:

**Short title**

**1.** This Act may be cited as the *Iron Ore (Mount Newman) 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 *Iron Ore (Mount Newman) Agreement Act 1964\** is referred to as the principal Act.

[\* *Reprinted as approved 10 August 1971.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 104.]*

### **Section 2 amended**

4. Section 2 of the principal Act is amended by inserting after the definition of "the First Variation Agreement" the following definition —

“

**“the Fourth Variation Agreement”** means the agreement a copy of which is set out in the Fifth Schedule to this Act;

”.

### **Section 3D inserted**

5. After section 3C of the principal Act the following section is inserted —

“

#### **Fourth Variation Agreement**

**3D.** (1) The Fourth Variation Agreement is ratified and its implementation is authorized.

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

”.

**Fifth Schedule added**

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

“

**FIFTH SCHEDULE**

[section 2]

**THIS AGREEMENT** is made the 30th day of November 1993

**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 instrumentalities thereof from time to time (hereinafter called "the State") of the one part

**AND**

**PILBARA IRON LIMITED** ACN 008 694 853 a company incorporated in the State of Western Australia, **BHP MINERALS PTY. LTD.** ACN 008 694 782 a company incorporated in the State of Western Australia, **MITSUI-TOCHU IRON PTY. LTD.** ACN 008 702 761 a company incorporated in the State of Western Australia and **CI MINERALS AUSTRALIA PTY. LTD.** ACN 009 256 259 a company incorporated in the State of Western Australia of the other part.

**WHEREAS:**

- (a) the State and the other parties hereto (pursuant to certain assignments and Deeds of Covenant and the release of Mt. Newman Iron Ore Company Limited pursuant to clause 19(2) of the Principal Agreement as hereinafter defined) are now the parties to the agreement dated the 26th day of August 1964 (hereinafter called "the 1964 Agreement") which agreement was approved by and is scheduled to the Iron Ore (Mount Newman) Agreement Act 1964 and has been varied by —
  - (i) the agreement dated the 16th day of November 1967 approved by the Iron Ore (Mount Newman) Agreement Act Amendment Act 1967;
  - (ii) the agreement dated the 9th day of May 1979 approved by the Iron Ore (Mount Newman) Agreement Act Amendment Act 1979;
  - (iii) agreements dated respectively the 11th day of December 1985 and the 27th day of January 1987 entered into pursuant to clause 20(1) of the 1964 Agreement; and
  - (iv) the agreement dated the 12th day of July 1990 ratified by the Iron Ore (Mount Newman) Agreement Amendment Act 1990;
- (b) the 1964 Agreement as so varied is hereinafter referred to as "the Principal Agreement";
- (c) the parties desire to amend the Principal Agreement pursuant to clause 20(1) thereof.

**NOW THIS AGREEMENT WITNESSES —**

1. Subject to the context the words and expressions used in this Agreement have the same meanings respectively as they have in and for the purposes 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 prior to 31 December 1993 or such later date as may be agreed between the parties hereto.

3. (1) The provisions of this Agreement other than this Clause and Clauses 1 and 2 shall not come into operation unless and until —

(a) the Bill to ratify this Agreement as referred to in Clause 2; and

(b) a Bill to ratify an agreement of even date herewith made between the State of the one part and BHP Minerals Pty. Ltd., BHP Energy Holdings Pty. Ltd. and BHP Power Holdings Pty. Ltd. of the other part

are passed as Acts before 31 December 1993 or such later date (if any) as the parties hereto agree upon.

(2) If before 31 December 1993 or such later agreed date the said Bills have not commenced to operate as Acts then unless the parties hereto otherwise agree this agreement shall then cease and determine and no party hereto shall have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.

(3) On the said Bills commencing to operate as Acts all the provisions of this Agreement shall operate and take effect notwithstanding the provisions of any Act or law.

## 4. The Principal Act is hereby varied as follows —

## (1) Clause 1 —

By inserting after the definition of "person" the following definition —

**"Pilbara Energy Project Agreement"** means the agreement (as amended from time to time) ratified by the Pilbara Energy Project Agreement Act 1994;"

## (2) Clause 12 —

By deleting the expressions appearing in the first column of the Table to this subclause wherever they occur and substituting in each case respectively the dates appearing alongside those expressions in the second column of the Table:—

Table

Year 20	December 1996
Year 23	December 1999
Year 25	December 2001
Year 26	December 2002
Year 29	December 2005
Year 30	December 2006
Year 31	December 2007
Year 32	December 2008
Year 33	December 2009

## (3) By inserting after clause 12 the following Clause —

"12A. (1) If each of the power station, the gas pipeline and the Newman facilities as defined in the Pilbara Energy Project Agreement are constructed, in accordance with the provisions of subclause (7) of clause 7 of that agreement, by 31 December 1996 the obligations of the Company under clause 12 of

this Agreement shall cease on the date of completion of construction of those works and from and after that date clauses 12, 13, 14, 15, 16 and 16A of this Agreement shall be deemed deleted from this Agreement and this Agreement shall be read and construed accordingly.

(2) If the date for completion of the power station, the gas pipeline and the Newman facilities pursuant to the Pilbara Energy Project Agreement is extended by reason of force majeure under clause 27 or pursuant to clause 28 of that agreement or otherwise in accordance with the provisions of that agreement, the date 31 December 1996 appearing in subclause (1) of this clause and each of the dates appearing in clause 12 hereof shall be extended by a period equal to the period of force majeure allowed or the period of extension granted or provided for under that agreement."

5. The State acknowledges that the Company has no further obligations under Clause 11 of the Principal Agreement.

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

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

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

THE COMMON SEAL of )  
**PILBARA IRON LIMITED** )  
was hereunto affixed by )  
authority of the Board of )  
Directors: )

Director G L WEDLOCK

Secretary L DAVIES

THE COMMON SEAL of )  
**BHP MINERALS PTY. LTD.** )  
was hereunto affixed by )  
authority of the Board of )  
Directors: )

Director R J CARTER

Secretary CLAIR MEDHURST

THE COMMON SEAL of )  
**NETSUI-ITOCHU IRON** )  
**PTY. LTD.** was hereunto )  
affixed by authority of )  
the Board of Directors )  
in the presence of: )

Director N HINOHARA

Secretary P KATAVATIS



*Iron Ore (Mount Newman) Agreement  
Amendment Act 1994*

[No. 8

THE COMMON SEAL of )  
CI MINERALS AUSTRALIA )  
PTY. LTD. was hereunto )  
affixed by authority of )  
the Board of Directors in )  
the presence of: )

Director Y KOWATA

Secretary M APPELBEE

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