



# Coal Research Assistance Amendment Act 1992

No. 64 of 1992

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## An Act to amend the *Coal Research Assistance Act 1977*

[Assented to 26 June 1992]

The Parliament of Australia enacts:

### Short title etc.

1. (1) This Act may be cited as the *Coal Research Assistance Amendment Act 1992*.

5 (2) In this Act, “Principal Act” means the *Coal Research Assistance Act 1977*<sup>1</sup>.

### Commencement

2. (1) This Act commences on a day to be fixed by Proclamation.

10 (2) If this Act does not commence under subsection (1) within 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

### Title

3. The title of the Principal Act is repealed and the following title is substituted:

15 “An Act relating to coal research”.

## **Interpretation**

4. Section 3 of the Principal Act is amended by inserting the following definitions:

“ ‘**Australian Coal Research Limited**’ means the company incorporated in the State of Queensland carrying on business under the name of ‘Australian Coal Research Limited’ at the time of the commencement of the *Coal Research Assistance Amendment Act 1992*;

‘**grant agreement**’ means:

- (a) in relation to the Research Account—an agreement entered into by the Commonwealth before the commencement of the *Coal Research Assistance Amendment Act 1992* for the purposes of, or in connection with, research to be done with money provided, in whole or in part, out of the Account; and
- (b) in relation to Australian Coal Research Limited—an agreement to which the company is a party, entered into for the purposes of, or in connection with, research to be done with money provided, in whole or in part, by the company;

‘**intellectual property rights**’ means rights associated with all copyrights, registered and unregistered trademarks, registered designs, trade secrets and know-how, and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967 concluded at Stockholm, to which Australia is a party;

‘**unfunded commitment**’ means:

- (a) in relation to the Research Account—the amount of financial liability arising from grant agreements in relation to the Account that cannot be met by the amount of money standing to the credit of the Account; and
- (b) in relation to Australian Coal Research Limited—the amount of financial liability arising from grant agreements in relation to the company that cannot be met by the total value of liquid assets held by the company.”.

5. Section 5 of the Principal Act is repealed and the following sections are substituted:

### **Money to be paid into the Research Account**

“5.(1) There are payable into the Research Account amounts equal to the amount determined by the Minister under subsection (2) multiplied by the number of tonnes of coal on which amounts of duty of excise are raised from time to time.

“(2) The Minister may, for the purposes of this section, determine an amount (not exceeding 5 cents) per tonne of coal.

“(3) No money is to be paid into the Research Account if the Minister does not make a determination under subsection (2).

“(4) Amounts payable into the Research Account under subsection (1) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

**Transfer of Research Account funds**

5 “5A. On the commencement of this section, the amount of money standing to the credit of the Research Account at that time is to be transferred to Australian Coal Research Limited.”.

**Application of the Research Account**

10 6. Section 6 of the Principal Act is amended by inserting in subsection (1) “and section 5A” after “section”.

7. Section 8 of the Principal Act is repealed and the following sections are substituted:

**Transfer of grant agreements**

15 “8. On and after the commencement of this section, every grant agreement in relation to the Research Account has effect as if:

- (a) Australian Coal Research Limited were substituted for the Commonwealth as a party to the grant agreement; and
  - (b) any reference in the grant agreement to the Commonwealth, to the Department or to the Secretary were a reference to
- 20 Australian Coal Research Limited.

**Transfer of intellectual property rights**

25 “8A. On the commencement of this section, any intellectual property rights of the Commonwealth arising from a grant agreement in relation to the Research Account are to be transferred to Australian Coal Research Limited.

**Transfer of assets**

30 “8B.(1) The Minister may determine, in writing, that assets and liabilities specified in the determination, being assets and liabilities of the Commonwealth in relation to research, are to be transferred to Australian Coal Research Limited on and from a date specified in the determination.

35 “(2) If an asset is transferred under subsection (1), Australian Coal Research Limited becomes liable to pay and discharge all debts, liabilities and obligations of the Commonwealth (if any) that existed in respect of the asset immediately before the transfer.

“(3) A determination made under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**Exemption from stamp duty**

40 “8C. Australian Coal Research Limited is not liable to pay stamp duty under a law of the Commonwealth, of a State or of a Territory

on any documents that have come into existence because of, or for a purpose connected with or arising out of any transaction between the Commonwealth and the company as a result of the operation of section 5A, 8, 8A, or 8B.

#### **Reversion to Commonwealth**

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“8D.(1) If the Minister is satisfied that:

- (a) in the interest of the Australian coal industry; or
- (b) in the national interest;

Australian Coal Research Limited should cease to have responsibility in relation to research, the Minister may, in writing, determine that the assets and liabilities of Australian Coal Research Limited that are specified in the regulations are to be transferred to the Commonwealth from a date specified in the regulations.

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“(2) A determination made under subsection (1) must be published in the *Gazette* as soon as possible after it is made.

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“(3) Regulations may be made to provide for saving and transitional provisions arising from a determination made under subsection (1).

#### **Transfer of unfunded commitments**

“8E.(1) The operation of section 8D must not result in the transfer to the Commonwealth of any unfunded commitments of Australian Coal Research Limited existing at the time of the transfer, of a total value that exceeds the total value, in real terms, of the unfunded commitments of the Research Account existing immediately before the commencement of the *Coal Research Assistance Amendment Act 1992*.

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“(2) In subsection (1), the value in real terms of unfunded commitments of the Research Account means the value of those commitments calculated with reference to the changes in the Consumer Price Index, as published by the Australian Statistician from time to time, during the period beginning on the day of the commencement of the *Coal Research Assistance Amendment Act 1992* and ending at the time a determination is made under section 8D.

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#### **Compensation for acquisition of property**

“8F.(1) If the operation of section 8, 8A, 8B or 8D involves the acquisition of property from a person otherwise than on just terms, the Commonwealth must pay to the person such reasonable compensation:

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- (a) as is agreed between the person and the Commonwealth; or
- (b) failing agreement—as is determined by a court of competent jurisdiction.

“(2) In assessing compensation payable in proceedings under this section, any damages or compensation recovered or other remedy given in proceedings begun otherwise than under this section and arising out of the same transaction must be taken into account.

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“(3) In this section:  
‘**acquisition of property**’ and ‘**just terms**’ have the same meanings as in paragraph 51(xxxi) of the Constitution.”.

8. Section 9 of the Principal Act is repealed.

5   **Regulations**

9. Section 10 of the Principal Act is amended by adding at the end the following subsection:

“(2) Regulations may be made to prescribe:

- 10   (a) the method by which assets and liabilities are to be transferred to the Commonwealth under section 8D; and
- (b) the method by which unfunded commitments are to be transferred to the Commonwealth under section 8E; and
- 15   (c) any other matter necessary for the purposes of, or in relation to, the transfer to the Commonwealth of responsibility in relation to research following a determination made by the Minister under section 8D.”.

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**NOTE**

1. No. 135, 1977. For previous amendments, see No. 25, 1982.

[*Minister's second reading speech made in—  
House of Representatives on 30 April 1992  
Senate on 27 May 1992*]