

Mining and Other Legislation Amendment Bill 2012

Erratum to Explanatory Notes

Title of the Bill

Mining and Other Legislation Amendment Bill 2012

Reasons for Erratum

The erratum is necessary to clarify certain explanations and correct minor editorial errors.

Consistency with Fundamental Legislative Principles

Omit the words ‘Clause 95’ and insert the words ‘Clause 94’.

Omit the words ‘Clause 134’ and insert the words ‘Clause 133’.

Notes on Provisions

Clause 20 Amendment of s 62 (Amendment of sch 4 (Dictionary))

In the second sentence of the second paragraph, omit the words ‘the activity is cannot be a small scale mining activity’ and insert the words ‘the activity cannot be a small scale mining activity’.

After the last paragraph of the clause insert a new paragraph with the following text –

‘For the purposes of calculating the areas of land disturbance identified for mining claims and exploration permits in this definition, the calculation does not include areas that have been rehabilitated.’

Clause 25 Omission of s 11 (Act’s application if approved determination of native title)

Omit the words ‘indigenous land use agreement’ and substitute the words ‘Indigenous Land Use Agreement’.

Clause 27 Amendment of s 23 (Return of licence)

Omit the sentence which reads—

‘*Clause 27* amends section 22 to transfer the power of the mining registrar to the chief executive for the procedures for suspension and cancellation of a fossicking licence.’

And insert the following sentence—

‘*Clause 27* amends section 23 to replace the mining registrar with the chief executive as the officer to whom the holder of a suspended licence or the former holder of a cancelled licence must return the licence.’

Clause 42 Amendment of sch 2 (Dictionary)

Omit the final two sentences of the paragraph and insert the following text –

‘The amended definition clarifies that an “occupier” includes a person with a right to occupy under an Act (which includes an owner of a freehold title or leasehold land) or lease registered under the *Land Title Act 1994*. In addition the amendment clarifies that an ‘occupier’ is able to confer a right to occupy to another person or entity (e.g. children, other family members, family trust) and that this right be recognised as a legitimate “occupier” under the definition and compensation provisions of the *Geothermal Energy Act 2010*.’

Clause 44 Amendment of sch 2 (Dictionary)

Omit the final two sentences of the paragraph and insert the following text –

‘The amended definition clarifies that an “occupier” includes a person with a right to occupy under an Act (which includes an owner of a freehold title or leasehold land) or lease registered under the *Land Title Act 1994*. In addition the amendment clarifies that an ‘occupier’ is able to confer a right to occupy to another person or entity (e.g. children, other family members, family trust) and that this right be recognised as a legitimate “occupier” under the definition and compensation provisions of the *Greenhouse Gas Storage Act 2009*.’

Clause 50 Insertion of new ss 136 and 136A, pt 5, div 3 and pt 5, div 4, hdg

‘136F Right to terminate call for tenders

In the second sentence of the fourth paragraph, omit the words ‘bid security’ and insert the words ‘tender security’.

‘136H Withdrawal of tender

In the fourth paragraph, omit both occurrences of the words ‘bid security’ and insert the words ‘tender security’.

‘136L Notice to unsuccessful tenderers

In the second sentence of the second paragraph, omit the words ‘bid security’ and insert the words ‘tender security’.

Clause 64 Amendment of s 318AAD (Application for grant of mining lease (245))

Omit the reference to ‘section 234(b)’ and insert ‘section 234(1)(b)’.

Clause 78 Amendment of sch 2 (Dictionary)

After the sentence, Subclause 5 amends the definition of ‘occupier’, insert the following text

‘The amended definition clarifies that an “occupier” includes a person with a right to occupy under an Act (which includes an owner of a freehold title or leasehold land) or lease registered under the *Land Title Act 1994*. In addition the amendment clarifies that an ‘occupier’ is able to confer a right to occupy to another person or entity (e.g. children, other family members, family trust) and that this right be recognised as a legitimate “occupier” under the definition and compensation provisions of the *Mineral Resources Act 1989*.

Clause 107 Amendment of s 125 (Variation of access to mining claim area)

Omit the words ‘section 124’ and insert the words ‘section 125’.

Clause 130 Amendment of s 386L (Notice to progress relevant applications)

After the words ‘application for renewal’, insert the words ‘or grant’.

Clause 133 Insertion of new s 391C

‘391C Small scale mining code

In the last sentence of the last paragraph, omit the words ‘under the *Mineral Resources Act 1989*.’

Clause 140 Insertion of new ch 15, pt 6, div 2

‘812 Application of s 93 to renewal of mining claim

Omit the reference to ‘section 8127’ and insert a reference to ‘section 812’.

‘813 Persons taken to be authorising officers

In the first sentence, omit the reference to ‘section 808’ and insert a reference to ‘section 813’.

Clause 143 amendment sch 2 Dictionary

Omit the final paragraph relating to the definition of “occupier”.

Clause 152 Amendment of s 228 (Insertion of new pt 19, div 17)

Omit the heading and the text, and insert the following heading and text—

‘Amendment of s 228 (Replacement of ss 387 and 387A)

Clause 152 amends section 387 to add a number of documents to those that must be kept on the register. It also inserts a note that the legislation ultimately amended is the *Mineral Resources Act 1989*.

Clause 153 Amendment of s 243 (Replacement of ss 387 and 387A)

Omit the heading and the text, and insert the following heading and text—

‘Amendment of s 243 (Insertion of new pt 19, div 17)

Clause 153 amends section 243 by omitting inserted section 795(3), a transitional no longer required now that mining claim terms will be 10 years.’

Clause 161 Amendment of s 2 (Definitions)

Omit the final two sentences of the paragraph and insert the following text –

‘The amended definition clarifies that an “occupier” includes a person with a right to occupy under an Act (which includes an owner of a freehold title or leasehold land) or lease registered under the *Land Title Act 1994*. In addition the amendment clarifies that an ‘occupier’ is able to confer a right to occupy to another person or entity (e.g. children, other family members, family trust) and that this right be recognised as a legitimate “occupier” under the definition and compensation provisions of the *Petroleum Act 1923*.’

Clause 163 Amendment of s 35 (Call for tenders)

At the start of the third paragraph, omit the words ‘Clause 42’ and insert the words ‘Clause 163’

Clause 164 Amendment of s 37 (Requirements for making tender)

Omit the text ‘amends s37(e)’ and insert the text ‘amends s37(d)’.

Clause 165 Amendment of s 38 (Right to terminate call for tenders)

In the first sentence of the first paragraph, omit the words ‘new subsection 38(4) states’, and insert the words ‘creates a new subsection 38(4) that states’.

In the second paragraph explaining this clause, omit all four occurrences of the words ‘bid security’ and insert the words ‘tender security’.

Clause 168 Amendment of s 44 (Notice to unsuccessful tenderers)

In the second sentence, omit the words ‘bid security’, and insert the words ‘tender security’.

Clause 169 Amendment of s 27 (Call for tenders)

At the start of the third paragraph, omit the words ‘Clause 47’, and insert the words ‘Clause 169’.

Clause 171 Amendment of s 129 (Right to terminate call for tenders)

In the second paragraph, omit both occurrences of the words ‘bid security’, and insert the words ‘tender security’.

Clause 174 Amendment of s 135 (Notice to unsuccessful tenderers)

In the second sentence, omit the words ‘bid security’ and insert the words ‘tender security’.

Clause 176 Amendment of s 845 (Withdrawal of application)

In the second paragraph, omit both occurrences of the words ‘bid security’ and insert the words ‘tender security’.

Clause 178 Amendment of sch 2 (Dictionary)

Omit the final two sentences of the paragraph and insert the following text –

‘The amended definition clarifies that an “occupier” includes a person with a right to occupy under an Act (which includes an owner of a freehold title or leasehold land) or lease registered under the *Land Title Act 1994*. In addition the amendment clarifies that an ‘occupier’ is able to confer a right to occupy to another person or entity (e.g. children, other family members, family trust) and that this right be recognised as a legitimate “occupier” under the definition and compensation provisions of the *Petroleum and Gas (Production and Safety) Act 2004*.’