

# 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*.’