

**Explanatory notes to the Greenland Parliament Act No. 39 of 28 November 2019
concerning the amendment of the Greenland Parliament Act No. 7 of 7 December 2009
on mineral resources and mineral resource activities (the “Mineral Resources Act”)**

Common notes

1. Introduction

Greenland Parliament Act No. 7 of 7 December 2009 on mineral resources and mineral resource activities (the Mineral Resources Act) came into force on 1 January 2010. The Greenland Parliament Act has been amended by Greenland Parliament Act No. 26 of 18 December 2012, Greenland Parliament Act No. 6 of 8 June 2014, Greenland Parliament Act No. 16 of 3 June 2015, Greenland Parliament Act No. 34 of 28 November 2016 and Greenland Parliament Act No. 16 of 27 November 2018. The Greenland Parliament Act with later amendments is hereinafter referred to as the “Mineral Resources Act”.

The purpose of this bill is to implement a few amendments and clarifications of certain provisions of Mineral Resources Act part 7 (sections 29-31) concerning special rules on the exploration and exploitation of minerals. The amendments concern the granting of licences for the exploitation of minerals, activities under such licences as well as the protection of the licensees' interests.

In the Greenland Self-Government's opinion, it is desirable that the granting of licences for exploitation of mineral resources takes place on as lenient terms as possible without compromising the aims to ensure that the mineral resource activities are carried out in a sound manner as regards safety, health, the environment, resource exploitation and social sustainability as well as appropriately and in accordance with acknowledged best international practices under similar conditions. For this reason, unnecessary demands should not be placed on licensees under the Mineral Resources Act. The demands made should, to the widest extent possible, be based on the same principles as in other private sectors where the project profitability is assessed by the private investors and lenders who finance the project with, among other things, share capital and loan capital. One of purposes of the bill is to approximate conditions between licensees pursuant to the Mineral Resources Act, and other industrial operators to the extent that this is consistent with the principles of the Mineral Resources Act.

Another purpose of the bill is to establish a scheme in which only the licensee who has been granted a licence to exploit minerals may carry out mineral resource activities within the licence area. Licensees with a licence for prospecting, exploration, or exploitation of minerals may, therefore, not carry out mineral resource activities in licence areas for exploitation of minerals belonging to another licensee.

A third purpose of the bill is to clarify that, in a licence for exploitation of minerals, the Greenland Self-Government may stipulate terms for specific deadlines for certain matters concerning the licence or activities under the licence. This may, for instance, be deadlines for the licensee's

construction of plants for exploitation of minerals or the commencement of exploitation of minerals. In this regard, the purpose is also to clarify that the Greenland Self-Government may stipulate terms stating that a licence will lapse or may be revoked if the stipulated deadlines or extended deadlines are not met.

2. Main points of the bill

Pursuant to the bill, the words "commercially exploitable" are omitted from section 29(2) of the Mineral Resources Act. The words "commercially exploitable" in the current section 29(2) have in practice been interpreted and used in such a manner that the licensee shall prove to the Greenland Self-Government with a sufficient probability that the outlined exploitable mineral deposit can be exploited commercially, meaning with a commercial and financial gain (profit).

The purpose of the provision is to avoid requiring that the licensee carries out work, spends resources and time as well as costs on studying and assessing these financial matters and then having to state them in a feasibility study or in a report to the Greenland Self-Government.

The aim is for the Greenlandic Mineral Resources Act to live up to the best international standards. When it comes to requirements with respect to feasibility and financial capacity, there are major differences between the requirements laid down in various places in the world. The tendency has been for the less developed mining countries, as has been the case so far in Greenland, to require proof of feasibility and documentation for financial capacity at an early stage of the process. The Democratic Republic of the Congo and Guinea, for example, require approved feasibility studies in connection with granting the equivalent of an exploitation licence in Greenland. In Kazakhstan, Mongolia and Mozambique, feasibility studies are required to be drafted in connection with the application process for the assessment of the authorities, whereas the more developed mining countries, e.g. Chile and China, do not stipulate any requirements at all when it comes to the profitability of the deposit, the company's finances or the geological deposit itself. In other places, the emphasis is exclusively on a proven geological deposit when granting an exploitation licence, which for instance is the case in Québec (Canada), Newfoundland and Labrador (Canada), South Australia (Australia), Northern Territory (Australia), Western Australia (Australia), Victoria (Australia) and Norway. In this regard, there has to be a differentiation between the right to exploit a deposit (equivalent to an exploitation licence under section 16 of the Mineral Resources Act) and the right to the actual exploitation of the deposit (the equivalent to an by the Greenland Self-Government approved exploitation plan under section 19 of the Mineral Resources Act). In all the mentioned countries, as is the case in Greenland, further requirements can be stipulated in connection with exploitation activities, including the requirements for financial documentation and security.

The bill, furthermore, entails that only the licensee who has been granted a licence to exploit minerals may carry out mineral resource activities regarding minerals within the licence area. Other

external licensees with a licence for prospecting, exploration and exploitation of minerals may not, therefore, carry out mineral resource activities in licence areas for the exploitation of minerals belonging to another licensee.

The bill, furthermore, clarifies that the Greenland Self-Government in a licence for exploitation of minerals is authorised to stipulate terms for specific deadlines for certain matters concerning the licence or activities under the licence. This can, for instance, be deadlines for the licensee's submission of comprehensive plans, entering into of an agreement on societal sustainability and other socio-economic conditions, establishment of plants, etc., for exploitation of minerals or commencement of the exploitation of the minerals. The bill, furthermore, clarifies that the Greenland Self-Government may stipulate terms stating that a licence will lapse or may be revoked if the stipulated deadlines or extended deadlines are not met.

The bill compared to the current Greenland Parliament Act	
<i>Current wording</i>	<i>The bill</i>
	<p>Section 1</p> <p>In Greenland Parliament Act No. 7 of 7 December 2009 on mineral resources and mineral resource activities (the Mineral Resources Act) as amended by Greenland Parliament Act No. 16 of 27 November 2018, the following amendments are made:</p>
<p>(2) A licensee who under a licence under subsection (1) above has discovered and delimited commercially exploitable deposits that the licensee intends to exploit, and who has otherwise met the terms of the licence, is entitled to be granted an exploitation licence. The licence may be granted to a company designated by the licensee; see section 16(3) above. The licence is granted for those parts of the area that contain commercially exploitable deposits which the licensee intends to exploit. The licence is granted for a period of 30 years, unless a shorter period has been laid down as a</p>	<p>1. In <i>section 29(2)</i> is thus written: “(2) A licensee who under a licence under subsection (1) above has discovered and delimited deposits that the licensee intends to exploit, and who has otherwise met the terms of the licence, is entitled to be granted an exploitation licence. The licence may be granted to a company designated by the licensee; see section 16(3) above. The licence is granted for those parts of the area that contain deposits that the licensee intends to exploit. The licence is granted for a period of 30 years, unless a shorter period has been laid down as a condition for granting the licence.”</p>

<p>condition for granting the licence. The Government of Greenland may stipulate as a condition for the licence that an application for approval under section 19 above must be submitted within a specified reasonable deadline.</p>	
<p>29. – (1) As regards minerals, exploration licences under section 16 above are granted for a period of up to ten years or, if special circumstances exist, for a period of up to 16 years. A licence may be extended with a view to exploration by up to three years at a time. An extension for more than ten years may be granted on modified terms.</p> <p>(2) A licensee who under a licence under subsection (1) above has discovered and delimited commercially exploitable deposits that the licensee intends to exploit, and who has otherwise met the terms of the licence, is entitled to be granted an exploitation licence. The licence may be granted to a company designated by the licensee; see section 16(3) above. The licence is granted for those parts of the area that contain commercially exploitable deposits which the licensee intends to exploit. The licence is granted for a period of 30 years, unless a shorter period has been laid down as a condition for granting the licence. The Government of Greenland may stipulate as a condition for the licence that an application for approval under section 19 above must be submitted within a specified reasonable deadline.</p> <p>(3) The Government of Greenland may extend the period for exploitation stated in subsection (2) above; but see section 16(5) above.</p>	<p>2. In <i>section 29</i>, it is inserted as <i>subsection 4</i>:</p> <p>“ (4). In an area covered by a licence under section 16 for exploitation of minerals, no parties other than the licensee may perform activities under a licence for prospecting, exploration or exploitation of minerals</p>
<p>30 – (1) In a licence under section 16 above for exploitation of minerals, terms pursuant to section 17(1)-(2) above may only be laid down if stipulated in the exploration licence, or if section 17(3) above or a similar rule in Greenland tax legislation is applied.</p>	<p>3. In <i>section 30</i>, it is inserted as <i>subsection 2</i>:</p> <p>“ (2). In a licence under section 16, for the exploitation of minerals, the Greenland Self-Government can stipulate terms on deadlines for matters of material importance to the execution of the exploitation activities and</p>

	other activities under the licence. Naalakkersuisut can decide that a licence shall lapse or be revoked if a deadline or an extended deadline is not met.”
	<p style="text-align: center;">Section 2</p> <p>The Greenland Parliament Act comes into force on 1 January 2020.</p>

3. Financial and administrative consequences for the public sector

The bill is expected to entail public sector savings as the administration of applications for exploitation licences will be significantly reduced. The savings are expected to constitute a quarterly full-time equivalent annually.

4. Financial and administrative consequences for the business community

The bill is expected to entail significant savings for the licensees who apply for an exploitation licence as the comprehensive and costly feasibility study is replaced by a geological proof of a deposit.

5. Consequences for the environment, nature and public health

The bill does not include material rules on matters concerning the environment, nature or public health. The Mineral Resources Act's high standards for environmental and nature protection is carried forward without changes.

6. Consequences for citizens

The bill is not expected to have financial or administrative consequences for citizens.

7. Other material consequences

The bill is not expected to have other material consequences.

8. Consultation of authorities and organisations, etc.

The bill has from April 1. to May 6. 2019 been published on the Greenland Self-Government consultation portal.

The bill has, furthermore, undergone an internal consultation procedure in the Greenland Self-Government.

The Greenland Self-Government has received a consultation response from the following authorities, organisations, etc.:

- Kommune Kujalleq

In the following, the incoming consultation responses are addressed.

The internal consultation process has given rise to amendments to the bill and remarks to the bill's individual provisions so that the bill only covers minerals and not hydrocarbons.

Kommune Kujalleq had no remarks on the amendment.

Remarks to the bill's individual provisions

To section 1

To no. 1 (section 29(2) sentence 1)

It follows from the current section 29(2) sentence 1, that a licensee after being granted a licence to explore for minerals is entitled to be granted an exploitation licence if the licensee has discovered and delimited commercially exploitable mineral deposits that the licensee intends to exploit, and has met the terms of the exploration licence.

With the provision of the bill, the words “commercially exploitable” are omitted from the provision.

With the bill's amendment of the provision, the Greenland Self-Government will thus no longer be able to require that the licensee submits a feasibility study or a report stating the possibility of obtaining a financial gain by exploiting the minerals. The Greenland Self-Government will not carry out any assessment of the financial matters and will not approve, or in any other way make decisions on, whether the licensee can exploit the minerals for financial gain.

The licensee and the licensee's possible investors will, on the other hand, themselves assess the financial matters and possibility of obtaining a financial gain (a profit) by exploiting the minerals. On the basis thereof, the licensee and licensee's investors will decide whether they wish to apply for a licence to exploit minerals and carry out an exploitation project.

The licensee and their possible investors will in this connection be able to assess and decide whether they wish to prepare a feasibility study, what the contents of a possible feasibility study shall be and who a possible feasibility study shall be submitted to and published towards and who can use it.

The proposal that the words “commercially exploitable” should be omitted from the current provision can thus briefly be said to express the fact that the regulation of feasibility studies is made more free for the licensees and their possible investors and that the regulation thereof becomes more user-friendly for the licensees and their possible investors. The licensees may thus decide what they want to do regarding a possible feasibility study.

It does, however, still follow from the provision that the licensee shall examine, assess and in a report to the Greenland Self-Government state whether a mineral deposit has been discovered and delimited.

Furthermore, the abolition of the requirements regarding proof of a “commercially exploitable”

mineral deposit and submitting a feasibility study to the Greenland Self-Government for this purpose, does not affect the Greenland Self-Government's right to demand that a licensee submits all relevant information, documentation, reports, etc. regarding financial matters. The Greenland Self-Government can demand this to the extent that it is relevant for the Greenland Self-Government to assess and make decisions regarding all other matters relating to the Mineral Resources Act, the licence, and activities under the licence. Thus, the Greenland Self-Government can still demand that licensees prepare documents, reports, and analyses, as well as demand the delivery of documents in the licensees' possession, for example in connection with approval of the licensees' plans and assessments.

It follows from section 1(2) and section 83 of the Mineral Resources Act that activities covered by the Mineral Resources Act, among other things, shall be carried out according to acknowledged best international practices under similar conditions.

This means, among other things, that a licensee shall apply internationally recognised methods and standards for the studies and assessments of whether a mineral deposit has been discovered and delimited.

A licensee shall, furthermore, apply sound and internationally recognised reporting standards for the mineral industry when drafting and submitting reports to the Greenland Self-Government regarding discovery and delimitation of mineral deposits. Such reporting standards are often referred to as mineral reporting standards. Mineral reporting standards determine general provisions concerning how a licensee shall report exploration results, reserves and resources to investors, possible investors and their advisers.

For a licensee to acquire the right to be granted an exploitation licence, the condition that a deposit shall be discovered shall be met if an "indicated resource" is documented pursuant to the Australian reporting standard "The JORC Code", the Canadian reporting standard "National Instrument 43-101 Standards of Disclosure for Mineral Projects", which refers to "the CIM Definition Standards on Mineral Resources and Mineral Reserves, the "CIM Definition Standards", the South African reporting standard "The SAMREC Code" or the Pan-European reporting standard "The PERC Reporting Standard".

The documentation for an "indicated resource" shall be approved by the Greenland Self-Government. The Greenland Self-Government has the right at any time to carry out its own assessment of the submitted material, including with the assistance of external actors. The Greenland Self-Government is, in this regard, not bound by the conclusions found in the documentation submitted by the licensee, regardless of whether the documentation is prepared and signed by an authorised person.

It is noted that a corresponding change has not been found necessary in relation to extension of exclusive small-scale licenses. According to section 34 (3) of the Mineral Resources Act a holder of an exclusive small-scale license is entitled to an extension of the license period if the holder has demonstrated commercially exploitable deposits of minerals and initiated exploitation of the deposits. In practice, the interpretation of this provision is that the condition, that the deposit is commercially viable, is fulfilled if the licensee has extracted minerals that have generated a turnover or which, in the opinion of the Mining Authority, could generate a turnover in the license area.

To no. 2 (section 29(4))

It follows from the provision that only the licensee pursuant to a licence for exploitation of minerals may carry out mineral resource activities relating to minerals in the area covered by the licence.

Licensees, therefore, may not, under other licences for prospecting, exploration or exploitation of minerals, carry out mineral resource activities within the licence area covered by the licensee's licence to exploit minerals.

The purpose of this provision is particularly to ensure that the licensee pursuant to a licence to exploit minerals is the only party who is allowed to carry out mineral resource activities within the licence area. The licensee's exploitation activities within the licence area can thus not be impeded, limited or in any other way influenced negatively by other parties' mineral resource activities regarding minerals within the licence area covered by the exploitation licence.

The ban applies to all mineral resource activities by other parties within the licence area covered by the exploitation licence. It applies regardless of whether the other parties' activities are carried out under a licence for prospecting, exploration or exploitation of minerals or under licences for small-scale exploration or exploitation of minerals. The ban, furthermore, applies regardless of whether a prospecting licence, covering the area, has been granted before the exploitation licence is granted. The ban does not prevent the licensee pursuant to a licence to exploit minerals, or a company designated by the licensee cf. (2) above, from carrying out prospecting or exploration activities in the licence area.

To no. 3 (section 30(2))

The provision clarifies that the Greenland Self-Government in a licence for the exploitation of minerals is entitled to stipulate terms for specific deadlines for specific matters concerning the licence or activities under the licence.

It follows from section 16(1) of the Mineral Resources Act that the Greenland Self-Government can grant licences for exploration and exploitation of mineral resources on specific terms. Pursuant to

this provision, the Greenland Self-Government can generally stipulate all relevant terms concerning the licences for exploration and exploitation and all activities under the licences, including deadlines for specific matters concerning the licence or activities under the licence. The stipulation of licence terms shall be set according to the purpose of the Mineral Resources Act cf. section 1 or other relevant provisions, including, for instance, section 84. The stipulation of licence terms shall also be set according to common administrative law rules and principles, including the principles of impartiality, proportionality and equal treatment.

The proposed provision is thus a clarification of the Greenland Self-Government's authority (access) to stipulate terms concerning specific deadlines for specific matters concerning a licence to exploit minerals or activities under the licence.

The Greenland Self-Government can, for instance, stipulate deadlines for the licensee's submission of a comprehensive exploitation plan under section 19 of the Mineral Resources Act, a closure plan under section 43 or plans for other matters and activities under section 86 of the Mineral Resources Act.

The Greenland Self-Government can, among other things, also stipulate deadlines for the licensee's entering into an agreement concerning societal sustainability and other socio-economic conditions.

As other examples, deadlines for the licensee's construction of plants or parts thereof for the exploitation of minerals, submission of comprehensive financing plan, security for costs associated with the termination of activities or commencement of the exploitation of minerals can be mentioned.

The provision, furthermore, clarifies that the Greenland Self-Government can also stipulate licence terms stating that a licence will lapse or may be revoked if the stipulated deadlines or extended deadlines are not met.

To section 2

To subsection 1

The provision concerns the time when the bill comes into force.

It is proposed that the bill will come into force on 1 January 2020.