

# MINING

## Greenland



# Mining

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights into mining industry issues, including industry overview; basis of legal, regulatory and resource/reserve reporting system; ownership and acquisition of mining rights and title; restrictions on foreign parties; state participation, expropriation and compensation mechanisms; duties, royalties and taxes, including stabilisation mechanisms; business structures; financing sources and security regime; restrictions on movement of goods, services, people and capital in connection with mining activities; environmental, closure and remediation, health and safety, labour, social and community, and international law issues; anti-bribery and corrupt practices; and recent trends.

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Generated 23 May 2022

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## MINING INDUSTRY

### Standing

What is the nature and importance of the mining industry in your country?

The mining industry is very important to Greenland. At present, there are seven exploitation licences in

Greenland: a gold mine in South Greenland (Nanulaq A/S), an iron ore project (London Mining Greenland A/S), a gemstone mine (Greenland Ruby A/S), an anorthosite mine in West Greenland (Hudson Greenland A/S), a lead and zinc project in North Greenland (Ironbark A/S), a rare-earth elements project in South Greenland (Tanbreez Mining Greenland A/S) and an ilmenite mine in North Greenland (Dundas Titanium A/S) for which licences were granted in 2003, 2013, 2014, 2015, 2016, 2020 and 2021. At present, the gemstone and anorthosite mines are in production. Generally, mineral exploration activity has increased over the past 15 years as the world mining community has become more aware of Greenland's mineral potential.

*Law stated - 30 March 2022*

### Target minerals

What are the target minerals?

The target minerals of current mining and exploration projects are base metals, iron and ferroalloys, precious metals, etc, among others, coloured corundum (ruby and pink sapphires), copper, diamonds, gold, ilmenite, iron, lead, molybdenum, nickel, rare earth elements and zinc.

*Law stated - 30 March 2022*

### Regions

Which regions are most active?

The regions of West Greenland and South Greenland are the most active, but we also see emerging and promising projects in East Greenland.

*Law stated - 30 March 2022*

## LEGAL AND REGULATORY STRUCTURE

### Basis of legal system

Is the legal system civil or common law-based?

The legal system in Greenland is a civil law system primarily based on written legislation. Greenland is part of Denmark and is subject to the Danish Constitution, but since 1979 has had an independent status within Denmark by the implementation of the Greenland Home Rule Act. On 21 June 2009, the Act on Greenland Self-Government came into force, replacing the Home Rule Act.

The Danish government still administers certain matters, including the Constitution, foreign and defence policies, the Supreme Court, citizenship and monetary policy. Greenland may take over the administration of all other areas of legislation and took over the legislation on mineral resources shortly after the implementation of the Act on Greenland Self-Government.

## Regulation

### How is the mining industry regulated?

The main piece of legislation regulating the mining industry in Greenland is the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities (the Mineral Resources Act), passed by the Greenland parliament in December 2009. Before the implementation of this Act, mineral resources were regulated by a joint Greenland-Danish administration. Greenland now has full authority to make decisions regarding principal investments in mineral resource activities, including the granting of licences. The Greenland government has the right to control and use mineral resources in the subsoil of Greenland, and all industrial prospecting, exploration and exploitation of mineral resources may only be performed under licence.

Law stated - 30 March 2022

### What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

The principal law regulating the mining industry in Greenland is the Mineral Resources Act. Amendments to the Mineral Resources Act were passed by the Greenland parliament in 2012, 2014, 2015, 2016, 2018 and 2019. Also, a new Uranium Act was passed in 2021.

The latest amendments in the Mineral Resources Act relate to the terms and conditions of an exploitation licence. A licensee who, under an exploration licence, has discovered and delimited deposits that he or she intends to exploit, and who has otherwise met the terms of the licence, is entitled to be granted an exploitation licence.

The requirement that it must be a commercially exploitable deposit and the related requirement for documentation of feasibility studies have been removed.

Also, it has been clarified that in an area covered by an exploitation licence, no parties other than the licensee may perform activities under a licence for prospecting, exploration or exploitation of minerals (provided that other activities, eg, tourism activities such as hunting etc, may still be carried out in the area). Finally, under an exploitation licence, terms may be stipulated on deadlines for matters of material importance to the execution of the exploitation activities and other activities under the licence. The government can decide that a licence shall lapse or be revoked if a deadline or an extended deadline is not met.

Currently, a split of the legislation on minerals and hydrocarbons is being prepared to provide a new mining law. The current main rules and regulations on minerals are expected to be re-enacted. Reference is also made to the Standard Terms for Exploration Licences for Minerals (Excluding Hydrocarbons) in Greenland of 25 June 2013 providing for standard fixed terms applying to prospecting and exploration licences. An addendum to the Standard Terms on Payment of Royalties was adopted on 1 July 2014.

The government is responsible for all aspects of mineral exploration and mining in Greenland. The regulatory bodies are as follows:

- the Ministry of Mineral Resources (MMR) is responsible for strategy, policymaking and legal aspects of mineral resources in Greenland. It is also the authority responsible for all socio-economic aspects of mineral resources, including social impact assessments and impact benefit agreements;
- the Mineral Licence and Safety Authority (MLSA) within the MMR is the administrative authority for licences, mineral resource activities and licence-related safety matters including supervision and inspections; and



- the Environmental Agency for the Mineral Resources Area (EAMRA), under the Ministry of Environment and Nature, is the administrative authority for environmental matters relating to mineral and hydrocarbon resource activities, including protection of the environment and nature, environmental liability and environmental impact assessments.

Further information on procedures concerning the granting of licences and relevant legislation applying to the area of mineral resources can be found at [www.govmin.gl](http://www.govmin.gl).

In 2021, the Greenland parliament passed an Act banning the prospecting, exploration and exploitation of uranium. It is also forbidden to carry on prospecting, exploration and exploitation of other minerals than uranium, if the average uranium content of the aggregate resource is 100 parts per million or more.

The Act also provides for a Greenland government authority to issue a similar ban for other radioactive elements than uranium and set the relevant thresholds. The Greenland government may also restrict or revoke any mineral resource prospecting, exploration or exploitation licence if exploitation is not possible owing to the uranium ban.

The Act only applies to future licences being granted after the Act comes into force. However, the Act may be relevant for existing projects in the exploration phase. These may be granted exploitation licences if the project involves a resource that may not be exploited due to the uranium ban.

*Law stated - 30 March 2022*

## **Classification system**

What classification system does the mining industry use for reporting mineral resources and mineral reserves?

There are no specific requirements by law. The Greenland mining industry may use any kind of classification system it wishes, as long as it is in accordance with good international practice.

*Law stated - 30 March 2022*

## **MINING RIGHTS AND TITLE**

### **State control over mining rights**

To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

Minerals in the ground in Greenland belong to the Greenland government, and prospecting and exploration for, and exploitation of, mineral resources in Greenland may only be carried out under licences granted to private parties according to the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities (the Mineral Resources Act). However, the resident population of Greenland may carry out the non-commercial collection of loose minerals without a licence being required, but only with respect to exclusive licences for exploration and exploitation of mineral resources granted to other parties.

An exploration and exploitation licence will cover all mineral resources except hydrocarbons and radioactive elements, unless otherwise stipulated in the licence. Land cannot be owned in Greenland, which means no large areas are held

privately and there are no owners of surface rights, provided that an exclusive area allotment may be obtained for the construction of buildings and storage and similar. All mining rights rest with the Greenland government and the licensees who have been granted licences by the government.

*Law stated - 30 March 2022*

### **Publicly available information and data**

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

The Mineral Licence and Safety Authority (MLSA) provides advice and assistance to private parties that wish to engage in activities of mineral exploration and development in Greenland. Moreover, their English language website ( [www.govmin.gl](http://www.govmin.gl) ) is an important means of communicating relevant information to the mining industry. On this website, there is a wide range of information available, for example, information regarding relevant legislation, application procedures, licence terms, fieldwork, reporting and current licences.

The Greenland Mineral Resources Portal is an entry point to all available information about mineral resources in Greenland. It gives access to data, reports, maps and scientific background information about the geology of Greenland ( [www.greenmin.gl](http://www.greenmin.gl) ). The Portal is an ongoing project collaboration between the Department of Geology within the Mineral Resources Authority and the Geological Survey of Denmark and Greenland.

Licensees of exploration and prospecting licences shall forward reporting to the MLSA regarding all geological, geochemical, geophysical, technical, environmental and other investigations that have been carried out regarding the licence area during a calendar year.

*Law stated - 30 March 2022*

### **Acquisition of rights by private parties**

What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence or more senior tenure? What are the requirements to convert to a mining licence?

Mining rights are granted by the Greenland government upon application (namely, prospecting licences, exploration licences and exploitation licences). A licence issued according to the Mineral Resources Act will cover all mineral resources except hydrocarbons and radioactive elements, unless otherwise stipulated in the licence.

### **Prospecting licence**

A prospecting licence is non-exclusive and is granted for a five-year period. The granting of the licence does not preclude the granting of similar licences to other parties and the licence lapses to the extent that exclusive licences may be granted later as regards the area and the resources in question. Further, the licensee has no right prior to other parties when applying for an exclusive exploration licence as regards the area and the resources in question.

The licensee has no exploration commitments and may surrender the licence at any time by written notice to the

MLSA. Under certain conditions, the expenditure made under a prospecting licence may, within three years of the calendar year in which the expenditure was made, qualify as the fulfilment of the exploration obligations for one or more exploration licences.

## Exploration licence

An exploration licence is exclusive, precluding the granting of a similar licence in the same area to other parties. However, permanent residents may carry out the non-commercial collection of loose minerals without a licence in the licence area. An exploration licence is granted for a five-year period and at the expiry of the first licence period, the licensee is entitled to be granted a new licence for the same area for five years. At the expiry of the second licence period (years six to 10), the licensee may be granted additional new three-year licences for years 11 to 13, 14 to 16, 17 to 19 and 20 to 22 for the same area, wholly or partly, provided the terms of the licence have been complied with. However, the licensee is not entitled to have these licences granted.

During the licence period, the licensee is obliged to spend a fixed minimum of exploration expenses per calendar year calculated as the sum of an amount per licence per year and an amount per square kilometre per year stipulated in the standard terms. In addition, a yearly licence fee is payable from year six of the licence period.

Within 12 months of the termination of the activities under the licence or the granting of a new licence in continuation of this licence, the licensee must:

- remove all installations, buildings, stored items, etc, in the area that has been established for the activities under the licence, except when the non-removal of these installations, etc, has been approved by the MLSA; and
- carry out final clean-up activities in the affected areas and remedy any damage to the terrain and vegetation caused by those activities.

## Exploitation licence

The holder of an exploration licence who has discovered and delimited deposits that he or she intends to exploit, and who has otherwise met the terms of the licence, is entitled to be granted an exploitation licence. If an activity is assumed to have a significant impact on social conditions and the environment it is a condition for obtaining an exploitation licence that an environmental impact assessment and a social sustainability assessment have been through a public consultation process and approved by the MLSA. 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. The government may extend the period for exploitation. The total period is subject to a maximum of 50 years.

An exploitation licence may only be granted to public limited liability companies domiciled in Greenland. The company may only perform activities covered by licences granted under the Mineral Resources Act and must not be taxed jointly with other companies, unless joint taxation is compulsory. It is required that these companies may not be more thinly capitalised than the group of which the company forms part, but the company's loan capital must always exceed the shareholders' equity up to a ratio of 2:1. The licensee shall, further, have the necessary expert knowledge and adequate financial background with respect to the exploitation activities in question.

Following the granting of an exploitation licence and prior to commencement of development and production the licensee must submit a development plan (including a closure plan) for MLSA approval. The licensee is also obliged to enter into an impact benefit agreement with the government and the relevant municipality imposing obligations for the licensee regarding the use of Greenland labour and enterprises and also regarding the education of Greenland labour.

*Law stated - 30 March 2022*

## Renewal and transfer of mineral licences

### What is the regime for the renewal and transfer of mineral licences?

A prospecting licence is non-exclusive and is granted for a five-year period. It may not be renewed, but an application may be made for a new prospecting licence.

An exploration licence is granted for a five-year period and at the expiry of the first licence period the licensee is entitled to be granted a new licence for the same area for five years. At the expiry of the second licence period (years six to 10), the licensee may be granted additional new three-year licences for years 11 to 13, 14 to 16, 17 to 19 and 20 to 22 for the same area, wholly or partly, provided the terms of the licence have been complied with. However, the licensee is not entitled to have these licences granted.

An exploitation 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 may extend the period for exploitation. The total period is subject to a maximum of 50 years.

Any direct or indirect transfer of a licence to a third party requires approval by the government. Indirect transfer means any transfer of ownership interests that will affect the controlling interest of the licensee.

*Law stated - 30 March 2022*

## Duration of mining rights

### What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

A prospecting licence is granted for five years only.

An exploration licence is granted for a period of five years, and at the expiry of the first licence period, the licensee is entitled to be granted a new licence for the same area for five years. Pursuant to the Standard Terms, at the expiry of the second licence period (years six to 10), the licensee may be granted additional new three-year licences for years 11 to 13, 14 to 16, 17 to 19 and 20 to 22 for the same area, wholly or partly, provided the terms of the licence have been complied with. However, the licensee is not entitled to have these licences granted.

An exploitation licence is granted for 30 years. The period for exploitation may be extended if warranted by special circumstances, however, the total period cannot exceed 50 years.

There is no obligation to relinquish mining rights, neither in whole nor in part, to the government.

*Law stated - 30 March 2022*

## Acquisition by domestic parties versus acquisition by foreign parties

### Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

There is no distinction between mining rights that may be acquired by domestic and foreign parties, with the exception of an exploitation licence, which may only be granted to public limited companies domiciled in Greenland. However, there is no requirement in relation to the country of origin of the owner of the licencing company. Moreover, certain small-scale mining rights apply to residents in Greenland.

*Law stated - 30 March 2022*

## Protection of mining rights

How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

Decisions that, according to the terms of the licence, depending on the judgement or resolve of the Minister for Mineral Resources or the MLSA, are not subject to arbitration. This stipulation does not exclude ordinary reviews by the courts.

In any other case, disputes arising between the government and the licensee regarding questions concerning the licence will be decided upon by a board of arbitration.

With regard to enforcement in Greenland of foreign arbitration awards, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 applies as Greenland is a signatory. Thus, awards made in a state that is a party to the Convention can be enforced in Greenland.

*Law stated - 30 March 2022*

## Surface rights

What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?

In Greenland, ownership of land cannot be obtained since all land is owned by the Greenland people. However, upon application, persons or companies can obtain a right to use a piece of land for a defined purpose, such as the construction of a building. When obtaining exclusive exploration and exploitation licences, the licensee acquires the right to explore and exploit the minerals under the conditions of the licence terms for the area covered by the licence.

*Law stated - 30 March 2022*

## Participation of government and state agencies

Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

As a main rule, the government or state agencies do not have the right to participate in mining projects. However, according to section 17(2) of the Mineral Resources Act, a licence may prescribe that a company controlled by the Greenland government will be entitled, on specified terms, to join as a participant in the activities covered by the licence. This requirement has been made in licences for exploration and exploitation of hydrocarbons, but not in any mineral exploitation licence.

There is no local listing requirement.

*Law stated - 30 March 2022*

## Government expropriation of licences

Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

Expropriation is defined as the government taking over private property without the consent of the owner. There are no specific rules or regulations for the expropriation of licences.

According to section 73 of the Constitutional Act of Denmark, which also applies in Greenland, the legislature is authorised to make regulations on expropriation within the framework hereof.

The general rule is that expropriation is only possible if it complies with the following conditions:

- the owner of the property being expropriated is fully compensated;
- the alienation is motivated by the interests of the public good; and
- it is made with statutory authority.

*Law stated - 30 March 2022*

## Protected areas

Are any areas designated as protected areas within your jurisdiction and which are off-limits to mineral exploration or mining, or specially regulated?

There are currently 12 protected areas in Greenland. Each of the areas has their own history and serve to protect unique landscapes or wildlife habitats, the most notable being the Ilulissat Icefjord, which is included on the United Nations Educational, Scientific and Cultural Organization's World Heritage list. Further information about the areas in question can be obtained by contacting the MLSA or the Ministry of Nature, Environment and Energy.

*Law stated - 30 March 2022*

## DUTIES, ROYALTIES AND TAXES

### Duties, royalties and taxes payable by private parties

What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

Unless otherwise stated in the exploration licence, which precedes the exploitation licence, the economic terms of an exploitation licence will be:

- taxation according to Greenland legislation in force at any time;
- payment of a fee of 100,000 Danish kroner to the Mineral Licence and Safety Authority (MLSA) at the granting of an exploitation licence;
- reimbursement of the MLSA's expenses regarding the regulation of the licensee's activities; and
- royalties.

The more specific terms on royalties for different types of minerals are stated in appendices 1 to 4 to the addendum to the Standard Terms for Exploitation Licences, which came into force on 1 July 2014. The addendum applies to the following licences:

1. a licence for exploration for minerals (excluding hydrocarbons) in Greenland if the licence is granted on 1 July 2014 or later;
2. a licence for exploration for minerals (excluding hydrocarbons) in Greenland if the licence is granted earlier than 1 July 2014 and it follows from the licence, including any addendum or any other amendment to the licence, that

the Greenland government may set terms on the licensee's payment of royalties or consideration, including royalties in an exploitation licence granted on the basis of the exploration licence; and

3. a licence for exploration for minerals (excluding hydrocarbons) in Greenland if the licence is granted earlier than 1 July 2014 and the Greenland government and the licensee agree that this addendum shall apply to the licence.

This means that the Greenland government cannot lay down terms on royalties when granting an exploitation licence on the basis of an exploration licence granted earlier than 1 July 2014, provided that the original exploration licence has not been amended or does not include any addenda or other terms on royalties (see point (2)). However, the last two exploitation licences that were granted in October 2013 and March 2014 include an agreement between the government and the licensees on the payment of royalties.

The royalty elements are differentiated for the various types of minerals, and the main terms for royalties are:

- a licensee exploiting minerals, other than rare earth elements, uranium and gemstones, shall pay a sales royalty of 2.5 per cent of the value of minerals (on certain terms, corporate income tax and corporate dividend tax may be offset against sales royalties);
- a licensee exploiting rare earth elements shall pay a sales royalty of 5 per cent of the value of the elements (on certain terms, corporate income tax and corporate dividend tax may be offset against sales royalties);
- a licensee exploiting uranium shall pay a sales royalty of 5 per cent of the value of the uranium; and
- a licensee exploiting gemstones shall pay a sales royalty of 5.5 per cent of the value of the gemstones and a surplus royalty of 15 per cent based on gross profit exceeding 40 per cent.

*Law stated - 30 March 2022*

## **Tax advantages and incentives**

What tax advantages, tax credits and incentives are available to private parties carrying on exploration and mining activities?

From 2020, for companies carrying on mining activities, corporate taxation amounts to 25 per cent; corporate taxation for other companies is 26.5 per cent.

The tax on dividends for companies carrying out mining activity is 36 per cent regardless of the municipality in which the company is situated, as opposed to other companies that pay a tax on dividends of 42 to 44 per cent, depending on their home municipality. Finally, companies carrying on mining activities can bring deficits forward without time limits whereas other companies have a time limit of five years.

*Law stated - 30 March 2022*

## **Tax stabilisation**

Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

No.

*Law stated - 30 March 2022*

### **Carried interest**

Is the government entitled to a carried interest, or a free carried interest in mining projects?

As a general rule, the government is not entitled to a free carried interest in mining projects. However, according to section 17(2) of the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities, a licence may prescribe that a company controlled by the government will be entitled on specified terms to join as a participant in the activities covered by the licence. This requirement has not been seen in mineral licences.

*Law stated - 30 March 2022*

### **Transfer taxes and capital gains**

Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

Capital gains on the transfer of licences are included in the calculation of the corporate taxable income.

*Law stated - 30 March 2022*

### **Distinction between domestic parties and foreign parties**

Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

There is no distinction between the duties, royalties and taxes payable by domestic licence holders and those payable by foreign parties.

*Law stated - 30 March 2022*

## **BUSINESS STRUCTURES**

### **Principal business structures**

What are the principal business structures used by private parties carrying on mining activities?

Exploration licences can be issued to any legal entity based in or outside Greenland. However, an exploitation licence that forms the basis of the right to carry out mining activities will, as a general rule, only be granted to public limited companies domiciled in Greenland exclusively carrying out activities under the licences granted pursuant to the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities (the Mineral Resources Act), and not being taxed together with other companies.

*Law stated - 30 March 2022*

### **Local entity requirement**

Is there a requirement that a local entity be a party to the transaction?

An exploitation licence that forms the basis of the right to carry out mining activities will, as a general rule, only be granted to public limited companies domiciled in Greenland exclusively carrying out activities under the licences granted pursuant to the Mineral Resources Act, and not being taxed together with other companies.



### **Bilateral investment and tax treaties**

Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

Greenland has tax treaties with Denmark, the Faroe Islands, Iceland and Norway. Under certain circumstances, it might be relevant for foreign entities established in these countries to structure their operations in Greenland, but this will depend on the specific circumstances.

Law stated - 30 March 2022

## **FINANCING**

### **Principal sources of financing**

What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?

The principal sources of financing available to private parties carrying on mining activities consist of equity raised on the international markets or private placements. There is no domestic public securities market in Greenland.

Law stated - 30 March 2022

### **Direct financing from government or major pension funds**

Does the government, its agencies or major pension funds provide direct financing to mining projects?

The Danish Growth Fund and Greenland Venture A/S (owned indirectly by the Greenland government) have invested in several companies involved in mining projects in Greenland, including AEX Gold, Bluejay Mining and Greenland Anorthosite Resources.

Law stated - 30 March 2022

### **Security regime**

Please describe the regime for taking security over mining interests.

According to section 88(2) of the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities, a licence under this Act cannot be attached by creditors and no systems for the perfection of security in mineral licences exist under the laws of Greenland. However, the shares in the licence holder company may be pledged.

Law stated - 30 March 2022

## RESTRICTIONS

### Importation restrictions

What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?

Some types of vehicles are subject to import duty. Otherwise, we are not aware of any restrictions or limitations on the importation of machinery and equipment or services required in connection with mining activities in Greenland.

In terms of services, a licence must lay down the extent to which the licensee must use Greenland enterprises for contracts, supplies and services. Other enterprises may be used if Greenland enterprises are not technically or commercially competitive.

The foreign service provider should note that all foreign workers must obtain a residence and work permit (Greenland is not a member of the European Union), except Nordic citizens, who can stay and work in Greenland without a residence and work permit. In any case, a visa may also be required depending on the country of origin.

*Law stated - 30 March 2022*

### Standard conditions and agreements

Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

No standards are used on equipment supplies.

*Law stated - 30 March 2022*

### Mineral restrictions

What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

According to the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities (the Mineral Resources Act), the licensee must use Greenland enterprises for contracts, supplies and services unless Greenland enterprises are not technically or commercially competitive.

Also, it is possible when granting a licence to lay down the extent to which the licensee must process exploited mineral resources in Greenland. However, minerals may be processed outside Greenland if processing in Greenland would result in significantly higher costs or greater inconvenience.

A licence may also stipulate the extent to which the licensee must keep exploited minerals in Greenland and sell them to persons who are permanently residing and fully liable to pay tax in Greenland. Requirements to this effect may be laid down to the extent such persons themselves will process the minerals in Greenland or otherwise use the minerals commercially in Greenland. The licensee must sell the minerals at arm's-length prices and on arm's-length terms.

The Greenland government may lay down specific provisions on minerals, including exploration, exploitation, processing, storage, depositing, transport, trading, export, import and certification of minerals. It may also lay down provisions or make decisions with a view to implementing or applying international agreements or rules on matters under the Mineral Resources Act in Greenland.

The government may lay down provisions on the export and import of rough diamonds and activities relating to rough diamonds as well as provisions aimed at implementing or applying international agreements or rules on rough diamonds, including meeting requirements under the Kimberley Process Certification Scheme.

*Law stated - 30 March 2022*

### **Import of funds restrictions**

What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

We are not aware of any restrictions or limitations on the import of funds for mining activities or the use of the proceeds from the export or sale of minerals. There are no restrictions on foreign investments in Greenland.

*Law stated - 30 March 2022*

## **ENVIRONMENT**

### **Principal applicable environmental laws**

What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities provides for several provisions on the protection of the environment, including general rules on environmental protection, environmental protection, climate protection, nature conservation and responsibility for this protection and conservation, and environmental liability.

Greenland has a one-door system under which the Mineral Licence and Safety Authority (MLSA) administers all matters regarding the exploration and exploitation of mineral resources, but the Environmental Agency for Mineral Resource Activities, under the Ministry of Environment and Nature, is the administrative authority for environmental matters relating to mineral and hydrocarbon resource activities, including protection of the environment and nature, environmental liability and environmental impact assessments (EIAs).

*Law stated - 30 March 2022*

### **Environmental review and permitting process**

What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

Prior to the commencement of exploitation and development activities, a plan for the activities, including the organisation of production and production installations, must be approved by the Greenland government. In this connection, an EIA report must be prepared and a public consultation process be carried out. The purpose of an EIA is to identify, predict and communicate the potential environmental impacts of a proposed mining project in all its phases from before the commencement of mining to after closure, and to propose measures to address and mitigate these impacts.

The draft EIA is published on the government's public consultation portal for a minimum of eight weeks. During this period, public consultation meetings are held in relevant towns and settlements. At the end of the consultation period, the licensee must address all comments in the three languages in a white paper, and revise the EIA. Following

consultation with authorities, a final EIA is submitted to the Mineral Resources Authority.

There are no rules guaranteeing a maximum processing time, and specific circumstances, complexity and individual negotiations may lead to a longer processing time.

*Law stated - 30 March 2022*

## **Sustainability**

Do government agencies or other institutions in your jurisdiction provide incentives or publish environmental and social governance (ESG) guidelines for green projects?

No.

*Law stated - 30 March 2022*

## **Closure and remediation process**

What is the closure and remediation process for a mining project? What performance bonds, guarantees and other financial assurances are required?

The licensee shall, within 12 months of the termination of the activities under the licence, remove all installations, buildings, stored items, etc, in the area that has been established for the activities under the licence, except when the non-removal of these installations has been approved by the MLSA. Further, the licensee shall carry out final clean-up activities in the affected area and remedy any remaining damage to the terrain and vegetation caused by the activities.

If the licensee does not comply with the obligations at the termination of the activities these measures may be carried out at the licensee's expense and risk.

The MLSA may request that the licensee provides security for the fulfilment of their obligations at the termination of the activities. In practice, security for the estimated closure costs is almost always required prior to commencement of development and production.

*Law stated - 30 March 2022*

## **Restrictions on building tailings or waste dams**

What are the restrictions for building tailings or waste dams?

Terms and restrictions for building tailings and waste dams are laid down directly in the licence inclusive of the exploitation plan, closure plans and other plans that are approved by the government, and as such there are no detailed rules in legislation in this respect.

*Law stated - 30 March 2022*

## **HEALTH AND SAFETY, AND LABOUR ISSUES**

### **Principal health and safety, and labour laws**

What are the principal health and safety, and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The main health and safety laws applying to the mining industry are the general rules and regulations laid down in the

Greenland Working Environment Act No. 295 of 4 June 1986, as amended.

In addition, the general regulation under Order No. 32 of 23 January 2006 on rest periods and a weekly day off is highly relevant. The Minister of Employment may lay down rules with regard to the design and fitting out of permanent, temporary, varying and outdoor places of work, including rules on special measures in connection with the mining industry. The regulatory body is the Greenlandic Working Environment Authority.

With regard to labour laws, the Salaried Employees Act and the provisions of the Holiday Act apply to the mining industry.

*Law stated - 30 March 2022*

### **Management and recycling of mining waste**

What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

According to section 51 of the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities (the Mineral Resources Act), the rules on environmental protection aim to help protect nature and the environment so that society can develop on a sustainable basis. Specifically, the aim, among other things, is to promote recycling and limit problems in relation to the disposal of waste.

In connection with meeting the obligations concerning the protection of the environment, the party concerned must ensure and promote the use of the best available techniques, including less-polluting facilities, machinery, equipment, processes, technologies, raw materials, substances and materials and the best possible measures for pollution abatement, insofar as this is technically, practically and financially possible for the party concerned.

When issuing the specific licence, provisions are laid down to ensure that the aim and obligations are achieved in the best possible way considering the concrete circumstances of the project.

*Law stated - 30 March 2022*

### **Use of domestic and foreign employees**

What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

According to the Mineral Resources Act and the standard terms of the licences, the licensee shall employ Greenland manpower as far as possible. Where there is a lack of Greenland manpower with appropriate qualifications, the licensee may employ personnel from other countries.

General regulation applies under the Greenland Parliament Act on the Regulation of the Influx of Workers, under which job positions for skilled and unskilled labour must be advertised at the government's job portal ( [www.suli.gl](http://www.suli.gl) ) and permission obtained from the local municipality before foreign manpower is hired.

Moreover, according to the Aliens Act, residence and work permits can be issued to foreign nationals allowing them to live and work in Greenland for a specified period of time if no one in Greenland can perform a specific function. Salary and employment conditions must correspond to Greenland standards. Residence and work permits are not required of Danish citizens or citizens from the other Nordic countries (Finland, Iceland, Norway and Sweden). Residence and work permits are issued by the Danish Agency for International Recruitment and Integration and the Danish Immigration Service. There are some exceptions to the requirement for a residence and work permit in relation to the personnel carrying out activities falling within the scope of the Mineral Resources Act.

The Large-Scale Projects Act came into force on 1 January 2013. When certain conditions are fulfilled, it is possible that, for example, a large-scale mining project, during the construction phase, can use foreign labour on terms that are favourable to the employer, which means that the above-mentioned requirement of employment conditions corresponding to Greenland standards does not apply if the project is defined under the Large-Scale Projects Act. However, according to this Act, the employer must ensure that the foreign employees have pay and employment terms that are acceptable and objectively and factually justified.

*Law stated - 30 March 2022*

## **SOCIAL AND COMMUNITY ISSUES**

### **Community engagement and CSR**

What are the principal community engagement or corporate and social responsibility (CSR) laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Under the Greenland Parliament Act of 7 December 2009 on Mineral Resources and Mineral Resource Activities (the Mineral Resources Act), various obligations are imposed on the licensee with regard to involving the local society, labour and enterprises.

A licence must lay down the extent to which the licensee must use labour from Greenland. However, to the extent necessary for the activities, the licensee may use foreign labour if labour with similar qualifications does not exist or is not available in Greenland. Also, the licensee must use Greenland enterprises for contracts, supplies and services, provided that other enterprises may be used if Greenland enterprises are not technically or commercially competitive.

A social sustainability assessment (SSA) must be prepared as a condition for the grant of an exploitation licence if an activity subject to the Mineral Resources Act is assumed to have a potentially significant impact on social conditions. The licensee must carry through a public consultation process and prepare an SSA report to be approved by the government.

Also, a condition for the granting of an exploitation licence is the execution of a social sustainability agreement (impact benefit agreement (IBA)) and other socio-economic issues. The IBA is entered into by and between the licensee, the relevant municipalities and the Greenland government, and aims to ensure the social commitment of the parties involved throughout the lifetime of the project, among other things, with regard to the education or training of Greenland manpower.

*Law stated - 30 March 2022*

### **Rights of aboriginal, indigenous or disadvantaged peoples**

How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

According to the Mineral Resources Act, a person who is a permanent resident of and fully liable to pay tax in Greenland may carry out the non-commercial collection of loose minerals without a licence being required, with the exception of licence areas covered by exploitation licences. Otherwise, there are no special rights, including economic rights, for aboriginal, indigenous or currently or previously disadvantaged peoples.

*Law stated - 30 March 2022*

## International law

What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

With the exception of a number of International Labour Organization conventions, we are not aware of any international treaties, conventions or protocols relating to CSR issues applying to the mining industry in Greenland.

*Law stated - 30 March 2022*

## ANTI-BRIBERY AND CORRUPT PRACTICES

### Local legislation

Describe any local legislation governing anti-bribery and corrupt practices.

Rules and regulations are set out under the Greenland Criminal Code against bribery, abuse of public authority and criminal breach of trust.

*Law stated - 30 March 2022*

### Foreign legislation

Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

There is no specific foreign legislation relevant other than extraterritorial foreign laws such as the UK Bribery Act 2010.

*Law stated - 30 March 2022*

### Disclosure of payments by resource companies

Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

Greenland is a supportive member of the EITI.

*Law stated - 30 March 2022*

## FOREIGN INVESTMENT

### Foreign ownership restrictions

Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?

We are not aware of any foreign ownership restrictions relevant to the mining industry in Greenland. Greenland is not a member of the European Union (contrary to Denmark).

*Law stated - 30 March 2022*

## INTERNATIONAL TREATIES

### Applicable international treaties

What international treaties apply to the mining industry or an investment in the mining industry?

Denmark and the Greenland government have established an internal framework within Denmark regarding the special foreign, defence and security policy issues concerning the mining and export of uranium from Greenland. This has led to legislation to implement safeguards and export regulations for uranium produced in Greenland. Among other things, since September 2016, the Convention on Nuclear Safety also applies to Greenland. Measures are also implemented to comply with Information Circulars INFCIRC176 and INFCIRC176/ADD 1 of the International Atomic Energy Agency. Export controls on products with dual-use have been introduced in Greenland.

Moreover, in 2015, Greenland was officially admitted into the Kimberly Process Certification Scheme (KPCS) through its association with the European Union. This means that trade in rough diamonds in Greenland must be conducted in accordance with EU rules – namely, Greenland will only export rough diamonds to other KPCS participants after they have been certified by an EU authority. The imports of rough diamonds into Greenland will also be verified by EU authorities.

*Law stated - 30 March 2022*

## UPDATE AND TRENDS

### Recent developments

What were the biggest mining news events over the past year in your jurisdiction and what were the implications? What are the current trends and developments in your jurisdiction's mining industry (legislation, major cases, significant transactions)?

In 2021, the Greenland parliament passed an Act banning the prospecting, exploration and exploitation of uranium. It is also forbidden to carry on prospecting, exploration and exploitation of other minerals than uranium, if the average uranium content of the aggregate resource is 100 parts per million or more.

Due to the covid-19 pandemic, the Ministry of Mineral Resources and Justice made stop-the-clock initiatives in relation to exploration licences for the years 2020 and 2021, respectively. The exploration expenses for all mineral exploration licences, regardless of their age, were reduced to zero Danish kroner in 2020 and 2021, and unfulfilled exploration obligations were postponed by one year. Also, years 2020 and 2021 were taken out of the licence period; namely, years 2020 and 2021 were temporarily paused and all exploration licences were extended by two years.

*Law stated - 30 March 2022*



## Jurisdictions

	<b>Angola</b>	VdA
	<b>Argentina</b>	Allende & Brea
	<b>Canada</b>	Cassels Brock & Blackwell LLP
	<b>East Timor</b>	VdA
	<b>Ecuador</b>	Tobar ZVS
	<b>Finland</b>	Kalliolaw Asianajotoimisto Oy
	<b>Ghana</b>	Kimathi & Partners Corporate Attorneys
	<b>Greenland</b>	Nuna Law Firm
	<b>India</b>	Trilegal
	<b>Ireland</b>	Whitney Moore
	<b>Mexico</b>	RB Abogados
	<b>Mozambique</b>	VdA
	<b>Nigeria</b>	ENR Advisory
	<b>Philippines</b>	Cruz Marcelo & Tenefrancia
	<b>South Africa</b>	Beech Veltman Inc
	<b>Sweden</b>	Foyen Advokatfirma
	<b>Thailand</b>	Chandler MHM Limited
	<b>USA</b>	Haynes and Boone LLP